Journal of the House

State of Indiana

114th General Assembly *First Regular Session*

Fifty-first Meeting Day **Wednesday Morning** **April 27, 2005**

The House convened at 10:00 a.m. with the Speaker in the Chair.

The invocation was offered by Pastor Faitele, Christians United Church, Lawrence, the guest of Representative Mae Dickinson.

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

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

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

Roll Call 579: 96 present; 4 excused. The Speaker announced a quorum in attendance. [*NOTE*: ⏏ *indicates those who were excused*.]

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Thursday, April 28, 2005 at 10:00 a.m.

WOODRUFF

Motion prevailed.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that pursuant to Rule 81(b) of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has made the following change in conferees appointments to Engrossed House Bill 1097:

Advisors: Lubbers and Breaux

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 President Pro Tempore of the Senate has appointed the following Senators a conference committee to confer on Engrossed House Bill 1129:

Conferees: Bray and Antich-Carr

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 pursuant to Rule 81(c) of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has made the following change in conferees appointments to Engrossed Senate Bill 536:

Conferees: Lewis replacing Broden

MARY C. MENDEL
Principal Secretary of the Senate

ENROLLED ACTS SIGNED

The Speaker announced that he had signed House Enrolled Acts 1056, 1059, 1078, 1113, 1137, 1165, 1179, 1241, 1270, 1495, and 1662 and Senate Enrolled Acts 18, 64, 140, 179, 227, 253, 296, 335, 340, 422, 467, 474, 487, 538, 539, and 634 on April 26.

CONFEREES AND ADVISORS APPOINTED

The Speaker announced the following changes in appointment of Representatives as conferees and advisors:

EHB 1112	Conferees:	Turner replacing Porter
	Advisors:	Turner removed
EHB 1198	Conferees:	Behning replacing Porter
	Advisors:	Behning removed
ESB 536	Conferees:	Borror replacing Stilwell
	Advisors:	Borror removed

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
EHB 1057–1; filed April 27, 2005, at 9:14 a.m.

Mr. Speaker: Your Conference Committee appointed to confer

with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1057 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 9-30-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~The operator of~~ **(a) This section does not apply to the following:**

(1) A container possessed by a person who is in the:

(A) passenger compartment of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation; or

(B) living quarters of a house coach or house trailer.

(2) A container located in a fixed center console or other similar fixed compartment that is locked.

(3) A container located:

(A) behind the last upright seat; or

(B) in an area not normally occupied by a person;

in a motor vehicle that is not equipped with a trunk.

(b) A person in a motor vehicle ~~who has an alcohol concentration equivalent to at least four-hundredths (0.04) gram of alcohol per one hundred (100) milliliters of the blood, or per two hundred ten (210) liters of the breath, and~~ who, while the motor vehicle is in operation ~~knowingly allows~~ **or while the motor vehicle is located on the right-of-way of a public highway, possesses** a container:

(1) that has been opened;

(2) that has a broken seal; or

(3) from which some of the contents have been removed;

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

(c) A violation of this section is not considered a moving traffic violation:

(1) for purposes of IC 9-14-3; and

(2) for which points are assessed by the bureau under the point system.

(Reference is to EHB 1057 as reprinted March 29, 2005.)

DUNCAN	WYSS
RICHARDSON	ROGERS
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 81

Representatives Bosma, Dickinson, and Porter introduced House Concurrent Resolution 81:

A CONCURRENT RESOLUTION honoring the Lawrence North High School wrestling team.

Whereas, The Lawrence North High School wrestling team secured its second consecutive state title with a 48-17 victory over Avon in the 10th annual Indiana High School Athletic Association's team wrestling state finals;

Whereas, The Wildcats, who started the season ranked number one, finished the season ranked number one by defeating number five Portage and number two Evansville Mater Dei before toppling number 11 Avon in the championship;

Whereas, The Lawrence North High School Wildcats won 9 of 14 matches on their way to the championship;

Whereas, This year's victory marks the 47th consecutive dual meet victory for the Wildcats;

Whereas, Coach Brett Crousore feels that the strength of the members of this team lies in the fact that "they are a team and they act like it at all times";

Whereas, Wildcats Tyler Pino, David Gans, Reece Humphrey, Zach Aspling, and Thomas Johnson all had pins in their respective weight classes;

Whereas, Three-time state champion Reece Humphrey ended the season with a 51-0 record and his 134th consecutive win, including state individual titles in three weight classes; and

Whereas, The Lawrence North High School wrestling team has established itself as the state's best wrestling team through dedication, determination, and hard work: Therefore,

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

SECTION 1. That the Indiana General Assembly congratulates the Lawrence North High School wrestling team on its victory in the 10th annual Indiana High School Athletic Association's team wrestling state finals and wishes the team continued success in future endeavors.

SECTION 2. That the Principal Clerk of the House of Representative shall transmit a copy of this resolution to team members Chris Schaler, Jeremiah Edwards, Josh Leppink, Andre Dominguez, Tyler Pino, Tim Brown, David Gans, Dennis Chen, Reece Humphrey, Michael Albert, Matt Klene, Zach Aspling, Ryne Stawick, Thomas Johnson, Jon Rugenstein, Ben Walker, Sean Huston, Chris Rugenstein, Jon McGuigan, Ryan Vogelsong, Alex Burr, Patrick Donahue, Josh Locke, Maurice Gunn; head coach Brett Crousore; assistant coaches Tom Corbett, Jim Humphrey, Jordin Humphrey, Steve Hiner, Jeremy Goodlett, Frank Ingalls, Tom Schneider, Dave Dick, and David Fleming; student managers Stacy Frazier, Sam Gard, and Aaron Belcher; athletic director Grant Nesbit; Principal Lynn L. Lupold; and Superintendent Dr. Michael Cooper.

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

House Concurrent Resolution 82

Representatives Dickinson, Bosma, and Porter introduced House Concurrent Resolution 82:

A CONCURRENT RESOLUTION congratulating the Lawrence North High School boys' basketball team on its victory in the Class 4A boys' basketball championship.

Whereas, The Lawrence North High School Wildcats won the 2004-2005 Indiana High School Athletic Association Class 4A boys' state basketball championship at Conseco Field House in Indianapolis before a sellout crowd of more than 18,000 people;

Whereas, This victory marks the second consecutive title and the third overall title for the Wildcats, who finished the season with a 24-2 record;

Whereas, With this victory, Lawrence North High School became the first IHSAA Class 4A repeat winner;

Whereas, Ranked number three in the state, Lawrence North High School was led to victory by a Class 4A record 29 points and nine rebounds from Greg Oden;

Whereas, During the championship game, Oden set several Class 4A records, including a 14 field goals in 19 attempts and six blocked shots, with five blocks in the first half alone;

Whereas, Senior guard Brandon McPherson scored in double figures with 11 points and made all five of his free throw attempts;

Whereas, Brandon McPherson received the Arthur L. Trester Mental Attitude Award following the game;

Whereas, This team, with its stupendous drive and energy, has proven to be a uniting force in the community, with many residents in attendance at the championship game; and

Whereas, Victories by teams such as the Lawrence North Wildcats are truly what Indiana legends are made of: Therefore,

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

SECTION 1. That the Indiana General Assembly congratulates the Lawrence North High School boys' basketball team on its 2004-2005 Class 4A state basketball championship and acknowledges the many hours of hard work required to reach a level of excellence necessary to win a state championship. The members of the General Assembly also express their continued good wishes for the members and coaches of this remarkable team.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the members of the Lawrence North High School team, head coach Jack Keefer, the assistant coaches, Principal Lynn L Lupold, and Superintendent Dr. Michael Cooper.

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

House Resolution 86

Representative Hinkle introduced House Resolution 86:

A HOUSE RESOLUTION honoring the Ben Davis High School band.

Whereas, The Ben Davis High School band is celebrating 65 years of a tradition of excellence in 2005;

Whereas, The Ben Davis High School band consists of 270 members and is one of the largest bands in Indiana;

Whereas, The Ben Davis High School band has won the Indiana State Field Show Championship nine times;

Whereas, The Ben Davis High School band has performed for six United States presidents;

Whereas, The Ben Davis High School band has been invited to the 2006 Tournament of Roses Parade; and

Whereas, The continued success of the Ben Davis High School Band has been achieved through many hours of hard work and practice: Therefore,

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

SECTION 1. That the Indiana House of Representatives congratulates the Ben Davis High School Band and wishes them continued success in their future endeavors.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the members of the band, the director, the principal of Ben Davis High School, and the superintendent.

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

House Resolution 87

Representative J. Lutz introduced House Resolution 87:

A HOUSE RESOLUTION to memorialize David Edgar Shellabarger for his many years of service to the community of Daleville, Indiana.

Whereas, David Edgar Shellabarger was born on March 29, 1942, at Ball Memorial Hospital in Muncie, Indiana;

Whereas, David Edgar Shellabarger was the first grandchild in both families and the oldest of five brothers and sisters;

Whereas, David Edgar Shellabarger loved to farm the ground, raise cattle, and show them at the 4-H Fairs;

Whereas, David Edgar Shellabarger was a 1960 graduate from Yorktown High School and received his B.S. in Business Administration from Ball State University;

Whereas, David Edgar Shellabarger lived his entire life in Daleville, Indiana;

Whereas, David Edgar Shellabarger married his wife Connie and together they had three sons: Jay, Rick, and David Andrew (Andy);

Whereas, David Edgar Shellabarger was a master at water skiing and continued to perform his water tricks up until the age of 61;

Whereas, David Edgar Shellabarger retired as Superintendent of Maintenance from General Motors, Guide Division in Anderson where he had worked for 40 years;

Whereas, David Edgar Shellabarger began his political life in 1981 as a Town Board Member and became President of the board after five years of service and remained President for nineteen years;

Whereas, David Edgar Shellabarger was the driving force to get Daleville new sewers, a new city water system, a world class water filtration system, lights on street corners, new side walks, and new city streets;

Whereas, David Edgar Shellabarger faithfully executed the office of Town Board President, never missing a meeting until cancer prevented him from attending;

Whereas, David Edgar Shellabarger was presented with the honor of renaming the town park the David E. Shellabarger Park on January 25, 2005; and

Whereas, David Edgar Shellabarger lived to serve his community and did so until his passing on February 24, 2005, when he lost a tough battle with cancer: Therefore,

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

SECTION 1. That the Indiana House of Representatives memorializes David Edgar Shellabarger for his many years of service to the community of Daleville, Indiana.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the family of David Edgar Shellabarger.

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

House Resolution 88

Representative Davis introduced House Resolution 88:

A HOUSE RESOLUTION to honor and congratulate the Ball State University debate team for winning the 2005 National Championship in the National Educational Debate Association tournament.

Whereas, The Ball State University debate team competed in the National Championship on April 2nd and 3rd 2005, fielding teams for the Open Policy Debate, Novice Policy Debate, and Lincoln-Douglas Debate;

Whereas, The Ball State University debate team hosted and won the National Educational Debate Association (NEDA) event;

Whereas, NEDA is a collegiate debate association emphasizing typical public forum debate with colleges competing at eight tournaments each year including the national tournament;

Whereas, Members of the Ball State University debate team included: Seniors Brett Mock, Kristina Moorhead, Amanda Carpenter, and Ian Flores; Junior Joe McGowan; Sophomores Lori Pullan and Becky Tucker; and Freshmen Jenny Shea and Dallis Pike;

Whereas, Under the coaching of Mike Bauer, Ball State had a team in each of the three division final rounds, and two students, Senior Kristina Moorhead and Senior Amanda Carpenter were named debate team All-Americans;

Whereas, Students with top performances at the national championships included Senior Amanda Carpenter, who defended her title in the Lincoln-Douglas style debate; Freshman Jennifer Shea and Junior Joe McGowan both finished second in the Novice Policy division; and Seniors Brett Mock and Kristina Moorhead were second in the Open Policy division;

Whereas, Other students qualifying for honors included Junior Ian Flores, a quarter finalist in the Lincoln-Douglas debate; Freshman Dallis Pike, a semifinalist in the Lincoln-Douglas debate; and Junior Lori Pullan and Freshman Becky Tucker were semifinalists in Novice Policy;

Whereas, Speaker Awards went to Brett Mock who placed seventh in Open Policy; Kristina Moorhead who placed ninth in Open Policy; Jenny Shea who placed first in Novice Policy; and Lori Pullan who placed ninth in Novice Policy;

Whereas, Head Coach Mike Bauer, Assistant Coaches Donny Peters and Nathan Wade, and Captain Brett Mock should be commended for their contributions of time and effort in guiding these champions to victory;

Whereas, In the final weeks of the season the team came together for their best team performance of the year; and

Whereas, Their collective performances led to Ball State being crowned the 2005 National Champions and the coaches and team are to be commended for their dedication and hard work and congratulated for their outstanding accomplishments in the field of debating: Therefore,

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

SECTION 1. That the Indiana House of Representatives does honor and congratulate the Ball State University debate team for winning the 2005 National Championship in the National Educational Debate Association tournament.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit copies of this resolution to Mike Bauer, Donny Peters, Nathan Wade, Brett Mock, Kristina Moorhead, Amanda Carpenter, Ian Flores, Joe McGowan, Lori Pullan, Becky Tucker, Jenny Shea, and Dallis Pike.

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

House Resolution 89

Representative Burton introduced House Resolution 89:

A HOUSE RESOLUTION urging Hoosiers to offer their prayers and support for the men and women serving in the United States Armed Forces and especially for those fighting the war on terrorism and protecting democracy throughout the United States.

Whereas, The torch of patriotism has been held high in Indiana and throughout the United States in support of our country and its armed forces;

Whereas, On Flanders Fields and the beaches of Normandy, from the frozen mountains of Korea to the steaming jungles of Vietnam, on the burning sands of the Kuwaiti and Iraqi deserts to the mountains of Afghanistan, and at the Pentagon on September 11, 2001, over 27,000 Hoosiers have answered the call of freedom and have paid the ultimate price;

Whereas, Mindful of these sacrifices, Hoosier men and women fighting the war on terrorism have responded to their country's call without hesitation;

Whereas, These brave men and women are supported at home through prayers, sacrifices, and the love of their families;

Whereas, All Hoosiers should remember these troops and their families in their thoughts and prayers; and

Whereas, The Indiana House of Representatives ardently supports the troops currently fighting against terrorism: Therefore,

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

SECTION 1. That the Indiana House of Representatives prays for the safe return of all our troops stationed around the globe.

SECTION 2. That the Indiana House of Representatives offers its gratitude and appreciation to the brave Hoosier men and women, veterans of the Armed Forces, and the families and friends who stand behind them.

SECTION 3. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the President of the United States; the United States Department of Defense; the presiding officers and the majority and minority leaders of both houses of the United States Congress; the Indiana congressional delegation; the Adjutant General of the Indiana National Guard and the Indiana Reserves; and the commanding officers of the Grissom Air Reserve Base.

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

The Speaker Pro Tempore yielded the gavel to the Speaker.

Senate Concurrent Resolution 72

The Speaker handed down Senate Concurrent Resolution 72, sponsored by Representative Ulmer:

A CONCURRENT RESOLUTION congratulating the Goshen High School Crimson Percussion Ensemble on winning the Winter Guard International 2005 World Championship.

Whereas, In only the third year since its inception, the Goshen High School Crimson Percussion Ensemble qualified for the Winter Guard International 2005 World Competition by placing second in a regional competition in March;

Whereas, The 16 member Crimson Percussion Ensemble is the first Goshen group to perform in a national percussion competition;

Whereas, The ensemble placed first in the preliminary round to advance to the finals against high schools from Massachusetts, Alabama, and Connecticut;

Whereas, Goshen scored six points more than the second-place group, which is an extraordinary accomplishment; and

Whereas, While most of its competitors play classical music, the Goshen ensemble performs more of a rock show. Fittingly, the Crimson Ensemble performed music from the rock band King Crimson in the competition: Therefore,

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

SECTION 1. That the Indiana General Assembly congratulates the Goshen High School Crimson Percussion Ensemble on winning the 2005 Winter Guard International World Championship.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this resolution to Dr. Bruce Stahly, Principal Jim Kirkton, and Directors Tom Cox, Josh Ellis, and Max Mault.

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

ENROLLED ACTS SIGNED

The Speaker announced that he had signed Senate Enrolled Joint Resolution 7 on April 27.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 1:45 p.m. with the Speaker Pro Tempore, Representative Turner, in the Chair.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
ESB 100–1; filed April 27, 2005, at 11:29 a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 100 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert:

SECTION 1. IC 6-3.5-6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. (a) Except as provided in sections 18(e) and 18.5(b)(3) of this chapter, in determining the fractional share of distributive shares the civil taxing units of a county are entitled to receive under section 18 of this chapter during a calendar year, the department of local government finance shall consider only property taxes imposed on tangible property subject to assessment in that county.

(b) In determining the amount of distributive shares a civil taxing unit is entitled to receive under section 18(g) of this chapter, the department of local government finance shall consider only the percentage of the civil taxing unit's budget that equals the ratio that the total assessed valuation that lies within the civil taxing unit and the county that has adopted the county option tax bears to the total

assessed valuation that lies within the civil taxing unit.

(c) The distributive shares to be allocated and distributed under this chapter:

(1) shall be treated by each civil taxing unit as additional revenue for the purpose of fixing ~~its~~ **the civil taxing unit's** budget for the budget year during which the distributive shares ~~is~~ **are** to be distributed to the civil taxing unit; **and**

(2) may be used for any lawful purpose of the civil taxing unit.

(d) In the case of a civil taxing unit that includes a consolidated city, its fiscal body may distribute any revenue it receives under this chapter to any governmental entity located in its county except an excluded city, a township, or a school corporation.

SECTION 2. IC 6-3.5-7-13.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13.1. (a) The fiscal officer of each county, city, or town for a county in which the county economic development tax is imposed shall establish an economic development income tax fund. Except as provided in sections 23, 25, 26, and 27 of this chapter, the revenue received by a county, city, or town under this chapter shall be deposited in the unit's economic development income tax fund.

(b) Except as provided in sections 15, 23, 25, 26, and 27 of this chapter, revenues from the county economic development income tax may be used as follows:

(1) By a county, city, or town for economic development projects, for paying, notwithstanding any other law, under a written agreement all or a part of the interest owed by a private developer or user on a loan extended by a financial institution or other lender to the developer or user if the proceeds of the loan are or are to be used to finance an economic development project, for the retirement of bonds under section 14 of this chapter for economic development projects, for leases under section 21 of this chapter, or for leases or bonds entered into or issued prior to the date the economic development income tax was imposed if the purpose of the lease or bonds would have qualified as a purpose under this chapter at the time the lease was entered into or the bonds were issued.

(2) By a county, city, or town for:

(A) the construction or acquisition of, or remedial action with respect to, a capital project for which the unit is empowered to issue general obligation bonds or establish a fund under any statute listed in IC 6-1.1-18.5-9.8;

(B) the retirement of bonds issued under any provision of Indiana law for a capital project;

(C) the payment of lease rentals under any statute for a capital project;

(D) contract payments to a nonprofit corporation whose primary corporate purpose is to assist government in planning and implementing economic development projects;

(E) operating expenses of a governmental entity that plans or implements economic development projects;

(F) to the extent not otherwise allowed under this chapter, funding substance removal or remedial action in a designated unit; or

(G) funding of a revolving fund established under IC 5-1-14-14.

(3) By a county, city, or town for any lawful purpose for which money in any of its other funds may be used.

(c) As used in this section, an economic development project is any project that:

(1) the county, city, or town determines will:

(A) promote significant opportunities for the gainful employment of its citizens;

(B) attract a major new business enterprise to the unit; or

(C) retain or expand a significant business enterprise within the unit; and

(2) involves an expenditure for:

(A) the acquisition of land;

(B) interests in land;

(C) site improvements;

(D) infrastructure improvements;

(E) buildings;

(F) structures;

(G) rehabilitation, renovation, and enlargement of buildings and structures;

(H) machinery;

(I) equipment;

(J) furnishings;

(K) facilities;

(L) administrative expenses associated with such a project, including contract payments authorized under subsection (b)(2)(D);

(M) operating expenses authorized under subsection (b)(2)(E); or

(N) to the extent not otherwise allowed under this chapter, substance removal or remedial action in a designated unit;

or any combination of these.

(d) If there are bonds outstanding that have been issued under section 14 of this chapter or leases in effect under section 21 of this chapter, a county, city, or town may not expend money from its economic development income tax fund for a purpose authorized under subsection (b)(3) in a manner that would adversely affect owners of the outstanding bonds or payment of any lease rentals due.

(Reference is to ESB 100 as printed March 30, 2005.)

LONG	ESPICH
BRODEN	CRAWFORD
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 206–1; filed April 27, 2005, at 11:30 a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 206 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 25-26-21 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 21. Home Medical Equipment Services Providers

Sec. 1. As used in this chapter, "board" refers to the Indiana board of pharmacy established by IC 25-26-13-3.

Sec. 2. As used in this chapter, "home medical equipment" means technologically sophisticated medical devices that may be used in a residence, including the following:

(1) Oxygen and oxygen delivery systems.

(2) Ventilators.

(3) Respiratory disease management devices.

(4) Continuous positive airway pressure (CPAP) devices.

(5) Electronic and computerized wheelchairs and seating systems.

(6) Apnea monitors.

(7) Transcutaneous electrical nerve stimulator (TENS) units.

(8) Low air loss cutaneous pressure management devices.

(9) Sequential compression devices.

(10) Feeding pumps.

(11) Home phototherapy devices.

(12) Infusion delivery devices.

(13) Distribution of medical gases to end users for human consumption.

(14) Hospital beds.

(15) Nebulizers.

(16) Other similar equipment determined by the board in rules adopted under section 7 of this chapter.

Sec. 3. As used in this chapter, "home medical equipment services" means the:

(1) sale;

(2) rental;

(3) delivery;

(4) installation;

(5) maintenance or replacement; or

(6) instruction in the use;

of medical equipment used by an individual that allows the individual to reside in a noninstitutional environment.

Sec. 4. As used in this chapter, "provider" means a person engaged in the business of providing home medical equipment services to an unrelated individual in the individual's residence.

Sec. 5. (a) This chapter does not apply to the following:

(1) A home health agency (as defined in IC 16-27-1-2) that does not sell, lease, or rent home medical equipment.

(2) A hospital licensed under IC 16-21-2 that:

(A) provides home medical equipment services only as an integral part of patient care; and

(B) does not provide home medical equipment services through a separate business entity.

(3) A manufacturer or wholesale distributor that does not sell, lease, or rent home medical equipment directly to a consumer.

(4) Except as provided under subsection (b), a practitioner (as defined in IC 25-1-9-2) who does not sell, lease, or rent home medical equipment.

(5) A veterinarian licensed under IC 15-5-1.1.

(6) A hospice program (as defined in IC 16-25-1.1-4) that does not sell, lease, or rent home medical equipment.

(7) A health facility licensed under IC 16-28 that does not sell, lease, or rent home medical equipment.

(8) A provider that:

(A) provides home medical equipment services within the scope of the licensed provider's professional practice;

(B) is otherwise licensed by the state; and

(C) receives annual continuing education that is documented by the provider or the licensing entity.

(9) An employee of a person licensed under this chapter.

(b) A pharmacist licensed in Indiana or a pharmacy that holds a permit issued under IC 25-26 that sells, leases, or rents home medical equipment:

(1) is not required to obtain a license under this chapter; and

(2) is otherwise subject to the:

(A) requirements of this chapter; and

(B) requirements established by the board by rule under this chapter.

Sec. 6. (a) A person seeking to provide home medical equipment services in Indiana shall apply to the board for a license in the manner prescribed by the board.

(b) A provider shall do the following:

(1) Comply with:

(A) federal and state law; and

(B) regulatory requirements;

for home medical equipment services.

(2) Maintain a physical facility and medical equipment inventory in Indiana.

(3) Purchase and maintain in an amount determined by the board:

(A) product liability insurance; and

(B) professional liability insurance;

and maintain proof of the insurance coverage.

(4) Establish procedures to ensure that an employee or a contractor of the provider who is engaged in the following home medical equipment activities receives annual training:

(A) Delivery.

(B) Orientation of a patient in the use of home medical equipment.

(C) Reimbursement assistance.

(D) Maintenance.

(E) Repair.

(F) Cleaning and inventory control.

(G) Administration of home medical equipment services.

The provider shall maintain documentation of the annual training received by each employee or contractor.

(5) Maintain clinical records on a customer receiving home medical equipment services.

(6) Establish home medical equipment maintenance and personnel policies.

(7) Provide home medical equipment emergency maintenance services available twenty-four (24) hours a day.

(8) Comply with the rules adopted by the board under this chapter.

Sec. 7. (a) The board may adopt rules under IC 4-22-2 to do the following:

(1) Specify home medical equipment in addition to the home medical equipment set forth in section 2 of this chapter that is to be regulated under this chapter.

(2) Set standards for the licensure of providers.

(3) Govern the safety and quality of home medical equipment services that are provided to customers.

(4) Specify the amount of insurance coverage required under section 6(b)(3) of this chapter.

(5) Set reasonable fees for the application, issuance, and renewal of a license under this chapter and set other fees permitted under IC 25-1-8.

(b) The board may consult with individuals engaged in the home medical equipment services business to advise the board on the formulation of rules under subsection (a). The individuals may not be compensated or reimbursed for mileage by the board.

Sec. 8. (a) After June 30, 2006, a provider must be licensed by the board before the provider may provide home medical equipment services. If a provider provides home medical equipment services from more than one (1) location in Indiana, the provider must obtain a license under this chapter for each location.

(b) An applicant shall submit the application to the board on a form adopted by the board. The nonrefundable application fee set by the board must be submitted with the application. The fee must be deposited in the state general fund.

(c) If the board determines that the applicant:

(1) meets the standards set forth by the board; and

(2) has satisfied the requirements under this chapter and the requirements established by the board by rule;

the board shall notify the applicant in writing that the license is being issued to the applicant. The license is effective on the applicant's receipt of the written notification.

(d) A license issued under this chapter is effective for not more than two (2) years, beginning on a date determined by the board. An entity that is licensed under this chapter shall display the license or a copy of the license on the licensed premises.

(e) The board may renew a license every two (2) years.

Sec. 9. (a) The board may inspect the operations and facilities of an applicant for a license under this chapter to determine whether to issue the applicant a license.

(b) The board may conduct random inspections at any time for the following reasons:

(1) To ensure the integrity and effectiveness of the licensing process.

(2) To investigate a consumer complaint or a complaint by a qualified source as identified by the board.

(3) To ensure continuing compliance with the licensing requirements under this chapter.

(c) The board shall provide the provider a report of the board's findings after the board completes an investigation under this section.

(d) A provider that disputes the report in subsection (c) may file an appeal under IC 4-21.5 with the board not later than thirty (30) days after receipt of the report. The board shall review the inspection report and, upon the provider's request, conduct a new inspection.

(e) The board shall employ qualified inspectors to investigate complaints and conduct inspections. Investigators may review and audit records under an investigation or inspection during the inspected facility's normal business hours at the place of business of the provider being investigated.

(f) The board and the board's employees may not disclose confidential information obtained during an investigation except:

(1) during a disciplinary hearing held under section 10 of this chapter; or

(2) under a court order.

Sec. 10. The board may discipline the holder of a license under

IC 25-1-9 after a hearing or for any of the following reasons:

(1) Violation of this chapter or violation of a rule established by the board.

(2) Violation of a board order.

(3) Failure to meet the standards set forth in section 6(b) of this chapter.

(4) The conviction or plea of guilty for a felony or misdemeanor that:

(A) involves fraud or deceit; or

(B) is directly related to providing home medical equipment services.

(5) Negligence or gross misconduct in providing home medical equipment services.

(6) The aid, assistance, or willful allowance of another person in violating a provision under this chapter or a rule adopted by the board.

(7) Failure to provide information within sixty (60) days in response to a written request from the board.

(8) The engagement in conduct that is likely to deceive, defraud, or harm the public.

(9) Denial, revocation, suspension, or restriction of a license in another state or jurisdiction to provide home medical equipment services for a reason other than the failure to renew the license.

(10) The receipt of a fee, commission, rebate, or other form of compensation for services not rendered.

(11) Knowingly making or filing false records, reports, or billings in the course of providing home medical equipment services, including false records, reports, or billings prepared for or submitted to state or federal agencies or departments.

(12) Failure to comply with federal rules issued under the federal Medicare program (42 U.S.C. 1395 et seq.) relating to operations, financial transactions, and general business practices of home medical equipment services providers.

Sec. 11. (a) A person who engages in the business of home medical equipment services and who:

(1) is required to be licensed under this chapter; and

(2) knowingly provides home medical equipment services without a license issued under this chapter;

commits a Class A misdemeanor.

(b) Each day a violation of this section continues constitutes a separate offense.

(c) The board may, in the name of the state and through the attorney general, apply in a court to enjoin a person from providing home medical equipment services in violation of this chapter.

(Reference is to ESB 206 as printed March 18, 2005.)

DILLON	LEHE
BREAUX	RESKE
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1182–1; filed April 27, 2005, at 12:05 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1182 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-1.1-12.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. For purposes of this chapter:

(1) "Economic revitalization area" means an area which is within the corporate limits of a city, town, or county which has become undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property. The term "economic revitalization area" also includes:

(A) any area where a facility or a group of facilities that are technologically, economically, or energy obsolete are located and where the obsolescence may lead to a decline in employment and tax revenues; and

(B) a residentially distressed area, except as otherwise provided in this chapter.

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

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

(A) was installed after February 28, 1983, and **on or** before ~~January 1, 2006,~~ **the approval deadline determined under section 9 of this chapter,** in an area that is declared an economic revitalization area after February 28, 1983, in which a deduction for tangible personal property is allowed;

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

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

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

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

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

(A) on unimproved real estate; or

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

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

(7) "Designating body" means the following:

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

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

(8) "Deduction application" means either:

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

(B) the application filed in accordance with ~~section 5.5~~ **section 5.4** of this chapter by a person who desires to obtain the deduction provided by section 4.5 of this chapter.

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

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

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

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

(A) is installed after June 30, 2000, and **on or** before ~~January 1, 2006,~~ **the approval deadline determined under section 9 of this chapter,** in an economic revitalization area in

which a deduction for tangible personal property is allowed;

(B) consists of:

(i) laboratory equipment;

(ii) research and development equipment;

(iii) computers and computer software;

(iv) telecommunications equipment; or

(v) testing equipment;

(C) is used in research and development activities devoted directly and exclusively to experimental or laboratory research and development for new products, new uses of existing products, or improving or testing existing products; and

(D) is acquired by the property owner for purposes described in this subdivision and was never before used by the owner for any purpose in Indiana.

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

(13) "New logistical distribution equipment" means tangible personal property that:

(A) is installed after June 30, 2004, and **on or** before ~~January 1, 2006,~~ **the approval deadline determined under section 9 of this chapter,** in an economic revitalization area

~~(i)~~ in which a deduction for tangible personal property is allowed. ~~and~~

~~(ii) located in a county referred to in section 2.3 of this chapter, subject to section 2.3(c) of this chapter;~~

(B) consists of:

(i) racking equipment;

(ii) scanning or coding equipment;

(iii) separators;

(iv) conveyors;

(v) fork lifts or lifting equipment (including "walk behinds");

(vi) transitional moving equipment;

(vii) packaging equipment;

(viii) sorting and picking equipment; or

(ix) software for technology used in logistical distribution;

(C) is used for the storage or distribution of goods, services, or information; and

(D) before being used as described in clause (C), was never used by its owner for any purpose in Indiana.

(14) "New information technology equipment" means tangible personal property that:

(A) is installed after June 30, 2004, and **on or** before ~~January 1, 2006,~~ **the approval deadline determined under section 9 of this chapter,** in an economic revitalization area

~~(i)~~ in which a deduction for tangible personal property is allowed. ~~and~~

~~(ii) located in a county referred to in section 2.3 of this chapter, subject to section 2.3(c) of this chapter;~~

(B) consists of equipment, including software, used in the fields of:

(i) information processing;

(ii) office automation;

(iii) telecommunication facilities and networks;

(iv) informatics;

(v) network administration;

(vi) software development; and

(vii) fiber optics; and

(C) before being installed as described in clause (A), was never used by its owner for any purpose in Indiana.

SECTION 2. IC 6-1.1-12.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) (a) A designating body may find that a particular area within its jurisdiction is an economic revitalization area. However, the deduction provided by this chapter for economic revitalization areas not within a city or town shall not be available to retail businesses.

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

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

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

(A) the subject of an order issued under IC 36-7-9; or

(B) evidencing significant building deficiencies.

(3) Parcels of property in the area:

(A) have been sold and not redeemed under IC 6-1.1-24 and IC 6-1.1-25; or

(B) are owned by a unit of local government.

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

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

(1) A significant number of dwelling units within the area are not permanently occupied or a significant number of parcels in the area are vacant land.

(2) A significant number of dwelling units within the area are:

(A) the subject of an order issued under IC 36-7-9; or

(B) evidencing significant building deficiencies.

(3) The area has experienced a net loss in the number of dwelling units, as documented by census information, local building and demolition permits, or certificates of occupancy, or the area is owned by Indiana or the United States.

(4) The area (plus any areas previously designated under this subsection) will not exceed ten percent (10%) of the total area within the designating body's jurisdiction.

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

(d) A designating body is required to attach the following conditions to the grant of a residentially distressed area designation:

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

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

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

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

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

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

(2) One (1) relative to the deduction under section 3 of this

chapter for residentially distressed areas.

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

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

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

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

(2) limit the type of deductions that will be allowed within the economic revitalization area to either the deduction allowed under section 3 of this chapter or the deduction allowed under section 4.5 of this chapter;

(3) limit the dollar amount of the deduction that will be allowed with respect to new manufacturing equipment, new research and development equipment, new logistical distribution equipment, and new information technology equipment if a deduction under this chapter had not been filed before July 1, 1987, for that equipment;

(4) limit the dollar amount of the deduction that will be allowed with respect to redevelopment and rehabilitation occurring in areas that are designated as economic revitalization areas on or after September 1, 1988; or

(5) impose reasonable conditions related to the purpose of this chapter or to the general standards adopted under subsection (g) for allowing the deduction for the redevelopment or rehabilitation of the property or the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

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

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

(1) prevent a taxpayer from obtaining a deduction for new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment installed **on or** before ~~January 1, 2006,~~ **the approval deadline determined under section 9 of this chapter,** but after the expiration of the economic revitalization area if:

(A) the economic revitalization area designation expires after December 30, 1995; and

(B) the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment was described in a statement of benefits submitted to and approved by the designating body in accordance with section 4.5 of this chapter before the expiration of the economic revitalization area designation; or

(2) limit the length of time a taxpayer is entitled to receive a deduction to a number of years that is less than the number of years designated under section 4 or 4.5 of this chapter.

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

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

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

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

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

SECTION 3. IC 6-1.1-12.1-5.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.6. (a) This subsection applies to a property owner whose statement of benefits was approved under section 4.5 of this chapter before July 1, 1991. In addition to the requirements of ~~section 5.5(b)~~ **section 5.4(b)** of this chapter, a deduction application filed under ~~section 5.5~~ **section 5.4** of this chapter must contain information showing the extent to which there has been compliance with the statement of benefits approved under section 4.5 of this chapter. Failure to comply with a statement of benefits approved before July 1, 1991, may not be a basis for rejecting a deduction application.

(b) This subsection applies to a property owner whose statement of benefits was approved under section 4.5 of this chapter after June 30, 1991. In addition to the requirements of ~~section 5.5(b)~~ **section 5.4(b)** of this chapter, a property owner who files a deduction application under ~~section 5.5~~ **section 5.4** of this chapter must provide the county auditor and the designating body with information showing the extent to which there has been compliance with the statement of benefits approved under section 4.5 of this chapter.

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

(1) The name and address of the taxpayer.

(2) The location and description of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment for which the deduction was granted.

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

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

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

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

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

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

(2) Any information concerning the cost of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

SECTION 4. IC 6-1.1-12.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. Notwithstanding any other provision of this chapter, a designating body may not approve a statement of benefits for a deduction under section 3 or 4.5 of this chapter after ~~December 31, 2005.~~ **the approval deadline, which is determined in the following manner:**

(1) The initial approval deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial approval deadline and subsequent approval deadlines are automatically extended in increments of five (5) years, so that approval deadlines subsequent to the initial approval deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an approval deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of approval deadlines under subdivision (2); and

(B) specifically designates a particular date as the final approval deadline.

SECTION 5. IC 6-1.1-39-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) If the fiscal body of a unit finds that:

(1) in order to promote opportunities for the gainful employment of its citizens, the attraction of a new business enterprise to the unit, the retention or expansion of a business enterprise existing within the boundaries of the unit, or the preservation or enhancement of the tax base of the unit, an area under the fiscal body's jurisdiction should be declared an economic development district;

(2) the public health and welfare of the unit will be benefited by designating the area as an economic development district; and

(3) there has been proposed a qualified industrial development project to be located in the economic development district, with the proposal supported by:

(A) financial and economic data; and

(B) preliminary commitments by business enterprises, associations, state or federal governmental units, or similar entities that evidence a reasonable likelihood that the proposed qualified industrial development project will be initiated and accomplished;

the fiscal body may **on or** before ~~January 1, 2006,~~ **the adoption deadline determined under subsection (c),** adopt an ordinance declaring the area to be an economic development district and declaring that the public health and welfare of the unit will be benefited by the designation.

(b) For the purpose of adopting an ordinance under subsection (a), it is sufficient to describe the boundaries of the area by its location in relation to public ways or streams or otherwise as determined by the fiscal body.

(c) The adoption deadline referred to in subsection (a) is determined in the following manner:

(1) The initial adoption deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial adoption deadline and subsequent adoption deadlines are automatically extended in increments of five (5) years, so that adoption deadlines subsequent to the initial adoption deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an adoption deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of adoption deadlines under subdivision (2); and

(B) specifically designates a particular date as the final adoption deadline.

SECTION 6. IC 36-7-14-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 39. (a) As used in this section:

"Allocation area" means that part of a blighted area to which an allocation provision of a declaratory resolution adopted under section 15 of this chapter refers for purposes of distribution and allocation of property taxes.

"Base assessed value" means the following:

(1) If an allocation provision is adopted after June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing an economic development area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(2) If an allocation provision is adopted after June 30, 1997, in a declaratory resolution or an amendment to a declaratory resolution establishing a blighted area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(3) If:

(A) an allocation provision adopted before June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing a blighted area expires after June 30, 1997; and

(B) after June 30, 1997, a new allocation provision is included in an amendment to the declaratory resolution;

the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision adopted after June 30, 1997, as adjusted under subsection (h).

(4) Except as provided in subdivision (5), for all other allocation areas, the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h).

(5) If an allocation area established in an economic development area before July 1, 1995, is expanded after June 30, 1995, the definition in subdivision (1) applies to the expanded portion of the area added after June 30, 1995.

(6) If an allocation area established in a blighted area before July 1, 1997, is expanded after June 30, 1997, the definition in subdivision (2) applies to the expanded portion of the area added after June 30, 1997.

Except as provided in section 39.3 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property. However, upon approval by a resolution of the redevelopment commission adopted before June 1, 1987, "property taxes" also includes taxes imposed under IC 6-1.1 on depreciable personal property. If a redevelopment commission adopted before June 1, 1987, a resolution to include within the definition of property taxes taxes imposed under IC 6-1.1 on depreciable personal property that has a useful life in excess of eight (8) years, the commission may by resolution determine the percentage of taxes imposed under IC 6-1.1 on all depreciable personal property that will be included within the definition of property taxes. However, the percentage included must not exceed twenty-five percent (25%) of the taxes imposed under IC 6-1.1 on all depreciable personal property.

(b) A declaratory resolution adopted under section 15 of this chapter **on or** before ~~January 1, 2006,~~ **the allocation deadline determined under subsection (i)** may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A declaratory resolution previously adopted may include an allocation provision by the amendment of that declaratory resolution **on or** before ~~January 1, 2006,~~ **the allocation deadline determined under subsection (i)** in accordance with the procedures required for its original adoption. A declaratory resolution or an amendment that establishes an allocation provision after June 30, 1995, must specify an expiration date for the allocation provision that may not be more than thirty (30) years after the date on which the allocation provision is established. However, if bonds or other obligations that were scheduled when issued to mature before the specified expiration date and that are payable only from allocated tax proceeds with respect to the allocation area remain outstanding as of the expiration date, the allocation provision does not

expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the blighted area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the redevelopment district and, when collected, paid into an allocation fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds which are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 27 of this chapter.

(D) Pay the principal of and interest on bonds issued by the unit to pay for local public improvements in or serving that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 25.2 of this chapter.

(G) Reimburse the unit for expenditures made by it for local public improvements (which include buildings, parking facilities, and other items described in section 25.1(a) of this chapter) in or serving that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility in or serving that allocation area under any lease entered into under IC 36-1-10.

(I) Pay all or a portion of a property tax replacement credit to taxpayers in an allocation area as determined by the redevelopment commission. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that have been allocated during that year to an allocation fund under this section.

If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under section 39.5 of this chapter in the same year.

(J) Pay expenses incurred by the redevelopment commission for local public improvements that are in the allocation area or serving the allocation area. Public improvements include buildings, parking facilities, and other items described in section 25.1(a) of this chapter.

(K) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

The allocation fund may not be used for operating expenses of the commission.

(3) Except as provided in subsection (g), before July 15 of each year the commission shall do the following:

(A) Determine the amount, if any, by which the base assessed value when multiplied by the estimated tax rate of the allocation area will exceed the amount of assessed value needed to produce the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2).

(B) Notify the county auditor of the amount, if any, of the amount of excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1). The commission may not authorize an allocation of assessed value to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (2) or lessors under section 25.3 of this chapter.

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the declaratory resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the redevelopment commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 4-4-6.1, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund any amount in the allocation fund derived from property tax proceeds in excess of those

described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. The amount sufficient for purposes specified in subsection (b)(2) for the year shall be determined based on the pro rata portion of such current property tax proceeds from the portion of the enterprise zone that is within the allocation area as compared to all such current property tax proceeds derived from the allocation area. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or other purposes specified in subsection (b)(2), except that where reference is made in subsection (b)(2) to allocation area it shall refer for purposes of payments from the special zone fund only to that portion of the allocation area that is also located in the enterprise zone. Those programs shall reserve at least one-half (½) of their enrollment in any session for residents of the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the redevelopment district under this section. However, the adjustment may not include the effect of property tax abatements under IC 6-1.1-12.1, and the adjustment may not produce less property tax proceeds allocable to the redevelopment district under subsection (b)(2) than would otherwise have been received if the general reassessment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

(i) The allocation deadline referred to in subsection (b) is determined in the following manner:

(1) The initial allocation deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an allocation deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of allocation deadlines under subdivision (2); and

(B) specifically designates a particular date as the final allocation deadline.

SECTION 7. IC 36-7-15.1-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. (a) As used in this section:

"Allocation area" means that part of a blighted area to which an allocation provision of a resolution adopted under section 8 of this chapter refers for purposes of distribution and allocation of property taxes.

"Base assessed value" means the following:

(1) If an allocation provision is adopted after June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing an economic development area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(2) If an allocation provision is adopted after June 30, 1997, in a declaratory resolution or an amendment to a declaratory resolution establishing a blighted area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(3) If:

(A) an allocation provision adopted before June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing a blighted area expires after June 30, 1997; and

(B) after June 30, 1997, a new allocation provision is included in an amendment to the declaratory resolution;

the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision adopted after June 30, 1997, as adjusted under subsection (h).

(4) Except as provided in subdivision (5), for all other allocation areas, the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h).

(5) If an allocation area established in an economic development area before July 1, 1995, is expanded after June 30, 1995, the definition in subdivision (1) applies to the expanded portion of the area added after June 30, 1995.

(6) If an allocation area established in a blighted area before July 1, 1997, is expanded after June 30, 1997, the definition in subdivision (2) applies to the expanded portion of the area added after June 30, 1997.

Except as provided in section 26.2 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property. However, upon approval by a resolution of the redevelopment commission adopted before June 1, 1987, "property taxes" also includes taxes imposed under IC 6-1.1 on depreciable personal property. If a redevelopment commission adopted before June 1, 1987, a resolution to include within the definition of property taxes taxes imposed under IC 6-1.1 on depreciable personal property that has a useful life in excess of eight (8) years, the commission may by resolution determine the percentage of taxes imposed under IC 6-1.1 on all depreciable personal property that will be included within the definition of property taxes. However, the percentage included must not exceed twenty-five percent (25%) of the taxes imposed under IC 6-1.1 on all depreciable personal property.

(b) A resolution adopted under section 8 of this chapter **on or** before ~~January 1, 2006,~~ **the allocation deadline determined under subsection (i)** may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A resolution previously adopted may include an allocation provision by the amendment of that resolution **on or** before ~~January 1, 2006,~~ **the allocation deadline determined under subsection (i)** in accordance with the procedures required for its original adoption. A declaratory resolution or an amendment that establishes an allocation provision after June 30, 1995, must specify an expiration date for the allocation provision that may not be more than thirty (30) years after the date on which the allocation provision is established. However, if bonds or other obligations that were scheduled when issued to mature before the specified expiration date and that are payable only from allocated tax proceeds with respect to the allocation area remain outstanding as of the expiration date, the allocation provision does not expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the blighted area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed

as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the redevelopment district and, when collected, paid into a special fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds that are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 19 of this chapter.

(D) Pay the principal of and interest on bonds issued by the consolidated city to pay for local public improvements in that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 17.1 of this chapter.

(G) Reimburse the consolidated city for expenditures for local public improvements (which include buildings, parking facilities, and other items set forth in section 17 of this chapter) in that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility in that allocation area under any lease entered into under IC 36-1-10.

(I) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

The special fund may not be used for operating expenses of the commission.

(3) Before July 15 of each year, the commission shall do the following:

(A) Determine the amount, if any, by which the base assessed value when multiplied by the estimated tax rate of the allocated area will exceed the amount of assessed value needed to provide the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2) and subsection (g).

(B) Notify the county auditor of the amount, if any, of excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The commission may not authorize an allocation to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (2).

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 4-4-6.1, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund the amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund, based on the recommendations of the urban enterprise association, for one (1) or more of the following purposes:

(1) To pay for programs in job training, job enrichment, and basic skill development designed to benefit residents and employers in the enterprise zone. The programs must reserve at least one-half (½) of the enrollment in any session for residents of the enterprise zone.

(2) To make loans and grants for the purpose of stimulating business activity in the enterprise zone or providing employment for enterprise zone residents in the enterprise zone. These loans and grants may be made to the following:

(A) Businesses operating in the enterprise zone.

(B) Businesses that will move their operations to the enterprise zone if such a loan or grant is made.

(3) To provide funds to carry out other purposes specified in subsection (b)(2). However, where reference is made in subsection (b)(2) to the allocation area, the reference refers for purposes of payments from the special zone fund only to that portion of the allocation area that is also located in the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the redevelopment district under this section. However, the adjustment may not include the effect of property tax abatements under IC 6-1.1-12.1, and the

adjustment may not produce less property tax proceeds allocable to the redevelopment district under subsection (b)(2) than would otherwise have been received if the general reassessment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

(i) The allocation deadline referred to in subsection (b) is determined in the following manner:

(1) The initial allocation deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an allocation deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of allocation deadlines under subdivision (2); and

(B) specifically designates a particular date as the final allocation deadline.

SECTION 8. IC 36-7-15.1-53 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 53. (a) As used in this section:

"Allocation area" means that part of a blighted area to which an allocation provision of a resolution adopted under section 40 of this chapter refers for purposes of distribution and allocation of property taxes.

"Base assessed value" means:

(1) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(2) to the extent that it is not included in subdivision (1), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

Except as provided in section 55 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property.

(b) A resolution adopted under section 40 of this chapter **on or** before ~~January 1, 2006,~~ **the allocation deadline determined under subsection (i)** may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A resolution previously adopted may include an allocation provision by the amendment of that resolution **on or** before ~~January 1, 2006,~~ **the allocation deadline determined under subsection (i)** in accordance with the procedures required for its original adoption. A declaratory resolution or an amendment that establishes an allocation provision must be approved by resolution of the legislative body of the excluded city and must specify an expiration date for the allocation provision that may not be more than thirty (30) years after the date on which the allocation provision is established. However, if bonds or other obligations that were scheduled when issued to mature before the specified expiration date and that are payable only from allocated tax proceeds with respect to the allocation area remain outstanding as of the expiration date, the allocation provision does not expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the blighted area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the redevelopment district and, when collected, paid into a special fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds that are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 50 of this chapter.

(D) Pay the principal of and interest on bonds issued by the excluded city to pay for local public improvements in that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 46 of this chapter.

(G) Reimburse the excluded city for expenditures for local public improvements (which include buildings, park facilities, and other items set forth in section 45 of this chapter) in that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility in that allocation area under any lease entered into under IC 36-1-10.

(I) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

The special fund may not be used for operating expenses of the commission.

(3) Before July 15 of each year, the commission shall do the following:

(A) Determine the amount, if any, by which property taxes payable to the allocation fund in the following year will exceed the amount of assessed value needed to provide the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2) and subsection (g).

(B) Notify the county auditor of the amount, if any, of excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The commission may not authorize an allocation to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (2).

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located, is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 4-4-6.1, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund the amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund, based on the recommendations of the urban enterprise association, for one (1) or more of the following purposes:

(1) To pay for programs in job training, job enrichment, and basic skill development designed to benefit residents and employers in the enterprise zone. The programs must reserve at least one-half (½) of the enrollment in any session for residents of the enterprise zone.

(2) To make loans and grants for the purpose of stimulating business activity in the enterprise zone or providing employment for enterprise zone residents in an enterprise zone. These loans and grants may be made to the following:

(A) Businesses operating in the enterprise zone.

(B) Businesses that will move their operations to the enterprise zone if such a loan or grant is made.

(3) To provide funds to carry out other purposes specified in subsection (b)(2). However, where reference is made in subsection (b)(2) to the allocation area, the reference refers, for purposes of payments from the special zone fund, only to that part of the allocation area that is also located in the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the redevelopment district under this section. However, the adjustment may not include the effect of property tax abatements under IC 6-1.1-12.1, and the adjustment may not produce less property tax proceeds allocable to the redevelopment district under subsection (b)(2) than would otherwise have been received if the general reassessment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

(i) The allocation deadline referred to in subsection (b) is determined in the following manner:

(1) The initial allocation deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an allocation deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of allocation deadlines under subdivision (2); and

(B) specifically designates a particular date as the final allocation deadline.

SECTION 9. IC 6-1.1-12.1-2.3 IS REPEALED [EFFECTIVE JULY 1, 2005].

SECTION 10. [EFFECTIVE JULY 1, 2005] **Notwithstanding the amendments to IC 6-1.1-12.1 made by this act, deductions that were approved under IC 6-1.1-12.1 before July 1, 2005, remain in effect after June 30, 2005, according to the provisions of IC 6-1.1-12.1 as they existed on June 30, 2005.**

(Reference is to EHB 1182 as printed April 6, 2005.)

LEONARD	DILLON
MOSES	HUME
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 578–1; filed April 27, 2005, at 12:08 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 578 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-4-10.9-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 1.2. "Affected statutes" means all statutes that grant a power to or impose a duty on the authority, including but not limited to IC 4-4-11, IC 4-4-21, IC 4-13.5, IC 8-1-33, IC 8-9.5, IC 8-14.5, IC 8-15, IC 8-16, IC 13-18-13, IC 13-18-21, IC 13-19-5, IC 14-14, and IC 15-7-5.**

SECTION 2. IC 4-4-10.9-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1.5. "Authority" refers to the Indiana ~~development~~ finance authority established by IC 4-4-11.

SECTION 3. IC 4-4-10.9-2.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 2.1. "Broadband development program" refers to the Indiana broadband development program established by IC 8-1-33-15.**

SECTION 4. IC 4-4-10.9-2.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 2.2. "Broadband development project" means a project authorized by the broadband development program under IC 8-1-33.**

SECTION 5. IC 4-4-10.9-11, AS AMENDED BY P.L.4-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. (a) Except as provided in subsection (b), "industrial development project" includes:

(1) the acquisition of land, site improvements, infrastructure improvements, buildings, or structures, rehabilitation, renovation, and enlargement of buildings and structures, machinery, equipment, furnishings, or facilities (or any combination of these), comprising or being functionally related and subordinate to any project (whether manufacturing, commercial, agricultural, environmental, or otherwise) the development or expansion of which serves the public purposes set forth in IC 4-4-11-2;

(2) educational facility projects; ~~and~~

(3) child care facility projects; **and**

(4) broadband development projects.

(b) For purposes of the industrial development guaranty fund program, "industrial development project" includes the acquisition of land, interests in land, site improvements, infrastructure improvements (including information and high technology infrastructure (as defined in ~~IC 4-4-8-1)),~~ IC 5-28-9-4)), buildings, or structures, rehabilitation, renovation, and enlargement of buildings and structures, machinery, equipment, furnishings, or facilities (or any combination of these), comprising or being functionally related and subordinate to any of the following:

(1) A pollution control facility.

(2) A manufacturing enterprise.

(3) A business service enterprise involved in:

(A) computer and data processing services; or

(B) commercial testing services.

(4) A business enterprise the primary purpose of which is the operation of an education and permanent marketing center for manufacturers and distributors of robotic and flexible automation equipment.

(5) Any other business enterprise, if the use of the guaranty program creates a reasonable probability that the effect on Indiana employment will be creation or retention of at least fifty (50) jobs.

(6) An agricultural enterprise in which:

(A) the enterprise operates pursuant to a producer or growout agreement; and

(B) the output of the enterprise is processed predominantly in Indiana.

(7) A business enterprise that is required by a state, federal, or local regulatory agency to make capital expenditures to remedy a violation of a state or federal law or a local ordinance.

(8) A recycling market development project.

(9) A high growth company with high skilled jobs (as defined in IC 4-4-10.9-9.5).

(10) A broadband development project.

SECTION 6. IC 4-4-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. This chapter may be cited as "The Indiana ~~development~~ finance authority law".

SECTION 7. IC 4-4-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) The legislature makes the following findings of fact:

(1) That there currently exists in certain areas of the state critical conditions of unemployment, **inadequate drinking water, inadequate wastewater and storm water management,** or environmental pollution, including water pollution, air pollution, sewage and solid waste, radioactive waste, thermal pollution, radiation contamination, and noise pollution, and that these conditions may well exist, from time to time, in other areas of the state.

(2) That in some areas of the state such conditions are chronic and of long standing and that without remedial measures they may become so in other areas of the state.

(3) That economic insecurity due to unemployment, **inadequate drinking water, inadequate wastewater and storm water management,** or environmental pollution is a menace to the health, safety, morals, and general welfare of not only the people of the affected areas but of the people of the entire state.

(4) That involuntary unemployment and its resulting burden of indigency falls with crushing force upon the unemployed worker and ultimately upon the state in the form of public assistance and unemployment compensation.

(5) That security against unemployment and the resulting spread of indigency and economic stagnation in the areas affected can best be provided by:

(A) the promotion, attraction, stimulation, rehabilitation, and revitalization of industrial development projects, rural development projects, mining operations, and agricultural operations that involve the processing of agricultural products;

(B) the promotion and stimulation of international exports; and

(C) the education, both formal and informal, of people of all ages throughout the state by the promotion, attraction, construction, renovation, rehabilitation, and revitalization of and assistance to educational facility projects.

(6) That the present and prospective health, safety, morals, right to gainful employment, and general welfare of the people of the state require as a public purpose **the provision of safe drinking water, the provision of wastewater and storm water management,** the abatement or control of pollution, the promotion of increased educational enrichment (including cultural, intellectual, scientific, or artistic opportunities) for people of all ages through new, expanded, or revitalized educational facility projects or through assisting educational facility projects, and the promotion of employment creation or retention through development of new and expanded industrial development projects, rural development projects, mining operations, and agricultural operations that involve the processing of agricultural products.

(7) That there is a need to stimulate a larger flow of private investment funds from commercial banks, investment bankers, insurance companies, other financial institutions, and individuals into such industrial development projects, rural development projects, mining operations, international exports, and agricultural operations that involve the processing of agricultural products in the state.

(8) That the authority can encourage the making of loans or leases for creation or expansion of industrial development projects, rural development projects, mining operations, international exports, and agricultural operations that involve the processing of agricultural products, thus putting a larger portion of the private capital available in Indiana for investment to use in the general economic development of the state.

(9) That the issuance of bonds of the authority to create a financing pool for industrial development projects **and carrying out the purposes of IC 13-18-13 and IC 13-18-21** promoting a substantial likelihood of opportunities for:

(A) gainful employment;

(B) business opportunities;

(C) educational enrichment (including cultural, intellectual, scientific, or artistic opportunities);

(D) the abatement, reduction, or prevention of pollution;

(E) the provision of safe drinking water;

(F) the provision of wastewater and storm water management;

~~(E)~~ **(G)** the removal or treatment of any substances in materials being processed that otherwise would cause pollution when used; or

~~(F)~~ **(H)** increased options for and availability of child care;

will improve the health, safety, morals, and general welfare of the people of the state and constitutes a public purpose for which the authority shall exist and operate.

(10) That the issuance of bonds of the authority to create a funding source for the making of guaranteed participating loans will promote and encourage an expanding international exports market and international exports sales and will promote the general welfare of all of the people of Indiana by assisting Indiana businesses through stimulation of the expansion of international exports sales for Indiana products and services, especially those of small and medium-sized businesses, by providing financial assistance through the authority.

(b) The Indiana ~~development~~ finance authority shall exist and operate for the public purposes of:

(1) promoting opportunities for gainful employment and business opportunities by the promotion and development of industrial development projects, rural development projects, mining operations, international exports, and agricultural operations that involve the processing of agricultural products, in any areas of the state;

(2) promoting the educational enrichment (including cultural, intellectual, scientific, or artistic opportunities) of all the people of the state by the promotion, development, and assistance of educational facility projects;

(3) promoting affordable farm credit and agricultural loan financing at interest rates that are consistent with the needs of borrowers for farming and agricultural enterprises;

(4) preventing and remediating environmental pollution, including water pollution, air pollution, sewage and solid waste disposal, radioactive waste, thermal pollution, radiation contamination, and noise pollution affecting the health and well-being of the people of the state by:

(A) the promotion and development of industrial development projects; and

(B) carrying out the purposes of IC 13-18-13 and IC 13-18-21;

(5) promoting the provision of safe and adequate drinking water and wastewater and storm water management to positively affect the public health and well-being by carrying out the purposes of IC 13-18-13 and IC 13-18-21;

(6) otherwise positively affecting the public health and well-being by carrying out the purposes of IC 13-18-13 and IC 13-18-21; and

~~(5)~~ **(7)** promoting affordable and accessible child care for the people of the state by the promotion and development of child care facilities.

SECTION 8. IC 4-4-11-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 2.5. (a) The general assembly makes the following findings of fact in addition to those set forth in section 2 of this chapter:**

(1) There are currently numerous bodies corporate and politic of the state, with separate decision making and borrowing authority, that may issue bonds, notes, obligations, and otherwise access the financial markets.

(2) Consolidation of this decision making and borrowing authority may provide economic efficiencies and management synergies and enable the state to communicate, with a single voice, with the various participants in the financial markets, including credit rating agencies, investment bankers, investors, and municipal bond insurers and other credit enhancers.

(b) In addition to the purposes set forth in section 2 of this chapter, the authority is established for the purpose of permitting the consolidation of certain bodies in a single body of decision making concerning access to the capital and financial markets in the name of, or for the benefit of, the state.

(c) The authority is authorized to carry out the public purposes provided for in the affected statutes through a single entity in order to achieve the purposes of this section.

SECTION 9. IC 4-4-11-2.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 2.7. (a) This article shall be liberally construed to effect the purposes of this article.**

(b) To the extent that the provisions of this article are inconsistent with the provisions of any other general, special, or local law, the provisions of this article are controlling and supersede all other laws.

SECTION 10. IC 4-4-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. (a) There is created **for the public purposes set forth in section 2.5 of this chapter** a body politic and corporate, not a state agency but an independent instrumentality exercising essential public functions, to be known as the Indiana ~~development~~ finance authority. **The authority is separate and apart from the state in its corporate and sovereign capacity, and though separate from the state, the exercise by the authority of its powers constitutes an essential governmental, public, and corporate function.**

(b) The authority shall be composed of the following ~~nine (9)~~ **five (5)** members:

(1) The ~~lieutenant governor, or the lieutenant governor's~~ **budget director, or the budget director's** designee, **who shall serve as chairman of the authority.**

(2) The treasurer of state, or the treasurer of state's designee.

(3) ~~Seven (7)~~ **Three (3)** members appointed by the governor, no more than ~~four (4)~~ **two (2)** of whom may be from the same political party.

(c) All members shall be residents of the state.

SECTION 11. IC 4-4-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 5. ~~All~~ Appointments to the authority ~~shall be~~ **under section 4(b)(3) of this chapter are** for terms of four (4) years. Each member ~~shall hold~~ **appointed to the authority under section 4(b)(3) of this chapter:**

(1) holds office for the term of this appointment; ~~and shall continue~~

(2) continues to serve after expiration of ~~his~~ **the** appointment until ~~his~~ **a** successor is appointed and qualified; ~~Any member shall be~~

(3) is eligible for reappointment; ~~Any member~~ **and**

(4) may be removed from office by the governor **with or without cause** and serves at ~~his~~ **the** pleasure **of the governor. The governor shall fill a vacancy for the unexpired term of any member appointed under section 4(b)(3) of this chapter.**

SECTION 12. IC 4-4-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 6. (a) ~~The governor shall name the chairman from among the members to serve as chairman at the pleasure of the governor.~~ The members shall elect from among their number a vice chairman and other officers as they may determine.

(b) The members of the authority ~~appointed by the governor under section 4(b)(3) of this chapter are entitled to a per diem allowance for attending meetings equal to that provided by law for members of the general assembly. All the members of the authority shall receive reimbursement for actual and necessary expenses on the same basis as state employees.~~ **are entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with their duties as provided by law. Members are not entitled to the salary per diem provided by IC 4-10-11-2.1(b) or any other compensation while performing their duties.**

SECTION 13. IC 4-4-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. The powers of the authority are vested in the members. ~~Five (5)~~ **Three (3)** members of the authority constitute a quorum for the transaction of business. The affirmative vote of at least ~~five (5)~~ **three (3)** members is necessary for any action to be taken by the authority. Members may vote by written proxy delivered in advance to any other member who is present at the meeting. A vacancy in the membership of the authority does not impair the right of a quorum to exercise all rights and perform all duties of the authority.

SECTION 14. IC 4-4-11-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 9. The ~~lieutenant~~ governor shall ~~serve as the secretary-manager of the authority. The secretary-manager shall~~ **appoint the public finance director, who shall serve at the pleasure of the governor. The public finance director shall:**

(1) administer, manage, and direct the affairs and activities of the authority **and the employees of the authority** in accordance with the policies and under the control and direction of the members ~~The secretary-manager shall~~ **of the authority;**

(2) approve all accounts for salaries, allowable expenses of the authority or of any employee or consultant, and expenses incidental to the operation of the authority; ~~The secretary-manager shall~~ **and**

(3) perform other duties as may be directed by the members **of the authority** in carrying out the purposes of ~~this chapter, IC 4-4-21, and IC 15-7-5,~~ **the affected statutes.**

SECTION 15. IC 4-4-11-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. The ~~secretary-manager~~ **public finance director** shall attend the meetings of the members of the authority, shall keep a record of the proceedings of the authority, and shall maintain and be custodian of all books, documents, and papers filed with the authority and its official seal. The ~~secretary-manager~~ **public finance director** may make copies of all minutes and other records and documents of the authority and may give certificates under seal of the authority to the effect that the copies are true copies. All persons dealing with the authority may rely upon ~~such~~ **these** certificates.

SECTION 16. IC 4-4-11-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. **(a)** The authority may, without the approval of the attorney general or any other state officer, employ bond counsel, other legal counsel, technical experts, and such other officers, agents, and employees, permanent or temporary, as it considers necessary to carry out the efficient

operation of the authority, and shall determine their qualifications, duties, compensation, and terms of service. **The authority shall fix the compensation of the public finance director.**

(b) The members **of the authority** may ~~delegate~~ **adopt a resolution delegating** to:

(1) a member of the authority;

(2) the ~~secretary-manager~~ **public finance director;** or

(3) one (1) or more agents or employees of the authority; ~~such~~ administrative duties ~~as~~ **that** they consider proper, including the powers of the authority set forth in this section.

(c) Employees of the authority shall not be considered employees of the state.

SECTION 17. IC 4-4-11-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 14. ~~Before:~~

~~(1) the issuance of any bonds or guaranteed participating loans under this chapter, IC 4-4-21, or IC 15-7-5; or~~

~~(2) the providing of any performance bond guarantees under IC 4-4-21;~~

(a) Each member of the authority, **the public finance director, and any other employee or agent of the authority authorized by resolution of the authority to handle funds or sign checks, before beginning the individual's duties,** shall execute a surety bond in the penal sum of ~~twenty-five~~ **fifty** thousand dollars ~~($25,000).~~ **($50,000).** To the extent ~~any member of the authority~~ **an individual described in this section** is already covered by a bond required by state law, the ~~member~~ **individual** need not obtain another bond so long as the bond required by state law is in at least the penal sum specified in this section and covers the ~~member's~~ **individual's** activities for the authority. In lieu of a bond, the chairman of the authority may execute a blanket surety bond covering each member and the employees or other officers of the authority. Each surety bond shall be conditioned upon the faithful performance of the **individual's** duties ~~of the office of the member~~ and shall be issued by a surety company authorized to transact business in this state as surety. At all times after the issuance of any surety bonds, each ~~member~~ **individual described in this section** shall maintain the surety bonds in full force and effect. All costs of the surety bonds shall be borne by the authority.

(b) The public finance director, before beginning the public finance director's duties, must:

(1) execute a surety bond as provided in subsection (a); or

(2) be included in the coverage of a blanket surety bond described in subsection (a).

SECTION 18. IC 4-4-11-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 14.5. (a) As used in this section, "state educational institution" has the meaning set forth in IC 20-12-0.5-1.**

(b) The authority, after consulting with the treasurer of state, the Indiana bond bank, the budget agency, and the Indiana commission for higher education, shall establish and periodically update a state debt management plan. The plan must include at least the following provisions with respect to debt issued or to be issued by the authority, other bodies corporate and politic of the state, and state educational institutions:

(1) An inventory of existing debt.

(2) Projections of future debt obligations.

(3) Recommended criteria for the appropriate use of debt as a means to finance capital projects.

(4) Recommended strategies to minimize costs associated with debt issuance.

(5) An analysis of the impact of debt issued by all bodies corporate and politic and state educational institutions on the state budget.

(6) Recommended guidelines for the prudent issuance of debt that creates a moral obligation of the state to pay all or part of the debt.

(7) Recommended policies for the investment of:

(A) proceeds of bonds, notes, or other obligations issued by bodies corporate and politic and state educational institutions; and

(B) other money, funds, and accounts owned or held by a body corporate and politic.

(8) Recommended policies for the establishment of a system of record keeping and reporting to meet the arbitrage rebate compliance requirements of the Internal Revenue Code.

(9) Recommended policies for the preparation of financial disclosure documents, including official statements accompanying debt issues, comprehensive annual financial reports, and continuing disclosure statements. The recommended policies must include a provision for approval by the budget director of any statements or reports that include a discussion of the state's economic and fiscal condition.

(10) Potential opportunities to more effectively and efficiently authorize and manage debt.

(11) Recommendations to the budget director, the governor, and the general assembly with respect to financing of capital projects.

The recommendations to the general assembly under subdivision (11) must be in an electronic format under IC 5-14-6.

SECTION 19. IC 4-4-11-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. (a) The authority is granted all powers necessary or appropriate to carry out and effectuate its public and corporate purposes under ~~this chapter, IC 4-4-21, and IC 15-7-5,~~ **the affected statutes,** including but not limited to the following:

(1) Have perpetual succession as a body politic and corporate and an independent instrumentality exercising essential public functions.

(2) Without complying with IC 4-22-2, adopt, amend, and repeal bylaws, rules, **guidelines,** and ~~regulations~~ **policies** not inconsistent with ~~this chapter, IC 4-4-21, and IC 15-7-5,~~ **the affected statutes,** and necessary or convenient to regulate its affairs and to carry into effect the powers, duties, and purposes of the authority and conduct its business **under the affected statutes. These bylaws, rules, guidelines, and policies must be made by a resolution of the authority introduced at one (1) meeting and approved at a subsequent meeting of the authority.**

(3) Sue and be sued in its own name.

(4) Have an official seal and alter it at will.

(5) Maintain an office or offices at a place or places within the state as it may designate.

(6) Make, ~~and~~ execute, **and enforce** contracts and all other instruments necessary, ~~or~~ convenient, **or desirable** for the ~~performance of its duties and the exercise of its powers and functions under this chapter, IC 4-4-21, and IC 15-7-5.~~ **purposes of the authority or pertaining to:**

(A) a purchase, acquisition, or sale of securities or other investments; or

(B) the performance of the authority's duties and execution of any of the authority's powers under the affected statutes.

(7) Employ architects, engineers, attorneys, inspectors, accountants, agriculture experts, silviculture experts, aquaculture experts, and financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment and to fix their compensation.

(8) Procure insurance against any loss in connection with its property and other assets, including loans and loan notes in amounts and from insurers as it may consider advisable.

(9) Borrow money, make guaranties, issue bonds, and otherwise incur indebtedness for any of the authority's purposes, and issue debentures, notes, or other evidences of indebtedness, whether secured or unsecured, to any person, as provided by ~~this chapter, IC 4-4-21, and IC 15-7-5,~~ **the affected statutes. Notwithstanding any other law, the:**

(A) issuance by the authority of any indebtedness that establishes a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to restore a debt service reserve fund or another fund to required levels; or

(B) execution by the authority of any other agreement that creates a moral obligation of the state to pay all or part of any indebtedness issued by the authority;

is subject to review by the budget committee and approval by the budget director.

(10) Procure insurance or guaranties from any public or private entities, including any department, agency, or instrumentality of the United States, for payment of any bonds issued by the authority or for reinsurance on amounts paid from the industrial development project guaranty fund, including the power to pay premiums on any insurance or reinsurance.

(11) Purchase, receive, take by grant, gift, devise, bequest, or otherwise, and accept, from any source, aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of ~~this chapter, IC 4-4-21, and IC 15-7-5,~~ **the affected statutes,** subject to the conditions upon which the grants or contributions are made, including but not limited to gifts or grants from any department, agency, or instrumentality of the United States, and lease or otherwise acquire, own, hold, improve, employ, use, and otherwise deal in and with real or personal property or any interest in real or personal property, wherever situated, for any purpose consistent with ~~this chapter, IC 4-4-21, or IC 15-7-5,~~ **the affected statutes.**

(12) Enter into agreements with any department, agency, or instrumentality of the United States or this state and with lenders and enter into loan agreements, sales contracts, and leases with contracting parties, including **participants (as defined in IC 13-11-2-151.1) for any purpose permitted under IC 13-18-13 or IC 13-18-21,** borrowers, lenders, developers, or users, for the purpose of planning, regulating, and providing for the financing and refinancing of any agricultural enterprise (as defined in IC 15-7-4.9-2), rural development project (as defined in IC 15-7-4.9-19.5), industrial development project, **purpose permitted under IC 13-18-13 and IC 13-18-21,** or international exports, and distribute data and information concerning the encouragement and improvement of agricultural enterprises and agricultural employment, rural development projects, industrial development projects, international exports, and other types of employment in the state undertaken with the assistance of the authority under this chapter.

(13) Enter into contracts or agreements with lenders and lessors for the servicing and processing of loans and leases pursuant to ~~this chapter, IC 4-4-21, and IC 15-7-5,~~ **the affected statutes.**

(14) Provide technical assistance to local public bodies and to profit and nonprofit entities in the development or operation of agricultural enterprises, rural development projects, and industrial development projects.

(15) To the extent permitted under its contract with the holders of the bonds of the authority, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any contract, loan, loan note, loan note commitment, contract, lease, or agreement of any kind to which the authority is a party.

(16) To the extent permitted under its contract with the holders of bonds of the authority, enter into contracts with any lender containing provisions enabling it to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges when, by reason of other income or payment by any department, agency, or instrumentality of the United States of America or of this state, the reduction can be made without jeopardizing the economic stability of the agricultural enterprise, rural development project, or industrial development project being financed.

(17) **Notwithstanding IC 5-13, but subject to the requirements of any trust agreement entered into by the authority,** invest: ~~any funds not needed for immediate disbursement, including any funds held in reserve, in direct and general obligations of or obligations fully and unconditionally guaranteed by the United States, obligations issued by agencies of the United States, obligations of this state, or any obligations or securities which may from time to time be legally purchased by governmental subdivisions of this state pursuant to IC 5-13, or any obligations or securities which are permitted investments for bond proceeds or any construction, debt service, or reserve funds secured under the trust indenture or resolution pursuant to which bonds are issued.~~

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

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

(C) proceeds of bonds or notes;

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

(18) **Fix and revise periodically, and charge and** collect, fees and charges as the authority determines to be reasonable in connection with: ~~its~~

(A) the authority's loans, guarantees, advances, insurance, commitments, and servicing; **and**

(B) the use of the authority's services or facilities.

(19) Cooperate and exchange services, personnel, and information with any federal, state, or local government agency, or instrumentality of the United States or this state.

(20) Sell, at public or private sale, with or without public bidding, any loan or other obligation held by the authority.

(21) Enter into agreements concerning, and acquire, hold, and dispose by any lawful means, land or interests in land, building improvements, structures, personal property, franchises, patents, accounts receivable, loans, assignments, guarantees, and insurance needed for the purposes of ~~this chapter, IC 4-4-21, or IC 15-7-5,~~ **the affected statutes.**

(22) Take assignments of accounts receivable, loans, guarantees, insurance, notes, mortgages, security agreements securing notes, and other forms of security, attach, seize, or take title by foreclosure or conveyance to any industrial development project when a guaranteed loan thereon is clearly in default and when in the opinion of the authority such acquisition is necessary to safeguard the industrial development project guaranty fund, and sell, or on a temporary basis, lease, or rent such industrial development project for any use.

(23) Expend money, as the authority considers appropriate, from the industrial development project guaranty fund created by section 16 of this chapter.

(24) Purchase, lease as lessee, construct, remodel, rebuild, enlarge, or substantially improve industrial development projects, including land, machinery, equipment, or any combination thereof.

(25) Lease industrial development projects to users or developers, with or without an option to purchase.

(26) Sell industrial development projects to users or developers, for consideration to be paid in installments or otherwise.

(27) Make direct loans from the proceeds of the bonds to users or developers for:

(A) the cost of acquisition, construction, or installation of industrial development projects, including land, machinery, equipment, or any combination thereof; or

(B) eligible expenditures for an educational facility project described in IC 4-4-10.9-6.2(a)(2);

with the loans to be secured by the pledge of one (1) or more bonds, notes, warrants, or other secured or unsecured debt obligations of the users or developers.

(28) Lend or deposit the proceeds of bonds to or with a lender for the purpose of furnishing funds to such lender to be used for making a loan to a developer or user for the financing of industrial development projects under this chapter.

(29) Enter into agreements with users or developers to allow the users or developers, directly or as agents for the authority, to wholly or partially construct industrial development projects to be leased from or to be acquired by the authority.

(30) Establish reserves from the proceeds of the sale of bonds, other funds, or both, in the amount determined to be necessary by the authority to secure the payment of the principal and interest on the bonds.

(31) Adopt rules **and guidelines** governing its activities authorized under ~~this chapter, IC 4-4-21, and IC 15-7-5,~~ **the affected statutes.**

(32) Use the proceeds of bonds to make guaranteed participating loans.

(33) Purchase, discount, sell, and negotiate, with or without

guaranty, notes and other evidences of indebtedness.
(34) Sell and guarantee securities.
(35) Make guaranteed participating loans under IC 4-4-21-26.
(36) Procure insurance to guarantee, insure, coinsure, and reinsure against political and commercial risk of loss, and any other insurance the authority considers necessary, including insurance to secure the payment of principal and interest on notes or other obligations of the authority.
(37) Provide performance bond guarantees to support eligible export loan transactions, subject to the terms of ~~this chapter or IC 4-4-21.~~ **the affected statutes.**
(38) Provide financial counseling services to Indiana exporters.
(39) Accept gifts, grants, or loans from, and enter into contracts or other transactions with, any federal or state agency, municipality, private organization, or other source.
(40) Sell, convey, lease, exchange, transfer, or otherwise dispose of property or any interest in property, wherever the property is located.
(41) Cooperate with other public and private organizations to promote export trade activities in Indiana.
(42) Make guarantees and administer the agricultural loan and rural development project guarantee fund established by IC 15-7-5.
(43) Take assignments of notes and mortgages and security agreements securing notes and other forms of security, and attach, seize, or take title by foreclosure or conveyance to any agricultural enterprise or rural development project when a guaranteed loan to the enterprise or rural development project is clearly in default and when in the opinion of the authority the acquisition is necessary to safeguard the agricultural loan and rural development project guarantee fund, and sell, or on a temporary basis, lease or rent the agricultural enterprise or rural development project for any use.
(44) Expend money, as the authority considers appropriate, from the agricultural loan and rural development project guarantee fund created by IC 15-7-5-19.5.
(45) Reimburse from bond proceeds expenditures for industrial development projects under this chapter.
(46) Acquire, hold, use, and dispose of the authority's income, revenues, funds, and money.
(47) Purchase, acquire, or hold debt securities or other investments for the authority's own account at prices and in a manner the authority considers advisable, and sell or otherwise dispose of those securities or investments at prices without relation to cost and in a manner the authority considers advisable.
(48) Fix and establish terms and provisions with respect to:
(A) a purchase of securities by the authority, including dates and maturities of the securities;
(B) redemption or payment before maturity; and
(C) any other matters that in connection with the purchase are necessary, desirable, or advisable in the judgment of the authority.
(49) To the extent permitted under the authority's contracts with the holders of bonds or notes, amend, modify, and supplement any provision or term of:
(A) a bond, a note, or any other obligation of the authority; or
(B) any agreement or contract of any kind to which the authority is a party.
(50) Subject to the authority's investment policy, do any act and enter into any agreement pertaining to a swap agreement (as defined in IC 8-9.5-9-4) related to the purposes of the affected statutes in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7, whether the action is incidental to the issuance, carrying, or securing of bonds or otherwise.
~~(46)~~ **(51)** Do any act necessary or convenient to the exercise of the powers granted by ~~this chapter, IC 4-4-21, or IC 15-7-5,~~ **the affected statutes,** or reasonably implied from those statutes, including but not limited to compliance with requirements of federal law imposed from time to time for the issuance of bonds.

(b) The authority's powers under this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be construed as a limitation of powers. **The omission of a power from the list in subsection (a) does not imply that the authority lacks that power. The authority may exercise any power that is not listed in subsection (a) but is consistent with the powers listed in subsection (a) to the extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.**
(c) This chapter does not authorize the financing of industrial development projects for a developer unless any written agreement that may exist between the developer and the user at the time of the bond resolution is fully disclosed to and approved by the authority.
(d) The authority shall work with and assist the Indiana health and educational facility financing authority established by IC 5-1-16-2, the Indiana housing finance authority established by IC 5-20-1-3, the Indiana port commission established under IC 8-10-1, and the state fair commission established by IC 15-1.5-2-1 in the issuance of bonds, notes, or other indebtedness. The Indiana health and educational facility financing authority, the Indiana housing finance authority, the Indiana port commission, and the state fair commission shall work with and cooperate with the authority in connection with the issuance of bonds, notes, or other indebtedness.
SECTION 20. IC 4-4-11-15.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15.1. (a) The authority shall:
(1) **without complying with IC 4-22-2,** adopt
~~(A) rules under IC 4-22-2, or~~
~~(B)~~ a policy
establishing a code of ethics for its employees; or
(2) decide it wishes to be under the jurisdiction and rules adopted by the state ethics commission.
(b) A code of ethics adopted ~~by rule or policy~~ under this section must be consistent with state law and approved by the governor.
SECTION 21. IC 4-4-11-15.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 15.3. The authority may not:**
(1) deal in securities within the meaning of or subject to any securities law, securities exchange law, or securities dealers law of the United States of America or of the state or of any other state or jurisdiction, domestic or foreign, except as authorized in the affected statutes;
(2) emit bills of credit, or accept deposits of money for time or demand deposit, or administer trusts, or engage in any form or manner, or in the conduct of, any private or commercial banking business, or act as a savings bank or savings association, or any other kind of financial institution; or
(3) engage in any form of private or commercial banking business.
SECTION 22. IC 4-4-11-15.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 15.4. (a) The authority may issue bonds or notes and invest or loan the proceeds of those bonds or notes to a participant (as defined in IC 13-11-2-151.1) for the purposes of:**
(1) the wastewater revolving loan program established by IC 13-18-13-1; and
(2) the drinking water revolving loan program established by IC 13-18-21-1.
(b) If the authority loans money to or purchases debt securities of a political subdivision (as defined in IC 13-11-2-164(a) and IC 13-11-2-164(b)), the authority may, by the resolution approving the bonds or notes, provide that subsection (c) is applicable to the political subdivision.
(c) Notwithstanding any other law, to the extent that any department or agency of the state, including the treasurer of state, is the custodian of money payable to the political subdivision (other than for goods or services provided by the political subdivision), at any time after written notice to the department or agency head from the authority that the political subdivision is in default on the payment of principal or interest on the obligations then held or owned by or arising from an

agreement with the authority, the department or agency shall withhold the payment of that money from that political subdivision and pay over the money to the authority for the purpose of paying principal of and interest on bonds or notes of the authority. However, the withholding of payment from the political subdivision and payment to the authority under this section must not adversely affect the validity of the obligation in default.

SECTION 23. IC 4-4-11-16.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16.5. (a) There is created the business development loan fund that shall be used by the authority as a nonlapsing, revolving fund. The business development loan fund consists of the following:

(1) Money appropriated by the general assembly.

(2) The repayment proceeds of loans made to businesses from the fund.

(3) Money received from any other source.

(b) Subject to subsection (c), the authority may make a loan from the business development loan fund to a business located in Indiana if the authority makes a written finding that the loan would accomplish the purposes of this chapter by enabling the business to carry out ~~an industrial development~~ **a** project **or projects** that will do any of the following:

(1) Improve the technological capacity or productivity of the business.

(2) Enhance the protection of Indiana's environment.

(3) Permit the business to expand facilities, establish new facilities, or make site improvements or infrastructure improvements.

(c) With respect to any loan made under this section, a loan agreement with the authority must contain the following terms:

(1) A requirement that the loan proceeds be used for specified purposes consistent with and in furtherance of the purposes of the authority under this chapter.

(2) The term of the loan, which must not be later than fifteen (15) years from the date of the loan.

(3) The repayment schedule.

(4) The interest rate or rates of the loan, which may include variations in the rate, but that may not be less than the amount necessary to cover all expenses of the authority in making the loan.

(5) Any other terms and provisions that the authority requires.

SECTION 24. IC 4-4-11-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 19. (a) The authority shall have the power to borrow money and to issue its bonds from time to time in such principal amounts as the authority determines shall be necessary to provide sufficient funds to carry out its purposes, including:

(1) carrying out the powers stated in this chapter, except the powers pertaining to the guaranty program; ~~and in IC 15-7-5-16 through IC 15-7-5-20;~~

(2) the payment of interest on bonds of the authority;

(3) the establishment of reserves to secure the bonds; and

(4) all other expenditures of the authority incident to, necessary, and convenient to carry out its purposes and powers.

(b) The authority may also issue bonds in the manner **and for the purposes** provided by ~~IC 4-4-21 and IC 15-7-5.~~ **the affected statutes.**

SECTION 25. IC 4-4-11-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 30. The members of the authority, the officers and employees of the authority, **the public finance director,** any agents of the authority, and any other persons executing bonds issued under ~~this chapter~~ **the affected statutes** are not subject to personal liability or accountability by reason of any act authorized by ~~this chapter,~~ **the affected statutes,** including without limitation the issuance of bonds, the failure to issue bonds, the execution of bonds, and the making of guarantees.

SECTION 26. IC 4-4-11-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 32. All money received by the authority, except as provided in ~~this chapter, IC 4-4-21, or IC 15-7-5,~~ **the affected statutes,** shall be deposited as soon as practical in a separate account or accounts in banks or trust companies organized under the laws of this state or in national banking associations. The money in these accounts shall be paid out on checks signed by the chairman or other officers or employees of the authority as the authority shall authorize or by wire transfer or other electronic means authorized by the authority. All deposits of money shall, if required by the authority, be secured in a manner that the authority determines to be prudent, and all banks or trust companies are authorized to give security for the deposits. Notwithstanding any other provisions of law to the contrary, all money received pursuant to the authority of ~~this chapter, IC 4-4-21, or IC 15-7-5,~~ **the affected statutes** are trust funds to be held and applied solely as provided in ~~this chapter, IC 4-4-21, or IC 15-7-5,~~ **the affected statutes.** The resolution authorizing any obligations, or trust agreement or indenture securing the same, may provide that any of the money may be temporarily invested pending the disbursement thereof, and shall provide that any officer with whom or any bank or trust company with which the money shall be deposited shall act as trustee of the money and shall hold and apply the same for the authorized purposes of the authority, subject to regulations as ~~this chapter, IC 4-4-21, or IC 15-7-5,~~ **the affected statutes, the authority's investment policy,** and the resolution or trust agreement or indenture may provide.

SECTION 27. IC 4-4-11-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 35. **(a)** All expenses incurred by the authority in carrying out ~~this chapter, IC 4-4-21, or IC 15-7-5,~~ **the affected statutes** shall be payable solely from funds provided under ~~this chapter, IC 4-4-21, or IC 15-7-5,~~ **the affected statutes,** and nothing in ~~this chapter~~ **the affected statutes** shall be construed to authorize the authority to incur indebtedness or liability ~~on behalf of or payable by~~ **of** the state or any political subdivision of it.

(b) The authority shall annually prepare a budget that allocates the expenses incurred by the authority in an equitable manner among the various financing programs administered by the authority.

SECTION 28. IC 4-4-11-36.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 36.1. (a) Except as provided in subsections (b) through (c), all property, both tangible and intangible, acquired or held by the authority under ~~this chapter, IC 4-4-21, or IC 15-7-5,~~ **the affected statutes** is declared to be public property used for public and governmental purposes, and all such property and income therefrom shall at all times be exempt from all taxes imposed by this state, any county, any city, or any other political subdivision of this state, except for the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(b) Property owned by the authority and leased to a person for an industrial development project is not public property. The property and the industrial development project are subject to all taxes of the state or any county, city, or other political subdivision of the state in the same manner and subject to the same exemptions as are applicable to all persons.

(c) Any industrial development project financed by a loan under the authority of this chapter shall not be considered public property and shall not be exempt from any taxes of this state, or any county, city, or other political subdivision thereof, except for pollution control equipment.

(d) An agricultural enterprise or rural development project financed by a loan under the authority of this chapter or IC 15-7-5 shall not be considered public property and shall not be exempt from Indiana taxes or any county, city, or other political subdivision of the state.

(e) This section does not provide a tax exemption for a financial institution that receives a guaranteed participating loan or an exporter that receives an eligible export loan or performance bond guarantee under this chapter or IC 4-4-21.

SECTION 29. IC 4-4-11-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 38. The authority shall, following the close of each fiscal year, submit an annual report of its activities **under the affected statutes** for the preceding year to the governor, ~~Each member of the general assembly shall receive a copy of such report by making a request for it to the chairman of the authority.~~ **the budget committee, and the general assembly. A report submitted to the general assembly must be in an electronic**

format under IC 5-14-6. Each report shall set forth a complete operating and financial statement for the authority during the fiscal year it covers.

SECTION 30. IC 4-4-11-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 39. The issuance of bonds and the promulgation of rules under ~~this chapter, IC 4-4-21, or IC 15-7-5,~~ **the affected statutes** need not comply with the requirements of any other state laws applicable thereto. No proceedings, notice, or approval shall be required for the issuance of any bonds or any instrument or the security therefor, except as provided in ~~this chapter.~~ **the affected statutes.** All agricultural enterprises, rural development projects, and industrial development projects for which funds are advanced, loaned, or otherwise provided by the authority under this chapter or IC 15-7-5 must be in compliance with any land use, zoning, subdivision, and other laws of this state applicable to the land upon which the agricultural enterprise, rural development project, or industrial development project is located or is to be constructed, but a failure to comply with these laws does not invalidate any bonds issued to finance an agricultural enterprise, rural development project, or industrial development project.

SECTION 31. IC 4-4-11-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 40. **Except as provided in IC 13-18-13 or IC 13-18-21,** all income and assets of the authority are for its own use without appropriation, but shall revert to the state general fund if the authority by resolution transfers money to the state general fund or if the authority is dissolved.

SECTION 32. IC 4-4-11-44.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 44.6. (a) For purposes of this section, "program" refers to:**

(1) a program defined in IC 13-11-2-172(a) through IC 13-11-2-172(b); and

(2) the supplemental drinking water and wastewater assistance program established by IC 13-18-21-21.

(b) Notwithstanding any statute applicable to or constituting any limitation on the investment or reinvestment of funds by or on behalf of political subdivisions:

(1) a participant receiving financial assistance in connection with a program may invest and reinvest funds that constitute, replace, or substitute for the proceeds of bonds or other evidence of indebtedness sold to the authority under the program, together with any account or reserves of a participant not funded with the proceeds of the bonds or other evidence of indebtedness purchased by the authority but which secure or provide payment for those bonds or other evidence of indebtedness, in any instrument or other investment authorized under a resolution of the authority; and

(2) a participant that is obligated to make payments on bonds or other evidence of indebtedness purchased in connection with the operation of a program may invest and reinvest funds that constitute, replace, or substitute for the proceeds of those bonds or other evidence of indebtedness, together with any account or reserves of a participant not funded with the proceeds of the bonds or other evidence of indebtedness purchased under the program but which secure or provide payment for those bonds or other evidence of indebtedness, in any instrument or other investment authorized under a resolution of the authority.

SECTION 33. IC 4-4-11.2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. As used in this chapter, "authority" refers to the Indiana ~~development~~ finance authority.

SECTION 34. IC 4-4-11.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 6. As used in this chapter, ~~"IDFA"~~ **"IFA"** refers to the Indiana ~~development~~ finance authority established by IC 4-4-11.

SECTION 35. IC 4-4-11.5-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7.5. As used in this chapter, "issuer" means ~~IDFA,~~ **IFA,** IHFA, ISMEL, a local unit, or any other issuer of bonds that must procure volume under the volume cap.

SECTION 36. IC 4-4-11.5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 18. (a) The volume cap shall be allocated annually among categories of bonds in accordance with section 19 of this chapter. Those categories are as follows:

(1) Bonds issued by the ~~IDFA.~~ **IFA.**

(2) Bonds issued by the IHFA.

(3) Bonds issued by the ISMEL.

(4) Bonds issued by local units or any other issuers not specifically referred to in this section whose bonds are or may become subject to the volume cap for projects described in:

(A) Division A - Agricultural, Forestry, and Fishing;

(B) Division B - Mining;

(C) Division C - Construction;

(D) Division D - Manufacturing;

(E) Division E - Transportation; and

(F) Division F - Wholesale Trade;

of the SIC Manual (or corresponding sector in the NAICS Manual), and any projects described in Section 142(a)(3), 142(a)(4), 142(a)(5), 142(a)(6), 142(a)(8), 142(a)(9), or 142(a)(10) of the Internal Revenue Code.

(5) Bonds issued by local units or any other issuers not specifically referred to in this section whose bonds are or may become subject to the volume cap for projects described in:

(A) Division G - Retail Trade;

(B) Division H - Finance, Insurance, and Real Estate;

(C) Division I - Services;

(D) Division J - Public Administration; and

(E) Division K - Miscellaneous;

of the SIC Manual (or corresponding sector in the NAICS Manual), and any projects described in Section 142(a)(7) or 144(c) of the Internal Revenue Code.

(b) For purposes of determining the SIC category of a facility, the determination shall be based upon the type of activity engaged in by the user of the facility within the facility in question, rather than upon the ultimate enterprise in which the developer or user of the facility is engaged.

SECTION 37. IC 4-4-11.5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 19. (a) On or before January 1 of each year, the ~~IDFA~~ **IFA** shall determine the dollar amount of the volume cap for that year.

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

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

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

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

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

SECTION 38. IC 4-4-11.5-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 35. The ~~secretary-manager of IDFA~~ **public finance director appointed under IC 4-4-11-9** may delegate any of the duties prescribed by this chapter to any employees of the ~~IDFA.~~ **IFA.**

SECTION 39. IC 4-4-11.5-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 39. (a) Notwithstanding IC 5-15-5.1, the ~~IDFA~~ **IFA** has the sole authority to prescribe and furnish forms used in the administration of this chapter.

(b) The ~~IDFA~~ **IFA** may adopt guidelines, without complying with IC 4-22-2, to govern the administration of this chapter. The guidelines may establish procedures, criteria, and conditions for each category of bonds identified in sections 18 and 19 of this chapter. However, the guidelines may not be inconsistent with the requirements of Section 146 of the Internal Revenue Code.

SECTION 40. IC 4-4-11.5-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 40. To qualify for a grant of volume cap, an applicant must do the following:

(1) Apply for the grant in conformity with the procedures established by the ~~IDFA.~~ **IFA.**

(2) Provide the information reasonably requested by ~~IDFA~~ **the IFA** to carry out this chapter.

(3) Meet the criteria established by ~~IDFA~~ **the IFA** for the category of bond for which the application is filed.

(4) Pay the fees established by ~~IDFA.~~ **the IFA.**

SECTION 41. IC 4-4-11.5-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 41. ~~IDFA~~ **The IFA** shall establish a written:

(1) application procedure for the granting of a portion of the volume cap to an applicant; and

(2) procedure for filing carryforward elections.

SECTION 42. IC 4-4-11.5-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 42. ~~IDFA~~ **The IFA** shall establish written criteria for the selection of grant applications from among the applicants that qualify for the grant under section 40 of this chapter. The criteria must promote the health and well-being of the residents of Indiana by promoting the public purposes served by each of the bond categories subject to the volume cap.

SECTION 43. IC 4-4-11.5-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 43. ~~IDFA~~ **The IFA** may establish conditions for the termination of a grant of volume cap. The conditions may include requirements such as the following:

(1) That the amount of volume cap granted may not be substantially higher than the amount of actual bonds issued.

(2) That the issuer issue bonds within the time specified by ~~IDFA.~~ **the IFA.**

SECTION 44. IC 4-4-21-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. As used in this chapter, "authority" refers to the Indiana ~~development~~ finance authority established by IC 4-4-11.

SECTION 45. IC 4-4-26-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. As used in this chapter, "authority" refers to the Indiana ~~development~~ finance authority.

SECTION 46. IC 4-4-28-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. (a) Each community development corporation shall annually provide the ~~department of commerce~~ **Indiana housing finance authority** with information needed to determine:

(1) the number of accounts administered by the community development corporation;

(2) the length of time each account under subdivision (1) has been established; and

(3) the amount of money an individual has deposited into each account under subdivision (1) during the preceding twelve (12) months.

(b) The ~~department of commerce~~ **Indiana housing finance authority** shall use the information provided under subsection (a) to deposit the correct amount of money into each account as provided in section 12 of this chapter.

SECTION 47. IC 4-4-28-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 12. (a) The ~~department of commerce~~ **Indiana housing finance authority** shall allocate, for each account that has been established after June 30, 2001, for not more than four (4) years, including any time in which an individual held an individual development account under this chapter before July 1, 2001, three dollars ($3) for each one dollar ($1) an individual deposited into the individual's account during the preceding twelve (12) months. However, the ~~department's~~ **authority's** allocation under this subsection may not exceed nine hundred dollars ($900) for each account described in this subsection.

(b) Not later than June 30 of each year, the ~~department of commerce~~ **Indiana housing finance authority** shall deposit into each account established under this chapter the appropriate amount of money determined under this section. However, if the individual deposits the maximum amount allowed under this chapter on or before December 31 of each year, the individual may request in writing that the ~~department of commerce~~ **authority** allocate and deposit the matched funds under subsection (a) into the individual's account not later than forty-five (45) days after the ~~department of commerce~~ **authority** receives the written request.

(c) Money from a federal block grant program under Title IV-A of the federal Social Security Act may be used by the state to provide money under this section for deposit into an account held by an individual who receives assistance under IC 12-14-2.

SECTION 48. IC 4-4-28-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. (a) An individual must request and receive authorization from the community development corporation that administers the individual's account before withdrawing money from the account for any purpose.

(b) An individual who is denied authorization to withdraw money under subsection (a) may appeal the community development corporation's decision to the ~~department of commerce~~ **Indiana housing finance authority** under rules adopted by the ~~department of commerce~~ **authority** under IC 4-22-2.

SECTION 49. IC 4-4-28-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 18. (a) Each community development corporation shall annually:

(1) evaluate the individual development accounts administered by the community development corporation; and

(2) submit a report containing the evaluation information to the ~~department of commerce.~~ **Indiana housing finance authority.**

(b) Two (2) or more community development corporations may work together in carrying out the purposes of this chapter.

SECTION 50. IC 4-4-28-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 21. The ~~department of commerce~~ **Indiana housing finance authority** may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 51. IC 4-6-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. The unit shall cooperate with the ~~department of commerce~~ **Indiana housing authority** in the development and implementation of the home ownership education programs established under ~~IC 4-4-3-8(b)(15).~~ **IC 5-20-1-4(g).**

SECTION 52. IC 4-8.1-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. (a) As used in this section, "private entity" means a corporation or other business entity that uses facilities that were financed, in whole or in part, with the proceeds of bonds issued by the Indiana ~~transportation~~ finance authority **under IC 8-9.5, IC 8-14.5, or IC 8-21-12.**

(b) If a private entity makes a payment to the state under an agreement requiring the recipient to make such a payment upon failure to achieve prescribed levels of investment, employment, or wages at the facilities described in subsection (a), the payment shall be deposited in the state general fund.

SECTION 53. IC 4-12-8.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. (a) The regional health care construction account is established for the purpose of providing funding for state psychiatric hospitals and developmental centers, regional health centers, or other health facilities designed to provide crisis treatment, rehabilitation, or intervention for adults or children with mental illness, developmental disabilities, addictions, or other medical or rehabilitative needs. The account consists of:

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

(2) appropriations to the account from other sources; and

(3) grants, gifts, and donations intended for deposit in the account.

(b) The budget agency shall administer the account. Money in the account at the end of a state fiscal year does not revert to the state general fund but remains available for expenditure.

(c) Money in the account may be used for:

(1) the construction, equipping, renovation, demolition, refurbishing, or alteration of existing or new state hospitals, regional health centers, or other health facilities; or

(2) lease rentals to the ~~state office building commission~~ **Indiana finance authority under IC 4-13.5** or other public or private providers of such facilities.

(d) Money in the account shall be used to pay any outstanding lease rentals before making any other payments from the account.

(e) Money in the account is annually appropriated for the purposes described in this chapter.

SECTION 54. IC 4-13-12.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 6. (a) The department shall provide, at no cost to the society, a site acceptable to the society for the construction of the building by the society.

(b) The department may, alone, with the ~~state office building commission,~~ **Indiana finance authority,** the Indiana White River state park development commission, or any other entity do the following in relation to the construction of the building by the society:

(1) Acquire a site by purchase, lease, or other appropriate method.

(2) Provide related exterior improvements for the building.

(c) Notwithstanding the term limitation for a lease under IC 4-20.5-5-7, the department may enter into a lease under subsection (b) for a term of not more than ninety-nine (99) years.

SECTION 55. IC 4-13.5-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. As used in this article:

"Commission" ~~refers to the state office building commission.~~ **means the Indiana finance authority established by IC 4-4-11-4.**

"Communications system infrastructure" has the meaning set forth in IC 5-26-5-1.

"Construction" means the erection, renovation, refurbishing, or alteration of all or any part of buildings, improvements, or other structures, including installation of fixtures or equipment, landscaping of grounds, site work, and providing for other ancillary facilities pertinent to the buildings or structures.

"Correctional facility" means a building, a structure, or an improvement for the custody, care, confinement, or treatment of committed persons under IC 11.

"Department" refers to:

(1) the integrated public safety commission, for purposes of a facility consisting of communications system infrastructure; and

(2) the Indiana department of administration, for purposes of all other facilities.

"Mental health facility" means a building, a structure, or an improvement for the care, maintenance, or treatment of persons with mental or addictive disorders.

"Facility" means all or any part of one (1) or more buildings, structures, or improvements (whether new or existing), or parking areas (whether surface or an above or below ground parking garage or garages), owned or leased by the commission **under this article** or the state for the purpose of:

(1) housing the personnel or activities of state agencies or branches of state government;

(2) providing transportation or parking for state employees or persons having business with state government;

(3) providing a correctional facility;

(4) providing a mental health facility;

(5) providing a regional health facility; or

(6) providing communications system infrastructure.

"Person" means an individual, a partnership, a corporation, a limited liability company, an unincorporated association, or a governmental entity.

"Regional health facility" means a building, a structure, or an improvement for the care, maintenance, or treatment of adults or children with mental illness, developmental disabilities, addictions, or other medical or rehabilitative needs.

"State agency" means an authority, a board, a commission, a committee, a department, a division, or other instrumentality of state government, but does not include a state educational institution (as defined in IC 20-12-0.5-1).

SECTION 56. IC 4-13.5-1-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 2.5. This article:**

(1) applies to the Indiana finance authority only when acting as the commission under this article for the purposes set forth in this article; and

(2) does not apply to the Indiana finance authority when acting under any other statute for any other purpose.

SECTION 57. IC 4-13.5-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. (a) The commission may:

~~(1) adopt and alter an official seal;~~

~~(2) adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business and prescribe rules and policies in connection with the performance of its functions and duties;~~

~~(3)~~ **(1)** accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and agree to and comply with any attached conditions;

~~(4)~~ **(2)** acquire real property, or any interest in real property, by lease, conveyance (including purchase) in lieu of foreclosure, or foreclosure, own, manage, operate, hold, clear, improve, and construct facilities on real property, and sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber real property, or interests in real property or facilities on real property, if the use is necessary or appropriate to the purposes of the commission;

~~(5)~~ **(3)** procure insurance against any loss in connection with its operations in amounts, and from insurers, as it considers necessary or desirable;

~~(6)~~ **(4)** borrow funds as set forth in IC 4-13.5-4 and issue revenue bonds of the commission, payable solely from revenues, as set forth in IC 4-13.5-4, or from the proceeds of bonds issued under this article and earnings on bonds, or both, for the purpose of carrying out its purposes under this article, including paying all or any part of the cost of acquisition or construction of any one (1) or more facilities, or for the purpose of refunding any other bonds or loan contracts of the commission;

~~(7)~~ **(5)** establish reserves or sinking funds from the proceeds of the sale of bonds or from other funds, or both, to secure the payment of the bonds;

~~(8)~~ **(6)** invest any funds held in reserve or in sinking fund accounts or any money not required for immediate disbursement, in obligations of the state, the United States, or their agencies or instrumentalities, and other obligors as may be permitted under the terms of any resolution authorizing the issuance of the commission's bonds or other obligations;

~~(9)~~ **(7)** include in any borrowing or issue amounts considered necessary by the commission to pay financing charges, interest on the obligations (for a period not exceeding the period of construction and a reasonable time after the period of construction or, if the facility is completed, two (2) years from the date of issue of the obligations), consultant, advisory, and legal fees, and other expenses necessary or incident to the borrowing or issue;

~~(10) employ fiscal consultants, engineers, bond counsel, other special counsel (with the approval of the attorney general), real estate counselors, appraisers, architectural historians, and other consultants, employees, and agents as required in the judgment of the commission, and fix and pay their compensation from funds available to the commission for the payment of compensation;~~

~~(11)~~ **(8)** make, execute, and effectuate contracts, agreements, or other documents with any governmental agency or any person, corporation, limited liability company, association, partnership, or other organization or entity necessary or convenient to

accomplish the purposes of this article;

~~(12)~~ **(9)** acquire in the name of the commission by the exercise of the right of condemnation, in the manner provided in this section, public or private lands, or rights in lands, rights-of-way, property, rights, easements, and interests, as it considers necessary for carrying out this article; and

~~(13)~~ **(10)** do any and all acts and things necessary, proper, or convenient to carry out this article.

(b) The commission may provide for facilities for state agencies or branches of state government if the general assembly, by statute:

(1) finds that the state needs renovation, refurbishing, or alteration of existing facilities or construction of additional facilities; and

(2) authorizes the commission to provide for the facilities.

In providing for the facilities, the commission shall proceed under this article.

(c) If the commission is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this article, it may proceed to procure the condemnation of the property under IC 32-24-1. The commission may not institute a proceeding until it has adopted a resolution that:

(1) describes the real property sought to be acquired and the purpose for which the real property is to be used;

(2) declares that the public interest and necessity require the acquisition by the commission of the property involved; **and**

(3) sets out any other facts that the commission considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition and shall be referred to the attorney general for action, in the name of the commission, in the circuit or superior court of the county in which the real property is located.

(d) The title to all property acquired in any manner by the commission shall be held in the name of the commission.

SECTION 58. IC 4-13.6-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. As used in this chapter, "commission" ~~refers to the state office building commission~~ **means the Indiana finance authority** established by ~~IC 4-13.5-1-1.5.~~ **IC 4-4-11-4.**

SECTION 59. IC 4-13.6-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. The department may recommend to the governor that an energy cost savings contract be entered into by the ~~state office building~~ commission under IC 4-13.5-1.5.

SECTION 60. IC 4-21.5-2-5, AS AMENDED BY P.L.4-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. This article does not apply to the following agency actions:

(1) The issuance of a warrant or jeopardy warrant for the collection of taxes.

(2) A determination of probable cause or no probable cause by the civil rights commission.

(3) A determination in a factfinding conference of the civil rights commission.

(4) A personnel action, except review of a personnel action by the state employees appeals commission under IC 4-15-2 or a personnel action that is not covered by IC 4-15-2 but may be taken only for cause.

(5) A resolution, directive, or other action of any agency that relates solely to the internal policy, organization, or procedure of that agency or another agency and is not a licensing or enforcement action. Actions to which this exemption applies include the statutory obligations of an agency to approve or ratify an action of another agency.

(6) An agency action related to an offender within the jurisdiction of the department of correction.

(7) A decision of the Indiana economic development corporation, the office of tourism development, the department of environmental management, the tourist information and grant fund review committee, the Indiana ~~development~~ finance authority, the corporation for innovation development, or the lieutenant governor that concerns a grant, loan, bond, tax incentive, or financial guarantee.

(8) A decision to issue or not issue a complaint, summons, or similar accusation.

(9) A decision to initiate or not initiate an inspection, investigation, or other similar inquiry that will be conducted by the agency, another agency, a political subdivision, including a prosecuting attorney, a court, or another person.

(10) A decision concerning the conduct of an inspection, investigation, or other similar inquiry by an agency.

(11) The acquisition, leasing, or disposition of property or procurement of goods or services by contract.

(12) Determinations of the department of workforce development under IC 22-4-18-1(g)(1), IC 22-4-40, or IC 22-4-41.

(13) A decision under IC 9-30-12 of the bureau of motor vehicles to suspend or revoke a driver's license, a driver's permit, a vehicle title, or a vehicle registration of an individual who presents a dishonored check.

(14) An action of the department of financial institutions under IC 28-1-3.1 or a decision of the department of financial institutions to act under IC 28-1-3.1.

(15) A determination by the NVRA official under IC 3-7-11 concerning an alleged violation of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg) or IC 3-7.

(16) Imposition of a civil penalty under IC 4-20.5-6-8 if the rules of the Indiana department of administration provide an administrative appeals process.

SECTION 61. IC 4-22-2-37.1, AS AMENDED BY HEA 1262-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

~~(8) An emergency rule jointly adopted by the water pollution control board and the budget agency under IC 13-18-13-18.~~

~~(9)~~ **(8)** An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

~~(10)~~ **(9)** A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an emergency.

~~(11)~~ **(10)** An emergency rule adopted by the Indiana transportation finance authority under IC 8-21-12.

~~(12)~~ **(11)** An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

~~(13)~~ **(12)** An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

~~(14)~~ **(13)** An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

~~(15)~~ **(14)** An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

~~(16)~~ **(15)** An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

~~(17)~~ **(16)** An emergency rule adopted by the Indiana gaming commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

~~(18)~~ **(17)** An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

~~(19)~~ **(18)** An emergency rule adopted by the department of financial institutions under IC 28-15-11.

~~(20)~~ **(19)** An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

~~(21)~~ **(20)** An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

~~(22)~~ **(21)** An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

~~(23)~~ **(22)** An emergency rule adopted by the Indiana state board of animal health under IC 15-2.1-18-21.

~~(24)~~ **(23)** An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

~~(25)~~ **(24)** An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34.

~~(26)~~ **(25)** An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33.

~~(27)~~ **(26)** An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

~~(28)~~ **(27)** An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) or IC 6-1.1-22.5-20.

~~(29)~~ **(28)** An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

~~(30)~~ **(29)** A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the secretary of state for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The secretary of state shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

(1) accept the rule for filing; and

(2) file stamp and indicate the date and time that the rule is accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j) and (k), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection ~~(a)(14),~~ **(a)(13), (a)(24),** (a)(25), ~~(a)(26),~~ or ~~(a)(28),~~ **(a)(27),** the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection ~~(a)(29)~~ **(a)(28)** may not exceed the period for which the original rule was in effect. A rule adopted under subsection ~~(a)(14)~~ **(a)(13)** may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection **(a)(24),** (a)(25), ~~(a)(26),~~ or ~~(a)(28)~~ **(a)(27)** may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection ~~(a)(14),~~ **(a)(13),** for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), ~~(a)(9),~~ ~~(a)(13),~~ **(a)(8), (a)(12),** or ~~(a)(30)~~ **(a)(29)** expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection **(a)(24) or** (a)(25) ~~or (a)(26)~~ expires not later than January 1, 2006.

(k) A rule described in subsection ~~(a)(29)~~ **(a)(28)** expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

SECTION 62. IC 5-1-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. As used in this chapter:

"Authority" refers to the Indiana health **and educational** facility financing authority.

"Bonds" includes bonds, refunding bonds, notes, interim certificates, bond anticipation notes, and other evidences of indebtedness of the authority, issued under this chapter.

"Building" or "buildings" or similar words mean any building or part of a building or addition to a building for health care purposes. The term includes the site for the building (if a site is to be acquired), equipment, heating facilities, sewage disposal facilities, landscaping, walks, drives, parking facilities, and other structures, facilities, appurtenances, materials, and supplies that may be considered necessary to render a building suitable for use and occupancy for health care purposes.

"Cost" includes the following:

(1) The cost and the incidental and related costs of the acquisition, repair, restoration, reconditioning, refinancing, or installation of health facility property.

(2) The cost of any property interest in health facility property, including an option to purchase a leasehold interest.

(3) The cost of constructing health facility property, or an addition to health facility property, acquiring health facility property, or remodeling health facility property.

(4) The cost of architectural, engineering, legal, trustee, underwriting, and related services; the cost of the preparation of plans, specifications, studies, surveys, and estimates of cost and of revenue; and all other expenses necessary or incident to planning, providing, or determining the need for or the feasibility and practicability of health facility property.

(5) The cost of financing charges, including premiums or prepayment penalties and interest accrued during the construction of health facility property or before the acquisition and installation or refinancing of such health facility property for up to two (2) years after such construction, acquisition, and installation or refinancing and startup costs related to health facility property for up to two (2) years after such construction, acquisition, and installation or refinancing.

(6) The costs paid or incurred in connection with the financing of health facility property, including out-of-pocket expenses, the cost of any policy of insurance; the cost of printing, engraving, and reproduction services; and the cost of the initial or acceptance fee of any trustee or paying agent.

(7) The costs of the authority, incurred in connection with providing health facility property, including reasonable sums to reimburse the authority for time spent by its agents or employees in providing and financing health facility property.

(8) The cost paid or incurred for the administration of any program for the purchase or lease of or the making of loans for health facility property, by the authority and any program for

the sale or lease of or making of loans for health facility property to any participating provider.

"County" means any county in the state that owns and operates a county hospital.

"Health facility property" means any tangible or intangible property or asset owned or used by a participating provider and which:

(1) is determined by the authority to be necessary or helpful, directly or indirectly, to provide:

(A) health care;

(B) medical research;

(C) training or teaching of health care personnel;

(D) habilitation, rehabilitation, or therapeutic services; or

(E) any related supporting services;

regardless of whether such property is in existence at the time of, or is to be provided after the making of, such finding;

(2) is a residential facility for:

(A) the physically, mentally, or emotionally disabled;

(B) the physically or mentally ill; or

(C) the elderly; or

(3) is a licensed child caring institution providing residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the property is located.

"Health facility" means any facility or building that is:

(1) owned or used by a participating provider;

(2) located:

(A) in Indiana; or

(B) outside Indiana, if the participating provider that operates the facility or building, or an affiliate of the participating provider, also operates a substantial health facility or facilities, as determined by the authority, in Indiana; and

(3) utilized, directly or indirectly:

(A) in:

(i) health care;

(ii) habilitation, rehabilitation, or therapeutic services;

(iii) medical research;

(iv) the training or teaching of health care personnel; or

(v) any related supporting services;

(B) to provide a residential facility for:

(i) the physically, mentally, or emotionally disabled;

(ii) the physically or mentally ill; or

(iii) the elderly; or

(C) as a child caring institution and provides residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the facility or building is located.

"Net revenues" means the revenues of a hospital remaining after provision for proper and reasonable expenses of operation, repair, replacement, and maintenance of the hospital.

"Participating provider" means a person, corporation, municipal corporation, political subdivision, or other entity, public or private, which:

(1) is located in Indiana or outside Indiana;

(2) contracts with the authority for the financing or refinancing of, or the lease or other acquisition of, health facility property that is located:

(A) in Indiana; or

(B) outside Indiana, if the financing, refinancing, lease, or other acquisition also includes a substantial component, as determined by the authority, for the benefit of a health facility or facilities located in Indiana;

(3) is:

(A) licensed under IC 12-25, IC 16-21, IC 16-28, or corresponding laws of the state in which the property is located;

(B) a regional blood center;

(C) a community mental health center or community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-38 and IC 12-7-2-39 or corresponding provisions of laws of the state in which the property is located);

(D) an entity that:

(i) contracts with the division of disability, aging, and rehabilitative services or the division of mental health and addiction to provide the program described in IC 12-11-1.1-1(e) or IC 12-22-2; or

(ii) provides a similar program under the laws of the state in which the entity is located;

(E) a vocational rehabilitation center established under IC 12-12-1-4.1(a)(1) or corresponding provisions of the laws of the state in which the property is located;

(F) the owner or operator of a facility that is utilized, directly or indirectly, to provide health care, habilitation, rehabilitation, therapeutic services, medical research, the training or teaching of health care personnel, or any related supporting services, or of a residential facility for the physically, mentally, or emotionally disabled, physically or mentally ill, or the elderly;

(G) a licensed child caring institution providing residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the property is located;

(H) an integrated health care system between or among providers, a health care purchasing alliance, a health insurer or third party administrator that is a participant in an integrated health care system, a health maintenance or preferred provider organization, or a foundation that supports a health care provider; or

(I) an individual, a business entity, or a governmental entity that owns an equity or membership interest in any of the organizations described in clauses (A) through (H); and

(4) in the case of a person, corporation, municipal corporation, political subdivision, or other entity located outside Indiana, is owned or controlled by, under common control with, affiliated with, or part of an obligated group that includes an entity that provides one (1) or more of the following services or facilities in Indiana:

(A) A facility that provides:

(i) health care;

(ii) habilitation, rehabilitation, or therapeutic services;

(iii) medical research;

(iv) training or teaching of health care personnel; or

(v) any related supporting services.

(B) A residential facility for:

(i) the physically, mentally, or emotionally disabled;

(ii) the physically or mentally ill; or

(iii) the elderly.

(C) A child caring institution providing residential care described in IC 12-7-2-29(1).

"Regional blood center" means a nonprofit corporation or corporation created under 36 U.S.C. 1 that:

(1) is:

(A) accredited by the American Association of Blood Banks; or

(B) registered or licensed by the Food and Drug Administration of the Department of Health and Human Services; and

(2) owns and operates a health facility that is primarily engaged in:

(A) drawing, testing, processing, and storing human blood and providing blood units or components to hospitals; or

(B) harvesting, testing, typing, processing, and storing human body tissue and providing this tissue to hospitals.

SECTION 63. IC 5-1-16-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 1.1. Sections 19 through 35 of this chapter:**

(1) apply to the authority only when acting for the purposes set forth in this chapter; and

(2) do not apply to the authority when acting under any other statute for any other purpose.

SECTION 64. IC 5-1-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) There is created, with such duties and powers as are set forth in this chapter, a public body politic and corporate, not a state agency, but an independent public instrumentality exercising essential public

functions, to be known as the Indiana health **and educational** facility financing authority.

(b) The authority shall be governed by **the following** seven (7) members: ~~appointed by the governor, including:~~

~~(1) at least one (1) trustee, director, officer, or employee of a health care provider or an association of health care providers;~~

~~(2) at least one (1) person who has experience in the field of state and municipal finance, either as a partner, officer, or employee of an investment banking firm which originates and purchases state and municipal securities, or as an officer or employee of an insurance company or bank whose duties relate to the purchase of state and municipal securities as an investment and to the management and control of a state and municipal securities portfolio; and~~

~~(3) at least one (1) person who has experience in the hospital building construction field or the hospital equipment field.~~

(1) The governor or the governor's designee, who shall serve as chairman of the authority.

(2) The public finance director appointed under IC 4-4-11-9, or the public finance director's designee.

(3) The state health commissioner, or the state health commissioner's designee.

(4) Four (4) members appointed by the governor, two (2) of whom must be knowledgeable in health care or public finance and investment matters related to health care, and two (2) of whom must be knowledgeable in higher education or public finance and investment matters related to higher education.

(c) All members must be Indiana residents. Not more than ~~four (4)~~ **three (3) of the** members of the authority **appointed under subsection (b)(4)** may be members of the same political party.

SECTION 65. IC 5-1-16-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. The terms of members **appointed by the governor** begin upon appointment. ~~All subsequent appointments are for terms of~~ **The term of office of a member of the authority appointed by the governor is** four (4) years. **However, these members serve at the pleasure of the governor.** Vacancies in the membership of the authority shall be filled for the unexpired term by appointment by the governor. Vacancies in the membership of the authority shall be filled for the unexpired term by appointment by the governor. Each member shall hold office for the term of ~~his~~ **the member's** appointment and until ~~his~~ **the member's** successor shall have been appointed and qualified. Members may be reappointed. ~~Any member may be removed from office by the governor for incompetency, neglect of duty, or malfeasance in office.~~

SECTION 66. IC 5-1-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. The members shall elect ~~a chairman,~~ a vice chairman and other officers. The members may not be compensated for their services but they shall be reimbursed for their actual and necessary expenses as determined by the authority.

SECTION 67. IC 5-1-16-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. The ~~members of the authority may~~ **governor shall** appoint an executive director **for the authority** who shall serve at the pleasure of the ~~members~~ **governor** and receive compensation as fixed by the members. The executive director, who shall serve as the ex officio secretary of the authority, shall administer, manage, and direct the employees of the authority under the direction of the members. The executive director shall approve all accounts for salaries, allowable expenses of the authority or of any employee or consultant of the authority, and expenses incidental to the operation of the authority ~~He~~ **and** shall perform other duties directed by the members in carrying out this chapter.

SECTION 68. IC 5-1-16-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. The executive director shall attend the meetings of the members of the authority, shall keep a record of the proceedings of the authority, and shall maintain all books, documents, and papers filed with the authority, the minutes of the authority, and its official seal. ~~He~~ **The executive director** may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates. ~~If an executive director is not appointed, the members of the authority shall designate a member or an employee of the authority as the person responsible for carrying out the duties set out in sections 7 and 8 of this chapter.~~

SECTION 69. IC 5-1-16-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 9. The authority may employ employees necessary to carry out the operation of the authority, and shall determine their qualifications, duties, compensation, and terms of office without the approval of or consent by any other state official. The members may delegate to one (1) or more agents or employees of the authority such administrative duties as they consider proper. The authority may also contract with any entity, **including the Indiana finance authority,** to provide ~~administrative~~ staff or ~~clerical~~ services, including the functions of the executive director, under such terms as the authority determines.

SECTION 70. IC 5-1-16-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 10.5. Any member or employee of the authority who has, will have, or later acquires an interest, direct or indirect, in any transaction with the authority shall immediately disclose the nature and extent of the interest in writing to the authority as soon as the member or employee has knowledge of the actual or prospective interest. Disclosure shall be announced in open meeting and entered upon the minutes of the authority. Upon disclosure, the member or employee shall not participate in any action by the authority authorizing the transaction. However, such an interest shall not invalidate actions by the authority with the participation of the disclosing member or employee prior to the time when the member or employee became aware of the interest or should reasonably have become aware of the interest.**

SECTION 71. IC 5-1-16-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 12. Before the issuance of any bonds under this chapter:

(1) the executive director of the authority;

(2) each member of the authority; and

(3) any other employee or agent of the authority authorized by resolution of the authority to handle funds or sign checks;

shall execute a surety bond in the penal sum of fifty thousand dollars ($50,000). If ~~the executive director of the authority~~ **an individual described in subdivisions (1) through (3)** is already covered by a bond required by state law, the ~~executive director~~ **individual** need not obtain another bond if the bond required by state law is in at least the penal sum specified in this section and covers the ~~executive director's~~ **individual's** activities for the authority. In lieu of this bond, the chairman of the authority may execute a blanket surety bond covering each member, the executive director, and the employees or other officers of the authority. Each surety bond must be conditioned upon the faithful performance of the **individual's** duties, ~~of the office of the member, executive director, employee, or officer,~~ and shall be issued by a surety company authorized to transact business in Indiana as surety. At all times after the issuance of any surety bonds, these surety bonds shall be maintained in full force and effect. All costs of the surety bonds shall be borne by the authority.

SECTION 72. IC 5-1-16-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13. (a) The authority has all powers necessary to carry out and effectuate its public and corporate purposes, including but not limited to the following:

(1) To have perpetual succession as a public body politic and corporate and an independent public instrumentality exercising essential public functions.

(2) To adopt, amend, and repeal bylaws and rules consistent with this chapter, to regulate its affairs, to carry into effect the powers and purposes of the authority and conduct its business, which rules and bylaws may be adopted by the authority without complying with IC 4-22-2.

(3) To sue and be sued in its own name.

(4) To have an official seal.

(5) To maintain an office in Indiana.

(6) To make and execute contracts and all other instruments

necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter.

(7) To employ architects, engineers, independent legal counsel, inspectors, accountants, and health care and financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment without the approval of or consent by any other state official, and to fix their compensation.

(8) To procure insurance against any loss in connection with its property and other assets, in such amounts and from such insurers as it considers advisable, including the power to pay premiums on any such insurance.

(9) To procure insurance or guarantees from any public or private entities, including any department, agency, or instrumentality of the United States of America, to secure payment:

(A) on a loan, lease, or purchase payment owed by a participating provider to the authority; and

(B) of any bonds issued by the authority, including the power to pay premiums on any such insurance or guarantee.

(10) To procure letters of credit or other credit facilities or agreements from any national or state banking association or other entity authorized to issue a letter of credit or other credit facilities or agreements to secure the payment of any bonds issued by the authority or to secure the payment of any loan, lease, or purchase payment owed by a participating provider to the authority, including the power to pay the cost of obtaining such letter of credit or other credit facilities or agreements.

(11) To receive and accept from any source any money, property, or thing of value to be held, used, and applied to carry out the purposes of this chapter subject to the conditions upon which the grants or contributions are made, including gifts or grants from any department, agency, or instrumentality of the United States of America for any purpose consistent with this chapter.

(12) To provide, or cause to be provided by a participating provider, by acquisition, lease, construction, fabrication, repair, restoration, reconditioning, refinancing, or installation, health facility property to be located within a health facility.

(13) To lease as lessor any item of health facility property for such rentals and upon such terms and conditions as the authority considers advisable and are not in conflict with this chapter.

(14) To sell by installment or otherwise to sell by option or contract for sale, and to convey all or any part of any item of health facility property for such price and upon such terms and conditions as the authority considers advisable and as are not in conflict with this chapter.

(15) To make contracts and incur liabilities, borrow money at such rates of interest as the authority determines, issue its bonds in accordance with this chapter, and secure any of its bonds or obligations by a mortgage or pledge of all or any of its property, franchises, and income or as otherwise provided in this chapter.

(16) To make secured or unsecured loans for the purpose of providing temporary or permanent financing or refinancing for the cost of any item of health facility property, including the retiring of any outstanding obligations issued by a participating provider, and the reimbursement to a participating provider of advances, for the cost of any health facility property purchased in anticipation of procuring such financing or refinancing from the authority or other sources, and to charge and collect interest on such loans for such loan payments and upon such terms and conditions as the authority considers advisable and as are not in conflict with this chapter.

(17) To invest and reinvest its funds and to take and hold property as security for the investment of such funds as provided in this chapter.

(18) To purchase, receive, lease (as lessee or lessor), or otherwise acquire, own, hold, improve, use, or otherwise deal in and with, health facility property, or any interest therein, wherever situated.

(19) To sell, convey, mortgage, pledge, assign, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets.

(20) To the extent permitted under its contract with the holders of bonds of the authority, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any contract, loan, loan note, loan note commitment, contract, lease, or agreement of any kind to which the authority is a party.

(21) To charge to and apportion among participating providers its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter.

(22) Except as otherwise provided in a trust agreement or bond resolution securing bonds of the authority, **and notwithstanding IC 5-13,** to invest: ~~any funds not needed for immediate disbursement, including any funds held in reserve, in such indebtedness or obligations designated by the authority for investments of its funds held under this chapter.~~

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

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

(C) proceeds of bonds or notes;

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

(23) To collect fees and charges, as the authority determines to be reasonable, in connection with its loans, leases, sales, advances, insurance, commitments, and servicing.

(24) To cooperate with and exchange services, personnel, and information with any federal, state, or local governmental agency.

(25) To sell, at public or private sale, with or without public bidding, any loan or other obligation held by the authority.

(26) To assist, coordinate, and participate with other issuers of tax exempt bonds and public officials in other states in connection with financings or refinancings on behalf of multiple state health facilities. Assistance, coordination, and participation provided under this subdivision may include conducting any hearings required by state or federal law in order for bonds to be issued by public officials in other states if part of the proceeds of the bonds will be used by participating providers in Indiana. Neither the state of Indiana nor the authority, nor any officers, agents, or employees of the state or the authority, are subject to any liability resulting from assistance to or coordination or participation with other issuers of tax exempt bonds under this subsection. Any assistance, coordination, or participation provided under this subsection is given with the understanding that the issuers of tax exempt bonds or borrowers will agree to indemnify and hold harmless the state of Indiana and the authority and their officers, agents, and employees from all claims and liability arising from any action against the state of Indiana or the authority relating to the bonds.

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

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

(b) No part of the revenues or assets of the authority may inure to the benefit of or be distributable to its members or officers or other private persons. Any net earnings of the authority beyond that necessary for retirement of authority indebtedness or to implement the public purposes of this chapter inure to the benefit of the state. Upon termination or dissolution, all rights and properties of the authority pass to and are vested in the state, subject to the rights of lienholders and other creditors.

(c) The authority shall cooperate with and use the assistance of the Indiana finance authority established under IC 4-4-11 in the issuance of the bonds or notes.

SECTION 73. IC 5-1-16-13.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13.1. (a) The authority shall:

(1) adopt

~~(A) rules under IC 4-22-2; or~~

~~(B)~~ a policy

establishing a code of ethics for its employees; or

(2) decide it wishes to be under the jurisdiction and rules adopted by the state ethics commission.

(b) A code of ethics adopted ~~by rule or policy~~ under this section must be consistent with state law and approved by the governor.

SECTION 74. IC 5-1-16-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 35. The authority shall submit an annual report of its activities for the preceding fiscal year to the governor, **the budget committee,** and the general assembly. An annual report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6. ~~Each member of the general assembly who requests a written copy of the report from the chairman of the authority shall be sent a written copy.~~ Each report shall set forth a complete operating and financial statement for the authority during the fiscal year it covers.

SECTION 75. IC 5-1.5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) There is established a board of directors to govern the bank. The powers of the bank are vested in this board.

(b) The board is composed of:

(1) the treasurer of state, who shall be the chairman ex officio;

(2) the ~~director of the department of financial institutions,~~ **public finance director appointed under IC 4-4-11-9, who shall be the** director ex officio; and

(3) five (5) directors appointed by the governor.

(c) Each of the five (5) directors appointed by the governor:

(1) must be a resident of Indiana;

(2) must have substantial expertise in the buying, selling, and trading of municipal securities, in municipal administration or in public facilities management;

(3) serves for a term of three (3) years and until his successor is appointed and qualified;

(4) is eligible for reappointment;

(5) is entitled to receive the same minimum salary per diem as is provided in IC 4-10-11-2.1(b) while performing ~~his~~ **the director's** duties. Such a director is also entitled to the same reimbursement for traveling expenses and other expenses, actually incurred in connection with ~~his~~ **the director's** duties as is provided in the state travel policies and procedures, established by the department of administration and approved by the ~~state~~ budget agency; and

(6) may be removed by the governor for cause.

(d) Any vacancy on the board, other than by expiration of term, shall be filled by appointment of the governor for the unexpired term only.

SECTION 76. IC 5-1.5-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. (a) Bonds or notes of the bank must be authorized by resolution of the board, may be issued in one (1) or more series, and must:

(1) bear the date;

(2) mature at the time or times;

(3) be in the denomination;

(4) be in the form;

(5) carry the conversion or registration privileges;

(6) have the rank or priority;

(7) be executed in the manner;

(8) be payable from the sources in the medium of payment at the place inside or outside the state; and

(9) be subject to the terms of redemption;

as the resolution of the board or the trust agreement securing the bonds or notes provides.

(b) Except as provided in subsection (e), bonds or notes may be issued under this article without obtaining the consent of any agency of the state and without any other proceeding or condition other than the proceedings or conditions specified in this article.

(c) The rate or rates of interest on the bonds or notes may be fixed or variable. Variable rates shall be determined in the manner and in accordance with the procedures set forth in the resolution authorizing the issuance of the bonds or notes. Bonds or notes bearing a variable rate of interest may be converted to bonds or notes bearing a fixed rate or rates of interest, and bonds or notes bearing a fixed rate or rates of interest may be converted to bonds or notes bearing a variable rate of interest, to the extent and in the manner set forth in the resolution pursuant to which the bonds or notes are issued. The interest on bonds or notes may be payable semiannually or annually or at any other interval or intervals as may be provided in the resolution, or the interest may be compounded and paid at maturity or at any other times as may be specified in the resolution.

(d) The bonds or notes may be made subject, at the option of the holders, to mandatory redemption by the bank at the times and under the circumstances set forth in the authorizing resolution.

(e) The bank may not issue bonds for qualified entities described in IC 5-1.5-1-8(5) through IC 5-1.5-1-8(7) or IC 5-1.5-1-8(11) that are subject to the volume cap (as defined in IC 4-4-11.5-14) without obtaining the prior approval of the Indiana ~~development~~ finance authority.

SECTION 77. IC 5-1.5-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. (a) **Except as provided in subsection (c), and** in order to assure the maintenance of the required debt service reserve in any reserve fund, **a resolution authorizing the bank to issue bonds or notes may include a provision stating that:**

(1) the general assembly may annually appropriate to the bank for deposit in one (1) or more of the funds the sum, certified by the chairman of the board to the general assembly, that is necessary to restore one (1) or more of the funds to an amount equal to the required debt service reserve; **and**

(2) the chairman annually, before December 1, shall make and deliver to the general assembly ~~his~~ **a** certificate stating the sum required to restore the funds to that amount.

Nothing in this subsection creates a debt or liability of the state to make any appropriation.

(b) All amounts received on account of money appropriated by the state to any reserve fund shall be held and applied in accordance with section 1(b) of this chapter. However, at the end of each fiscal year, if the amount in any reserve fund exceeds the required debt service reserve, any amount representing earnings or income received on account of any money appropriated to the reserve fund that exceeds the expenses of the bank for that fiscal year may be transferred to the general fund of the state.

(c) Notwithstanding any other law, and except as provided by subsection (d), after June 30, 2005, the:

(1) issuance by the bank of any indebtedness that incorporates the provisions set forth in subsection (a) or otherwise establishes a procedure for the bank or a person acting on behalf of the bank to certify to the general assembly the amount needed to restore a reserve fund or another fund to required levels; or

(2) execution by the bank of any other agreement that creates a moral obligation of the state to pay all or part of any indebtedness issued by the bank;

is subject to review by the budget committee and approval by the budget director.

(d) If the budget committee does not conduct a review of a proposed transaction under subsection (c) within twenty-one (21) days after a request by the bank, the review is considered to have been conducted. If the budget director does not approve or disapprove a proposed transaction under subsection (c) within twenty-one (21) days after a request by the bank, the transaction is considered to have been approved.

SECTION 78. IC 5-1.5-6.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. (a) **Except as provided in subsection (d),** whenever a reserve fund for an issue of bonds or notes issued to purchase securities specified in section 1(b) of this chapter does not contain the required debt service reserve (as defined in IC 5-1.5-5-1(b)), the chairman of the board shall immediately:

(1) transfer to the reserve fund the amount needed to restore the required debt service reserve first from the capital interest fund and, to the extent necessary, from the capital principal fund; and

(2) certify the amounts transferred to the general assembly.

(b) The general assembly may appropriate to the bank for deposit in the capital principal fund the amount transferred from the fund to restore required debt service reserves. Nothing in this subsection creates a debt or a liability of the state to make any appropriation.

(c) Appropriations made to the capital principal fund do not revert

to the state general fund at the end of any fiscal year.

(d) Notwithstanding any other law, and except as provided by subsection (e), after June 30, 2005, the:

(1) issuance by the bank of any indebtedness that incorporates the provisions set forth in subsection (a) or otherwise establishes a procedure for the bank or a person acting on behalf of the bank to certify to the general assembly the amount needed to restore a reserve fund or another fund to required levels; or

(2) execution by the bank of any other agreement that creates a moral obligation of the state to pay all or part of any indebtedness issued by the bank;

is subject to review by the budget committee and approval by the budget director.

(e) If the budget committee does not conduct a review of a proposed transaction under subsection (d) within twenty-one (21) days after a request by the bank, the review is considered to have been conducted. If the budget director does not approve or disapprove a proposed transaction under subsection (d) within twenty-one (21) days after a request by the bank, the transaction is considered to have been approved.

SECTION 79. IC 5-13-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 14. "Industrial development project" has the meaning set forth in IC 4-4-10.9-11 and includes mining operations, agricultural operations that involve the processing of agricultural products, and any other type of business project for which the Indiana ~~development~~ finance authority may make a loan or lease guarantee.

SECTION 80. IC 5-13-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. (a) The board for depositories exercises essential public functions, and has a perpetual existence. The board has all powers necessary, convenient, or appropriate to carry out and effectuate its public and corporate purposes, including but not limited to the powers to do the following:

(1) Adopt, amend, and repeal bylaws and rules consistent with this chapter to regulate its affairs and to effect the powers and purposes of the board, all without the necessity of adopting a rule under IC 4-22-2.

(2) Adopt its budget on a calendar year or fiscal year as it shall determine.

(3) Sue and be sued in its own name.

(4) Have an official seal and alter it at will.

(5) Maintain an office or offices at a place or places within Indiana as it may designate.

(6) Make and execute contracts and all other instruments with either public or private entities.

(7) Communicate with the employees of the Indiana ~~development~~ finance authority to the extent reasonably desirable in working on a guarantee of an industrial development obligation or credit enhancement obligation.

(8) Deposit all uninvested funds of the public deposit insurance fund in a separate account or accounts in financial institutions that are designated as depositories to receive state funds under IC 5-13-9.5. The money in these accounts shall be paid out on checks signed by the chairman or other officers or employees of the board as it shall authorize.

(9) Take any other act necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter.

(b) In enforcing any obligation of the borrower or any other person under the documents evidencing a guarantee, the board may renegotiate the guarantee, modify the rate of interest, term of the industrial development obligation or credit enhancement obligation, payment of any installment of principal or interest, or any other term of any documents, settle any obligation on the security or receipt of property or the other terms as in its discretion it deems advantageous to the public deposit insurance fund, and take any other action necessary or convenient to such enforcement.

(c) The records of the board for depositories relating to negotiations between it and prospects for industrial development obligation or credit enhancement obligation guarantees are excepted from the provisions of IC 5-14-3-3.

SECTION 81. IC 5-13-12-7, AS AMENDED BY P.L.4-2005, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. (a) The board for depositories shall manage and operate the insurance fund. All expenses incident to the administration of the fund shall be paid out of the money accumulated in it subject to the direction of the board for depositories.

(b) Effective January 1 and July 1 in each year, the board shall before those dates redetermine the amount of the reserve to be maintained by the insurance fund. The establishment or any change in the reserve for losses shall be determined by the board based on a study to be made or updated by actuaries, economists, or other consultants based on the history of losses, earnings on the funds, conditions of the depositories, economic conditions affecting particular depositories or depositories in general, and any other factors that the board considers relevant in making its determination. The reserve determined by the board must be sufficient to ensure the safekeeping and prompt payment of public funds to the extent they are not covered by insurance of any federal deposit insurance agency.

(c) At the end of each biennial period during which depositories have had public funds on deposit under this chapter and paid the assessments levied by the board, the board shall compute its receipts from assessments and all other sources and its expenses and losses and determine the profit derived from the operation of the fund for the period. Until the amount of the reserve for losses has been accumulated, all assessments levied for a biennial period shall be retained by the fund. The amount of the assessments, if any, levied by the board shall, to the extent the fund exceeds the reserve for losses at the end of a biennial period commencing July 1 of each odd-numbered year, be distributed to the depositories that had public funds on deposit during the biennial period in which the assessments were paid. The distribution shall be made to the respective depositories in the proportion that the total assessments paid by each depository during that period bears to the total assessments then paid by all depositories. A distribution to which any closed depository would otherwise be entitled shall be set off against any claim that the insurance fund may have against the closed depository.

(d) The board may invest, reinvest, and exchange investments of the insurance fund in excess of the cash working balance in any of the following:

(1) In bonds, notes, certificates, and other valid obligations of the United States, either directly or, subject to the limitations in subsection (e), in the form of securities of or other interests in an open-end no-load management-type investment company or investment trust registered under the provisions of the Investment Company Act of 1940, as amended (15 U.S.C. 80a et seq.).

(2) In bonds, notes, debentures, and other securities issued by a federal agency or a federal instrumentality and fully guaranteed by the United States either directly or, subject to the limitations in subsection (e), in the form of securities of or other interests in an open-end no-load management-type investment company or investment trust registered under the provisions of the Investment Company Act of 1940, as amended (15 U.S.C. 80a et seq.).

(3) In bonds, notes, certificates, and other valid obligations of a state, or of an Indiana political subdivision that are issued under law, the issuers of which, for five (5) years before the date of the investment, have promptly paid the principal and interest on their bonds and other legal obligations.

(4) In bonds or other obligations of the ~~state office building commission.~~ **Indiana finance authority issued under IC 4-13.5.**

(5) In investments permitted the state under IC 5-13-10.5.

(6) In guarantees of industrial development obligations or credit enhancement obligations, or both, for the purposes of retaining and increasing employment in enterprises in Indiana, subject to the limitations and conditions set out in this subdivision, subsection (e), and section 8 of this chapter. An individual guarantee of the board under this subdivision must not exceed eight million dollars ($8,000,000).

(7) In guarantees of bonds or notes issued under IC 5-1.5-4-1, subject to the limitations and conditions set out in subsection (e) and section 8 of this chapter.

(8) In bonds, notes, or other valid obligations of the Indiana ~~development~~ finance authority that have been issued in conjunction with the authority's acquisition, development, or improvement of property or other interests for an industrial development project (as defined in IC 4-4-10.9-11) that the authority has undertaken for the purposes of retaining or increasing employment in existing or new enterprises in Indiana, subject to the limitations in subsection (e).

(9) In notes or other debt obligations of counties, cities, and towns that have been issued under IC 6-1.1-39 for borrowings from the industrial development fund under IC 5-28-9 for purposes of retaining or increasing employment in existing or new enterprises in Indiana, subject to the limitations in subsection (e).

(10) In bonds or other obligations of the Indiana housing finance authority.

(e) The investment authority of the board under subsection (d) is subject to the following limitations:

(1) For investments under subsection (d)(1) and (d)(2), the portfolio of an open-end no-load management-type investment company or investment trust must be limited to:

(A) direct obligations of the United States and obligations of a federal agency or a federal instrumentality that are fully guaranteed by the United States; and

(B) repurchase agreements fully collateralized by obligations described in clause (A), of which the company or trust takes delivery either directly or through an authorized custodian.

(2) Total outstanding investments in guarantees of industrial development obligations and credit enhancement obligations under subsection (d)(6) must not exceed the greater of:

(A) ten percent (10%) of the available balance of the insurance fund; or

(B) fourteen million dollars ($14,000,000).

(3) Total outstanding investments in guarantees of bond bank obligations under subsection (d)(7) must not exceed the greater of:

(A) twenty percent (20%) of the available balance of the insurance fund; or

(B) twenty-four million dollars ($24,000,000).

(4) Total outstanding investments in bonds, notes, or other obligations of the Indiana ~~development~~ finance authority under subsection (d)(8) may not exceed the greater of:

(A) fifteen percent (15%) of the available balance of the insurance fund; or

(B) twenty million dollars ($20,000,000).

However, after June 30, 1988, the board may not make any additional investment in bonds, notes, or other obligations of the Indiana ~~development~~ finance authority **issued under IC 4-4-11,** and the board may invest an amount equal to the remainder, if any, of:

(i) fifteen percent (15%) of the available balance of the insurance fund; minus

(ii) the board's total outstanding investments in bonds, notes, or other obligations of the Indiana ~~development~~ finance authority **issued under IC 4-4-11;**

in guarantees of industrial development obligations or credit enhancement obligations, or both, as authorized by subsection (d)(6). In such a case, the outstanding investments, as authorized by subsection (d)(6) and (d)(8), may not exceed in total the greater of twenty-five percent (25%) of the available balance of the insurance fund or thirty-four million dollars ($34,000,000).

(5) Total outstanding investments in notes or other debt obligations of counties, cities, and towns under subsection (d)(9) may not exceed the greater of:

(A) ten percent (10%) of the available balance of the insurance fund; or

(B) twelve million dollars ($12,000,000).

(f) For purposes of subsection (e), the available balance of the insurance fund does not include the outstanding principal amount of any fund investment in a corporate note or obligation or the part of the fund that has been established as a reserve for losses.

(g) Except as provided in section 4 of this chapter, all interest and other income earned on investments of the insurance fund and all amounts collected by the board accrue to the fund.

(h) Members of the board and any officers or employees of the board are not subject to personal liability or accountability by reason of any investment in any of the obligations listed in subsection (d).

(i) The board shall, when directed by the state board of finance constituted by IC 4-9.1-1-1, purchase the loan made by the state board of finance under IC 4-10-18-10(i). The loan shall be purchased by the board at a purchase price equal to the total of:

(1) the principal amount of the loan;

(2) the deferred interest payable on the loan; and

(3) accrued interest to the date of purchase by the board.

Members of the board and any officers or employees of the board are not subject to personal liability or accountability by reason of the purchase of the loan under this subsection.

SECTION 82. IC 5-13-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. (a) The board for depositories, in making the industrial development obligation or credit enhancement obligation guarantees authorized under section 7(d)(6) of this chapter, shall comply with the following limitations:

(1) A guarantee shall be made only of industrial development obligations or credit enhancement obligations for the purpose of retaining, retaining and expanding, or bringing significant employment into Indiana, as determined by the board under subdivision (3)(A).

(2) Each industrial development obligation or credit enhancement obligation must be guaranteed not only by the board but also by the Indiana ~~development~~ finance authority created by IC 4-4-11. Each guarantee must provide that in the event of a valid claim of loss by the lender, the lessor, or the issuer of the credit enhancement arising under the industrial development obligation or credit enhancement documents, the amount of the loss, up to two million dollars ($2,000,000), shall first be paid by the industrial development project guaranty fund created by IC 4-4-11-16, and only the remainder of the loss, if any, shall to the extent guaranteed be paid by the public deposit insurance fund. Neither fund is responsible for the amount due from the other under its guarantee.

(3) The guarantee of the industrial development obligation or credit enhancement obligation by the board for depositories must be recommended by the Indiana ~~development~~ finance authority. Subject to that recommendation, the board for depositories may make the guarantee if it determines:

(A) that the guarantee creates a reasonable probability that loss in Indiana employment that would occur will be significantly reduced or that Indiana's employment will be significantly expanded;

(B) that the consequent reduction in employment loss or the expansion in employment will enhance the economic stability of the community or communities in the state where the borrower or lessee conducts its business;

(C) that there is reasonable probability that the industrial development obligation will be repaid or satisfied or that the credit enhancement will be satisfied; and

(D) that the industrial development obligation or credit enhancement obligation and guarantee are protected against loss and the borrower or lessee has agreed to pay the insurance fund a guarantee premium annually as provided in subdivision (6).

(4) Protection against loss on the industrial development obligation or credit enhancement obligation guaranteed will be provided:

(A) in loan transactions by:

(i) a valid security agreement;

(ii) mortgage;

(iii) combination of (i) and (ii); or

(iv) other document; and

(B) in lease transactions by the guaranteed party's rights as owner of the leased property.

(5) The term of the guarantee must not exceed twenty (20) years. The amount of the guarantee provided by the board, together with the corresponding guarantee to be provided by the industrial development project guaranty fund under subdivision

(2), must not exceed:

(A) the lesser of:

(i) ninety percent (90%) of the unpaid balance of the obligation; or

(ii) ninety percent (90%) of the appraised fair market value of the real estate;

if the obligation is backed by real estate;

(B) the lesser of:

(i) seventy-five percent (75%) of the unpaid balance of the obligation; or

(ii) seventy-five percent (75%) of the appraised fair market value of the equipment;

if the obligation is backed by equipment; or

(C) a weighted average of the figures derived under clauses (A)(ii) and (B)(ii) if the obligation is backed by real estate and equipment.

(6) The guarantee premium to be received by the public deposit insurance fund for the guarantee must be at an annual percentage rate on the outstanding principal amount of the industrial development obligation or the credit enhancement obligation of not less, in the discretion of the board, than the market rate for guarantees, mortgage insurance rates, or letters of credit used for similar purposes at the time the guarantee is made. However, the annual percentage rate must not exceed two percent (2%) of the outstanding principal obligation.

(b) The following conditions apply to the making of bond bank obligation guarantees under section 7(d)(7) of this chapter:

(1) Each bond bank obligation guaranteed must be secured by a pledge of securities of a qualified entity (as defined in IC 5-1.5-1-8) under an indenture of trust requiring an adequate debt reserve fund.

(2) The board for depositories shall fix the one (1) time or annual charge to be paid by the bond bank for each guarantee in an amount considered by the board to be appropriate and consistent with the market rate for that guarantee, taking into consideration the terms of the indenture applicable to the bond bank obligation.

(3) The board for depositories may agree to other terms for each guarantee that the secretary-investment manager certifies as being commercially reasonable and that the board, in its judgment, determines to be proper.

(c) Any claim, loss, or debt arising out of any guarantee authorized by section 7(d)(6) or 7(d)(7) of this chapter is the obligation of the board for depositories payable out of the public deposit insurance fund only and does not constitute a debt, liability, or obligation of the state or a pledge of the faith and credit of the state. The document evidencing any guarantee must have on its face the words, "The obligations created by this guarantee (or other document as appropriate) do not constitute a debt, liability, or obligation of the state or a pledge of the faith and credit of the state but are obligations of the board for public depositories and are payable solely out of the public deposit insurance fund, and neither the faith and credit nor the taxing power of the state is pledged to the payment of any obligation hereunder.".

(d) Any claim of loss by a lender or lessor under a guarantee authorized by section 7(d)(6) or 7(d)(7) of this chapter, at the time it is made in writing to the board, has priority against the fund on all claims made after that time.

SECTION 83. IC 5-13-12-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. With regard to direct obligations of the Indiana ~~development~~ finance authority that have been issued in conjunction with an industrial development project undertaken by the authority, including those obligations that are guaranteed by the board under this chapter or purchased by the board under section 7(d)(8) of this chapter, the board may upon the request of the authority permit a subordination of any valid security agreement, mortgage, combinations thereof, or other appropriate document securing the direct obligations, if the board in its discretion determines that the subordination is reasonably necessary to accomplish the objectives of the industrial development project.

SECTION 84. IC 5-14-1.5-6.1, AS AMENDED BY SEA 335-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.1. (a) As used in this section, "public official" means a person:

(1) who is a member of a governing body of a public agency; or

(2) whose tenure and compensation are fixed by law and who executes an oath.

(b) Executive sessions may be held only in the following instances:

(1) Where authorized by federal or state statute.

(2) For discussion of strategy with respect to any of the following:

(A) Collective bargaining.

(B) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing.

(C) The implementation of security systems.

(D) The purchase or lease of real property by the governing body up to the time a contract or option to purchase or lease is executed by the parties.

However, all such strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries.

(3) For discussion of the assessment, design, and implementation of school safety and security measures, plans, and systems.

(4) Interviews with industrial or commercial prospects or agents of industrial or commercial prospects by the Indiana economic development corporation, the office of tourism development, the Indiana ~~development~~ finance authority, or economic development commissions.

(5) To receive information about and interview prospective employees.

(6) With respect to any individual over whom the governing body has jurisdiction:

(A) to receive information concerning the individual's alleged misconduct; and

(B) to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is:

(i) a physician; or

(ii) a school bus driver.

(7) For discussion of records classified as confidential by state or federal statute.

(8) To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs.

(9) To discuss a job performance evaluation of individual employees. This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process.

(10) When considering the appointment of a public official, to do the following:

(A) Develop a list of prospective appointees.

(B) Consider applications.

(C) Make one (1) initial exclusion of prospective appointees from further consideration.

Notwithstanding IC 5-14-3-4(b)(12), a governing body may release and shall make available for inspection and copying in accordance with IC 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three (3) unless there are fewer than three (3) prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to the public.

(11) To train school board members with an outside consultant about the performance of the role of the members as public officials.

(12) To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under IC 15-5-1.1 or IC 25.

(c) A final action must be taken at a meeting open to the public.

(d) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b). The requirements stated in section 4 of this chapter for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject

matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(e) A governing body may not conduct an executive session during a meeting, except as otherwise permitted by applicable statute. A meeting may not be recessed and reconvened with the intent of circumventing this subsection.

SECTION 85. IC 5-14-3-4.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 4.7. (a) Records relating to negotiations between the Indiana finance authority and industrial, research, or commercial prospects are excepted from section 3 of this chapter at the discretion of the authority if the records are created while negotiations are in progress.**

(b) Notwithstanding subsection (a), the terms of the final offer of public financial resources communicated by the authority to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(c) When disclosing a final offer under subsection (b), the authority shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

SECTION 86. IC 5-20-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. ~~Authority Creation; Membership; Terms; Expenses.~~ (a) There is created a public body corporate and politic of the state of Indiana to be known as the "Indiana housing ~~finance~~ **and community development** authority". The authority shall consist of the ~~director of the department of financial institutions, the director of the department of commerce, the state treasurer and four (4) persons appointed by the governor, no more than two (2) of whom~~ **following seven (7) members:**

(1) The lieutenant governor or the lieutenant governor's designee.

(2) The treasurer of state, or the treasurer of state's designee.

(3) The public finance director of the Indiana finance authority, or the public finance director's designee.

(4) Four (4) members appointed by the governor.

Not more than three (3) of the members of the authority appointed under subdivision (4) shall be members of the same political party. ~~Of the members first appointed by the governor, two (2) shall be designated to serve for a term of three (3) years and two (2) for a term of four (4) years from the dates of their appointments, but thereafter~~ Members of the authority ~~shall be~~ appointed **by the governor shall serve** for a term of four (4) years, except that all vacancies shall be filled for the unexpired term. **However,** any appointed member of the authority shall be removable at ~~will by~~ **the pleasure of** the governor, with or without cause. A member of the authority shall receive no compensation for ~~his~~ **the member's** services but shall be entitled to **reimbursement for** the necessary expenses, including traveling expenses, incurred in the discharge of ~~his~~ **the member's** duties. Each member shall hold office until ~~his~~ **the member's** successor has been appointed and has qualified. A certificate of appointment or reappointment of any members shall be filed with the authority and this certificate shall be conclusive evidence of the due and proper appointments of the member.

(b) The powers of the authority shall be vested in the members thereof in office from time to time. A majority of the members of the authority shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Action may be taken by the authority upon a vote of a majority of the members present, unless the bylaws of the authority require a larger number. Meetings of the members of the authority may be held anywhere within or outside the state.

(c) The governor shall appoint a chairman and vice-chairman from the members of the authority. The ~~authority shall employ~~ **governor shall appoint** an executive director **for the authority, who shall serve at the pleasure of the governor and receive compensation as fixed by the authority. The authority shall employ** legal and technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. The authority may also engage independent legal counsel to assist it. The authority may delegate to one (1) or more of its agents or employees such powers or duties as it may deem proper.

(d) The authority may also contract with any entity, including the Indiana finance authority, to provide staff or services, including the functions of the executive director and employees of the authority, under such terms as the authority determines.

SECTION 87. IC 5-20-1-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 3.5. Before the issuance of any bonds under this chapter:**

(1) the executive director of the authority;

(2) each member of the authority; and

(3) any other employee or agent of the authority authorized by resolution of the authority to handle funds or sign checks;

shall execute a surety bond in the penal sum of fifty thousand dollars ($50,000). If an individual described in subdivisions (1) through (3) is already covered by a bond required by state law, the individual need not obtain another bond if the bond required by state law is in at least the penal sum specified in this section and covers the individual's activities for the authority. In lieu of this bond, the chairman of the authority may execute a blanket surety bond covering each member, the executive director, and the employees or other officers of the authority. Each surety bond must be conditioned upon the faithful performance of the individual's duties, and shall be issued by a surety company authorized to transact business in Indiana as surety. At all times after the issuance of any surety bonds, these surety bonds shall be maintained in full force and effect. All costs of the surety bonds shall be borne by the authority.

SECTION 88. IC 5-20-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. (a) The authority has all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the power:

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

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

(3) to purchase or participate in the purchase from mortgage lenders of mortgage loans made to persons of low and moderate income for residential housing;

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

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

(6) to acquire real property, or any interest in real property, by conveyance, including purchase in lieu of foreclosure, or foreclosure, to own, manage, operate, hold, clear, improve, and

rehabilitate such real property and sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purposes of the authority;
(7) to sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction loan, a land development loan, a mortgage loan, or a loan of any type permitted by this chapter;
(8) to procure insurance against any loss in connection with its operations in such amounts and from such insurers as it may deem necessary or desirable;
(9) to consent, subject to the provisions of any contract with noteholders or bondholders which may then exist, whenever it deems it necessary or desirable in the fulfillment of its purposes to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan, mortgage loan commitment, construction loan, loan to lender, or contract or agreement of any kind to which the authority is a party;
(10) to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing;
(11) to include in any borrowing such amounts as may be deemed necessary by the authority to pay financing charges, interest on the obligations (for a period not exceeding the period of construction and a reasonable time thereafter or if the housing is completed, two (2) years from the date of issue of the obligations), consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;
(12) to make and publish rules respecting its lending programs and such other rules as are necessary to effectuate the purposes of this chapter;
(13) to provide technical and advisory services to sponsors, builders, and developers of residential housing and to residents and potential residents, including housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;
(14) to promote research and development in scientific methods of constructing low cost residential housing of high durability;
(15) to encourage community organizations to participate in residential housing development;
(16) to make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, limited liability company, or other organization or entity necessary or convenient to accomplish the purposes of this chapter;
(17) to accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;
(18) to sue and be sued in its own name, plead and be impleaded;
(19) to maintain an office in the city of Indianapolis and at such other place or places as it may determine;
(20) to adopt an official seal and alter the same at pleasure;
(21) to adopt and from time to time amend and repeal bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules and policies in connection with the performance of its functions and duties;
(22) to employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor;
(23) **notwithstanding IC 5-13, but subject to the requirements of any trust agreement entered into by the authority,** to invest: ~~any funds held in reserve or in sinking fund accounts or any money not required for immediate disbursement in obligations of the state, the United States, or their agencies or instrumentalities and such other obligors as may be permitted under the terms of any resolution authorizing the issuance of the authority's obligations;~~
(A) the authority's money, funds, and accounts;
(B) any money, funds, and accounts in the authority's custody; and
(C) proceeds of bonds or notes;
in the manner provided by an investment policy established by resolution of the authority;
(24) to make or participate in the making of construction loans, mortgage loans, or both, to individuals, partnerships, limited liability companies, corporations, and organizations for the construction of residential facilities for the developmentally disabled or for the mentally ill or for the acquisition or renovation, or both, of a facility to make it suitable for use as a new residential facility for the developmentally disabled or for the mentally ill;
(25) to make or participate in the making of construction and mortgage loans to individuals, partnerships, corporations, limited liability companies, and organizations for the construction, rehabilitation, or acquisition of residential facilities for children;
(26) to purchase or participate in the purchase of mortgage loans from:
(A) public utilities (as defined in IC 8-1-2-1); or
(B) municipally owned gas utility systems organized under IC 8-1.5;
if those mortgage loans were made for the purpose of insulating and otherwise weatherizing single family residences in order to conserve energy used to heat and cool those residences;
(27) to provide financial assistance to mutual housing associations (IC 5-20-3) in the form of grants, loans, or a combination of grants and loans for the development of housing for low and moderate income families; ~~and~~
(28) to service mortgage loans made or acquired by the authority and to impose and collect reasonable fees and charges in connection with such servicing; **and**
(29) subject to the authority's investment policy, to enter into swap agreements (as defined in IC 8-9.5-9-4) in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7.

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

(b) The authority shall structure and administer any program conducted under subsection (a)(3) or (a)(4) in order to assure that no mortgage loan shall knowingly be made to a person whose adjusted family income shall exceed one hundred twenty-five percent (125%) of the median income for the geographic area within which the person resides and at least forty percent (40%) of the mortgage loans so financed shall be for persons whose adjusted family income shall be below eighty percent (80%) of the median income for such area.

(c) In addition to the powers set forth in subsection (a), the authority may, with the proceeds of bonds and notes sold to retirement plans covered by IC 5-10-1.7, structure and administer a program of purchasing or participating in the purchasing from mortgage lenders of mortgage loans made to qualified members of retirement plans and other individuals. The authority shall structure and administer any program conducted under this subsection to assure that:
(1) each mortgage loan is made as a first mortgage loan for real property:
(A) that is a single family dwelling, including a condominium or townhouse, located in Indiana;
(B) for a purchase price of not more than ninety-five thousand dollars ($95,000);
(C) to be used as the purchaser's principal residence; and
(D) for which the purchaser has made a down payment in an amount determined by the authority;
(2) no mortgage loan exceeds seventy-five thousand dollars ($75,000);
(3) any bonds or notes issued which are backed by mortgage

loans purchased by the authority under this subsection shall be offered for sale to the retirement plans covered by IC 5-10-1.7; and

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

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

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

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

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

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

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

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

(e) Beginning with the 1991 program year, the authority, when directed by the governor, shall administer:

(1) the rental rehabilitation program established by the Housing Assistance Act of 1937 (42 U.S.C. 1437o); and

(2) federal funds allocated to the rental rehabilitation program under the Housing Assistance Act of 1937 (42 U.S.C. 1437o).

(f) The authority may contract with the division of family and children and the department of commerce so that the authority may administer the program and funds described under subsection (e) for program years before 1991.

(g) Beginning May 15, 2005, the authority shall identify, promote, assist, and fund home ownership education programs conducted throughout Indiana by nonprofit counseling agencies certified by the authority using funds appropriated under section 27 of this chapter. The attorney general and the entities listed in IC 4-6-12-4(a)(1) through IC 4-6-12-4(a)(10) shall cooperate with the authority in implementing this subsection.

SECTION 89. IC 5-20-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. ~~Authority Authorization and Operation of Revenue Bond Financing.~~ (a) **Subject to the approval of the governor,** the authority is hereby authorized to issue bonds or notes, or a combination thereof, to carry out and effectuate its purposes and powers. The principal of, and the interest on, such bonds or notes shall be payable solely from the funds provided for such payment in this chapter. The authority may secure the repayment of such bonds and notes by the pledge of mortgages and notes of others, revenues derived from operations and loan repayments, the proceeds of its bonds, and any available revenues or assets of the authority. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the authority, at such price or prices and under such terms and conditions as may be determined by the authority. Any such bonds or notes shall bear interest at such rate or rates as may be determined by the authority. Notes shall mature at such time or times not exceeding ten (10) years from their date or dates, and bonds shall mature at such time or times not exceeding forty-five (45) years from their date or dates, as may be determined by the authority. The authority shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or outside the state. In case any officer whose signature, or a facsimile of whose signature, shall appear on any bonds or notes or coupons attached thereto shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The authority may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the authority authorizing the sale of its bonds or notes, such bonds or notes may be sold in such manner, either at public or private sale, and for such price as the authority shall determine to be for the best interest of the authority and to best effectuate the purposes of this chapter.

(b) The proceeds of any bonds or notes shall be used solely for the purposes for which they are issued. The proceeds shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the resolution authorizing the issuance of such bonds or notes or in the trust agreement securing the same.

(c) Prior to the preparation of definitive bonds, the authority may, under like restrictions **and subject to the approval of the governor,** issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds or notes which shall become mutilated or shall be destroyed or lost.

(d) The authority shall cooperate with and use the assistance of the Indiana finance authority established under IC 4-4-11 in the issuance of the bonds or notes.

SECTION 90. IC 5-20-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 18. The authority shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor, **the budget committee,** and the general assembly. An annual report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6. The report shall set forth a complete operating and financial statement of the authority during such year, and a copy of such report shall be available to inspection by the public at the Indianapolis office of the authority. The authority shall cause an audit of its books and accounts to be made at least once in each year by an independent certified public accountant and the cost thereof may be paid from any available money of the authority.

SECTION 91. IC 5-20-1-27 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 27. (a) The home ownership education account within the state general fund is established to support the home ownership education programs established under section 4(g) of this chapter. The account is administered by the authority.**

(b) The home ownership education account consists of fees collected under IC 24-9-9.

(c) The expenses of administering the home ownership education account shall be paid from money in the fund.

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

SECTION 92. IC 5-26-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. The commission shall pay its obligations under any use and occupancy agreement or any other contract or lease with the ~~state office building commission~~ **Indiana finance authority** from money deposited in the infrastructure fund before making any other disbursement or expenditure of the money.

SECTION 93. IC 5-28-8-4, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. As used in this chapter, "qualified entity" means the state, a political subdivision of the state, an agency of the state or a political subdivision of the state, a nonprofit corporation, or the Indiana ~~development~~ finance authority established under IC 4-4-10.9 and IC 4-4-11.

SECTION 94. IC 5-28-25-1, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. As used in this chapter, "eligible entity" means:

(1) a city;
(2) a town;
(3) a county;
(4) a special taxing district;
(5) an economic development commission established under IC 36-7-12;
(6) a nonprofit corporation;
(7) a corporation established under IC 23-7-1.1 (before its repeal on August 1, 1991) or IC 23-17 to distribute water for domestic and industrial use;
(8) a regional water, sewage, or solid waste district;
(9) a conservancy district that includes in its purpose the distribution of domestic water or the collection and treatment of waste; or
(10) the Indiana ~~development~~ finance authority established under IC 4-4-11.

SECTION 95. IC 6-3.1-9-1, AS AMENDED BY P.L.4-2005, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. As used in this chapter:

"Business firm" means any business entity authorized to do business in the state of Indiana that has state tax liability.

"Community services" means any type of counseling and advice, emergency assistance, medical care, recreational facilities, housing facilities, or economic development assistance to individuals, groups, or neighborhood organizations in an economically disadvantaged area.

"Crime prevention" means any activity which aids in the reduction of crime in an economically disadvantaged area.

"Economically disadvantaged area" means an enterprise zone, or any area in Indiana that is certified as an economically disadvantaged area by the Indiana ~~economic development corporation~~ **housing finance authority** after consultation with the community services agency. The certification shall be made on the basis of current indices of social and economic conditions, which shall include but not be limited to the median per capita income of the area in relation to the median per capita income of the state or standard metropolitan statistical area in which the area is located.

"Education" means any type of scholastic instruction or scholarship assistance to an individual who resides in an economically disadvantaged area that enables the individual to prepare for better life opportunities.

"Enterprise zone" means an enterprise zone created under IC 5-28-15.

"Job training" means any type of instruction to an individual who resides in an economically disadvantaged area that enables the individual to acquire vocational skills so that the individual can become employable or be able to seek a higher grade of employment.

"Neighborhood assistance" means either:
(1) furnishing financial assistance, labor, material, and technical advice to aid in the physical or economic improvement of any part or all of an economically disadvantaged area; or
(2) furnishing technical advice to promote higher employment in any neighborhood in Indiana.

"Neighborhood organization" means any organization, including but not limited to a nonprofit development corporation:
(1) performing community services in an economically disadvantaged area; and
(2) holding a ruling:
(A) from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation under the provisions of the Internal Revenue Code; and
(B) from the department of state revenue that the organization is exempt from income taxation under IC 6-2.5-5-21.

"Person" means any individual subject to Indiana gross or adjusted gross income tax.

"State fiscal year" means a twelve (12) month period beginning on July 1 and ending on June 30.

"State tax liability" means the taxpayer's total tax liability that is incurred under:
(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax); and
(2) IC 6-5.5 (the financial institutions tax);
as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this chapter.

"Tax credit" means a deduction from any tax otherwise due and payable under IC 6-3 or IC 6-5.5.

SECTION 96. IC 6-3.1-9-2, AS AMENDED BY P.L.4-2005, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) A business firm or a person who contributes to a neighborhood organization or who engages in the activities of providing neighborhood assistance, job training or education for individuals not employed by the business firm or person, or for community services or crime prevention in an economically disadvantaged area shall receive a tax credit as provided in section 3 of this chapter if the ~~board of the~~ Indiana ~~economic development corporation~~ **housing finance authority** approves the proposal of the business firm or person, setting forth the program to be conducted, the area selected, the estimated amount to be invested in the program, and the plans for implementing the program.

(b) The ~~board of the~~ Indiana ~~economic development corporation,~~ **housing finance authority,** after consultation with the community services agency and the commissioner of revenue, may adopt rules for the approval or disapproval of these proposals.

SECTION 97. IC 6-3.1-9-4, AS AMENDED BY P.L.4-2005, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. (a) Any business firm or person which desires to claim a tax credit as provided in this chapter shall file with the department, in the form that the department may prescribe, an application stating the amount of the contribution or investment which it proposes to make which would qualify for a tax credit, and the amount sought to be claimed as a credit. The application shall include a certificate evidencing approval of the contribution or program by the ~~board of the~~ Indiana ~~economic development corporation.~~ **housing finance authority.**

(b) The ~~board of the~~ Indiana ~~economic development corporation~~ **housing finance authority** shall give priority in issuing certificates to applicants whose contributions or programs directly benefit enterprise zones.

(c) The department shall promptly notify an applicant whether, or the extent to which, the tax credit is allowable in the state fiscal year in which the application is filed, as provided in section 5 of this chapter. If the credit is allowable in that state fiscal year, the applicant shall within thirty (30) days after receipt of the notice file with the department of state revenue a statement, in the form and accompanied by the proof of payment as the department may prescribe, setting forth that the amount to be claimed as a credit under this chapter has been paid to an organization for an approved program or purpose, or permanently set aside in a special account to be used solely for an approved program or purpose.

(d) The department may disallow any credit claimed under this chapter for which the statement or proof of payment is not filed within the thirty (30) day period.

SECTION 98. IC 6-3.1-23-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. As used in this chapter, "qualified investment" means costs that:
(1) result from work performed in Indiana to conduct a voluntary remediation, whether or not under IC 13-25-5, that involves the remediation of a brownfield;
(2) are not recovered by a taxpayer from another person after the taxpayer has made a good faith effort to recover the costs;
(3) are not paid from state financial assistance;
(4) result in taxable income to any other Indiana taxpayer; and
(5) are approved by the department of environmental management and the Indiana ~~development~~ finance authority under section 12 of this chapter.

SECTION 99. IC 6-3.1-23-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 5. (a) A taxpayer is entitled to a credit equal to the amount determined under section 6 of this chapter against the taxpayer's state tax liability for a taxable year if the following requirements are satisfied:
(1) The taxpayer does the following:
(A) Makes a qualified investment in that taxable year.

(B) Makes a good faith attempt to recover the costs of the environmental damages from the liable parties.

(C) Submits a plan to the legislative body that:

(i) describes the taxpayer's proposed redevelopment of the property;

(ii) indicates the sources and amounts of money to be used for the remediation and proposed redevelopment of the property; and

(iii) estimates the value of the remediation and proposed redevelopment.

(D) Certifies to the legislative body that the taxpayer:

(i) has never had an ownership interest in an entity that contributed; and

(ii) has not contributed;

to contamination (as defined in IC 13-11-2-43) that is the subject of the voluntary remediation, as determined under the written standards adopted by the department of environmental management and the Indiana ~~development~~ finance authority.

(2) The legislative body, after holding a public hearing of which notice was given under IC 5-3-1, adopts a resolution:

(A) determining that:

(i) the estimate of the value of the remediation and proposed redevelopment included in the plan under subdivision (1)(C)(iii) is reasonable for projects of that nature; and

(ii) the plan submitted under subdivision (1)(C) is in the best interest of the community;

(B) determining that the taxpayer:

(i) has never had an ownership interest in an entity that contributed; and

(ii) has not contributed;

to contamination (as defined in IC 13-11-2-43) that is the subject of the voluntary remediation, as determined under the written standards adopted by the department of environmental management and the Indiana ~~development~~ finance authority; and

(C) approving the credit.

(3) The department determines under section 15 of this chapter that the taxpayer's return claiming the credit is filed with the department before the maximum amount of credits allowed under this chapter is met.

(b) In determining whether the redevelopment is in the best interest of the community, the legislative body must consider, among other things, whether the proposed development promotes:

(1) the development of housing;

(2) the development of green space;

(3) the development of high technology businesses; or

(4) the creation or retention of high paying jobs.

SECTION 100. IC 6-3.1-23-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 12. (a) To be entitled to a credit under this chapter, a taxpayer must request the department of environmental management and the Indiana ~~development~~ finance authority to determine if costs incurred in a voluntary remediation involving a brownfield are qualified investments.

(b) The request under subsection (a) must be made before the costs are incurred.

(c) Upon receipt of a request under subsection (a), the department of environmental management and the Indiana ~~development~~ finance authority shall:

(1) examine the costs under the standards adopted by the department of environmental management; and

(2) certify any costs that the department and the authority determine to be a qualified investment.

(d) Upon completion of a voluntary remediation for which costs have been certified as a qualified investment under subsection (c), the taxpayer:

(1) shall notify the department of environmental management; and

(2) shall request from the department of environmental management:

(A) with respect to voluntary remediation conducted under IC 13-25-5, the certificate of completion issued by the commissioner under IC 13-25-5-16 for the voluntary remediation work plan under which the costs certified under subsection (c)(2) were incurred; or

(B) with respect to voluntary remediation not conducted under IC 13-25-5, a certification of the costs incurred for the voluntary remediation that are consistent with the costs certified under subsection (c)(2).

SECTION 101. IC 6-3.1-23-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13. (a) To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department of state revenue.

(b) The taxpayer shall submit the following to the department of state revenue:

(1) The certification of the qualified investment by the department of environmental management and the Indiana ~~development~~ finance authority under section 12(c) of this chapter.

(2) Either:

(A) an official copy of the certification referred to in section 12(d)(2)(A) of this chapter; or

(B) the certification issued by the department of environmental management in response to a request under section 12(d)(2)(B) of this chapter.

(3) Proof of payment of the certified qualified investment.

(4) A copy of the legislative body's resolution adopted under section 5(a)(2) of this chapter.

(5) Information that the department determines is necessary for the calculation of the credit provided by this chapter.

SECTION 102. IC 6-3.1-23-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. (a) The amount of tax credits allowed under this chapter may not exceed one million dollars ($1,000,000) in a state fiscal year unless the Indiana ~~development~~ finance authority determines under subsection (e) that money is available for additional tax credits in a particular state fiscal year. However, if the maximum amount of tax credits allowed under this subsection exceeds the amount available in the subaccount of the environmental remediation revolving loan fund (IC 13-19-5), the maximum amount of tax credits allowed under this subsection is reduced to the amount available.

(b) The department shall record the time of filing of each return claiming a credit under section 13 of this chapter and shall, except as provided in subsection (c), grant the credit to the taxpayer, if the taxpayer otherwise qualifies for a tax credit under this chapter, in the chronological order in which the return is filed in the state fiscal year.

(c) If the total credits approved under this section equal the maximum amount allowable in a state fiscal year, a return claiming the credit filed later in that same fiscal year may not be approved. However, if an applicant for whom a credit has been approved fails to file the information required by section 13 of this chapter, an amount equal to the credit previously allowed or set aside for the applicant may be allowed to the next eligible applicant or applicants until the total amount has been allowed. In addition, the department may, if the applicant so requests, approve a credit application, in whole or in part, with respect to the next succeeding state fiscal year.

(d) The department of state revenue shall report the total credits granted under this chapter for each state fiscal year to the Indiana ~~development~~ finance authority. The Indiana ~~development~~ finance authority shall transfer to the state general fund an amount equal to the total credits granted from the subaccount of the environmental remediation revolving loan fund (IC 13-19-5).

(e) At the end of each state fiscal year, the Indiana ~~development~~ finance authority may determine whether money is available in the subaccount of the environmental remediation revolving loan fund (IC 13-19-5) to provide tax credits in excess of the amount set forth in subsection (a) in the subsequent state fiscal year.

(f) Before December 31 of each year, the Indiana ~~development~~ finance authority may assess the demand for tax credits under this chapter and determine whether the need for other brownfield activities is greater than the need for tax credits. If the Indiana ~~development~~ finance authority determines that the need for other brownfield activities is greater than the need for tax credits, the

authority may set aside up to three-fourths (3/4) of the amount of allowable tax credits for the subsequent state fiscal year and use it for other brownfield projects.

(g) Except as provided in subsection (h), the Indiana ~~development~~ finance authority may use money set aside under subsection (f) for any permissible purpose.

(h) Money specifically appropriated for tax credits may not be set aside for another use.

SECTION 103. IC 6-3.1-23-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 17. The Indiana ~~development~~ finance authority, after consulting with the department of environmental management and the budget agency and without complying with IC 4-22-2, may adopt guidelines to govern the administration of this chapter.

SECTION 104. IC 8-1-8.6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. The fund may be used only to defray a portion of the cost of additional capacity (related to a steel facility's consumption of electricity in Public Service of Indiana's system) added to the Public Service of Indiana system and in any rate proceeding before the utility regulatory commission involving the cost of this new capacity, the fund will be allocated to the ratepayers of Public Service of Indiana. The utility regulatory commission shall determine the specific ratemaking methodology for allocation and distribution of the ratepayer protection fund to Public Service of Indiana's ratepayers in an order and present the order to the Indiana ~~development~~ finance authority. The Indiana ~~development~~ finance authority shall disburse the fund based on the order of the utility regulatory commission.

SECTION 105. IC 8-1-33 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]:

Chapter 33. Indiana Broadband Development Program

Sec. 1. (a) The general assembly finds that certain areas of Indiana are not being adequately served with broadband services.

(b) The general assembly declares that it is a valid public purpose for the Indiana finance authority to issue bonds and notes, and loan the proceeds of those bonds and notes to the program, so that the authority may provide for financing or refinancing to broadband developers and broadband operators serving underserved areas.

Sec 2. As used in this chapter, "affordable broadband services" means broadband services that are available at a price reasonably comparable to the price charged for broadband services in an area that is not an underserved area.

Sec. 3. As used in this chapter, "authority" refers to the Indiana finance authority established by IC 4-4-11-4.

Sec. 4. As used in this chapter, "broadband developer" means a person selected by the authority to acquire, construct, develop, and create any part of the broadband infrastructure.

Sec. 5. As used in this chapter, "broadband development program" or "program" refers to the Indiana broadband development program established by section 15 of this chapter.

Sec. 6. As used in this chapter, "broadband infrastructure" includes all facilities, hardware, and software and other intellectual property used for and necessary to provide broadband services in underserved areas of Indiana, including voice, video, and data.

Sec. 7. As used in this chapter, "broadband operator" means a person selected by the authority to operate any part of the broadband infrastructure.

Sec. 8. As used in this chapter, "broadband services" includes services, including voice, video, and data, that provide capacity for transmission of more than two hundred (200) kilobits per second in at least one (1) direction regardless of the technology or medium used, including wireless, copper wire, fiber optic cable, or coaxial cable. If voice transmission capacity is offered in conjunction with other services using transmission of more than two hundred (200) kilobits per second, the voice transmission capacity may be less than two hundred (200) kilobits per second. The authority shall annually reconsider the two hundred (200) kilobits threshold under this section with a bias toward raising the threshold in a manner consistent with technological advances.

Sec. 9. As used in this chapter, "development costs" means the costs associated with the broadband infrastructure that have been approved by the authority and includes all the following:

(1) The costs for the planning, acquiring, leasing, constructing and maintaining of the broadband infrastructure.

(2) Payments for options to purchase, deposits on contracts of purchase, and payments for the purchases of properties for the broadband infrastructure.

(3) Financing, refinancing, acquisition, demolition, construction, rehabilitation, and site development of new and existing buildings.

(4) Carrying charges during construction.

(5) Purchases of hardware, software, facilities, or other expenses related to the broadband infrastructure.

(6) Legal, organizational, and marketing expenses, project manager and clerical staff salaries, office rent, and other incidental expenses.

(7) Payment of fees for preliminary feasibility studies and advances for planning, engineering, and architectural work.

(8) Any other costs and expenses necessary for the acquisition, construction, maintenance, and operation of all or part of the broadband infrastructure.

Sec. 10. As used in this chapter, "person" means an individual, a corporation, a rural electric membership corporation, a limited or general partnership, a joint venture, a limited liability company, or a governmental entity, including a body corporate and politic, political subdivision, municipal corporation, school, college, university, hospital, health care facility, library, or nonprofit organization. The term does not include the state.

Sec. 11. (a) As used in this chapter, "relevant services" refers to:

(1) cable service (as defined in 47 U.S.C. 522(6));

(2) telecommunications service (as defined in 47 U.S.C. 153(46)); and

(3) information service (as defined in 47 U.S.C. 153(20)).

(b) The term includes:

(1) advanced services (as defined in 47 CFR 51.5);

(2) broadband service; and

(3) Internet Protocol enabled services;

however classified by the Federal Communications Commission.

Sec. 12. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13. The term includes any entity:

(1) owned, operated, or controlled by a political subdivision; or

(2) in which a political subdivision otherwise has an interest, whether direct or indirect.

Sec. 13. As used in this chapter, "underserved area" means an area within Indiana that the authority determines does not have a person that:

(1) provides broadband service in the area at the time of the authority's inquiry under section 14 of this chapter; or

(2) intends to provide broadband service not later than three (3) months after the date of the authority's inquiry under section 14 of this chapter.

Sec. 14. (a) The authority shall conduct an inquiry to determine underserved areas within Indiana. The authority shall send a request to each person that provides a relevant service within one hundred (100) miles of the proposed broadband service area. A request under this subsection must inquire as to whether the person:

(1) provides broadband service; or

(2) intends to provide broadband service not later than three (3) months after the date of the authority's request under this subsection;

in the proposed broadband service area. This section does not empower the authority to require providers of broadband service to disclose confidential and proprietary business plans and other confidential information without adequate protection of the information.

(b) The authority may determine that there is not a person that provides or intends to provide broadband service in the proposed broadband service area if the authority's inquiry under subsection (a) results in any of the following:

(1) The authority does not receive a response to any of the requests sent under subsection (a) within twenty (20) days after the date the requests were sent.

(2) The authority:

(A) receives one (1) or more responses to a request under subsection (a) that indicate that the persons responding provide broadband service in the proposed broadband service area at the time of the request; and

(B) determines that no person responding actually provides broadband service in the designated area.

(3) The authority:

(A) receives one (1) or more responses to a request under subsection (a) that indicate that the persons responding intend to provide broadband service in the proposed broadband service area not later than three (3) months after the date of the authority's request under subsection (a); and

(B) determines, after the appropriate amount of time, that no person responding actually provided broadband service in the proposed broadband service area not later than three (3) months after the date of the authority's written request under subsection (a).

Sec. 15. (a) The Indiana broadband development program is established in order to encourage the provision of affordable broadband services and networks that will:

(1) ensure the long term growth of and the enhancement and delivery of services by the business, educational, medical, commercial, nonprofit, and governmental entities in underserved areas in Indiana; and

(2) benefit residential, commercial, public, governmental, and nonprofit entities in underserved areas in Indiana.

(b) The authority shall administer the broadband development program.

Sec. 16. (a) The powers of the authority under this chapter include all those necessary to carry out and effectuate the purposes of this chapter, including the following:

(1) To invest any money of the authority at the authority's discretion, in any obligations determined proper by the authority, and name and use depositories for the authority's money.

(2) To receive and distribute state or local funding, including grants, loans, and appropriations.

(3) To make loans or grants to broadband developers and broadband operators that will acquire, construct, maintain, and operate all or part of the broadband infrastructure serving underserved areas.

(4) To provide operating assistance to make broadband services more affordable to broadband developers, broadband operators, and broadband customers in underserved areas, in conjunction with broadband infrastructure financed by the authority.

(5) To set construction, operation, and financing standards for the broadband infrastructure in connection with authority financing and to provide for inspections to determine compliance with those standards.

(6) To investigate, evaluate, and assess the current broadband infrastructure and the future broadband infrastructure needs of Indiana and to encourage and participate in aggregation strategies for the broadband services of all public entities and nonprofit corporations in Indiana to maximize the interconnectivity and efficiencies of the broadband infrastructure.

(7) To make expenditures necessary to carry out the authority's duties under this chapter, including paying the authority's operating expenses.

(b) As part of an application for financing under this chapter, a broadband developer or broadband operator must file with the authority a participation plan for small and minority owned businesses and a communitywide outreach plan to educate the public with respect to the availability of broadband services. The authority may not approve an application unless a plan is submitted under this subsection.

SECTION 106. IC 8-9.5-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. As used in this chapter:

"Authority" refers to the Indiana ~~transportation~~ finance authority established under ~~section 2 of this chapter.~~ **IC 4-4-11.**

"Department" refers to the Indiana department of transportation established under IC 8-23-2.

"Toll bridge" means a bridge with approaches, avenues of access, fills, causeways, and connecting bridges or ferries under IC 8-16-1.

"Toll road project" has the meaning specified in IC 8-15-2-4(4).

SECTION 107. IC 8-9.5-8-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16. (a) The rural transportation road fund is established as a special revenue fund to be administered by the ~~transportation~~ **Indiana** finance authority.

(b) The money in the rural transportation road fund at the end of any state fiscal year does not revert to any other fund.

(c) The treasurer of state may invest the money in the rural transportation road fund in the manner provided by law for investing money in the state general fund.

(d) The rural transportation road fund is to be used only for the purpose of supplementing the revenues received by the ~~transportation~~ **Indiana** finance authority as tolls imposed for the use of any toll road or toll bridge project.

SECTION 108. IC 8-9.5-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. As used in this chapter, "authority" means:

(1) an authority or agency established under IC 8-1-2.2 or IC 8-9.5 through IC 8-23;

(2) **when acting under an affected statute (as defined in IC 4-4-10.9-1.2),** the ~~commission~~ **Indiana finance authority** established ~~under IC 4-13.5;~~ **by IC 4-4-11;**

(3) only in connection with a program established under IC 13-18-13 or IC 13-18-21, the bank established under IC 5-1.5; ~~or~~

(4) a fund or program established under IC 13-18-13 or IC 13-18-21;

(5) the Indiana health and educational facility financing authority established by IC 5-1-16; and

(6) the Indiana housing finance authority established by IC 5-20-1.

SECTION 109. IC 8-10-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. (a) There is hereby created a commission to be known as the "Indiana port commission" and by that name the commission may sue and be sued, and plead and be impleaded. The commission hereby created is a body both corporate and politic in the state of Indiana, and the exercise by the commission of the powers conferred by this article in the construction, operation, and maintenance of a port or project shall be deemed and held to be essential governmental functions of the state, but the commission shall not however be immune from liability by reason thereof.

(b) The commission shall consist of seven (7) members, appointed by the governor, no more than four (4) of whom shall be members of the same political party. The members shall be residents of the state, and shall have been qualified electors therein for a period of at least five (5) years next preceding their appointment. The members of the commission first appointed shall continue in office for terms expiring, in the case of two (2) members, on July 1, 1962, and in the case of three (3) members, on July 1, 1963, July 1, 1964, and July 1, 1965, and the first two (2) members appointed after January 1, 1975, shall continue in office for terms expiring July 1, 1977, for one (1) member and July 1, 1979, for the other member, respectively, and until their respective successors shall be duly appointed and qualified. The term of any member of the commission first appointed shall be designated by the governor. The successor of each such member shall be appointed for a term of four (4) years, except that any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term, and a member of the commission shall be eligible for reappointment. The governor may at any time remove any member of the commission for misfeasance, nonfeasance, or malfeasance in office. The members of the commission shall, within ten (10) days after their appointment, meet and qualify by subscribing an oath to discharge honestly and faithfully the duties of their office as members of such commission. The commission shall thereafter elect one (1) of the members as chairman and another as vice-chairman, and shall

appoint a secretary-treasurer who need not be a member of the commission. Four (4) members of the commission shall constitute a quorum and the affirmative vote of four (4) members shall be necessary for any official action taken by the commission. No vacancy in the membership of the commission shall impair the rights of a quorum to exercise all the rights and perform all the duties of the commission.

(c) Before the issuance of any revenue bonds under the provisions of this article:

(1) each appointed member of the commission; ~~shall give a surety bond to the state in the penal sum of twenty-five thousand dollars ($25,000) and~~

(2) the secretary-treasurer; **and**

(3) any other employee or agent of the commission authorized by resolution of the commission to handle funds or sign checks;

shall give a surety bond to the state in the penal sum of fifty thousand dollars ($50,000). Each such surety bond must be conditioned upon the faithful performance of the **individual's** duties, ~~of the office,~~ to be executed by a surety company authorized to transact business in the state as surety and to be approved by the governor and filed in the office of the secretary of state.

(d) Each appointed member of the commission shall receive an annual salary of seven thousand five hundred dollars ($7,500), payable in monthly instalments. However, no members of such commission as appointed hereunder shall receive any salary except a per diem as fixed and approved by the budget director until said commission is able to carry on the full operations as intended by this chapter, and the budget director, subject to the approval of the governor of the state of Indiana, shall determine when said salaries for said commission members shall commence.

(e) Each member shall be reimbursed for ~~his~~ **the member's** actual expenses necessarily incurred in the performance of ~~his~~ **the member's** duties.

(f) All expenses incurred in carrying out the provisions of this article shall be payable solely from funds provided under the authority of this article and no liability or obligation shall be incurred by the commission hereunder beyond the extent to which moneys shall have been provided under the authority of this article.

SECTION 110. IC 8-10-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13. (a) **Subject to the approval of the governor,** the commission is hereby authorized to provide by resolution, at one **(1)** time or from time to time, for the issuance of revenue bonds of the state for the purpose of paying all or any part of the cost of a port or project under this chapter or IC 8-10-4. The principal of and the interest on such bonds shall be payable solely from the revenues specifically pledged to the payment thereof. The bonds of each issue shall be dated, shall bear interest at any rate, shall mature at such time or times not exceeding ~~fifty (50)~~ **thirty-five (35)** years from the date thereof, as may be determined by the commission**,** and may be made redeemable before maturity, at the option of the commission, at such price or prices and under such terms and conditions as may be fixed by the commission in the authorizing resolution.

(b) The commission shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state.

(c) The bonds shall be signed in the name of the commission, by its chairman or vice chairman or by the facsimile signature of such chairman or vice chairman, and the official seal of the commission, or facsimile thereof, shall be affixed thereto and attested by the secretary-treasurer of the commission, and any coupons attached thereto shall bear the facsimile signature of the chairman of the commission. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if ~~he~~ **the officer** had remained in office until such delivery.

(d) All bonds issued under this article shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state of Indiana.

(e) The bonds may be issued in coupon or in registered form, or both, as the commission may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(f) The bonds shall be sold at public sale in accordance with IC 4-1-5, except as provided in IC 8-10-4.

(g) No action to contest the validity of any bonds issued by the commission under this article shall be commenced more than thirty (30) days following the adoption of the resolution approving the bonds as provided in this article.

(h) The commission shall cooperate with and use the assistance of the Indiana finance authority established under IC 4-4-11 in the issuance of the bonds under this chapter or IC 8-10-4.

SECTION 111. IC 8-10-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 22. (a) The commission shall cause an audit of its books and accounts to be made at least once each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operations of the commission's ports and projects. The accounts, books, and records of the Indiana port commission shall be audited annually by the state board of accounts, and the cost of such audit may be treated as a part of the cost of construction or of operations of the commission's ports and projects.

(b) The commission shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor, ~~Each member of the general assembly shall receive a copy of the report by making a request for it to the chairman of the commission.~~ **the budget committee, and the general assembly. An annual report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6.** Each report shall set forth a complete operating and financial statement for the commission during the fiscal year it covers.

SECTION 112. IC 8-10-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. **(a)** In addition to the powers conferred upon the Indiana port commission by other provisions of this article, **and subject to subsection (b),** the commission, in connection with any self-liquidating project, shall have the following powers notwithstanding any other provision of this article to the contrary:

~~(a)~~ **(1)** The revenue bonds issued by the commission to finance the cost of such self-liquidating project may be issued without regard to any maximum interest rate limitation in this article or any other law.

~~(b)~~ **(2)** The revenue bonds issued by the commission to finance the cost of such self-liquidating project may be sold in such manner, either at public or private sale, as the commission may determine, and the provisions of IC 4-1-5 shall not be applicable to such sale.

~~(c)~~ **(3)** IC 4-13.6, IC 5-16-1, IC 5-16-2, IC 5-16-3, IC 5-16-5, IC 5-16-5.5, IC 5-16-6, IC 5-16-6.5, IC 5-16-8, IC 5-16-9, IC 5-16-10, IC 5-16-11, IC 5-16-11.1, IC 8-10-1-7(12), IC 8-10-1-29, and IC 36-1-12 do not apply to a project to be leased to a private party whose payments are expected to be sufficient to pay all debt service on bonds issued by the commission to finance the project.

(b) The issuance of revenue bonds by the commission under this chapter is subject to the approval of the governor.

SECTION 113. IC 8-14.5-1-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 4. This article:**

(1) applies to the authority only when acting for the purposes set forth in this article; and

(2) does not apply to the authority when acting under any other statute for any other purpose.

SECTION 114. IC 8-14.5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. "Authority" refers to the Indiana ~~transportation~~ finance authority established under ~~IC 8-9.5-8-2.~~ **IC 4-4-11.**

SECTION 115. IC 8-15-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. (a) In order to

remove the handicaps and hazards on the congested highways in Indiana, to facilitate vehicular traffic throughout the state, to promote the agricultural and industrial development of the state, and to provide for the general welfare by the construction of modern express highways embodying safety devices, including center division, ample shoulder widths, long sight distances, multiple lanes in each direction, and grade separations at intersections with other highways and railroads, the authority may:

(1) construct, reconstruct, maintain, repair, and operate toll road projects at such locations as shall be approved by the governor;

(2) in accordance with such alignment and design standards as shall be approved by the authority and subject to IC 8-9.5-8-10, issue toll road revenue bonds of the state payable solely from funds pledged for their payment, as authorized by this chapter, to pay the cost of such projects;

(3) finance, develop, construct, reconstruct, improve, or maintain public improvements, such as roads and streets, sewerlines, waterlines, and sidewalks for manufacturing or commercial activities within a county through which a toll road passes if these improvements are within the county and are within an area that is located:

(A) ten (10) miles on either side of the center line of a toll road project; or

(B) two (2) miles on either side of the center line of any limited access highway that interchanges with a toll road project;

(4) in cooperation with the Indiana department of transportation or a political subdivision, construct, reconstruct, or finance the construction or reconstruction of an arterial highway or an arterial street that is located within ten (10) miles of the center line of a toll road project and that:

(A) interchanges with a toll road project; or

(B) intersects with a road or a street that interchanges with a toll road project;

(5) assist in developing existing transportation corridors in northwestern Indiana; and

(6) exercise these powers in participation with any governmental entity or with any individual, partnership, limited liability company, or corporation.

(b) Notwithstanding subsection (a), the authority shall not construct, maintain, operate, nor contract for the construction, maintenance, or operation of transient lodging facilities on, or adjacent to, such toll road projects.

(c) This chapter:

(1) applies to the authority only when acting for the purposes set forth in this chapter; and

(2) does not apply to the authority when acting under any other statute for any other purpose.

SECTION 116. IC 8-15-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. As used in this chapter, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(1) "Authority" refers to the Indiana ~~transportation~~ finance authority established under ~~IC 8-9.5-8-2.~~ **IC 4-4-11.**

(2) "Capitalized interest" means:

(A) interest costs on toll road revenue bonds before and during the period of construction of the project for the payment of the cost of which the bonds were issued, and for one (1) year after completion of construction; and

(B) interest costs on succeeding lien bonds authorized by this chapter for the period from the date of such bonds until the date when the prior outstanding toll road revenue bonds, for which revenues are pledged, are retired, but not later than ten (10) years from the date of issue of the succeeding lien bonds.

(3) "Department" refers to the Indiana department of transportation.

(4) "Project" or "toll road project" means any express highway, superhighway, or motorway constructed under the provisions of this chapter or accepted as a toll road under IC 8-23-7, including all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, tollhouses, service stations, and administration, storage, and other buildings and facilities which the authority may deem necessary or desirable for the operation of the project, together with all property, rights, easements, and interests which may be acquired by the authority for the construction or the operation of the project. "Project" or "toll road project" includes any subsequent improvement, betterment, enlargement, extension, or reconstruction of an existing project. Each project or toll road project may be constructed or extended in such sections as the authority may from time to time determine, and shall be separately designated by name or number, which designation shall also apply to any project which is a subsequent improvement, betterment, enlargement, extension, or reconstruction of such project. The construction, maintenance, or operation, of transient lodging facilities on, or adjacent to any such project, or the contracting therefor, shall not be considered as within the definition of "project" or "toll road project".

(5) "Cost" as applied to a toll road project or any part of a toll road project includes:

(A) the cost of construction, including bridges over or under existing highways and railroads;

(B) the cost of acquisition of all land, rights-of-way, property, rights, easements, and interests acquired by the authority for such construction;

(C) the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved;

(D) the cost of diverting highways, interchange of highways, and access roads to private property, including the cost of land or easements therefor;

(E) the cost of all machinery and equipment;

(F) financing charges and capitalized interest;

(G) the cost of funding any reserves to secure the payment of toll road revenue bonds;

(H) the cost of traffic estimates and of engineering and legal expenses, plans, specifications, surveys, estimates of cost and revenues;

(I) other expenses necessary or incident to determining the feasibility or practicability of constructing any such project;

(J) administrative expense;

(K) such other expenses as may be necessary or incident to the construction of the project, the financing of such construction, and the placing of the project in operation; and

(L) the cost of conversion to a toll road project of a state highway or part of a highway accepted as a toll road project under IC 8-23-7.

Any obligation or expense incurred by the department for surveys, borings, preparation of plans and specifications, and other engineering services in connection with the construction of a project under this chapter or for the repayment of a grant from a federal agency which the authority itself would be authorized to repay under section 5(9) of this chapter in connection with such project or with the issuance of bonds for the payment of the cost of such project, shall be regarded as a part of the cost of such project and shall be reimbursed to the state out of the proceeds of toll road revenue bonds as authorized.

(6) "Owner" includes all individuals, copartnerships, associations, limited liability companies, or corporations having any title or interest in any property, rights, easements, and interests authorized to be acquired by this chapter.

(7) "Revenues" means all tolls, rentals, gifts, grants, money, and all other funds and property coming into the possession or under the control of the authority by virtue of the terms and provisions of this chapter, except the proceeds from the sale of bonds issued under the provisions of this chapter and earnings thereon.

(8) "Public roads" includes all public highways, roads, and streets in the state, whether maintained by the state, county, city, township, or other political subdivision.

(9) "Transient lodging facility" means accommodations for overnight or temporary habitation, including, but not limited to, hotels, motels, motor courts, lodges, and inns, for persons using

any toll road project.

(10) "Toll road bonds" means all bonds issued under the provisions of this chapter, including refunding bonds and succeeding lien bonds.

(11) "State highway" means a public road for which the department is responsible under IC 8-23-2.

SECTION 117. IC 8-16-1-0.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 0.1. As used in this chapter:

"Authority" refers to the Indiana ~~transportation~~ finance authority established under ~~IC 8-9.5-8-2.~~ **IC 4-4-11.**

"Department" refers to the Indiana department of transportation.

SECTION 118. IC 8-16-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. (a) The authority shall have the power:

~~(1) to establish bylaws and, under IC 4-22-2, rules and regulations for its own government;~~

~~(2)~~ **(1)** to make and enter into all contracts or agreements; and

~~(3)~~ **(2)** to do all things necessary or incidental to the performance of its duties and the execution of its powers under this chapter.

(b) The authority may employ engineering, architectural, and construction experts, inspectors, and such other employees as may be necessary in its opinion to implement this chapter and fix their compensation, all of whom shall do such work as the authority may direct. All expenses so incurred by the authority shall be paid solely from funds provided under the authority of this chapter.

(c) This chapter:

(1) applies to the authority only when acting for the purposes set forth in this chapter; and

(2) does not apply to the authority when acting under any other statute for any other purpose.

SECTION 119. IC 8-21-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. As used in this chapter, "authority" ~~means~~ **refers to** the ~~transportation~~ **Indiana** finance authority established under ~~IC 8-9.5-8-2.~~ **IC 4-4-11.**

SECTION 120. IC 8-21-12-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 10.5. This chapter:**

(1) applies to the authority only when acting for the purposes set forth in this chapter; and

(2) does not apply to the authority when acting under any other statute for any other purpose.

SECTION 121. IC 8-23-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13. "Authority" refers to the Indiana ~~transportation~~ finance authority established under ~~IC 8-9.5-8-2.~~ **IC 4-4-11.**

SECTION 122. IC 8-23-2-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4.1. The department is responsible for the following activities:

(1) The identification, development, coordination, and implementation of the state's transportation policies.

(2) The approval of applications for federal transportation grants from funds allocated to the state:

(A) from the Highway Trust Fund (23 U.S.C.);

(B) from the Aviation Trust Fund (49 U.S.C.);

(C) through the Federal Transit Administration (49 U.S.C. 5301 et seq.); or

(D) from any other federal grant that has a transportation component.

(3) The review, revision, adoption, and submission of budget proposals.

(4) The construction, reconstruction, improvement, maintenance, and repair of:

(A) state highways; and

(B) a toll road project or toll bridge in accordance with a contract or lease entered into with the Indiana ~~transportation~~ finance authority under IC 8-9.5-8-7 or IC 8-9.5-8-8.

(5) The administration of programs as required by law, including the following:

(A) IC 8-3-1 (railroads).

(B) IC 8-3-1.5 (rail preservation).

(C) IC 8-21-1 (aeronautics).

(D) IC 8-21-9 (airports).

(E) IC 8-21-11 (aviation development program).

SECTION 123. IC 8-23-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 6. (a) The department, through the commissioner or the commissioner's designee, may do the following:

(1) Acquire by purchase, gift, or condemnation, sell, abandon, own in fee or a lesser interest, hold, or lease property in the name of the state, or otherwise dispose of or encumber property to carry out its responsibilities.

(2) Contract with persons outside the department to do those things that in the commissioner's opinion cannot be adequately or efficiently performed by the department.

(3) Enter into:

(A) a contract with the Indiana ~~transportation~~ finance authority under IC 8-9.5-8-7; or

(B) a lease with the Indiana ~~transportation~~ finance authority under IC 8-9.5-8-8;

for the construction, reconstruction, improvement, maintenance, repair, or operation of toll road projects under IC 8-15-2 and toll bridges under IC 8-16-1.

(4) Sue and be sued, including, with the approval of the attorney general, the compromise of any claims of the department.

(5) Hire attorneys.

(6) Perform all functions pertaining to the acquisition of property for transportation purposes, including the compromise of any claims for compensation.

(7) Hold investigations and hearings concerning matters covered by orders and rules of the department.

(8) Execute all documents and instruments necessary to carry out its responsibilities.

(9) Make contracts and expenditures, perform acts, enter into agreements, and make rules, orders, and findings that are necessary to comply with all laws, rules, orders, findings, interpretations, and regulations promulgated by the federal government in order to:

(A) qualify the department for; and

(B) receive;

federal government funding on a full or participating basis.

(10) Adopt rules under IC 4-22-2 to carry out its responsibilities.

(11) Establish regional offices.

(12) Adopt a seal.

(13) Perform all actions necessary to carry out the department's responsibilities.

(14) Order a utility to relocate the utility's facilities and coordinate the relocation of customer service facilities if:

(A) the facilities are located in a highway, street, or road; and

(B) the department determines that the facilities will interfere with a planned highway or bridge construction or improvement project funded by the department.

(15) Reimburse a utility:

(A) in whole or in part for extraordinary costs of relocation of facilities;

(B) in whole for unnecessary relocations;

(C) in accordance with IC 8-23-26-12 and IC 8-23-26-13;

(D) in whole for relocations covered by IC 8-1-9; and

(E) to the extent that a relocation is a taking of property without just compensation.

(16) Provide state matching funds and undertake any surface transportation project eligible for funding under federal law. However, money from the state highway fund and the state highway road construction and improvement fund may not be used to provide operating subsidies to support a public transportation system or a commuter transportation system.

(b) In the performance of contracts and leases with the Indiana ~~transportation~~ finance authority, the department has authority under IC 8-15-2, in the case of toll road projects and IC 8-16-1, in the case of toll bridges necessary to carry out the terms and conditions of those contracts and leases.

(c) The department shall:

(1) classify as confidential any estimate of cost prepared in conjunction with analyzing competitive bids for projects until

a bid below the estimate of cost is read at the bid opening;

(2) classify as confidential that part of the parcel files that contain appraisal and relocation documents prepared by the department's land acquisition division; and

(3) classify as confidential records that are the product of systems designed to detect collusion in state procurement and contracting that, if made public, could impede detection of collusive behavior in securing state contracts.

This subsection does not apply to parcel files of public agencies or affect IC 8-23-7-10.

SECTION 124. IC 9-21-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. The maximum speed limits set forth in section 2 of this chapter may be altered as follows:

(1) By local jurisdictions under section 6 of this chapter.

(2) By the Indiana department of transportation under section 12 of this chapter.

(3) By the ~~transportation~~ **Indiana** finance authority under IC 8-15-2-17.2.

(4) For the purposes of speed limits on a highway on the national system of interstate and defense highways, by order of the commissioner of the Indiana department of transportation to conform to any federal regulation concerning state speed limit laws.

(5) In worksites, by all jurisdictions under section 11 of this chapter.

SECTION 125. IC 9-21-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. (a) Subject to subsection (b), the Indiana department of transportation, the ~~transportation~~ **Indiana** finance authority, or a local authority may establish temporary maximum speed limits in their respective jurisdictions and in the vicinity of a worksite without conducting an engineering study and investigation required under this article. The establishing authority shall post signs notifying the traveling public of the temporary maximum speed limits established under this section.

(b) Worksite speed limits set under this section must be ten (10) miles below the maximum established speed limit. A worksite speed limit may not exceed forty-five (45) miles per hour in any location.

SECTION 126. IC 13-11-2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16. (a) "Authority", for purposes of IC 13-22-10, refers to the Indiana hazardous waste facility site approval authority.

(b) "Authority", for purposes of **IC 13-18-13, IC 13-18-21, and** IC 13-19-5, refers to the Indiana ~~development~~ finance authority created under IC 4-4-11.

SECTION 127. IC 13-11-2-83 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 83. (a) "Financial assistance agreement", for purposes of IC 13-18-13, refers to an agreement between:

(1) the ~~budget agency;~~ **Indiana finance authority;** and

(2) a ~~political subdivision;~~ **participant under IC 13-18-13;**

establishing the terms and conditions of a loan or other financial assistance, including forgiveness of principal if allowed under federal law, by the state to the ~~political subdivision.~~ **participant under that chapter.**

(b) "Financial assistance agreement", for purposes of IC 13-19-5, means an agreement between the authority and a political subdivision that:

(1) is approved by the budget agency; and

(2) establishes the terms and conditions of a loan or other financial assistance by the state to the political subdivision.

(c) "Financial assistance agreement", for purposes of IC 13-18-21, refers to an agreement between:

(1) the ~~budget agency;~~ **Indiana finance authority;** and

(2) a participant **under IC 13-18-21;**

establishing the terms and conditions of a loan or other financial assistance, including forgiveness of principal if allowed under federal law, by the state to the participant **under IC 13-18-21.**

SECTION 128. IC 13-11-2-151.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 151.1. "Participant" **means the following:**

(1) For purposes of IC 13-18-13:

(A) a political subdivision; or

(B) any person, entity, association, trust, or other manner of participant permitted by law to enter contractual arrangements for a purpose eligible for assistance under the Clean Water Act.

(2) For purposes of ~~this chapter and~~ **the drinking water revolving loan program under** IC 13-18-21: ~~means:~~

~~(1)~~ **(A)** a political subdivision; or

~~(2)~~ **(B)** any ~~other owner or operator of a public water system.~~ **person, entity, association, trust, or other manner of participant permitted by law to enter contractual arrangements for a purpose eligible for assistance under the Safe Drinking Water Act.**

(3) For purposes of the supplemental drinking water and wastewater assistance program under IC 13-18-21-21 through IC 13-18-21-29:

(A) a political subdivision; or

(B) any person, entity, association, trust, or other manner of participant permitted by law to enter contractual arrangements for a purpose eligible for assistance under IC 13-18-21-21 through IC 13-18-21-29.

SECTION 129. IC 13-11-2-195.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 195.5. "Safe Drinking Water Act", for purposes of this chapter and IC 13-18-21, refers to:**

(1) 42 U.S.C. 300f et seq.; and

(2) regulations adopted under 42 U.S.C. 300f et seq.

SECTION 130. IC 13-15-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. The commissioner may suspend the processing of an application, and the period described under sections 1 through 6 of this chapter is suspended, if one (1) of the following occurs:

(1) The department determines that the application is incomplete and has mailed a notice of deficiency to the applicant that specifies the parts of the application that:

(A) do not contain adequate information for the department to process the application; or

(B) are not consistent with applicable law.

The period described under sections 1 through 6 of this chapter shall be suspended during the first two (2) notices of deficiency sent to an applicant under this subdivision. If more than two (2) notices of deficiency are issued on an application, the period may not be suspended unless the applicant agrees in writing to defer processing of the application pending the applicant's response to the notice of deficiency. A notice of deficiency may include a request for the applicant to conduct tests or sampling to provide information necessary for the department to process the application. If an applicant's response does not contain complete information to satisfy all deficiencies described in a notice of deficiency, the department shall notify the applicant not later than thirty (30) working days after receiving the response. The commissioner shall resume processing the application, and the period described under sections 1 through 6 of this chapter resumes on the earlier of the date the department receives and stamps as received the applicant's complete information or the date marked by the department on a certified mail return receipt accompanying the applicant's complete information.

(2) The commissioner receives a written request from an applicant to:

(A) withdraw; or

(B) defer processing of;

the application for the purposes of resolving an issue related to a permit or to provide additional information concerning the application.

(3) The department is required by federal law or by an agreement with the United States Environmental Protection Agency for a federal permit program to transmit a copy of the proposed permit to the administrator of the United States Environmental Protection Agency for review and possible objections before the permit may be issued. The period described under sections 1 through 6 of this chapter shall be suspended from the time the department submits the proposed permit to the administrator for review until:

(A) the department receives the administrator's concurrence or objection to the issuance of the proposed permit; or

(B) the period established in federal law by which the administrator is required to make objections expires without the administrator having filed an objection.

(4) A board initiates emergency rulemaking under ~~IC 4-22-2-37.1(a)(14)~~ **IC 4-22-2-37.1(a)(13)** to revise the period described under sections 1 through 6 of this chapter.

SECTION 131. IC 13-18-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) The wastewater revolving loan fund is established to provide money for loans and other financial assistance to or for the benefit of ~~political subdivisions~~ **participants** under this chapter. **The authority shall administer, hold, and manage the fund.**

(b) The general assembly may appropriate money to the fund. Grants or gifts of money to the fund from the federal government or other sources and the proceeds of the sale of:

(1) gifts to the fund; and

(2) loans and other financial assistance, as provided in sections 10 through 14 of this chapter;

shall be deposited in the fund.

(c) Repayments of loans and other financial assistance, including interest, premiums, and penalties, shall be deposited in the fund.

(d) The ~~treasurer of state~~ **authority** shall invest the money in the fund that is:

(1) not currently needed to meet the obligations of the fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from these investments shall be deposited in the fund.

(e) As an alternative to subsection (d), the ~~budget agency~~ **authority** may invest or cause to be invested all or a part of the fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may permit disbursements by the trustee to:

(1) the department;

(2) the budget agency;

(3) a ~~political subdivision;~~ **participant;**

(4) the Indiana bond bank; ~~or~~

(5) the authority; or

~~(5)~~ **(6)** any person to which the ~~department, the budget agency~~ **authority** or a ~~political subdivision~~ **participant** is obligated, as provided in the trust agreement or indenture.

~~The state board of finance must approve any trust agreement or indenture before execution.~~

(f) Except as provided in the ~~federal~~ Clean Water Act, the cost of administering the fund may be paid from the fund.

(g) All money accruing to the fund is appropriated continuously for the purposes specified in this chapter.

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

SECTION 132. IC 13-18-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. **(a)** Money in the fund may be used to do the following:

(1) Provide loans or other financial assistance to ~~political subdivisions~~ **participants** for the planning, designing, construction, renovation, improvement, or expansion of wastewater collection and treatment systems and other activities necessary or convenient to complete these tasks.

(2) Pay the cost of administering the fund and the program.

(3) Conduct all other activities that are permitted by the ~~federal~~ Clean Water Act.

(b) The authority may contract with the department, the budget agency, or any other entity or person for assistance in administering the program and the fund or in carrying out the purposes of this chapter.

SECTION 133. IC 13-18-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 5. The ~~department~~ **authority** shall do the following:

(1) **Administer, hold, and** manage all aspects of **the fund,** the program, **the supplemental fund,** and **the** supplemental program ~~except as provided under section 6 of~~ **in accordance with** this chapter.

(2) Be the point of contact in relations with the United States Environmental Protection Agency. ~~except as provided under section 6 of this chapter.~~

~~(3) Cooperate with the budget agency in the administration and management of the program and supplemental program.~~

~~(4) Cooperate with the budget agency in preparing~~ **(3) Prepare** and ~~providing~~ **provide** program information.

~~(5) Review~~ **(4) Ensure that** each proposed financial assistance agreement ~~to determine whether the agreement~~ meets the environmental and technical aspects of the program or supplemental program.

~~(6)~~ **(5)** Periodically inspect project design and construction to determine compliance with the following:

(A) This chapter.

(B) The ~~federal~~ Clean Water Act.

(C) Construction plans and specifications.

~~(7)~~ **(6)** Negotiate ~~jointly with the budget agency,~~ the negotiable aspects of each financial assistance agreement.

~~(8) If not accepted and held by the budget agency, accept and hold any letter of credit from the federal government~~ **(7) Manage any payment systems** through which the state receives grant payments **from the federal government** for the program and disbursements to the fund.

~~(9) Prepare jointly with the budget agency, annual reports concerning the following:~~

~~(A) The fund.~~

~~(B) The program.~~

~~(C) The supplemental fund.~~

~~(D) The supplemental program.~~

~~(10) Submit the reports prepared under subdivision (9) to the governor and the general assembly. A report submitted under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.~~

~~(11) Enter into memoranda of understanding with the budget agency concerning the administration and management of the following:~~

~~(A) The fund.~~

~~(B) The program.~~

~~(C) The supplemental fund.~~

~~(D) The supplemental program.~~

(8) Be the point of contact with participants and other interested persons in preparing and providing program information.

(9) Prepare or cause to be prepared each financial assistance agreement.

(10) Sign each financial assistance agreement.

(11) Conduct or cause to be conducted an evaluation as to the financial ability of each participant to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement in accordance with the terms of the agreement.

SECTION 134. IC 13-18-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. **(a)** The ~~budget agency~~ **authority** may do the following:

(1) Employ:

(A) fiscal consultants;

(B) engineers;

(C) bond counsel;

(D) other special counsel;

(E) accountants; and

(F) any other consultants, employees, and agents;

that the ~~budget agency~~ **authority** considers necessary to carry out the purposes of this chapter.

(2) Fix and pay the compensation of those persons employed in subdivision (1) from money:

(A) available in the fund or supplemental fund; or

(B) otherwise made available for the program or the supplemental program.

(3) Enter into memoranda of understanding with the department and the budget agency concerning the administration and management of the following:

(A) The fund.

(B) The program.

(C) The supplemental fund.

(D) The supplemental program.

(4) Provide services to a participant in connection with a loan or other financial assistance, including advisory and other services.

(b) Notwithstanding any other law, the authority, program, or fund, or any person or agent acting on behalf of the authority or program, is not liable in damages or otherwise to any participant or party seeking to be a participant for any act or omission in connection with a loan or other financial assistance, or any application, service, or other undertaking, allowed by or taken under this chapter.

(c) No direction given by or service or other undertaking allowed or taken under this chapter by the authority is a defense for or otherwise excuses any act or omission of a participant otherwise required or imposed by law upon a participant.

SECTION 135. IC 13-18-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. (a) The ~~department and the budget agency~~ **authority** may:

~~(1)~~ provide services to a political subdivision in connection with a loan or other financial assistance, including advisory and other services; and

~~(2)~~ **(1)** charge a fee for services provided; **and**

~~(b) The department and the budget agency may~~

(2) charge a fee for costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance to or for the benefit of a ~~political subdivision~~ **participant** under this chapter, regardless of whether the application is approved or rejected.

~~(c)~~ **(b)** A ~~political subdivision~~ **participant** may pay fees charged under this section.

SECTION 136. IC 13-18-13-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 9. ~~(a)~~ The ~~department~~ **authority** shall use a priority ranking system ~~to recommend~~ **in making** loans or other financial assistance from the fund. The ~~department~~ **authority, in consultation with the department,** shall develop the priority ranking system to achieve optimum water quality consistent with the water quality goals of the state and the ~~federal~~ Clean Water Act.

~~(b) Based on the recommendations made under subsection (a), the budget agency may make loans and provide other financial assistance from the fund to or for the benefit of political subdivisions.~~

SECTION 137. IC 13-18-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. The ~~budget agency~~ **authority** may make loans or provide other financial assistance from the fund to or for the benefit of a ~~political subdivision~~ **participant** under the following conditions:

(1) The loan or other financial assistance must be used:

(A) for:

(i) planning, designing, constructing, renovating, improving, or expanding wastewater collection and treatment systems; ~~and~~

(ii) any purpose eligible for assistance under the Clean Water Act; and

(iii) other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish **guaranties,** reserves, or sinking funds, **including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by clause (A);** or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan or other financial assistance during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Any other costs or expenses necessary or incident to the loan, other financial assistance, or the administration of the fund and the program.

~~(2) Subject to section 15 of this chapter, upon recommendation of the budget agency, the state board of finance shall establish the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies.~~

~~(3)~~ **(2)** The ~~budget agency~~ **authority** shall establish the terms and conditions that the ~~budget agency~~ **authority** considers necessary or convenient to:

(A) make loans; or

(B) provide other financial assistance under this chapter.

(3) Notwithstanding any other law, the authority may establish and implement requirements that:

(A) apply to loans and other financial assistance to be made to participants that are not political subdivisions; and

(B) are different from, or in addition to, requirements that apply to loans and financial assistance made to political subdivisions.

SECTION 138. IC 13-18-13-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. A loan or other financial assistance from the fund must be accompanied by the following:

(1) All papers and opinions required by the ~~budget agency.~~ **authority.**

(2) Unless otherwise provided by ~~rule,~~ **the guidelines of the authority,** the following:

(A) An approving opinion of nationally recognized bond counsel.

(B) A certification and guarantee of signatures.

(C) A certification that, as of the date of the loan or other financial assistance:

(i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or

(ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.

(D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

SECTION 139. IC 13-18-13-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 12. A ~~political subdivision~~ **participant** receiving a loan or other financial assistance from the fund shall enter into a financial assistance agreement. A financial assistance agreement is a valid, binding, and enforceable agreement of the ~~political subdivision.~~ **participant.**

SECTION 140. IC 13-18-13-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13. The ~~budget agency~~ **authority** may sell loans or evidences of other financial assistance and other obligations of ~~political subdivisions~~ **participants** evidencing the loans or other financial assistance from the fund periodically at any price and on terms acceptable to the ~~budget agency.~~ **authority.** Proceeds of sales under this section shall be deposited in the fund.

SECTION 141. IC 13-18-13-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 14. (a) The ~~budget agency~~ **authority** may pledge loans or evidences of other financial assistance and other obligations of ~~political subdivisions~~ **participants** evidencing the loans or other financial assistance from the fund to secure:

(1) other loans or financial assistance from the fund to or for the benefit of ~~political subdivisions,~~ **participants;** or

(2) other loans or financial assistance from the supplemental fund to or for the benefit of ~~political subdivisions;~~ **participants;** to the extent permitted by the ~~federal~~ Clean Water Act.

(b) The ~~budget agency~~ **authority** must approve the terms of a pledge under this section.

(c) Notwithstanding any other law, a pledge of property made by the department and the budget agency under this section or IC 4-23-21-8(e) (before its repeal) **or a pledge of property made by**

the authority under this section is binding from the time the pledge is made. **Any pledge of property made by the department and the budget agency under this section or IC 4-23-21-8(e) (before its repeal) is binding on the authority.** Revenues, other money, or other property pledged and thereafter received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

(1) the department;

(2) the budget agency; ~~or~~

(3) the fund; **or**

(4) the authority;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the ~~budget agency.~~ **authority.**

(e) Action taken to:

(1) enforce a pledge under this section or IC 4-23-21-8(e) (before its repeal); and

(2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section or IC 4-23-21-8(e) (before its repeal) does not create a liability or indebtedness of the state.

SECTION 142. IC 13-18-13-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. (a) ~~In recommending to the state board of finance the interest rate or parameters for establishing the interest rate on each loan, as provided in section 10 of this chapter, the budget agency shall recommend and the state board of finance shall establish the following:~~

~~(1) A base or subsidized interest rate that:~~

~~(A) would be payable by political subdivisions other than political subdivisions described in subdivision (2) or (3); and~~

~~(B) may provide for the payment of no interest during all or a part of the estimated construction period for the wastewater treatment system.~~

~~(2) A base reduced or more heavily subsidized interest rate, that:~~

~~(A) would be payable by political subdivisions whose median household incomes are:~~

~~(i) not more than the state nonmetropolitan median household income, as determined and reported by the federal government periodically; and~~

~~(ii) not less than eighty-one percent (81%) of the state nonmetropolitan median household income; and~~

~~(B) may provide for the payment of no interest during all or a part of the estimated construction period for the wastewater collection and treatment system.~~

~~(3) A base zero (0) or most heavily subsidized interest rate that:~~

~~(A) would be payable on loans made to political subdivisions whose median household incomes are not more than eighty percent (80%) of the state nonmetropolitan household income; and~~

~~(B) may provide for the payment of no interest during all or a part of the estimated construction period of the wastewater collection and treatment system.~~

The authority shall establish the interest rate or parameters for establishing the interest rate on each loan made under this chapter, including parameters for establishing the amount of interest subsidies.

(b) The ~~budget agency,~~ **authority,** in ~~recommending to the state board of finance~~ **setting** the interest rate or parameters for establishing the interest rate on each loan, ~~under section 10 of this chapter, shall~~ **may** take into account the following:

(1) Credit risk.

(2) Environmental enforcement and protection.

(3) Affordability.

(4) Other fiscal factors the ~~budget agency~~ **authority** considers relevant, **including the program's cost of funds and whether the financial assistance provided to a particular participant is taxable or tax exempt under federal law.**

Based on the factors set forth in subdivisions (1) through (4), more than one (1) interest rate may be established and used for loans or other financial assistance to different participants or for different loans or other financial assistance to the same participants.

~~(c) In enacting this section, the general assembly understands that, in financing the program, the Indiana bond bank issued at the budget agency's request, and will continue to issue at the budget agency's request:~~

~~(1) revenue bonds payable from and secured by political subdivisions; and~~

~~(2) loan payments made by and loan payments made to political subdivisions.~~

~~It is not the intent of the general assembly to cause the budget agency or the state board of finance to establish interest rates on loans or parameters for establishing interest rates that would cause the bond bank's revenue bonds to be insecure or otherwise negatively affect the ability of the state to continue to finance the program.~~

SECTION 143. IC 13-18-13-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16. The ~~budget agency~~ **authority** shall require that a ~~political subdivision~~ **participant** receiving a loan or other financial assistance under this chapter establish under applicable statute and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the ~~political subdivision~~ **participant** to:

(1) operate and maintain the wastewater collection and treatment system; and

(2) pay the obligations of the system.

SECTION 144. IC 13-18-13-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 17. (a) Notwithstanding any other law and if provided in a financial assistance agreement, any state department or state agency, including the treasurer of state:

(1) that is the custodian of money payable to a ~~political subdivision,~~ **participant,** other than money in payment for goods or services provided by the ~~political subdivision;~~ **participant;** and

(2) after written notice from the budget director that the ~~political subdivision~~ **participant** is in default on the payment of principal or interest on a loan or evidence of other financial assistance;

may withhold payment of money from that ~~political subdivision~~ **participant** and pay over the money to the ~~budget agency~~ **authority** or the Indiana bond bank as directed by the ~~budget director,~~ **chairman of the authority,** for the purpose of curing the default.

(b) The withholding of payment from the ~~political subdivision~~ **participant** and payment to:

(1) the ~~budget agency,~~ **authority;** or

(2) the Indiana bond bank;

as applicable, may not adversely affect the validity of the ~~defaulted~~ loan or other financial assistance.

SECTION 145. IC 13-18-13-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 18. The ~~water pollution control board and the budget agency~~ **authority** may ~~jointly~~ adopt ~~rules under~~ **guidelines, without complying with** IC 4-22-2, ~~including emergency rules under IC 4-22-2-37.1,~~ to ~~implement~~ **govern the administration of** this chapter.

SECTION 146. IC 13-18-13-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 19. (a) Notwithstanding any other law, a political subdivision may borrow money from the ~~budget agency~~ **authority** by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision shall observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.

(b) Notwithstanding any other law, a political subdivision may issue and sell its notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of its bonds or other available money at the time the notes are due. The notes must be issued pursuant to a resolution or ordinance and the proceeds must be used to carry out the purposes specified in this chapter.

(c) A political subdivision that issues notes under subsection (b) or IC 4-23-21-13 (before its repeal) may renew or extend the notes periodically on terms agreed to with the ~~budget agency,~~ **authority,** and the ~~budget agency~~ **authority** may purchase and sell the renewed

or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.

(d) The notes issued by a political subdivision under subsection (b), including any renewals or extensions, must mature:

(1) in the amounts; and

(2) at the times not exceeding four (4) years from the date of original issuance;

that are agreed to by the political subdivision and the ~~budget agency.~~ **authority.**

(e) Compliance with subsection (b) constitutes full authority for a political subdivision to issue its notes and sell the notes to the ~~department and the budget agency,~~ **authority,** and the political subdivision is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of its notes. These notes are:

(1) valid and binding obligations of the political subdivision;

(2) enforceable in accordance with the terms of the notes; and

(3) payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes.

(f) If the political subdivision issues bonds, all or part of the proceeds of which will be used to pay the notes issued under subsection (b), neither:

(1) the provisions of this section; nor

(2) the actual issuance by a political subdivision of notes under subsection (b);

relieves the political subdivision of the obligation to comply with the statutory requirements for the issuance of bonds.

SECTION 147. IC 13-18-13-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 20. (a) As an alternative to making loans or providing other financial assistance to ~~political subdivisions,~~ **participants,** the ~~budget agency~~ **authority** may use the money in the fund or the supplemental fund to provide a leveraged loan program and other financial assistance programs permitted by the ~~federal~~ Clean Water Act to or for the benefit of ~~political subdivisions,~~ **participants,** including using money in the fund or the supplemental fund to enhance the obligations of ~~political subdivisions~~ **participants** issued for the purposes of this chapter by:

(1) granting money to:

(A) be deposited in:

(i) a capital or reserve fund established under ~~IC 5-1.5~~ **IC 4-4-11** or another statute or a trust agreement or indenture as contemplated by ~~IC 13-18-13-2(c),~~ **section 2(e) of this chapter;** or

(ii) an account established within such a fund; or

(B) provide interest subsidies;

(2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a ~~political subdivision~~ **participant** or for bonds issued by **the authority or** the Indiana bond bank, if credit market access is improved or interest rates are reduced; or

(3) guaranteeing all or a part of obligations issued by ~~political subdivisions~~ **participants** or of bonds issued by **the authority or** the Indiana bond bank.

(b) The ~~budget agency~~ **authority** may enter into any agreements with the Indiana bond bank or ~~political subdivisions~~ **participants** to carry out the purposes specified in this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund and the supplemental fund. A guarantee under subsection (a)(3) does not create a liability or indebtedness of the state.

SECTION 148. IC 13-18-21-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) The drinking water revolving loan fund is established to provide money for loans and other financial assistance under this chapter to or for the benefit of participants, including forgiveness of principal if allowed under federal law. **The authority shall administer, hold, and manage the fund.**

(b) The general assembly may appropriate money to the fund. Grants or gifts of money to the fund from the federal government or other sources and the proceeds of the sale of:

(1) gifts to the fund; and

(2) loans and other financial assistance, as provided in sections 10 through 14 of this chapter;

shall be deposited in the fund.

(c) Repayments of loans and other financial assistance, including interest, premiums, and penalties, shall be deposited in the fund.

(d) The ~~treasurer of state~~ **authority** shall invest the money in the fund that is:

(1) not currently needed to meet the obligations of the fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from these investments shall be deposited in the fund.

(e) As an alternative to subsection (d), the ~~budget agency~~ **authority** may invest or cause to be invested all or part of the fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, an investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may allow disbursements by the trustee to:

(1) the department;

(2) the budget agency;

(3) a participant;

(4) the Indiana bond bank; ~~or~~

(5) the authority; or

~~(5)~~ **(6)** any person to which the ~~department, the budget agency~~ **authority** or a participant is obligated, as provided in the trust agreement or indenture.

~~The state board of finance must approve any trust agreement or indenture before execution.~~

(f) Except as provided in the ~~federal~~ Safe Drinking Water Act, ~~(42 U.S.C. 300f et seq.),~~ the cost of administering the fund and the program may be paid from the fund or from ~~four percent (4%) of the~~ **other** money. ~~allotted to the state under 42 U.S.C. 300j-12.~~

(g) All money accruing to the fund and money allotted to the state under 42 U.S.C. 300j-12 is appropriated continuously for the purposes specified in this chapter.

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

SECTION 149. IC 13-18-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. (a) Money in the fund may be used to do the following:

(1) Provide loans or other financial assistance to participants for the:

(A) planning;

(B) designing;

(C) construction;

(D) renovation;

(E) improvement;

(F) expansion; or

(G) any combination of clauses (A) through (F);

for public water systems that will facilitate compliance with national primary drinking water regulations applicable to public water systems under the ~~federal~~ Safe Drinking Water Act ~~(42 U.S.C. 300f et seq.)~~ or otherwise significantly further the health protection objectives of the ~~federal~~ Safe Drinking Water Act ~~(42 U.S.C. 300f et seq.)~~ and other activities necessary or convenient to complete these tasks.

(2) ~~Except as provided in the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.),~~ Pay the cost of administering the fund and the program.

(3) Conduct all other activities that are allowed by the ~~federal~~ Safe Drinking Water Act. ~~(42 U.S.C. 300f et seq.).~~

~~(b) Notwithstanding section 2(g) of this chapter, if an adequate state match is available, the department and the budget agency may use not more than two percent (2%) of the funds allotted to the state under 42 U.S.C. 300j-12 to provide technical assistance to participants for public water systems serving not more than ten thousand (10,000) persons in Indiana. The department and the budget agency may jointly contract with a person or persons to provide the technical assistance. Funds used under this subsection may not be used for enforcement actions.~~

~~(c) To the extent permitted by this chapter, fifteen percent (15%) of the amount credited to the fund in a state fiscal year shall be~~

~~available solely for providing loan assistance to participants for public water systems regularly serving less than ten thousand (10,000) persons in Indiana to the extent that the money can be obligated for eligible projects under the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).~~

~~(d) To avoid the loss of money allotted to the state under 42 U.S.C. 300j-12 et seq.,~~ **(b)** The ~~budget agency and the department~~ **authority** shall develop and implement a strategy to assist participants in acquiring and maintaining technical, managerial, and financial capacity as contemplated by 42 U.S.C. 300g-9. ~~This is all the legal authority required by the state for the budget agency and the department to~~ **The authority shall** ensure that all new community water systems and new nontransient, noncommunity water systems, as contemplated by the ~~federal~~ Safe Drinking Water Act, ~~(42 U.S.C. 300f et seq.),~~ commencing operations after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each federal primary drinking water regulation in effect on the date operations commence. ~~The department has primary responsibility to carry out this subsection.~~

~~(c)~~ **(c)** This chapter does not require the ~~budget agency~~ **authority** to provide a loan or other financial assistance to any participant that would cause any bonds or other obligations issued to finance the program to lose their exemption from federal income taxation.

(d) The authority may contract with the department, the budget agency, or any other entity or person for assistance in administering the program and the fund and in carrying out the purposes of this chapter.

SECTION 150. IC 13-18-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 5. The ~~department~~ **authority** shall do the following:

(1) **Administer, hold, and** manage all aspects of **the fund,** the program, ~~except as provided by section 6 of this chapter.~~ **the supplemental fund, and the supplemental program in accordance with this chapter.**

(2) Be the point of contact in relations with the United States Environmental Protection Agency. ~~except as provided in section 6 of this chapter.~~

~~(3) Cooperate with the budget agency in the administration and management of the program.~~

~~(4) Cooperate with the budget agency in preparing and providing~~ **(3) Prepare and provide** program **and supplemental program** information.

~~(5) Review~~ **(4) Ensure that** each proposed financial assistance agreement ~~to determine whether the agreement~~ meets the environmental and technical aspects of the program **or the supplemental program.**

~~(6)~~ **(5)** Periodically inspect project design and construction to determine compliance with the following:

(A) This chapter.

(B) The ~~federal~~ Safe Drinking Water Act. ~~(42 U.S.C. 300f et seq.).~~

(C) Construction plans and specifications.

~~(7)~~ **(6)** Negotiate ~~jointly with the budget agency,~~ the negotiable aspects of each financial assistance agreement.

~~(8) If not accepted and held by the budget agency, accept and hold any letter of credit from the federal government~~ **(7) Manage any payment system** through which the state receives grant payments **from the federal government** for the program and disbursements to the fund.

~~(9)~~ **(8)** Prepare ~~jointly with the budget agency,~~ annual reports concerning the following:

(A) The fund.

(B) The program.

(C) The supplemental fund.

(D) The supplemental program.

~~(10) Submit the reports prepared under subdivision (9) to the governor and the general assembly. A report submitted under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.~~

~~(11) Enter into memoranda of understanding with the budget agency concerning the administration and management of the following:~~

~~(A) The fund.~~

~~(B) The program.~~

~~(C) The supplemental fund.~~

~~(D) The supplemental program.~~

(9) Be the point of contact with participants and other interested persons in preparing and providing program information.

(10) Prepare or cause to be prepared each financial assistance agreement.

(11) Sign each financial assistance agreement.

(12) Conduct or cause to be conducted an evaluation as to the financial ability of each participant to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement.

SECTION 151. IC 13-18-21-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. The ~~budget agency~~ **authority** may do the following:

(1) Employ:

(A) fiscal consultants;

(B) engineers;

(C) bond counsel;

(D) special counsel;

(E) accountants; and

(F) any other consultants, employees, and agents;

that the ~~budget agency~~ **authority** considers necessary to carry out the purposes of this chapter.

(2) Fix and pay the compensation of persons employed in subdivision (1) from money:

(A) available in the fund **and the supplemental fund;** or

(B) otherwise made available for the program **and the supplemental program.**

(3) Enter into memoranda of understanding with the department and the budget agency concerning the administration and management of the fund, the program, the supplemental fund, and the supplemental program.

(4) Provide services to a participant in connection with a loan or other financial assistance, including advisory and other services.

SECTION 152. IC 13-18-21-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. (a) The ~~department and the budget agency~~ **authority** may:

~~(1) provide services to a participant in connection with a loan or other financial assistance, including advisory and other services; and~~

~~(2)~~ **(1)** charge a fee for services provided; ~~(b) The department and the budget agency may~~ **and**

(2) charge a fee for costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance under this chapter to or for the benefit of a participant, regardless of whether the application is approved or rejected.

~~(c)~~ **(b)** A ~~political subdivision~~ **participant** may pay fees charged under this section.

SECTION 153. IC 13-18-21-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 9. ~~(a)~~ The ~~department~~ **authority** shall use a priority ranking system ~~to recommend~~ **in making** loans or other financial assistance from the fund. The ~~department~~ **authority** shall develop the priority ranking system consistent with federal primary drinking water regulations and health protection objectives of the ~~federal~~ Safe Drinking Water Act. ~~(42 U.S.C. 300f et seq.).~~

~~(b) Based on the recommendations made under subsection (a), the budget agency may make loans and provide other financial assistance from the fund to or for the benefit of participants.~~

SECTION 154. IC 13-18-21-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. The ~~budget agency~~ **authority** may make loans or provide other financial assistance from the fund to or for the benefit of a participant under the following conditions:

(1) The loan or other financial assistance must be used:

(A) for:

(i) planning, designing, constructing, renovating, improving, and expanding public water systems; ~~and~~

(ii) any purpose eligible for assistance under the Safe Drinking Water Act; and

(iii) for other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish **guaranties,** reserves or sinking funds, **including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by clause (A);** or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan or other financial assistance during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the loan, other financial assistance, or the administration of the fund and the program.

~~(2) Subject to section 15 of this chapter, upon recommendation of the budget agency, the state board of finance shall establish the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies.~~

~~(3)~~ **(2)** The ~~budget agency~~ **authority** shall establish the terms and conditions that the ~~budget agency~~ **authority** considers necessary or convenient to:

(A) make loans; or

(B) provide other financial assistance under this chapter.

~~(4)~~ **(3)** Notwithstanding any other law, the ~~budget agency~~ **authority** may establish and implement requirements that:

(A) apply to loans and other financial assistance to be made to participants that are not political subdivisions; and

(B) are different from, or in addition to, requirements that apply to loans and financial assistance made to political subdivisions.

SECTION 155. IC 13-18-21-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. A loan or other financial assistance from the fund must be accompanied by the following:

(1) All papers and opinions required by the ~~budget agency.~~ **authority.**

(2) Unless otherwise provided by ~~rule,~~ **the guidelines of the authority,** the following:

(A) An approving opinion of nationally recognized bond counsel.

(B) A certification and guarantee of signatures.

(C) A certification that, as of the date of the loan or other financial assistance:

(i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or

(ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.

(D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

SECTION 156. IC 13-18-21-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13. The ~~budget agency~~ **authority** may sell loans or evidence of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the fund periodically at any price and on terms acceptable to the ~~budget agency.~~ **authority.** Proceeds of sales under this section shall be deposited in the fund.

SECTION 157. IC 13-18-21-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 14. (a) The ~~budget agency~~ **authority** may pledge loans or evidence of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the fund to secure:

(1) other loans or financial assistance from the fund to or for the benefit of participants; or

(2) other loans or financial assistance from the supplemental fund to or for the benefit of participants;

to the extent allowed by the ~~federal~~ Safe Drinking Water Act. ~~(42 U.S.C. 300f et seq.).~~

(b) The ~~budget agency~~ **authority** must approve the terms of a pledge under this section.

(c) Notwithstanding any other law, a pledge of property made **by the department and the budget agency under this section, or a pledge of property made by the authority** under this section, is binding from the time the pledge is made. **Any pledge of property made by the department and the budget agency under this section is binding on the authority.** Revenues, other money, or other property pledged and received are immediately subject to the lien of the pledge without any other act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

(1) the department;

(2) the budget agency; ~~or~~

(3) the fund; **or**

(4) the authority;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the ~~budget agency.~~ **authority.**

(e) Action taken to:

(1) enforce a pledge under this section; and

(2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section does not create a liability or indebtedness of the state.

SECTION 158. IC 13-18-21-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. (a) ~~In recommending to the state board of finance the interest rate or parameters for establishing the interest rate on each loan (other than a loan to a qualified entity described in IC 13-11-2-164(b)(4)), as provided in section 10 of this chapter, the budget agency shall recommend and the state board of finance shall establish the following:~~

~~(1) A base or subsidized interest rate that:~~

~~(A) would be payable by participants other than participants described in subdivision (2) or (3); and~~

~~(B) may provide that payment of interest is not required during all or part of the estimated construction period for the public water system.~~

~~(2) A base reduced or more heavily subsidized interest rate that:~~

~~(A) is payable by a participant with median household incomes that are:~~

~~(i) not more than the state median household income for an area that is not a metropolitan area, as determined and reported periodically by the federal government; and~~

~~(ii) not less than eighty-one percent (81%) of the state median household income for an area that is not a metropolitan area; and~~

~~(B) may provide that payment of interest is not required during all or part of the estimated construction period for the public water system.~~

~~(3) A base of zero (0) or the most heavily subsidized interest rate that:~~

~~(A) would be payable on loans made to participants with median household incomes that are not more than eighty percent (80%) of the state household income for an area that is not a metropolitan area; and~~

~~(B) may provide that payment of interest is not required during all or part of the estimated construction period of the public water system.~~

The authority shall establish the interest rate or parameters for establishing the interest rate on each loan made under this chapter, including parameters for establishing the amount of interest subsidies.

(b) The ~~budget agency,~~ **authority,** in ~~recommending to the state board of finance~~ **setting** the interest rate or parameters for

establishing the interest rate on each loan, ~~(including all loans to participants that are not political subdivisions) under section 10 of this chapter,~~ may take into account the following:

(1) Credit risk.

(2) Environmental, water quality, and health protection.

(3) Affordability.

(4) Other fiscal factors the ~~budget agency~~ **authority** considers relevant, including the program's cost of funds and whether the financial assistance provided to a particular participant is taxable or tax exempt under federal law.

Based on the factors set forth in subdivisions (1) through (4), more than one (1) interest rate may be established and used for loans ~~made~~ **or other financial assistance** to different participants ~~in the same interest rate category.~~

~~(c) In financing the program, the Indiana bond bank and the Indiana development finance authority shall issue at the budget agency's request:~~

~~(1) revenue bonds payable from and secured by participants; and~~

~~(2) loan payments made by and to participants.~~

~~The budget agency or the state board of finance is not required by this chapter to establish interest rates on loans or parameters for establishing interest rates that would cause any revenue bonds to be insecure or otherwise negatively affect the ability of the state to continue to finance the program.~~ **or for different loans or other financial assistance to the same participants.**

SECTION 159. IC 13-18-21-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16. The ~~budget agency~~ **authority** shall require a participant receiving a loan or other financial assistance under this chapter to establish under applicable law and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the participant to:

(1) operate and maintain the public water system; and

(2) pay the obligations of the public water system.

SECTION 160. IC 13-18-21-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 17. (a) Notwithstanding any other law and if provided in a financial assistance agreement, a state department or state agency, including the treasurer of state, that is the custodian of money payable to a participant, other than money in payment for goods or services provided by the participant, may withhold payment of money from that participant and pay over the money to the ~~budget agency~~ **authority** or the Indiana bond bank, as directed by the ~~budget director,~~ **chairman of the authority,** for the purpose of curing a default. ~~Withholding payment under this subsection may not occur until after written notice from the budget director that the participant is in default on the payment of principal or interest on a loan or evidence of other financial assistance.~~

(b) The withholding of payment from the participant and payment to:

(1) the ~~budget agency;~~ **authority;** or

(2) the Indiana bond bank;

as applicable, may not adversely affect the validity of the ~~defaulted~~ loan or other financial assistance.

SECTION 161. IC 13-18-21-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 18. The ~~water pollution control board and the budget agency~~ **authority** may ~~jointly~~ adopt ~~rules under~~ **guidelines, without complying with** IC 4-22-2, ~~including emergency rules under IC 4-22-2-37.1,~~ to ~~implement~~ **govern the administration of** this chapter.

SECTION 162. IC 13-18-21-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 19. (a) Notwithstanding any other law, a political subdivision may borrow money under this chapter by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision shall observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.

(b) Notwithstanding any other law, a political subdivision may issue and sell notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of bonds or other available money at the time the notes are due. The notes must be issued under a resolution or ordinance and the proceeds must be used to carry out the purposes specified in this chapter.

(c) A political subdivision that issues notes under subsection (b) may renew or extend the notes periodically on terms agreed to with the ~~budget agency,~~ **authority,** and the ~~budget agency~~ **authority** may purchase and sell the renewed or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.

(d) The notes issued by a political subdivision under subsection (b), including any renewals or extensions, must mature:

(1) in the amounts; and

(2) at the times not exceeding four (4) years from the date of original issuance;

that are agreed to by the political subdivision and the ~~budget agency.~~ **authority.**

(e) Compliance with subsection (b) constitutes full authority for a political subdivision to issue notes and sell the notes to the ~~department and the budget agency,~~ **authority,** and the political subdivision is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of the notes. The notes are:

(1) valid and binding obligations of the political subdivision;

(2) enforceable in accordance with the terms of the notes; and

(3) payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes.

(f) If the political subdivision issues bonds, all or part of the proceeds of which will be used to pay notes issued under subsection (b), the:

(1) provisions of this section; or

(2) actual issuance by a political subdivision of notes under subsection (b);

do not relieve the political subdivision of the obligation to comply with the statutory requirements for the issuance of bonds.

SECTION 163. IC 13-18-21-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 20. (a) As an alternative to making loans or providing other financial assistance to participants, the ~~budget agency~~ **authority** may use the money in the fund to provide a leveraged loan program and other financial assistance programs allowed by the ~~federal~~ Safe Drinking Water Act ~~(42 U.S.C. 300f et seq.)~~ to or for the benefit of participants, including using money in the fund or a supplemental fund, including the supplemental fund established by section 22 of this chapter, to enhance the obligations of participants issued for the purposes of this chapter by:

(1) granting money to:

(A) be deposited in:

(i) a capital or reserve fund established under ~~IC 5-1.5~~ **IC 4-4-11** or another statute or a trust agreement or indenture as contemplated by IC 13-18-21-2(e); or

(ii) an account established within a fund described in item (i); or

(B) provide interest subsidies;

(2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a participant or for bonds issued by the Indiana bond bank or the ~~Indiana development finance~~ authority if credit market access is improved or interest rates are reduced; or

(3) guaranteeing all or part of:

(A) obligations issued by participants; or

(B) bonds issued by the Indiana bond bank or the ~~Indiana development finance~~ authority.

(b) The ~~budget agency~~ **authority** may enter into any agreements with the Indiana bond bank ~~the Indiana development finance authority,~~ or participants to carry out the purposes specified in this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund. A guarantee under subsection (a)(3) does not create a liability or indebtedness of the state.

SECTION 164. IC 13-18-21-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 22. (a) The supplemental drinking water and wastewater assistance fund is

established to provide money for grants, loans, and other financial assistance to or for the benefit of

~~(1)~~ participants for the purposes described in ~~section 23(1) of this chapter; and~~

~~(2) political subdivisions for the purposes described in section 23(2)~~ **section 23** of this chapter.

(b) The general assembly may appropriate money to the supplemental fund. Grants or gifts of money to the supplemental fund and proceeds of the sale of:

(1) gifts to the supplemental fund; and

(2) loans and other financial assistance, as provided in sections 25 through 29 of this chapter;

shall be deposited in the supplemental fund.

(c) Repayments of loans and other financial assistance from the supplemental fund, including interest, premiums, and penalties, shall be deposited in the supplemental fund.

(d) The ~~treasurer of state~~ **authority** shall invest the money in the supplemental fund that is:

(1) not currently needed to meet the obligations of the supplemental fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from the investments shall be deposited in the supplemental fund.

(e) As an alternative to the investment provided for in subsection (d), the ~~budget agency~~ **authority** may invest or cause to be invested all or a part of the supplemental fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with one (1) or more trust agreements or indentures. A trust agreement or indenture may permit disbursements by the trustee to **the authority,** the department, the budget agency, a participant, ~~the Indiana bond bank,~~ or any other person as provided in the trust agreement or indenture. ~~The state board of finance must approve the form of any trust agreement or indenture before execution.~~

(f) The cost of administering the supplemental fund may be paid from money in the supplemental fund.

(g) All money accruing to the supplemental fund is appropriated continuously for the purposes specified in this chapter.

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

(i) The authority shall administer, hold, and manage the supplemental fund.

SECTION 165. IC 13-18-21-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 23. Money in the supplemental fund may be used to do the following:

(1) Provide grants, loans, or other financial assistance to or for the benefit of participants for the planning, designing, acquisition, construction, renovation, improvement, or expansion of public water systems and other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the ~~federal~~ Clean Water Act or the ~~federal~~ Safe Drinking Water Act.

(2) Provide grants, loans, or other financial assistance to or for the benefit of ~~political subdivisions~~ **participants** for the planning, designing, acquisition, construction, renovation, improvement, or expansion of wastewater or storm water collection and treatment systems and other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the ~~federal~~ Clean Water Act or the ~~federal~~ Safe Drinking Water Act.

(3) Provide grants to political subdivisions for tasks associated with the development and preparation of:

(A) long term control plans;

(B) use attainability analyses; and

(C) storm water management programs.

(4) Pay the cost of administering the supplemental fund and the supplemental program.

(5) Conduct all other activities that are permitted by the ~~federal~~ Clean Water Act or the ~~federal~~ Safe Drinking Water Act.

SECTION 166. IC 13-18-21-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 24. The ~~budget agency~~ **authority** shall develop criteria to ~~recommend~~ **make or provide** grants, loans, or other financial assistance from the supplemental fund.

SECTION 167. IC 13-18-21-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 25. (a) The ~~budget agency~~ **authority** may make grants or loans or provide other financial assistance from the supplemental fund for the benefit of a participant under the following conditions:

(1) A grant, loan, or other financial assistance may be used:

(A) for planning, designing, acquiring, constructing, renovating, improving, or expanding public water systems, and other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish **guaranties,** reserves, or sinking funds, **including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by clause (A);** or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the supplemental fund or the supplemental program.

(2) The ~~budget agency~~ **authority** must establish the terms and conditions that the ~~budget agency~~ **authority** considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.

(b) In addition to its powers under subsection (a), the ~~budget agency~~ **authority** may also make grants or loans or provide other financial assistance from the supplemental fund to or for the benefit of a ~~political subdivision~~ **participant** under the following conditions:

(1) A grant, loan, or other financial assistance may be used:

(A) for planning, designing, acquiring, constructing, renovating, improving, or expanding wastewater or storm water collection and treatment systems, and other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish **guaranties,** reserves, or sinking funds, **including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by clause (A);** or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the supplemental fund or the supplemental program.

(2) A grant may be used for tasks associated with the development and preparation of:

(A) long term control plans;

(B) use attainability analyses; and

(C) storm water management programs.

(3) The ~~budget agency~~ **authority** must establish the terms and conditions that the ~~budget agency~~ **authority** considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.

SECTION 168. IC 13-18-21-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 26. (a) A grant, loan, or other financial assistance from the supplemental fund must be accompanied by all papers and opinions required by the ~~budget agency.~~ **authority.**

(b) ~~Unless otherwise provided by rule,~~ **The authority may require that** a loan or other financial assistance ~~must~~ be accompanied by the following:

(1) A certification and guarantee of signatures.

(2) A certification that, as of the date of the loan or other financial assistance, no litigation is pending challenging the validity of or entry into:

(A) the grant, loan, or other financial assistance; or

(B) any security for the loan or other financial assistance.

~~(c) The budget agency may require~~

(3) Any other certifications, agreements, security, or requirements that the authority requests.

(4) An approving opinion of nationally recognized bond counsel.

SECTION 169. IC 13-18-21-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 28. (a) The ~~budget agency~~ **authority** may sell loans or evidences of other financial assistance and other obligations evidencing the loans or other financial assistance from the supplemental fund:

(1) periodically;

(2) at any price; and

(3) on terms acceptable to the ~~budget agency.~~ **authority.**

(b) Proceeds of sales under this section shall be deposited in the supplemental fund, the wastewater revolving loan fund, or the fund at the direction of the ~~budget director.~~ **authority.**

SECTION 170. IC 13-18-21-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 29. (a) The ~~budget agency~~ **authority** may pledge:

(1) loans or evidences of other financial assistance; and

(2) other obligations evidencing the loans or other financial assistance;

from the supplemental fund to secure other loans or financial assistance from the fund, the wastewater revolving loan fund, or the supplemental fund for the benefit of participants.

(b) The terms of a pledge under this section must be acceptable to the ~~budget agency.~~ **authority.**

(c) Notwithstanding any other law, a pledge of property made by the ~~budget agency~~ **authority** under this section is binding from the time the pledge is made. Revenues, other money, or other property pledged and thereafter received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

(1) the ~~department;~~ **authority;**

(2) the budget agency; or

(3) the supplemental fund;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the ~~budget agency.~~ **authority.**

(e) Action taken to:

(1) enforce a pledge under this section; and

(2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section does not create a liability or indebtedness of the state.

SECTION 171. IC 13-19-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. The environmental remediation revolving loan program is established to assist in the remediation of brownfields to encourage the rehabilitation, redevelopment, and reuse of real property by political subdivisions by providing **grants,** loans, forgivable loans, or other financial assistance to political subdivisions to conduct any of the following activities:

(1) Identification and acquisition of brownfields within a political subdivision as suitable candidates for redevelopment following the completion of remediation activities.

(2) Environmental assessment of identified brownfields and other activities necessary or convenient to complete the environmental assessments.

(3) Remediation activities conducted on brownfields, **including remediation of petroleum contamination.**

(4) The clearance of real property under IC 36-7-14-12.2 or IC 36-7-15.1-7 in connection with remediation activities.

(5) Other activities necessary or convenient to complete remediation activities on brownfields.

SECTION 172. IC 13-19-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) The environmental remediation revolving loan fund is established for the purpose of providing money for loans and other financial assistance, including grants, to or for the benefit of political subdivisions under this chapter. ~~The fund shall be administered by~~ The authority **shall administer, hold, and manage the fund.**

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

(c) The fund consists of the following:

(1) Appropriations made by the general assembly.

(2) Grants and gifts intended for deposit in the fund.

(3) Repayments of loans and other financial assistance, including premiums, interest, and penalties.

(4) Proceeds from the sale of loans and other financial assistance under section 9 of this chapter.

(5) Interest, premiums, gains, or other earnings on the fund.

(6) Money transferred from the hazardous substances response trust fund under IC 13-25-4-1(a)(9).

(d) The authority shall invest the money in the fund not currently needed to meet the obligations of the fund in ~~the same manner as other public funds may be invested.~~ **accordance with an investment policy adopted by the authority.** Interest, premiums, gains, or other earnings from these investments shall be credited to the fund.

(e) As an alternative to subsection (d), the authority may invest or cause to be invested all or a part of the fund in a fiduciary account with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may allow disbursements by the trustee to:

(1) the authority;

(2) a political subdivision;

~~(2)~~ **(3)** the Indiana bond bank; or

~~(3)~~ **(4)** any person to which the authority, the Indiana bond bank, or a political subdivision is obligated, including a trustee that is a financial institution for a grantor trust;

as provided in the trust agreement or indenture. The budget agency ~~and the state board of finance~~ must approve any trust agreement or indenture before its execution.

SECTION 173. IC 13-19-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. The authority shall do the following under this chapter:

(1) Be responsible for the management of all aspects of the program.

(2) Prepare and provide program information.

(3) Negotiate the negotiable aspects of each financial assistance agreement and submit the agreement to the budget agency for approval.

(4) Sign each financial assistance agreement.

(5) Review each proposed project and financial assistance agreement to determine if the project meets the credit, economic, or fiscal criteria established by ~~rule or guidance document.~~ **guidelines of the authority.**

(6) Periodically inspect or cause to be inspected projects to determine compliance with this chapter.

~~(7) Prepare annual reports concerning the fund and the program and submit the reports to the governor and the general assembly. A report submitted under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.~~

(7) Conduct or cause to be conducted an evaluation concerning the financial ability of a political subdivision to:

(A) pay a loan or other financial assistance and other obligations evidencing loans or other financial assistance, if required to be paid; and

(B) otherwise comply with terms of the financial assistance agreement.

(8) Evaluate or cause to be evaluated the technical aspects of the political subdivision's:

(A) environmental assessment of potential brownfield

properties;

(B) proposed remediation; and

(C) remediation activities conducted on brownfield properties.

(9) Inspect or cause to be inspected remediation activities conducted under this chapter.

(10) Act as a liaison with the department to the United States Environmental Protection Agency regarding the program.

(11) Be a point of contact for political subdivisions concerning questions about the program.

~~(8)~~ **(12)** Enter into memoranda of understanding, **as necessary,** with the department and the budget agency concerning the administration and management of the fund and the program.

SECTION 174. IC 13-19-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 6. **(a)** The authority may do the following:

(1) Employ:

(A) fiscal consultants;

(B) engineers;

(C) bond counsel;

(D) other special counsel;

(E) accountants; and

(F) any other consultants, employees, and agents;

that the authority considers necessary to carry out the purposes of this chapter.

(2) Fix and pay the compensation of persons employed under subdivision (1) from money available in the fund or otherwise made available for the program.

(3) Provide services to a political subdivision in connection with a loan or other financial assistance, including advisory and other services.

(b) Notwithstanding any other law, the authority, program, or fund, or any person or agent acting on behalf of the authority or program, is not liable in damages or otherwise to any political subdivision for any act or omission in connection with a loan or other financial assistance, or any application, service, or other undertaking, allowed by or taken under this chapter.

(c) No direction given by or service or other undertaking allowed or taken under this chapter by the authority is a defense for or otherwise excuses any act or omission of a political subdivision otherwise required or imposed by law upon a political subdivision.

SECTION 175. IC 13-19-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. **(a)** The authority may provide services to a political subdivision in connection with a loan or other financial assistance, including advisory and other services, **and may charge a fee for:**

(1) services provided; and

(2) costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance to or for the benefit of a political subdivision under this chapter, regardless of whether the application is approved or rejected.

(b) A political subdivision may pay fees charged under this section.

SECTION 176. IC 13-19-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. The authority ~~shall develop~~ **may use** a priority ranking system ~~for~~ **in** making loans and providing other financial assistance under this chapter based on the following:

(1) Socioeconomic distress in an area, as determined by the poverty level and unemployment rate in the area.

(2) The technical evaluation by the department under section ~~5(1)(A)~~ **3(8)(A)** and ~~section 5(1)(B).~~ **3(8)(B) of this chapter.**

(3) Other factors determined by the authority, including the following:

(A) The number and quality of jobs that would be generated by a project.

(B) Housing, recreational, and educational needs of communities.

(C) Any other factors the authority determines will assist in the implementation of this chapter.

SECTION 177. IC 13-19-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 9. ~~(a) Based on the priority ranking system established under section 8 of this chapter, the authority may make loans or provide other financial assistance from the fund to or for the benefit of a political subdivision under this section.~~

~~(b)~~ **(a)** A loan or other financial assistance must be used for at least one (1) of the purposes under section 1 of this chapter and may be used for any of the following purposes:

(1) To:

(A) establish **guaranties,** reserves, or sinking funds, ~~or provide interest subsidies.~~ **including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by this chapter; or**

(B) provide interest subsidies.

(2) To pay financing charges, including interest on the loan or other financial assistance during remediation and for a reasonable period after the completion of remediation.

(3) To pay consultant, advisory, and legal fees, and any other costs or expenses resulting from:

(A) the assessment, planning, or remediation of a brownfield; or

(B) the loan or other financial assistance.

~~(c) Upon the recommendation of the authority and the approval of the budget agency, the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies, shall be established by the state board of finance.~~

(b) The authority shall establish the interest rate or parameters for establishing the interest rate on each loan made under this chapter, including parameters for establishing the amount of interest subsidies.

(c) The authority, in setting the interest rate or parameters for establishing the interest rate on each loan, may take into account the following:

(1) Credit risk.

(2) Environmental enforcement and protection.

(3) Affordability.

(4) Other fiscal factors the authority considers relevant, including the program's cost of funds and whether the financial assistance provided to a particular political subdivision is taxable or tax exempt under federal law.

Based on the factors set forth in subdivisions (1) through (4), more than one (1) interest rate may be established and used for loans or other financial assistance to different political subdivisions or for different loans or other financial assistance to the same political subdivision.

(d) Not more than ten percent (10%) of the money available in the fund during a year may be loaned or otherwise provided to any one (1) political subdivision.

(e) Before a political subdivision may receive a loan or other financial assistance, including grants, from the fund, a political subdivision must submit the following:

(1) Documentation of community and neighborhood comment concerning the use of a brownfield on which remediation activities will be undertaken after remediation activities are completed.

(2) A plan for repayment of the loan or other financial assistance, if applicable.

(3) An approving opinion of a nationally recognized bond counsel if required by the authority.

(4) A summary of the environmental objectives of the proposed project.

(f) A political subdivision that receives a loan or other financial assistance from the fund shall enter into a financial assistance agreement. A financial assistance agreement is a valid, binding, and enforceable agreement of the political subdivision.

(g) ~~With the approval of the budget agency,~~ The authority may sell or assign:

(1) loans or evidence of other financial assistance; and

(2) other obligations of political subdivisions evidencing the

loans or other financial assistance from the fund;

at any price and on terms acceptable to the authority. Proceeds of sales or assignments under this subsection shall be deposited in the fund. A sale or an assignment under this subsection does not create a liability or an indebtedness of the state or the authority except, in the case of the authority, strictly in accordance with the sale or assignment terms.

(h) The authority may pledge loans or evidences of other financial assistance and other obligations of political subdivisions evidencing the loans or other financial assistance from the fund to secure other loans or financial assistance from the fund to or for the benefit of political subdivisions. The terms of a pledge under this subsection must be approved by the budget agency. Notwithstanding any other law, a pledge of property made by the authority and approved by the budget agency under this subsection is binding from the time the pledge is made. Revenues, other money, or other property pledged and then received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, ~~the department, the budget agency,~~ a trustee, or the fund, regardless of whether the parties have notice of a lien. A resolution, an indenture, or other instrument by which a pledge is created is not required to be filed or recorded, except in the records of the authority. ~~or the budget agency.~~ An action taken to enforce a pledge under this subsection and to realize the benefits of the pledge is limited to the property pledged. A pledge under this subsection does not create a liability or an indebtedness of the state or the authority except, in the case of the authority, strictly in accordance with the pledge terms.

SECTION 178. IC 13-19-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. Notwithstanding any other law and if provided in a financial assistance agreement, any state department or state agency, including the treasurer of state, that is the custodian of money payable to a political subdivision, other than money in payment for goods or services provided by the political subdivision, after written notice from the budget director that the political subdivision is in default on the payment of principal or interest on a loan or evidence of other financial assistance, may:

(1) withhold payment of money from that political subdivision; and

(2) pay over the money to the authority, a trustee that is a financial institution for a grantor trust, or the Indiana bond bank, as directed by the ~~budget director,~~ **chairman of the authority,** for the purpose of curing the default.

However, the withholding of payment from the political subdivision and payment to the authority, a trustee, or the Indiana bond bank may not adversely affect the validity of the defaulted loan or other financial assistance.

SECTION 179. IC 13-19-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. The authority may adopt guidelines ~~or guidance documents~~ without complying with IC 4-22-2 to ~~implement~~ **govern the administration of** this chapter.

SECTION 180. IC 13-19-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 12. (a) Notwithstanding any other law, a political subdivision may borrow money from the authority by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision must observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.

(b) Notwithstanding any other law, a political subdivision may issue and sell its notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of its bonds or other available money at the time the notes are due. The:

(1) notes must be issued in accordance with a resolution or an ordinance; and

(2) proceeds must be used to carry out this chapter.

(c) A political subdivision that issues notes under subsection (b) may renew or extend the notes on terms agreed to with the authority. The authority may purchase and ~~see~~ **sell** the renewed or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.

(d) The notes issued by a political subdivision under subsection (b), including renewals or extensions, mature in the amounts and at the times, not exceeding four (4) years from the date of original issuance, **that are** agreed to by the political subdivision and the authority.

(e) Compliance with subsection (b) constitutes full authority for a political subdivision to issue notes and sell the notes to the authority. The political subdivision is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of its notes. The notes are valid and binding obligations of the political subdivision and are enforceable in accordance with the terms of the notes and payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes. ~~However,~~ If the political subdivision issues bonds, all or part of the proceeds of which will be used to pay the notes issued under subsection (b), neither this section nor the actual issuance by a political subdivision of its notes under subsection (b) relieves the political subdivision of its obligation to comply with the statutory requirements for the issuance of its bonds.

SECTION 181. IC 13-19-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13. (a) As an alternative to making loans or providing other financial assistance to political subdivisions, the authority ~~after obtaining the approval of the budget agency,~~ may use the money in the fund ~~or~~ **to** provide a leveraged loan program and other financial assistance programs to or for the benefit of political subdivisions, including using money in the fund to enhance a political subdivision's obligations under this chapter by:

(1) granting money to:

(A) be deposited in:

(i) a capital or reserve fund established under ~~IC 5-1.5~~ **IC 4-4-11** or another law, including this chapter; or

(ii) any account established within the fund; or

(B) provide interest subsidies;

(2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a political subdivision or for bonds or other obligations issued by a trustee that is a financial institution for a grantor trust, **the authority,** or ~~by~~ the Indiana bond bank if credit market access is improved or interest rates are reduced; or

(3) guaranteeing all or a part of obligations issued by political subdivisions or of bonds or other obligations issued by a trustee that is a financial institution for a grantor trust, **the authority,** or ~~by~~ the Indiana bond bank.

(b) The authority ~~and the budget agency~~ may enter into any agreements with:

(1) a trustee that is a financial institution for a grantor trust;

(2) the Indiana bond bank; or

(3) political subdivisions;

to carry out this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund. A guarantee under subsection (a)(3) does not create a liability or an indebtedness of the state or of the authority except, in the case of the authority, strictly in accordance with the guarantee terms.

(d) Notwithstanding any other law, the authority is considered a qualified entity for purposes of IC 5-1.5.

SECTION 182. IC 13-19-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. (a) The authority may deposit appropriations or other money received under this chapter after June 30, 1999, into an account of the fund. The authority ~~shall~~ **may** use money deposited in the account to award forgivable loans to political subdivisions for remediation or other brownfield redevelopment activities. The authority shall, in the manner provided by section 11 of this chapter, adopt guidelines to establish a political subdivision's eligibility for a forgivable loan. The guidelines ~~must~~ **may** provide priority for projects that:

(1) involve abandoned gas stations or underground storage tank issues; or

(2) are located within one-half (0.5) mile of any of the

following:

(A) A child care center (as defined by IC 12-7-2-28.4).

(B) A child care home (as defined by IC 12-7-2-28.6).

(C) A child caring institution (as defined by IC 12-7-2-29).

(D) A school age child care program (as defined by IC 12-17-12-5).

(E) An elementary or a secondary school attended by students in kindergarten or grades 1 through 12.

(b) Not more than twenty percent (20%) of the total amount of loans provided for a project under this chapter may be in the form of a forgivable loan.

(c) The financial assistance agreement for a project to be financed with a forgivable loan must specify economic development or redevelopment goals for the project that must be achieved before the political subdivision will be released from its obligation to repay the forgivable loan.

SECTION 183. IC 14-13-1-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 30. (a) The acquisition, construction, or improvement of real property, a facility, a betterment, or an improvement constituting part of a project of the commission, including acquisition of the site for a project, may be financed in whole or in part by the issuance **before July 1, 2005,** of bonds payable solely out of the net income received from the operation of the real property, facility, betterment, or improvement.

(b) If the commission desires to finance an acquisition, a construction, or an improvement in whole or in part as provided in this section or sections 31 through 36 of this chapter, the commission must adopt a resolution authorizing the issuance of bonds. The resolution must set forth the following:

(1) The date on which the principal of the bonds matures, not exceeding forty (40) years from the date of issuance.

(2) The maximum interest rate to be paid on the bonds.

(3) Other terms and conditions upon which the bonds are issued.

(c) The commission shall take all actions necessary to issue the bonds in accordance with the resolution. The commission may enter into a trust agreement with a trust company as trustee for the bondholders. An action to contest the validity of any bonds to be issued under this chapter may not be brought after the fifteenth day following the receipt of bids for the bonds.

SECTION 184. IC 14-13-1-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 36. (a) The commission may issue refunding bonds **before July 1, 2005,** in the name of the commission for the following purposes:

(1) Refunding any bonds then outstanding and issued under this chapter or under IC 14-6-29 (before its repeal), including payment of redemption premium and interest accrued or to accrue to the date of redemption of the outstanding bonds.

(2) If considered advisable by the commission, constructing improvements, extensions, or enlargements of a facility, a betterment, or an improvement in connection with which the bonds to be refunded have been issued.

(b) The issuance of the refunding bonds, the maturity dates and other details, and all rights, duties, and obligations of the holders of the refunding bonds and of the commission with respect to the refunding bonds are subject to this chapter.

SECTION 185. IC 14-14-1-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 2.5. This article:**

(1) applies to the Indiana finance authority only when acting as the commission under this article for the purposes set forth in this article; and

(2) does not apply to the Indiana finance authority when acting under any other statute for any other purpose.

SECTION 186. IC 14-14-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. As used in this chapter, "commission" ~~refers to the recreational development commission created by this chapter.~~ **means the Indiana finance authority established by IC 4-4-11-4.**

SECTION 187. IC 14-14-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. ~~The recreational development commission is created. The commission is a body both corporate and politic, and~~ The exercise by the commission of the powers conferred by this chapter in the acquisition, construction, improvement, operation, and maintenance of a park project is an essential governmental function of the state. **For purposes of this chapter,** the commission is a tax supported institution within the meaning of "agency" for the purposes of IC 34-30-9.

SECTION 188. IC 14-14-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 18. The commission may do the following:

~~(1) Adopt bylaws for the regulation of the commission's affairs and the conduct of the commission's business.~~

~~(2) Adopt an official seal that may not be the seal of the state.~~

~~(3) Maintain a principal office at the place within Indiana the commission designates.~~

~~(4) Sue and be sued and plead and be impleaded in the commission's own name. All process shall be served on the commission by delivering a copy:~~

~~(A) to the principal office of the commission with the person in charge or with the secretary of the commission; and~~

~~(B) to the office of the attorney general.~~

~~(5)~~ **(1)** Make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of the commission's duties and the execution of the commission's powers under this chapter. If the cost of a contract for construction or for the purchase of equipment, materials, or supplies involves an expenditure of more than twenty thousand dollars ($20,000), the commission shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in Marion County, Indiana, and in other publications if the commission determines. The notice must state the general character of the work and the general character of the materials to be furnished, the place where the plans and specifications may be examined, and the time and place of receiving bids. Each bid must contain the full name of every person or company interested in the bid and must be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of the bidder's proposal secured. The commission may reject any and all bids. A bond with good and sufficient surety approved by the commission is required of all contractors in an amount equal to at least fifty percent (50%) of the contract price conditioned upon the faithful performance of the contract.

~~(6)~~ **(2)** Employ employees, fix their compensation, and define their duties.

~~(7)~~ **(3)** Contract for the following:

(A) Services, including services of engineers, architects, accountants, attorneys, financial advisers, project or construction managers, consultants, and experts as well as other contract services.

(B) Construction.

(C) Materials.

(D) Supplies.

~~(8)~~ **(4)** Conduct studies of the financial feasibility of proposed park projects.

~~(9)~~ **(5)** Use the services of professional and other personnel employed by a department or an agency of the state for purposes of studying the feasibility of or designing, constructing, or maintaining a park project.

~~(10)~~ **(6)** Receive and accept:

(A) from a federal agency grants for or in aid of the acquisition, construction, improvement, or development of a park project; and

(B) aid or contributions from any source of money, property, labor, or other things of value;

to be held, used, and applied only for the purposes, consistent with the purposes of this chapter, for which the grants and contributions may be made.

~~(11)~~ **(7)** Provide coverage for the commission's employees under IC 27-7-2 and IC 22-4.

~~(12)~~ **(8)** Do all acts and things necessary or proper to carry out the powers expressly granted in this chapter.

~~(13)~~ **(9)** Hold, use, administer, and expend the money appropriated or transferred to the commission, administer a general operating fund, the revolving fund created by this

chapter, create and administer any other fund considered desirable, and enter into a covenant or pledge with respect to a fund created.

~~(14)~~ **(10)** Accept advances or grants from a state agency or fund authorized to make advances or grants and, for advances, enter into agreements concerning the repayment of the advance and repay the advances.

SECTION 189. IC 15-1.5-2-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 14. Before the issuance of any bonds under this chapter:**

(1) the executive director of the commission;

(2) each member of the commission; and

(3) any other employee or agent of the commission authorized by resolution of the commission to handle funds or sign checks;

shall execute a surety bond in the penal sum of fifty thousand dollars ($50,000). If an individual described in subdivisions (1) through (3) is already covered by a bond required by state law, the individual need not obtain another bond if the bond required by state law is in at least the penal sum specified in this section and covers the individual's activities for the authority. In lieu of this bond, the chairman of the commission may execute a blanket surety bond covering each member, the executive director, and the employees or other officers of the commission. Each surety bond must be conditioned upon the faithful performance of the individual's duties, and shall be issued by a surety company authorized to transact business in Indiana as surety. At all times after the issuance of any surety bonds, these surety bonds shall be maintained in full force and effect. All costs of the surety bonds shall be borne by the commission.

SECTION 190. IC 15-1.5-3-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 10. The commission shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor, the budget committee, and the general assembly. An annual report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6. The report shall set forth a complete operating and financial statement of the commission during that year.**

SECTION 191. IC 15-1.5-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) **Subject to the approval of the governor,** the commission may, by resolution, authorize and issue revenue bonds to:

(1) pay all or part of the cost of a project; or

(2) refund outstanding revenue bonds.

(b) The principal of and the interest on bonds must be payable solely from the revenues specifically pledged to the payment of the principal and the interest on the bonds.

(c) The bonds of each issue shall be dated and must mature at a time not exceeding thirty (30) years from the date of the bonds.

(d) The bonds may be made redeemable before maturity, at the option of the commission, at a price and under terms and conditions fixed by the commission.

(e) The commission shall determine the form of the bonds and shall fix the denomination of the bonds and the place of payment of principal and interest, which may be at any bank or trust company in the United States.

(f) The bonds shall be signed in the name of the commission by the commission chairman or by the facsimile signature of the commission chairman.

(g) The official seal of the commission, or a facsimile of the seal, must be affixed to the bonds and attested by the executive director of the commission.

(h) If an officer whose signature or a facsimile of whose signature appears on a bond ceases to be an officer before the delivery of the bonds, the signature or facsimile is nevertheless valid and sufficient for all purposes the same as if the officer had remained in office until the delivery.

(i) Bonds issued under this chapter have all the qualities and incidents of negotiable instruments under the laws of Indiana.

(j) Bonds may be issued in registered form.

(k) Bonds shall be sold in accordance with the requirements of IC 4-1-5.

(l) The commission shall cooperate with and use the assistance of the Indiana finance authority established under IC 4-4-11 in the issuance of the bonds.

SECTION 192. IC 15-7-4.9-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2.5. "Authority" refers to the Indiana ~~development~~ finance authority created by IC 4-4-11.

SECTION 193. IC 15-7-5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 1.5. This chapter:**

(1) applies to the authority only when acting for the purposes set forth in this chapter; and

(2) does not apply to the authority when acting under any other statute for any other purpose.

SECTION 194. IC 16-22-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. As the tax is collected, the levies become a part of the hospital funds without further appropriation by the county fiscal body and may be invested in accordance with IC 16-22-3-20. The levies shall be separately accounted for as a hospital cumulative building fund and may not be used for any purposes other than that for which the cumulative building fund was established, except for the following:

(1) A lease entered into with an authority or the Indiana health **and educational** facility financing authority established under IC 5-1-16-2 may provide that the lease agreement to pay lease rentals be paid in whole or in part from the hospital cumulative building fund.

(2) If a loan has been obtained for the same purposes for which the cumulative building fund was established, the fund may be used to pay principal and interest on the bonds, notes, or other evidences of indebtedness of the hospital.

SECTION 195. IC 20-12-6-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16. No bonds shall be issued by ~~said~~ **the** corporations under the provisions of this chapter without the specific approval of the state budget committee, budget agency, and the governor of the state of Indiana. **The budget agency may request and consider the recommendation of the staff of the Indiana finance authority with respect to the approval of a bond issue under this section.**

SECTION 196. IC 20-12-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. No bonds shall be issued by ~~said~~ **the** respective trustees under the provisions of this chapter without the specific approval of the ~~state~~ budget committee, budget agency, and the governor. ~~of the state of Indiana.~~ **The budget agency may request and consider the recommendation of the staff of the Indiana finance authority with respect to the approval of a bond issue under this section.**

SECTION 197. IC 20-12-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. No bonds shall be issued by ~~said~~ **the** corporations under the provisions of this chapter without the specific approval of the ~~state~~ budget committee, budget agency, and the governor. ~~of the state of Indiana.~~ **The budget agency may request and consider the recommendation of the staff of the Indiana finance authority with respect to the approval of a bond issue under this section.**

SECTION 198. IC 20-12-63-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 1.5. This chapter:**

(1) applies to the authority only when acting for the purposes set forth in this chapter; and

(2) does not apply to the authority when acting under any other statute for any other purpose.

SECTION 199. IC 20-12-63-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. For the purposes of this chapter, unless the context clearly requires otherwise, the following words are defined as follows:

(1) "Authority" ~~means~~ **refers to** the Indiana **health and** educational ~~facilities~~ **facility finance** authority **established by IC 5-1-16-2.**

(2) "Project" means:

(A) the acquisition, construction, enlarging, remodeling,

renovation, improvement, furnishing, or equipping of an educational facility by the authority for a private institution of higher education; or

(B) the funding of any liability, other loss, or insurance reserves or the funding and contribution of such insurance reserves or other capital to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses.

(3) "Cost" means all costs necessary or incident to the acquisition, construction, or funding of a project, including the costs of refunding or refinancing outstanding indebtedness incurred for the financing of such project, reserves for principal and interest, engineering, legal, architectural and all other necessary and incidental expenses, together with interest on bonds issued to finance the project to a date six (6) months subsequent to the estimated date of completion.

(4) "Bonds" means revenue bonds, notes, bond anticipation notes, or other obligations of the authority issued under this chapter, including refunding bonds, notes, bond anticipation notes, or other obligations.

(5) "Bond resolution" means the resolution or resolutions and the trust agreement, if any, authorizing or providing for the terms and conditions applicable to bonds issued pursuant to this chapter.

(6) "Educational facility" means any property located within the state which:

(A) is suitable for:

(i) the instruction, feeding, recreation, or housing of students;

(ii) the conduct of research or other work of a private institution of higher education; or

(iii) use, by a private institution of higher education, in connection with any educational, research, or related or incidental activity conducted by the private institution of higher education;

(B) is suitable for use as or in connection with the following: an academic facility, administrative facility, agricultural facility, assembly hall, athletic facility, auditorium, boating facility, campus, communication facility, computer facility, continuing education facility, classroom, dining hall, dormitory, exhibition hall, firefighting facility, fire prevention facility, food service and preparation facility, gymnasium, greenhouse, health care facility, hospital, housing, instructional facility, laboratory, library, maintenance facility, medical facility, museum, offices, parking area, physical education facility, recreational facility, research facility, stadium, storage facility, student union, study facility, theater, or utility;

(C) is not used or to be used for sectarian instruction or study or as a place for devotional activities or workshop; and

(D) is not used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination.

(7) "Eligible member" means a corporation defined under IC 20-12-6-1 or any private institution of higher education.

(8) "Liability or loss insurance reserves" means a fund or funds set aside as a reserve to cover risk retained by an eligible member in connection with liability claims or other losses.

(9) "Liability" means legal liability for damages (including costs of defense, legal costs and fees, and other claims expenses) because of injuries to other persons or entities, damage to the property or business of other persons or entities, or other damage or loss to such other persons or entities resulting from or arising out of any activity of an eligible member.

(10) "Private institution of higher education" means a nonprofit educational institution with a principal office in Indiana that:

(A) is not owned or controlled by the state of Indiana or any political subdivision, agency, instrumentality, district, or municipality of the state of Indiana;

(B) is authorized by law to provide a program of education beyond the high school level;

(C) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(D) provides an educational program:

(i) for which the institution awards an associate degree;

(ii) for which the institution awards a bachelors degree;

(iii) admission into which is conditioned upon the prior attainment of a bachelor's degree or equivalent, for which the institution awards either a post graduate degree or provides not less than a two (2) year program which is acceptable for full credit toward a post graduate degree; or

(iv) of two (2) years duration in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(E) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, is an institution whose credits are accepted on transfer by not less than three (3) institutions which are so accredited for credit on the same basis as if transferred from an institution so accredited; and

(F) does not discriminate in the admission of students on the basis of race, color, or creed.

(11) "Property" means any real, personal, or mixed property, or any interest therein, including, without limitation, any real estate, appurtenances, buildings, easements, equipment, furnishings, furniture, improvements, machinery, rights-of-way and structures, or any interest therein.

(12) "Revenues" means with respect to any project the rents, fees, charges, and other income or profit derived therefrom.

(13) "Risk retention group" means a trust, pool, corporation, limited liability company, partnership, or joint venture funded by and owned and operated for the benefit of more than one (1) eligible member.

SECTION 200. IC 20-12-63-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. The authority shall have the **following** functions and powers: ~~set forth in this section:~~

~~(1) The authority may adopt rules and bylaws for the regulation of the authority's business.~~

~~(2) The authority may adopt an official seal and alter the official seal.~~

~~(3) The authority may maintain an office at a place or places designated by the authority.~~

~~(4) The authority may sue and be sued, plead and be impleaded in the authority's own name.~~

~~(5)~~ **(1)** The authority may determine the location and character of any project to be financed under this chapter. The authority may construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease as lessee or lessor, regulate any project, or enter into contracts for any purpose stated in this subdivision. The authority may designate a private institution of higher education as the authority's agent to carry out the authority of this subsection.

~~(6)~~ **(2)** The authority may issue bonds or fund and refund bonds as provided in this chapter.

~~(7)~~ **(3)** The authority may require that the rates, rents, fees, or charges established by a private institution of higher education are sufficient to discharge the institution's obligations to the authority but shall have no other jurisdiction over such rates, rents, fees, or charges.

~~(8)~~ **(4)** The authority may establish rules for the use of a project or any portion thereof and designate a private institution of higher education as the authority's agent to establish rules for the use of a project undertaken for that institution.

~~(9)~~ **(5)** The authority may employ consulting engineers, architects, attorneys, accountants, trustees, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in the authority's judgment, and fix their compensation.

~~(10)~~ **(6)** The authority may receive and accept from any source loans, contributions, or grants for or in aid of the construction

or funding of a project or any portion thereof in either money, property, labor, or other things of value and, when required, use such funds, property, or labor only for the purposes for which the money, property, or labor was loaned, contributed, or granted.

~~(11)~~ **(7)** The authority may make loans to any private institution of higher education for the cost of a project, including the establishment of liability or other loss insurance reserves or the contribution of those reserves to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses in accordance with an agreement between the authority and the private institution of higher education. No such loan may exceed the total cost of the project as determined by such institution and approved by the authority.

~~(12)~~ **(8)** The authority may make loans to a private institution of higher education to refund outstanding obligations or advances issued, made, or given by such institution for the cost of a project, including the establishment of liability or other loss insurance reserves or the contribution of those reserves to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses. In addition, the authority may issue bonds and make loans to a private institution of higher education to refinance indebtedness incurred or to reimburse advances made for projects undertaken prior to the date of the bond issue whenever the authority finds that such financing is in the public interest and either:

(A) alleviates a financial hardship upon the private institution of higher education;

(B) results in a lesser cost of education; or

(C) enables the private institution of higher education to offer greater security for a loan or loans to finance a new project or projects or to effect savings in interest costs or more favorable amortization terms.

~~(13)~~ **(9)** The authority may charge to and apportion among private institutions of higher education the authority's administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter.

~~(14)~~ **(10)** The authority may, for financing purposes, combine a project or projects and some or all future projects of any private institution or institutions of higher education provided that:

(A) the authority obtains the consent of all of the private institutions of higher education which are involved, or when financing loans for the funding of liability or other loss insurance reserves or for the providing of those reserves or other capital to be contributed to a risk retention group, the authority obtains the consent of all of the eligible members that are involved; and

(B) the money set aside in any fund or funds pledged for any series of bonds or issue of bonds are held for the sole benefit of such series or issue separate and apart from the money pledged for any other series or issue of bonds of the authority.

To facilitate the combining of projects, bonds may be issued in series under one (1) or more resolutions or trust agreements and be fully open end, thus providing for unlimited issuance of additional series, or partially open end, limited as to additional series, all in the discretion of the authority. Notwithstanding any provision of this chapter to the contrary, the authority may permit a private institution of higher education to substitute one (1) or more educational facilities of similar value (as determined by an independent appraiser satisfactory to the authority) as security for any educational facility financed under this chapter on such terms and conditions as the authority may prescribe.

~~(15)~~ **(11)** The authority may mortgage all or any portion of any project and any other educational facilities conveyed to the authority for such purpose and the site or sites thereof, whether presently owned or subsequently acquired, for the benefit of the holders of the bonds of the authority issued to finance such project or any portion thereof or issued to refund or refinance outstanding indebtedness of a private institution of higher education as permitted by this chapter.

~~(16)~~ **(12)** The authority may join in a risk retention group with corporations (as defined in IC 20-12-6-1) or any private institution of higher education.

~~(17)~~ **(13)** The authority may do all things necessary to carry out the purposes of this chapter.

SECTION 201. IC 20-12-63-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 22. Except as otherwise provided in section 21(c) of this chapter or in any trust indenture providing for the issuance of bonds, the authority may invest: ~~any funds in:~~

~~(1) direct obligations of the United States of America;~~

~~(2) obligations on which the timely payment of principal and interest is fully guaranteed by the United States of America;~~

~~(3) obligations of the federal banks for cooperatives, farm credit banks, federal home loan banks, Federal National Mortgage Association and Government National Mortgage Association; and~~

~~(4) certificates of deposit or time deposits constituting direct obligations of any bank as defined in IC 28-1-1 through IC 28-1-23, but only in those certificates of deposit or time deposits in banks which are insured by the Bank Insurance Fund of the Federal Deposit Insurance Corporation, if then in existence.~~

~~Any such securities may be purchased at their offering or market price at the time of the purchase. All such securities so purchased shall mature or be redeemable on a date or dates prior to the time when, in the judgment of the authority, the funds so invested will be required for expenditure. The express judgment of the authority as to the time when any funds will be required for expenditure or be redeemable is final and conclusive.~~

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

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

(3) proceeds of bonds or notes;

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

SECTION 202. IC 20-12-63-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 26. (a) Notwithstanding any other provision of this chapter to the contrary, the authority may:

(1) finance the cost of an educational facility or refund outstanding indebtedness of a private institution of higher education, as authorized under section ~~11(12)~~ **11(8)** of this chapter; or

(2) finance the establishment of liability or other loss insurance reserves or the contribution of such reserves or other capital to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses;

by issuing its bonds for the purpose of loaning the proceeds to a private institution of higher education for the cost of a project or to refund or refinance outstanding indebtedness or reimburse advances made in connection with a project in accordance with an agreement between the authority and the institution and in exchange for the institution's promissory note or notes. Any such promissory notes shall have the same principal amounts, maturities, and interest rates as the bonds so being issued, may be secured by a first mortgage lien on the educational facility so being financed or by a first mortgage lien or security interest in other real or personal property or funds acceptable to the authority subject to such exceptions as the authority may approve and created by a mortgage instrument or security agreement satisfactory to the authority, and may be insured or guaranteed by others. Any such bonds shall be payable solely out of the payments to be made on such promissory notes and under such agreement and shall not exceed in principal amount the cost of such educational facility, as determined by the private institution of higher education, or the necessary amount of these liability or other loss insurance reserves, and approved by the authority. In other respects any such bonds shall be subject to the provisions of section 15(c) of this chapter and the trust agreement or indenture creating such bonds may contain such of the provisions set forth in section 15(d) of this chapter as the authority may deem appropriate.

(b) In the event that an educational facility is financed and mortgaged pursuant to this section, the title to such facility shall remain in the private institution of higher education owning the same,

subject to the lien of the mortgage securing the promissory notes then being purchased, and there shall be no lease of such facility between the authority and such institution.

(c) The provisions of section 14 of this chapter shall not apply to any educational facility or any liability or other loss insurance reserves financed pursuant to this section, but the authority shall return the promissory notes purchased through the issuance of bonds under this chapter to the private institution of higher education issuing such promissory notes when:

(1) such bonds have been fully paid and retired or adequate provision has been made to pay and retire the same fully;

(2) all other conditions of the trust agreement or indenture creating such bonds have been satisfied; and

(3) the lien thereof has been released in accordance with the provisions thereof.

SECTION 203. IC 27-1-29-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 17. (a) As used in this section:

(1) "basic fund" refers to the political subdivision risk management fund established by this chapter; and

(2) "catastrophic fund" refers to the political subdivision catastrophic liability fund established by IC 27-1-29.1.

(b) **Before July 1, 2005,** the commission may issue its bonds or notes in amounts that it considers necessary to provide funds to:

(1) establish or maintain the reserve account in the catastrophic fund provided for in IC 27-1-29.1-8;

(2) provide for the payment of liabilities payable out of the basic fund to the extent such liabilities exceed the money in the basic fund; and

(3) pay, fund, or refund, regardless of when due, the principal of or interest or redemption premiums on bonds or notes issued under subdivision (1) or (2).

Bonds or notes issued under subdivision (2) must mature within three (3) years after their date of issuance.

(c) The bonds or notes of the commission may be issued and sold by the commission to the Indiana bond bank under IC 5-1.5.

(d) Every issue of bonds or notes is an obligation of the commission. An issue of bonds or notes under subsection (b)(1) is payable solely from assessments imposed by the commission under IC 27-1-29.1 on political subdivisions that are members of the catastrophic fund, and the commission may secure such bonds or notes by a pledge of assessments imposed under IC 27-1-29.1. An issue of bonds or notes under subsection (b)(2) is payable solely from assessments imposed by the commission under section 12 of this chapter on political subdivisions that are members of the basic fund, and the commission may secure such bonds or notes by a pledge of assessments imposed under section 12 of this chapter.

(e) A bond or note of the commission:

(1) is not a debt, liability, loan of credit, or pledge of the faith and credit of the state; and

(2) must contain on its face a statement that the commission is obligated to pay principal and interest, and the redemption premium, if any, and that the faith, credit, and taxing power of the state are not pledged to the payment of the bond or note.

(f) The state pledges to and agrees with the holders of the bonds or notes issued under this chapter that the state will not:

(1) limit or restrict the rights vested in the commission to fulfill the terms of any agreement made with the holders of its bonds or notes; or

(2) in any way impair the rights or remedies of the holders of the bonds or notes;

until the bonds or notes, together with the interest on the bonds or notes, and interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met, paid, and discharged.

(g) The bonds or notes of the commission are negotiable instruments for all purposes of IC 26-1, subject only to the provisions of the bonds and notes for registration.

(h) Bonds or notes of the commission must be authorized by resolution of the commission, may be issued in one (1) or more series, and must:

(1) bear the date;

(2) mature at the time or times;

(3) be in the denomination;

(4) be in the form;

(5) carry the conversion or registration privileges;

(6) have the rank or priority;

(7) be executed in the manner;

(8) be payable from the sources in the medium of payment at the place inside or outside the state; and

(9) be subject to the terms of redemption;

as the resolution of the commission or the trust agreement securing the bonds or notes provides.

(i) Bonds or notes may be issued under this chapter without obtaining the consent of any agency of the state and without any other proceeding or condition other than the proceedings or conditions specified in this chapter.

(j) The rate or rates of interest on the bonds or notes may be fixed or variable. Variable rates shall be determined in the manner and in accordance with the procedures set forth in the resolution authorizing the issuance of the bonds or notes. Bonds or notes bearing a variable rate of interest may be converted to bonds or notes bearing a fixed rate or rates of interest, and bonds or notes bearing a fixed rate or rates of interest may be converted to bonds or notes bearing a variable rate of interest, to the extent and in the manner set forth in the resolution pursuant to which the bonds or notes are issued. The interest on bonds or notes may be payable semiannually or annually or at any other interval or intervals as may be provided in the resolution, or the interest may be compounded and paid at maturity or at any other times as may be specified in the resolution.

(k) The bonds or notes may be made subject, at the option of the holders, to mandatory redemption by the commission at the times and under the circumstances set forth in the authorizing resolution.

(l) Bonds or notes of the commission may be sold at public or private sale at such price, either above or below the principal amount, as the commission fixes. If bonds or notes of the commission are to be sold at public sale, the commission shall comply with IC 5-1-11 and shall publish notice of the sale in accordance with IC 5-3-1-2 in two (2) newspapers published and of general circulation in Indianapolis.

(m) The commission may periodically issue its notes under this chapter and pay and retire the principal of the notes, pay the interest due on the notes, or fund or refund the notes from proceeds of bonds or of other notes or from other funds or money of the commission available for that purpose in accordance with a contract between the commission and the holders of the notes.

(n) The commission may secure any bonds or notes issued under this chapter by a trust agreement by and between the commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside Indiana.

(o) The trust agreement or the resolution providing for the issuance of the bonds or notes may contain provisions for protecting and enforcing the rights and remedies of the holders of any such bonds or notes as are reasonable and proper and not in violation of law.

(p) The trust agreement or resolution may set forth the rights and remedies of the holders of any bonds or notes and of the trustee and may restrict the individual right of action by the holders.

(q) In addition to the provisions of subsections (n) through (p), any trust agreement or resolution may contain other provisions the commission considers reasonable and proper for the security of the holders of any bonds or notes.

(r) All expenses incurred in carrying out the provisions of the trust agreement or resolution may be paid from assessments, revenues, or assets pledged or assigned to the payment of the principal of and the interest on bonds and notes or from any other funds available to the commission.

(s) Notwithstanding the restrictions of any other law, all financial institutions, investment companies, insurance companies, insurance associations, executors, administrators, guardians, trustees, and other fiduciaries may legally invest sinking funds, money, or other funds belonging to them or within their control in bonds or notes issued under this chapter.

(t) All bonds or notes issued under this chapter are issued by a body corporate and politic of this state, but not a state agency, and for an essential public and government purpose and the bonds and notes, the interest thereon, the proceeds received by a holder from the sale

of the bonds or notes to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, and proceeds received at maturity, and the receipt of the interest and proceeds are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

SECTION 204. IC 28-5-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 6. (a) Every company may exercise all the powers conferred upon domestic corporations by IC 23-1 but only to the extent that those powers may be necessary, convenient, or expedient to accomplish the purposes for which it is organized. Subject to the restrictions and limitations contained in this chapter, every company may exercise the following powers:

(1) To issue, negotiate, and sell its secured or unsecured certificates of investment or indebtedness, subject to subdivision (17), upon terms and conditions, in any form, and payable at times that are not inconsistent with this chapter and, subject to subsection (c), bearing a rate of interest approved by the department.

(2) To make, purchase, discount, or otherwise acquire extensions of credit under IC 24-4.5.

(3) To lend money without security or upon the security of comakers, personal endorsement, or the mortgage of real or personal property or the mortgage or pledge of bailment leases or rentals due and to become due thereunder and other choses in action, and to contract for interest, discount, fees, charges, or other consideration fixed or permitted by any laws of Indiana concerning interest, discount, or usury.

(4) To discount, purchase, or otherwise acquire notes, bills of exchange, acceptances, bailment leases, and the property covered thereby or the rentals due or to become due thereunder or other choses in action and, subject to such restrictions the department imposes, to become owner or lessor of personal or real property acquired upon the request and for the use of a customer, and to incur additional obligations incident to becoming an owner or lessor of the property. The liability of a lessee under the lease does not constitute an obligation (as defined in section 8 of this chapter).

(5) To purchase or construct buildings and hold legal title to them, to be leased for public purposes to municipal corporations or other public authorities having resources sufficient to make payment of all rentals as they become due. Each lease agreement shall provide that upon expiration, the lessee shall become owner of the building.

(6) To invest in bonds, notes, or certificates which are:

(A) the direct or indirect obligations of the United States or of the state;

(B) obligations of mutual funds or financial institutions if the obligations represent a participation in a fund invested in, or are secured by, direct or indirect obligations of the United States owned by the mutual fund or financial institution;

(C) the direct obligations of a civil or school county, township, city, town, other taxing district, municipality of Indiana;

(D) a special taxing district in Indiana;

(E) issued by or in the name of:

(i) the trustees of Indiana University;

(ii) the trustees of Purdue University;

(iii) the trustees of Ball State University;

(iv) the trustees of Indiana State University; or

(v) the Indiana **health and** educational ~~facilities~~ **facility finance** authority **under IC 20-12-63;**

(F) issued by or in the name of any municipality of Indiana and payable from the revenues to be derived from the operation of facilities for the production or distribution of water, electricity, gas, or from the operation of sewage works; or

(G) the obligations of any Indiana toll road commission, public library, or schoolhouse holding corporation first mortgage bonds;

which district, municipality, taxing unit, or corporation is not then in default in the payment of either principal or interest on any of its funded obligations and has not so defaulted for a period of more than six (6) months within the five (5) year period immediately preceding the purchase of the securities.

(7) To invest in bonds, notes, or debentures rated in one (1) of the first four (4) classifications established by one (1) or more standard rating services specified by the department that satisfy requirements of marketability prescribed periodically by the department that are the obligations of a person, a firm, a limited liability company, a corporation, a state, a territory, an insular possession of the United States, or a county, township, town, city, taxing district, or municipality thereof which is not then in default in the payment of either principal or interest on any of its funded obligations and has not so defaulted within the five (5) year period immediately preceding the purchase of the securities and other investment securities prescribed by the department by rule. As used in this section, the term "investment securities" means marketable obligations evidencing indebtedness of a person, firm, limited liability company, or corporation in the form of bonds, notes, or debentures commonly known as "investment securities" and the definition of the term "investment securities" prescribed by the department by rule. Except as is otherwise provided in this chapter or otherwise permitted by law, nothing contained in this subdivision authorizes the purchase by an industrial loan and investment company of shares of stock or other securities, unless the purchase is necessary to prevent loss under a debt previously contracted in good faith and stocks or other securities so purchased or acquired shall, within six (6) months from the time of its purchase, be sold or disposed of at public or private sale, unless otherwise ordered by the department.

(8) To invest in bonds or debentures issued under and by the authority of the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1429), or of the Home Owners' Loan Act (12 U.S.C. 1461 through 1468), or obligations issued by or for farm credit banks, and banks for cooperatives under the Farm Credit Act of 1971 (12 U.S.C. 2001 through 2279aa-14).

(9) To invest in insured shares of an insured savings association organized under the laws of Indiana, and in insured shares of an insured federal savings association whose principal place of business is located in Indiana; and in certificates of indebtedness or investment of an industrial loan and investment company organized under the laws of Indiana. However, not more than twenty percent (20%) of the resources of the company may be invested in the insured shares of any such association nor more than ten percent (10%) of sound capital in such certificates of industrial loan and investment companies.

(10) To make loans and advances of credit and purchases of obligations representing loans and advances of credit as are eligible for insurance by the federal housing administrator, and to obtain insurance from the administrator.

(11) To make loans secured by mortgage on real property or leasehold, insured by the federal housing administrator, or makes a commitment to insure and to obtain insurance from the administrator.

(12) To purchase, invest in, and dispose of notes or bonds secured by mortgage or trust deed insured by the federal housing administrator or debentures issued by the federal housing administrator, or bonds or other securities insured by national mortgage associations.

(13) To discount, purchase, or otherwise acquire charge accounts, and drafts and bills of exchange evidencing charge accounts and to impose and collect monthly service charges and maintenance charges on charge accounts, drafts, or bills of exchange which are owned or acquired in amounts agreed upon between the company and the obligor, or obligors, on charge accounts, drafts, and bills of exchange.

(14) To purchase or otherwise acquire property, real or personal, tangible or intangible, in which the company has a security interest to secure a debt owing to the company contracted in good faith or the purchase or acquisition of which property is considered expedient to prevent loss from a debt owing to the company contracted in good faith, and for such purpose to engage in any lawful business considered necessary

or expedient by the company to preserve, protect, or make saleable the property. Property thus purchased or acquired shall be sold and disposed of within two (2) years, or a longer period permitted by the department, after the purchase or acquisition.

(15) To act as trustee of a trust created in the United States and forming part of a stock bonus, pension, or profit sharing plan that is qualified for tax treatment under Section 401(d) of the Internal Revenue Code, and to act as trustee or custodian of an individual retirement account within the meaning of Section 408 of the Internal Revenue Code, if the funds of that trust or account are only invested in certificates of investment or indebtedness of the company or in obligations or securities issued by that company. All funds held under this subdivision in a fiduciary capacity may be commingled by the company for appropriate investment purposes. However, individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under the authority of this subdivision.

(16) To do anything necessary and appropriate to obtain or maintain federal deposit insurance under the Federal Deposit Insurance Corporation Act (12 U.S.C. 1811 through 1833e) or insurance under any other federal or Indiana law providing insurance for certificates of investment or indebtedness issued by a company. A company that obtains and maintains federal deposit insurance is not required to obtain approval from the department concerning the rate of interest payable on, or the form, the terms, or the conditions of the certificates of investment or indebtedness, and the company may exercise all of the powers that are conferred upon institutions maintaining federal deposit insurance that are not in conflict with Indiana law.

(17) To become a member of a federal home loan bank and acquire, own, pledge, sell, assign, or otherwise dispose of shares of the capital stock of a federal home loan bank.

(18) To borrow money and procure advances from a federal home loan bank and to transfer, assign to, and pledge with the federal home loan bank any of the bonds, notes, contracts, mortgages, securities, or other property of the company held or acquired as security for the payment of the loans and advances.

(19) To possess and exercise all rights, powers, and privileges conferred upon and do and perform all acts and things required of members or shareholders of a federal home loan bank, or by the provisions of 12 U.S.C. 1421 through 1449.

(20) Subject to section 6.3 of this chapter, to exercise the rights and privileges (as defined in section 6.3(a) of this chapter) that are or may be granted to national banks domiciled in Indiana.

(b) No law of this state prescribing the nature, amount, or form of security or requiring security upon which loans or advances of credit may be made, or prescribing or limiting interest rates upon loans or advances of credit, or prescribing or limiting the period for which loans or advances of credit may be made, applies to loans, advances of credit, or purchases made pursuant to subsection (a)(10), (a)(11), or (a)(12).

(c) If any national or state chartered bank or savings association is not limited by law with regard to the rate of interest payable on any type or category of checking account, savings account, or deposit, certificate of deposit, membership share, or other account, then industrial loan and investment companies are similarly not limited with regard to the interest payable on certificates of investment or indebtedness.

SECTION 205. IC 34-30-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. IC 4-4-11-30 and IC 4-4-21-23 (Concerning members, officers, employees, and agents of the Indiana ~~development~~ finance authority for acts authorized by law).

SECTION 206. IC 34-30-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. IC 4-13.5-4-4(g) (Concerning the state for monetary damages for obligations of or violation by the ~~state office building commission).~~ **Indiana finance authority).**

SECTION 207. IC 34-30-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. IC 5-1-16-28 (Concerning bonds issued ~~for an~~ **by the** Indiana health **and educational** facility financing authority **under IC 5-1-16).**

SECTION 208. IC 34-30-2-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 25. IC 8-14.5-6-11 (Concerning the state for violations of IC 8-14.5 or for payments of bonds or notes of the Indiana ~~transportation~~ finance authority).

SECTION 209. IC 34-30-2-87 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 87. IC 20-12-63-15 (Concerning members of, and persons executing bonds for, the Indiana **health and** educational ~~facilities~~ **facility finance** authority **under IC 20-12-63).**

SECTION 210. IC 36-7-15.2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. The determination of the commission to create a district under this chapter must be approved by ordinance of the legislative body of the unit before the commission transmits its resolution to the Indiana ~~development~~ finance authority and the department of state revenue under section 16 of this chapter.

SECTION 211. IC 36-7-15.2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16. Within thirty (30) days after the approval of the creation of the district by the unit under section 15 of this chapter, the commission shall transmit to the department of state revenue and the Indiana ~~development~~ finance authority the following:

(1) A certified copy of the resolution designating the district.

(2) A complete list of street names and the range of street numbers of each street located within the district.

(3) Information concerning the proposed redevelopment and economic development of the district, which information may be modified from time to time after the initial filing.

(4) A certificate by the presiding officer of the commission stating that the commission will pursue the implementation of the plan for the redevelopment and economic development of the district in an expeditious manner.

SECTION 212. THE FOLLOWING ARE REPEALED [EFFECTIVE MAY 15, 2005]: IC 4-13.5-1-1.5; IC 4-13.5-1-2; IC 4-13.5-1-3.1; IC 4-13.5-1-4; IC 4-13.5-5; IC 5-1-16-10; IC 8-9.5-8-2; IC 8-9.5-8-3; IC 8-9.5-8-4.1; IC 8-14.5-3-8; IC 13-18-13-4; IC 13-18-13-6; IC 13-18-21-4; IC 13-18-21-6; IC 13-19-5-4; IC 13-19-5-5; IC 13-19-5-16; IC 14-14-1-8; IC 14-14-1-9; IC 14-14-1-10; IC 14-14-1-11; IC 14-14-1-12; IC 14-14-1-13; IC 14-14-1-14; IC 14-14-1-15; IC 14-14-1-15.5; IC 20-12-63-4; IC 20-12-63-5; IC 20-12-63-6; IC 20-12-63-7; IC 20-12-63-8; IC 20-12-63-9; IC 20-12-63-10; IC 20-12-63-11.5; IC 20-12-63-27.5.

SECTION 213. [EFFECTIVE MAY 15, 2005] **(a) As used in this SECTION, "entity" means the following:**

(1) The Indiana development finance authority.

(2) The state office building commission.

(3) The Indiana transportation finance authority.

(4) The recreational development commission.

(b) As used in this SECTION, "IFA" means the Indiana finance authority established by IC 4-4-11-4, as amended by this act.

(c) On May 15, 2005, all powers, duties, and liabilities of each entity are transferred to the IFA, as the successor agency.

(d) On May 15, 2005, all records and property of each entity, including appropriations and other funds under the control or supervision of the entity, are transferred to the IFA, as the successor agency.

(e) After May 14, 2005, any amounts owed to an entity before May 15, 2005, are considered to be owed to the IFA, as the successor agency.

(f) After May 14, 2005, a reference to an entity in a statute, rule, or other document is considered a reference to the IFA, as the successor agency.

(g) All powers, duties, and liabilities of an entity with respect to bonds issued by that entity in connection with any trust agreement or indenture securing those bonds are transferred to the IFA, as the successor agency. The rights of the trustee under any trust agreement or indenture and the rights of the bondholders of an entity remain unchanged, although the powers, duties, and liabilities of the entity have been transferred to the IFA, as the successor agency.

SECTION 214. [EFFECTIVE MAY 15, 2005] **(a) On May 15, 2005, all powers, duties, and liabilities of:**

(1) the Indiana health facility financing authority; and

(2) the Indiana educational facilities authority;

are transferred to the Indiana health and educational facility financing authority established by IC 5-1-16-2, as amended by this act, as the successor agency.

(b) On May 15, 2005, all records and property of:

(1) the Indiana health facility financing authority; and

(2) the Indiana educational facilities authority;

including appropriations and other funds under their control or supervision, are transferred to the Indiana health and educational facility financing authority established by IC 5-1-16-2, as amended by this act, as the successor agency.

(c) After May 14, 2005, any amounts owed to:

(1) the Indiana health facility financing authority; and

(2) the Indiana educational facilities authority;

before May 15, 2005, are considered to be owed to the Indiana health and educational facility financing authority established by IC 5-1-16-2, as amended by this act, as the successor agency.

(d) After May 14, 2005, a reference to:

(1) the Indiana health facility financing authority; and

(2) the Indiana educational facilities authority;

in a statute, rule, or other document is considered a reference to the Indiana health and educational facility financing authority established by IC 5-1-16-2, as amended by this act, as the successor agency.

(e) All powers, duties, and liabilities of:

(1) the Indiana health facility financing authority; and

(2) the Indiana educational facilities authority;

with respect to bonds issued in connection with any trust agreement or indenture securing those bonds are transferred to the Indiana health and educational facility financing authority established by IC 5-1-16-2, as amended by this act, as the successor agency. The rights of the trustee under any trust agreement or indenture described in this subsection and the rights of the holders of any bonds described in this subsection remain unchanged, although the powers, duties, and liabilities of the issuer have been transferred to the Indiana health and educational facility financing authority established by IC 5-1-16-2, as amended by this act, as the successor agency.

SECTION 215. [EFFECTIVE MAY 15, 2005] **(a) On May 15, 2005, all powers, duties, agreements, and liabilities of the treasurer of state, the auditor of state, the department of environmental management, and the budget agency with respect to:**

(1) the wastewater revolving loan program established by IC 13-18-13-1;

(2) the drinking water revolving loan program established by IC 13-18-21-1; and

(3) the supplemental drinking water and wastewater assistance program established by IC 13-18-21-21;

are transferred to the Indiana finance authority, as the successor agency, for the limited purposes described in subdivisions (1) through (3).

(b) On May 15, 2005, all records, money, and other property of the treasurer of state, the auditor of state, the department of environmental management, and the budget agency with respect to:

(1) the wastewater revolving loan program established by IC 13-18-13-1;

(2) the drinking water revolving loan program established by IC 13-18-21-1; and

(3) the supplemental drinking water and wastewater assistance program established by IC 13-18-21-21;

are transferred to the Indiana finance authority as the successor agency for the limited purposes described in subdivisions (1) through (3).

(c) After May 14, 2005, 85 IAC 1, 85 IAC 2, 327 IAC 13, and 327 IAC 14 are void. The publisher of the Indiana Administrative Code and the Indiana Register shall remove these articles from the Indiana Administrative Code.

(d) After May 14, 2005, any proposed rules amending 85 IAC 1, 85 IAC 2, 327 IAC 13, or 327 IAC 14 that were officially proposed and published in the Indiana Register before May 15, 2005, shall be treated as if they were withdrawn under IC 4-22-2-41.

(e) On May 15, 2005, all powers, duties, agreements, and liabilities of the Indiana bond bank, the Indiana department of environmental management, and the budget agency with respect to:

(1) the outstanding bonds issued for:

(A) the wastewater revolving loan program established by IC 13-18-13-1; or

(B) the drinking water revolving loan program established by IC 13-18-21-1; and

(2) any trust agreement or indenture, security agreement, purchase agreement, or other undertaking entered into in connection with the bonds described in subdivision (1);

are transferred to the Indiana finance authority, as the successor agency, for the limited purposes described in subdivisions (1) and (2). The rights of the trustee and the bondholders with respect to any bonds or any trust agreement or indenture, security agreement, purchase agreement, or other undertaking described in this subsection remain the same, although the powers, duties, agreements, and liabilities of the Indiana bond bank have been transferred to the Indiana finance authority and the Indiana finance authority shall be considered to have assumed all those powers, duties, agreements, and liabilities as if the Indiana finance authority were the Indiana bond bank for those limited purposes.

SECTION 216. [EFFECTIVE MAY 15, 2005] **(a) The legislative services agency shall prepare legislation for introduction in the 2006 regular session of the general assembly to organize and correct statutes affected by:**

(1) the establishment of the Indiana finance authority; and

(2) changing the name of the Indiana housing finance authority to the Indiana housing and community development authority, as provided by IC 5-20-1-3, as amended by this act.

(b) This SECTION expires July 1, 2006.

SECTION 217. [EFFECTIVE MAY 15, 2005] **After May 14, 2005, a reference to the Indiana housing finance authority in a statute, rule, or other document is considered a reference to the Indiana housing and community development authority established by IC 5-20-1-3, as amended by this act, as the successor agency.**

SECTION 218. [EFFECTIVE MAY 15, 2005] **(a) A representative of the Indiana finance authority shall, at a meeting of the budget committee before January 1, 2006, present a report concerning the implementation of this act.**

(b) This SECTION expires July 1, 2006.

SECTION 219. [EFFECTIVE MAY 15, 2005] **(a) The terms of office of the members of:**

(1) the Indiana development finance authority;

(2) the state office building commission;

(3) the Indiana transportation finance authority; and

(4) the recreational development commission;

serving on May 14, 2005, terminate on May 15, 2005.

(b) Notwithstanding IC 4-4-11-5, as amended by this act, the initial terms of office of the three (3) members appointed by the governor to the Indiana finance authority are as follows:

(1) One (1) member for a term of one (1) year.

(2) Two (2) members for a term of two (2) years.

(c) The initial terms begin May 15, 2005.

(d) This SECTION expires July 1, 2006.

SECTION 220. [EFFECTIVE MAY 15, 2005] **(a) The terms of office of the members of:**

(1) the Indiana health facility financing authority; and

(2) the Indiana educational facilities authority;

serving on May 14, 2005, terminate on May 15, 2005.

(b) Notwithstanding IC 5-1-16-3, as amended by this act, the initial terms of office of the four (4) members appointed by the governor to the Indiana health and educational facility financing authority under IC 5-1-16-3, as amended by this act, are as follows:

(1) Two (2) members for a term of two (2) years.

(2) Two (2) members for a term of four (4) years.

(c) The initial terms begin May 15, 2005.

(d) This SECTION expires July 1, 2006.

SECTION 221. [EFFECTIVE MAY 15, 2005] **(a) The terms of office of the members of the Indiana housing finance authority serving on May 14, 2005, terminate on May 15, 2005.**

(b) Notwithstanding IC 5-20-1-3, as amended by this act, the initial terms of office of the four (4) members appointed by the governor to the Indiana housing and community development authority established by IC 5-20-1-3, as amended by this act, are as follows:

(1) Two (2) members for a term of two (2) years.

(2) Two (2) members for a term of four (4) years.

(c) The initial terms begin May 15, 2005.

(d) This SECTION expires July 1, 2006.

SECTION 222. [EFFECTIVE MAY 15, 2005] **IC 6-3.1-9-1, IC 6-3.1-9-2, and IC 6-3.1-9-4, all as amended by this act, apply to applications for tax credits filed under IC 6-3.1-9 after May 14, 2005.**

SECTION 223. [EFFECTIVE MAY 15, 2005] **(a) Notwithstanding the transfer of responsibility for administration of the individual development accounts program to the lieutenant governor by P.L.4-2005, SECTION 151, beginning May 15, 2005:**

(1) the Indiana housing finance authority is responsible for the administration of the program;

(2) any rules, policies, or guidelines adopted by the department of commerce or the lieutenant governor concerning the program are considered rules, policies, and guidelines of the Indiana housing finance authority until the authority adopts replacement rules, policies, or guidelines;

(3) the Indiana housing finance authority becomes the owner of all property and obligations relating to the program; and

(4) any appropriations relating to the program are transferred to the Indiana housing finance authority.

(b) This SECTION expires July 1, 2007.

SECTION 224. **An emergency is declared for this act.**

(Reference is to ESB 578 as reprinted March 29, 2005.)

HERSHMAN	BUELL
MRVAN	E. HARRIS
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 529–1; filed April 27, 2005, at 12:32 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 529 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-21.5-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) This article does not apply to the formulation, issuance, or administrative review (but does, except as provided in subsection (b), apply to the judicial review and civil enforcement) of any of the following:

(1) Except as provided in IC 12-17.2-4-18.7 and IC 12-17.2-5-18.7, determinations by the division of family ~~and children.~~ **resources and the department of child services.**

(2) Determinations by the alcohol and tobacco commission.

(3) Determinations by the office of Medicaid policy and planning concerning recipients and applicants of Medicaid. However, this article does apply to determinations by the office of Medicaid policy and planning concerning providers.

(4) A final determination of the Indiana board of tax review.

(b) IC 4-21.5-5-12 and IC 4-21.5-5-14 do not apply to judicial review of a final determination of the Indiana board of tax review.

SECTION 2. IC 5-22-4-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9. The department of child services is the purchasing agency for services procured by the department under IC 31-33-1.5-10.**

SECTION 3. IC 6-1.1-17-3, AS AMENDED BY SEA 209-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The proper officers of a political subdivision shall formulate its estimated budget and its proposed tax rate and tax levy on the form prescribed by the department of local government finance and approved by the state board of accounts. The political subdivision shall give notice by publication to taxpayers of:

(1) the estimated budget;

(2) the estimated maximum permissible levy;

(3) the current and proposed tax levies of each fund; and

(4) the amounts of excessive levy appeals to be requested.

In the notice, the political subdivision shall also state the time and place at which a public hearing will be held on these items. The notice shall be published twice in accordance with IC 5-3-1 with the first publication at least ten (10) days before the date fixed for the public hearing.

(b) The board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal) may conduct the public hearing required under subsection (a):

(1) in any county of the solid waste management district; and

(2) in accordance with the annual notice of meetings published under IC 13-21-5-2.

(c) The trustee of each township in the county shall estimate the amount necessary to meet the cost of township assistance in the township for the ensuing calendar year. The township board shall adopt with the township budget a tax rate sufficient to meet the estimated cost of township assistance. The taxes collected as a result of the tax rate adopted under this subsection are credited to the township assistance fund.

(d) A county shall adopt with the county budget and the department of local government finance shall certify under section 16 of this chapter a tax rate sufficient to raise the levy necessary to pay the following:

(1) The cost of child services (as defined in IC 12-19-7-1) of the county payable from the family and children's fund.

(2) The cost of children's psychiatric residential treatment services (as defined in IC 12-19-7.5-1) of the county payable from the children's psychiatric residential treatment services fund.

A budget, tax rate, or tax levy adopted by a county fiscal body or approved or modified by a county board of tax adjustment that is less than the levy necessary to pay the costs described in subdivision (1) or (2) shall not be treated as a final budget, tax rate, or tax levy under section 11 of this chapter.

SECTION 4. IC 6-1.1-17-14, AS AMENDED BY SEA 209-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. The county auditor shall initiate an appeal to the department of local government finance if the **county fiscal body or the** county board of tax adjustment reduces:

(1) a township assistance tax rate below the rate necessary to meet the estimated cost of township assistance;

(2) a family and children's fund tax rate below the rate necessary to collect the levy recommended by the department of child services; or

(3) a children's psychiatric residential treatment services fund tax rate below the rate necessary to collect the levy recommended by the department of child services.

SECTION 5. IC 6-3.5-6-18.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18.5. (a) This section applies to a county containing a consolidated city.

(b) Notwithstanding section 18(e) of this chapter, the distributive shares that each civil taxing unit in a county containing a consolidated city is entitled to receive during a month equals the following:

(1) For the calendar year beginning January 1, 1995, calculate the total amount of revenues that are to be distributed as distributive shares during that month multiplied by the following factor:

Center Township	.0251
Decatur Township	.00217
Franklin Township	.0023

Lawrence Township	.01177
Perry Township	.01130
Pike Township	.01865
Warren Township	.01359
Washington Township	.01346
Wayne Township	.01307
Lawrence-City	.00858
Beech Grove	.00845
Southport	.00025
Speedway	.00722
Indianapolis/Marion County	.86409

(2) Notwithstanding subdivision (1), for the calendar year beginning January 1, 1995, the distributive shares for each civil taxing unit in a county containing a consolidated city shall be not less than the following:

Center Township	$1,898,145
Decatur Township	$164,103
Franklin Township	$173,934
Lawrence Township	$890,086
Perry Township	$854,544
Pike Township	$1,410,375
Warren Township	$1,027,721
Washington Township	$1,017,890
Wayne Township	$988,397
Lawrence-City	$648,848
Beech Grove	$639,017
Southport	$18,906
Speedway	$546,000

(3) For each year after 1995, calculate the total amount of revenues that are to be distributed as distributive shares during that month as follows:

STEP ONE: Determine the total amount of revenues that were distributed as distributive shares during that month in calendar year 1995.

STEP TWO: Determine the total amount of revenue that the department has certified as distributive shares for that month under section 17 of this chapter for the calendar year.

STEP THREE: Subtract the STEP ONE result from the STEP TWO result.

STEP FOUR: If the STEP THREE result is less than or equal to zero (0), multiply the STEP TWO result by the ratio established under subdivision (1).

STEP FIVE: Determine the ratio of:

(A) the maximum permissible property tax levy under IC 6-1.1-18.5, ~~and IC 6-1.1-18.6~~ **IC 12-19-7, and IC 12-19-7.5** for each civil taxing unit for the calendar year in which the month falls, plus, for a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund; divided by

(B) the sum of the maximum permissible property tax levies under IC 6-1.1-18.5, ~~and IC 6-1.1-18.6~~ **IC 12-19-7, and IC 12-19-7.5** for all civil taxing units of the county during the calendar year in which the month falls, and an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

STEP SIX: If the STEP THREE result is greater than zero (0), the STEP ONE amount shall be distributed by multiplying the STEP ONE amount by the ratio established under subdivision (1).

STEP SEVEN: For each taxing unit determine the STEP FIVE ratio multiplied by the STEP TWO amount.

STEP EIGHT: For each civil taxing unit determine the difference between the STEP SEVEN amount minus the product of the STEP ONE amount multiplied by the ratio established under subdivision (1). The STEP THREE excess shall be distributed as provided in STEP NINE only to the civil taxing units that have a STEP EIGHT difference greater than or equal to zero (0).

STEP NINE: For the civil taxing units qualifying for a distribution under STEP EIGHT, each civil taxing unit's share equals the STEP THREE excess multiplied by the ratio of:

(A) the maximum permissible property tax levy under IC 6-1.1-18.5, ~~and IC 6-1.1-18.6~~ **IC 12-19-7, and IC 12-19-7.5** for the qualifying civil taxing unit during the calendar year in which the month falls, plus, for a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund; divided by

(B) the sum of the maximum permissible property tax levies under IC 6-1.1-18.5, ~~and IC 6-1.1-18.6~~ **IC 12-19-7, and IC 12-19-7.5** for all qualifying civil taxing units of the county during the calendar year in which the month falls, and an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

SECTION 6. IC 10-13-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) As used in this chapter, "criminal justice agency" means any agency or department of any level of government whose principal function is:

(1) the apprehension, prosecution, adjudication, incarceration, probation, rehabilitation, or representation of criminal offenders;

(2) the location of parents with child support obligations under 42 U.S.C. 653;

(3) the licensing and regulating of riverboat gambling operations; or

(4) the licensing and regulating of pari-mutuel horse racing operations.

(b) The term includes the following:

(1) The office of the attorney general.

(2) The Medicaid fraud control unit, for the purpose of investigating offenses involving Medicaid.

(3) A nongovernmental entity that performs as its principal function the:

(A) apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders;

(B) location of parents with child support obligations under 42 U.S.C. 653;

(C) licensing and regulating of riverboat gambling operations; or

(D) licensing and regulating of pari-mutuel horse racing operations;

under a contract with an agency or department of any level of government.

~~(4) The division of family and children or a juvenile probation officer conducting a criminal history check (as defined in IC 31-9-2-29.7) under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:~~

~~(A) child at imminent risk of placement;~~

~~(B) child in need of services; or~~

~~(C) delinquent child.~~

SECTION 7. IC 10-13-3-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7.5. As used in this chapter, "emergency placement" means an emergency out-of-home placement of a child by the department of child services established by IC 31-33-1.5-2 or a court as a result of exigent circumstances, including an out-of-home placement under IC 31-34-2 or IC 31-34-4, or the sudden unavailability of the child's parent, guardian, or custodian. The term does not include placement to an entity or in a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.**

SECTION 8. IC 10-13-3-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 12.5. As used in this chapter, "national name based criminal history record check" means a query of the Interstate Identification Index data base maintained by the Federal Bureau of Investigation that:**

(1) is conducted using the subject's name; and

(2) does not use fingerprint identification or another method of positive identification.

SECTION 9. IC 10-13-3-27, AS AMENDED BY HEA

1288-2005, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) Except as provided in subsection (b), on request, law enforcement agencies shall release or allow inspection of a limited criminal history to noncriminal justice organizations or individuals only if the subject of the request:

(1) has applied for employment with a noncriminal justice organization or individual;

(2) has applied for a license and criminal history data as required by law to be provided in connection with the license;

(3) is a candidate for public office or a public official;

(4) is in the process of being apprehended by a law enforcement agency;

(5) is placed under arrest for the alleged commission of a crime;

(6) has charged that the subject's rights have been abused repeatedly by criminal justice agencies;

(7) is the subject of a judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;

(8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;

(9) is currently residing in a location designated by the department of child services (established by IC 31-33-1.5-2) or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location;

~~(9)~~ **(10)** has volunteered services at a public school (as defined in IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12) that involve contact with, care of, or supervision over a student enrolled in the school;

~~(10)~~ **(11)** is being investigated for welfare fraud by an investigator of the division of family ~~and children~~ **resources** or a county office of family and children;

~~(11)~~ **(12)** is being sought by the parent locator service of the child support bureau of the division of family and children;

~~(12)~~ **(13)** is or was required to register as a sex and violent offender under IC 5-2-12; or

~~(13)~~ **(14)** has been convicted of any of the following:

(A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

(B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.

(C) Child molesting (IC 35-42-4-3).

(D) Child exploitation (IC 35-42-4-4(b)).

(E) Possession of child pornography (IC 35-42-4-4(c)).

(F) Vicarious sexual gratification (IC 35-42-4-5).

(G) Child solicitation (IC 35-42-4-6).

(H) Child seduction (IC 35-42-4-7).

(I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).

(J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:

(1) Federally chartered or insured banking institutions.

(2) Officials of state and local government for any of the following purposes:

(A) Employment with a state or local governmental entity.

(B) Licensing.

(3) Segments of the securities industry identified under 15 U.S.C. 78q(f)(2).

(c) Any person who uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor.

SECTION 10. IC 10-13-3-27.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 27.5. (a) If:**

(1) exigent circumstances require the emergency placement of a child; and

(2) the department will be unable to obtain criminal history information from the Interstate Identification Index before the emergency placement is scheduled to occur;

upon request of the department of child services established by IC 31-33-1.5-2, a caseworker, or a juvenile probation officer, the department may conduct a national name based criminal history record check of each individual who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location. The department shall promptly transmit a copy of the report it receives from the Interstate Identification Index to the agency or person that submitted a request under this section.

(b) Not later than seventy-two (72) hours after the department of child services, the caseworker, or the juvenile probation officer receives the results of the national name based criminal history record check, the department of child services, the caseworker, or the juvenile probation officer shall provide the department with a complete set of fingerprints for each individual who is currently residing in the location designated as the out-of-home placement at the time the child will be placed in the location. The department shall:

(1) use fingerprint identification to positively identify each individual who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location; or

(2) submit the fingerprints to the Federal Bureau of Investigation not later than fifteen (15) days after the date on which the national name based criminal history record check was conducted.

The child shall be removed from the location designated as the out-of-home placement if an individual who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location fails to provide a complete set of fingerprints to the department of child services, the caseworker, or the juvenile probation officer.

(c) The department and the person or agency that provided fingerprints shall comply with all requirements of 42 U.S.C. 5119a and any other applicable federal law or regulation regarding:

(1) notification to the subject of the check; and

(2) the use of the results obtained based on the check of the person's fingerprints.

(d) If an out-of-home placement is denied as the result of a national name based criminal history record check, an individual who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location may contest the denial by submitting to the department of child services, the caseworker, or the juvenile probation officer:

(1) a complete set of the individual's fingerprints; and

(2) written authorization permitting the department of child services, the caseworker, or the juvenile probation officer to forward the fingerprints to the department for submission to the Federal Bureau of Investigation;

not later than five (5) days after the out-of-home placement is denied.

(e) The:

(1) department; and

(2) Federal Bureau of Investigation;

may charge a reasonable fee for processing a national name based criminal history record check. The department shall adopt rules under IC 4-22-2 to establish a reasonable fee for processing a national name based criminal history record check and for collecting fees owed under this subsection.

(f) The:

(1) department of child services, for an out-of-home placement arranged by a caseworker or the department of child services; or

(2) juvenile court, for an out-of-home placement ordered by the juvenile court;

shall pay the fee described in subsection (e), arrange for fingerprinting, and pay the costs of fingerprinting, if any.

SECTION 11. IC 10-13-3-39, AS AMENDED BY HEA

1288-2005, SECTION 120, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 39. (a) The department is designated as the authorized agency to receive requests for, process, and disseminate the results of national criminal history background checks that comply with this section and 42 U.S.C. 5119a.

(b) A qualified entity may contact the department to request a national criminal history background check on any of the following persons:

(1) A person who seeks to be or is employed with the qualified entity. A request under this subdivision must be made not later than three (3) months after the person is initially employed by the qualified entity.

(2) A person who seeks to volunteer or is a volunteer with the qualified entity. A request under this subdivision must be made not later than three (3) months after the person initially volunteers with the qualified entity.

(c) A qualified entity must submit a request under subsection (b) in the form required by the department and provide a set of the person's fingerprints and any required fees with the request.

(d) If a qualified entity makes a request in conformity with subsection (b), the department shall submit the set of fingerprints provided with the request to the Federal Bureau of Investigation for a national criminal history background check for convictions described in IC 20-26-5-11. The department shall respond to the request in conformity with:

(1) the requirements of 42 U.S.C. 5119a; and

(2) the regulations prescribed by the Attorney General of the United States under 42 U.S.C. 5119a.

(e) This subsection applies to a qualified entity that:

(1) is not a school corporation or a special education cooperative; or

(2) is a school corporation or a special education cooperative and seeks a national criminal history background check for a volunteer.

After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department shall make a determination whether the applicant has been convicted of an offense described in IC 20-26-5-11 and convey the determination to the requesting qualified entity.

(f) This subsection applies to a qualified entity that:

(1) is a school corporation or a special education cooperative; and

(2) seeks a national criminal history background check to determine whether to employ or continue the employment of a certificated employee or a noncertificated employee of a school corporation or an equivalent position with a special education cooperative.

After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department may exchange identification records concerning convictions for offenses described in IC 20-26-5-11 with the school corporation or special education cooperative solely for purposes of making an employment determination. The exchange may be made only for the official use of the officials with authority to make the employment determination. The exchange is subject to the restrictions on dissemination imposed under P.L.92-544, (86 Stat. 1115) (1972).

(g) This subsection applies to a qualified entity (as defined in IC 10-13-3-16) that is a public agency under IC 5-14-1.5-2(a)(1). After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department shall provide a copy to the public agency. Except as permitted by federal law, the public agency may not share the information contained in the national criminal history background check with a private agency.

SECTION 12. IC 12-7-2-57.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 57.5. (a) "Department", for purposes of IC 12-13-14, has the meaning set forth in IC 12-13-14-1.

(b) "Department", for purposes of IC 12-19, refers to the department of child services.

~~(b)~~ **(c)** "Department", for purposes of IC 12-20, refers to the department of local government finance established by IC 6-1.1-30-1.1.

SECTION 13. IC 12-7-2-64 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 64. "Director" refers to the following:

(1) With respect to a particular division, the director of the division.

(2) With respect to a particular state institution, the director who has administrative control of and responsibility for the state institution.

(3) For purposes of IC 12-10-15, the term refers to the director of the division of ~~disabilities,~~ **disability,** aging, and rehabilitative services.

(4) For purposes of IC 12-19-5, the term refers to the director of the department of child services established by IC 31-33-1.5-2.

~~(4)~~ **(5)** For purposes of IC 12-25, the term refers to the director of the division of mental health and addiction.

~~(5)~~ **(6)** For purposes of IC 12-26, the term:

(A) refers to the director who has administrative control of and responsibility for the appropriate state institution; and

(B) includes the director's designee.

~~(6)~~ **(7)** If subdivisions (1) through ~~(5)~~ **(6)** do not apply, the term refers to the director of any of the divisions.

SECTION 14. IC 12-7-2-69 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 69. (a) "Division", except as provided in subsections (b) and (c), refers to any of the following:

(1) The division of disability, aging, and rehabilitative services established by IC 12-9-1-1.

(2) The division of family ~~and children~~ **resources** established by IC 12-13-1-1.

(3) The division of mental health and addiction established by IC 12-21-1-1.

(b) The term refers to the following:

(1) For purposes of the following statutes, the division of disability, aging, and rehabilitative services established by IC 12-9-1-1:

(A) IC 12-9.
(B) IC 12-10.
(C) IC 12-11.
(D) IC 12-12.
(E) IC 12-12.5.

(2) For purposes of the following statutes, the division of family ~~and children~~ **resources** established by IC 12-13-1-1:

(A) IC 12-13.
(B) IC 12-14.
(C) IC 12-15.
(D) IC 12-16.
~~(E) IC 12-17.~~
~~(F)~~ **(E)** IC 12-17.2.
~~(G) IC 12-17.4.~~
~~(H)~~ **(F)** IC 12-18.
~~(I)~~ **(G)** IC 12-19.
~~(J)~~ **(H)** IC 12-20.

(3) For purposes of the following statutes, the division of mental health and addiction established by IC 12-21-1-1:

(A) IC 12-21.
(B) IC 12-22.
(C) IC 12-23.
(D) IC 12-25.

(c) With respect to a particular state institution, the term refers to the division whose director has administrative control of and responsibility for the state institution.

(d) For purposes of IC 12-24, IC 12-26, and IC 12-27, the term refers to the division whose director has administrative control of and responsibility for the appropriate state institution.

SECTION 15. IC 12-8-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. This chapter expires January 1, ~~2006.~~ **2008.**

SECTION 16. IC 12-8-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. This chapter expires January 1, ~~2006.~~ **2008.**

SECTION 17. IC 12-8-6-10 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. This chapter expires January 1, ~~2006.~~ **2008.**

SECTION 18. IC 12-8-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. This chapter expires January 1, ~~2006.~~ **2008.**

SECTION 19. IC 12-13-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The division of family ~~and children~~ **resources** is established.

SECTION 20. IC 12-13-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The division shall administer or supervise the public welfare activities of the state. The division has the following powers and duties:

(1) The administration of old age assistance, aid to dependent children, and assistance to the needy blind and persons with disabilities, excluding assistance to children with special health care needs.

(2) The administration of the ~~following:~~

~~(A) Any public child welfare service.~~

~~(B) The~~ licensing and inspection under IC 12-17.2. ~~and IC 12-17.4.~~

~~(C) The care of dependent and neglected children in foster family homes or institutions, especially children placed for adoption or those born out of wedlock.~~

~~(D) The interstate placement of children.~~

(3) The provision of services to county governments, including the following:

(A) Organizing and supervising county offices for the effective administration of public welfare functions.

(B) Compiling statistics and necessary information concerning public welfare problems throughout Indiana.

(C) Researching and encouraging research into crime, delinquency, physical and mental disability, and the cause of dependency.

(4) Prescribing the form of, printing, and supplying to the county ~~departments~~ **offices** blanks for applications, reports, affidavits, and other forms the division considers necessary and advisable.

(5) Cooperating with the federal Social Security Administration and with any other agency of the federal government in any reasonable manner necessary and in conformity with IC 12-13 through IC 12-19 to qualify for federal aid for assistance to persons who are entitled to assistance under the federal Social Security Act. The responsibilities include the following:

(A) Making reports in the form and containing the information that the federal Social Security Administration Board or any other agency of the federal government requires.

(B) Complying with the requirements that a board or agency finds necessary to assure the correctness and verification of reports.

(6) Appointing from eligible lists established by the state personnel board employees of the division necessary to effectively carry out IC 12-13 through IC 12-19. The division may not appoint a person who is not a citizen of the United States and who has not been a resident of Indiana for at least one (1) year immediately preceding the person's appointment unless a qualified person cannot be found in Indiana for a position as a result of holding an open competitive examination.

(7) Assisting the office of Medicaid policy and planning in fixing fees to be paid to ophthalmologists and optometrists for the examination of applicants for and recipients of assistance as needy blind persons.

(8) When requested, assisting other departments, agencies, divisions, and institutions of the state and federal government in performing services consistent with this article.

(9) Acting as the agent of the federal government for the following:

(A) In welfare matters of mutual concern under IC 12-13 through IC 12-19, **except for responsibilities of the department of child services under IC 31-33-1.5.**

(B) In the administration of federal money granted to Indiana in aiding welfare functions of the state government.

(10) Administering additional public welfare functions vested in the division by law and providing for the progressive codification of the laws the division is required to administer.

(11) Supervising day care centers. ~~and child placing agencies.~~

~~(12) Supervising the licensing and inspection of all public child caring agencies.~~

~~(13) Supervising the care of delinquent children and children in need of services.~~

~~(14) Assisting juvenile courts as required by IC 31-30 through IC 31-40.~~

~~(15) Supervising the care of dependent children and children placed for adoption.~~

~~(16)~~ **(12)** Compiling information and statistics concerning the ethnicity and gender of a program or service recipient.

~~(17) Providing permanency planning services for children in need of services, including:~~

~~(A) making children legally available for adoption; and~~

~~(B) placing children in adoptive homes;~~

~~in a timely manner.~~

SECTION 21. IC 12-13-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The division shall administer the following:

~~(1) The Interstate Compact on the Placement of Children (IC 12-17-8).~~

~~(2)~~ **(1)** Any sexual offense services.

~~(3)~~ **(2)** A child development associate scholarship program.

~~(4)~~ **(3)** Any school age dependent care program.

~~(5)~~ **(4)** Migrant day care services.

~~(6) Any youth services programs.~~

~~(7) Project safe place.~~

~~(8)~~ **(5)** Prevention services to high risk youth.

~~(9)~~ **(6)** Any commodities program.

~~(10)~~ **(7)** The migrant nutrition program.

~~(11)~~ **(8)** Any emergency shelter programs.

~~(12)~~ **(9)** Any weatherization programs.

~~(13)~~ **(10)** The Housing Assistance Act of 1937 (42 U.S.C. 1437).

~~(14)~~ **(11)** The home visitation and social services program.

~~(15)~~ **(12)** The educational consultants program.

~~(16) Child abuse prevention programs.~~

~~(17)~~ **(13)** Community restitution or service programs.

~~(18)~~ **(14)** The crisis nursery program.

~~(19)~~ **(15)** Energy assistance programs.

~~(20)~~ **(16)** Domestic violence programs.

~~(21)~~ **(17)** Social services programs.

~~(22)~~ **(18)** Assistance to migrants and seasonal farmworkers.

~~(23)~~ **(19)** The step ahead comprehensive early childhood grant program.

~~(24)~~ **(20)** Any other program:

(A) designated by the general assembly; or

(B) administered by the federal government under grants consistent with the duties of the division.

SECTION 22. IC 12-13-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Each county auditor shall keep records and make reports relating to the county welfare fund (before July 1, 2001), the family and children's fund, and other financial transactions as required under IC 12-13 through IC 12-19 and as required by the division **or the department of child services.**

(b) All records provided for in IC 12-13 through IC 12-19 shall be kept, prepared, and submitted in the form required by the division **or the department of child services** and the state board of accounts.

SECTION 23. IC 12-13-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The following bureaus are established within the division:

(1) A bureau of ~~family independence.~~ **child development.**

(2) A ~~family protection~~ bureau **of economic independence.**

~~(3) A youth development bureau that includes a children's disabilities services unit.~~

~~(4) A bureau of child care services.~~

~~(5) A bureau of residential services.~~

~~(6) A bureau of family resources.~~

~~(7) A food stamp bureau.~~

~~(8) A child support bureau.~~

SECTION 24. IC 12-13-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The division shall administer the following:

(1) The Community Services Block Grant under 42 U.S.C. 9901 et seq.

(2) The Low Income Home Energy Assistance Block Grant under 42 U.S.C. 8621 et seq.

(3) The United States Department of Energy money under 42 U.S.C. 6851 et seq.

(4) The domestic violence prevention and treatment fund under IC 12-18-4.

(5) The Child Care and Development Block Grant under ~~42 U.S.C. 658 et seq.~~ **42 U.S.C. 9858 et seq.**

~~(6) Title IV-B of the federal Social Security Act under 42 U.S.C. 620 et seq.~~

~~(7) Title IV-E of the federal Social Security Act under 42 U.S.C. 670 et seq.~~

~~(8)~~ **(6)** The federal Food Stamp Program under 7 U.S.C. 2011 et seq.

~~(9) The Social Services Block Grant under 42 U.S.C. 1397 et seq.~~

~~(10)~~ **(7)** Title IV-A of the federal Social Security Act.

~~(11)~~ **(8)** Any other funding source:

(A) designated by the general assembly; or

(B) available from the federal government under grants that are consistent with the duties of the division.

SECTION 25. IC 12-13-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The division is the single state agency responsible for administering the following:

(1) The Child Care and Development Block Grant under ~~42 U.S.C. 658 et seq.~~ **42 U.S.C. 9858 et seq.** The division shall apply to the United States Department of Health and Human Services for a grant under the Child Care Development Block Grant.

~~(2) Title IV-B of the federal Social Security Act under 42 U.S.C. 620 et seq.~~

~~(3) Title IV-E of the federal Social Security Act under 42 U.S.C. 670 et seq.~~

~~(4)~~ **(2)** The federal Food Stamp Program under 7 U.S.C. 2011 et seq.

~~(5) The federal Social Services Block Grant under 42 U.S.C. 1397 et seq.~~

SECTION 26. IC 12-13-7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) The division **and the department of child services** shall do the following:

(1) Prepare and submit to the state board of accounts for approval forms and records for assistance, receipts, disbursements, advancements, transfers, and other financial transactions necessary to administer IC 12-13 through IC 12-19.

(2) Disclose financial transactions connected with subdivision (1).

(b) Upon the approval and adoption by the state board of accounts, the division **and the department of child services** shall prescribe the forms, records, and method of accounting for all counties.

SECTION 27. IC 12-13-7-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. The director **of the division** shall prepare a biennial budget of money necessary to be appropriated by the general assembly for the division for the purposes of IC 12-13 through IC 12-19. The budget must include an estimate of all federal money that may be allotted to the state by the federal government for the purposes of the division. The budget shall be submitted to and filed with the budget director.

SECTION 28. IC 12-13-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. **(a)** A child fatality review consists of determining:

(1) whether similar future deaths could be prevented; and

(2) agencies or resources that should be involved to adequately prevent future deaths of children.

(b) In conducting the child fatality review under subsection (a), the local child fatality review team shall review every record concerning the deceased child that is held by the department of child services.

SECTION 29. IC 12-13-15.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. **(a)** A child fatality review conducted by the statewide child fatality review committee under this chapter must consist of determining:

(1) whether similar future deaths could be prevented; and

(2) agencies or resources that should be involved to adequately prevent future deaths of children.

(b) In conducting the child fatality review under subsection (a), the statewide child fatality review committee shall review every record concerning the deceased child that is held by:

(1) the department of child services; or

(2) a local child fatality review team.

SECTION 30. IC 12-14-25.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Family preservation services may provide:

(1) comprehensive, coordinated, flexible, and accessible services;

(2) intervention as early as possible with emphasis on establishing a safe and nurturing environment;

(3) services to families who have members placed in care settings outside the nuclear family; and

(4) planning options for temporary placement outside the family if it would endanger the child to remain in the home.

(b) Unless authorized by a juvenile court, family preservation services may not include a temporary out-of-home placement if a person who:

(1) is currently residing in the location designated as the out-of-home placement; or

(2) in the reasonable belief of family preservation services is expected to be residing in the location designated as the out-of-home placement during the time the child at imminent risk of placement would be placed in the location;

has committed an act resulting in a substantiated report of child abuse or neglect or has a juvenile adjudication or a conviction for a felony listed in IC 12-17.4-4-11.

(c) Before placing a child at imminent risk of placement in a temporary out-of-home placement, the county office of family and children shall conduct a criminal history check (as defined in ~~IC 31-9-2-29.7)~~ **IC 31-9-2-22.5)** for each person described in subsection (b)(1) and (b)(2). However, the county office of family and children is not required to conduct a criminal history check under this section if the temporary out-of-home placement is made to an entity or facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

SECTION 31. IC 12-17-2-18, AS AMENDED BY SEA 2-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) The bureau shall make the agreements necessary for the effective administration of the plan with local governmental officials within Indiana. The bureau shall contract with:

(1) a prosecuting attorney; ~~or~~

(2) a private attorney if the bureau determines that a reasonable contract cannot be entered into with a prosecuting attorney and the determination is approved by at least two-thirds (2/3) of the Indiana child custody and support advisory committee (established by IC 33-24-11-1); **or**

(3) a collection agency licensed under IC 25-11 to collect arrearages on child support orders under which collections have not been made on arrearages for at least two (2) years;

in each judicial circuit to undertake activities required to be performed under Title IV-D of the federal Social Security Act (42 U.S.C. 651), including establishment of paternity, establishment, enforcement, and modification of child support orders, activities under the Uniform Reciprocal Enforcement of Support Act (IC 31-2-1, before its repeal) or the Uniform Interstate Family Support Act (IC 31-18, or IC 31-1.5 before its repeal), and if the contract is with a prosecuting attorney, prosecutions of welfare fraud.

(b) The hiring of an attorney by an agreement or a contract made under this section is not subject to the approval of the attorney general under IC 4-6-5-3. An agreement or a contract made under this section is not subject to IC 4-13-2-14.3 or IC 5-22.

(c) Subject to section 18.5 of this chapter, a prosecuting attorney with which the bureau contracts under subsection (a):

(1) may contract with a ~~private organization~~ **collection agency**

licensed under IC 25-11 to provide child support enforcement services; **and**

(2) shall contract with a collection agency licensed under IC 25-11 to collect arrearages on child support orders under which collections have not been made on arrearages for at least two (2) years.

(d) A prosecuting attorney or private attorney entering into an agreement or a contract with the bureau under this section enters into an attorney-client relationship with the state to represent the interests of the state in the effective administration of the plan and not the interests of any other person. An attorney-client relationship is not created with any other person by reason of an agreement or contract with the bureau.

(e) At the time that an application for child support services is made, the applicant must be informed that:

(1) an attorney who provides services for the child support bureau is the attorney for the state and is not providing legal representation to the applicant; and

(2) communications made by the applicant to the attorney and the advice given by the attorney to the applicant are not confidential communications protected by the privilege provided under IC 34-46-3-1.

(f) A prosecuting attorney or private attorney who contracts or agrees under this section to undertake activities required to be performed under Title IV-D is not required to mediate, resolve, or litigate a dispute between the parties relating to the amount of parenting time or parenting time credit.

SECTION 32. IC 12-17-2-18.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18.5. (a) The bureau shall establish a program to allow a prosecuting attorney with which the bureau has contracted under section 18 of this chapter to contract with a ~~private organization~~ **collection agency licensed under IC 25-11** to provide child support enforcement services.

(b) The bureau ~~may~~ **shall:** ~~establish:~~

(1) **establish** a list of approved ~~private organizations~~ **collection agencies** with which a prosecuting attorney may contract under this section; ~~and~~

(2) **establish** requirements for participation in the program established under this section to assure:

(A) effective administration of the plan; and

(B) compliance with all federal and state statutes, regulations, and rules;

(3) update and review the list described in subdivision (1) and forward a copy of the updated list to each prosecuting attorney annually; and

(4) preapprove or approve all contracts between a collection agency and a prosecuting attorney.

(c) A contract between a prosecuting attorney and a ~~private organization~~ **collection agency** under this section must include the following provisions:

(1) A provision that records of a contractor operated child support enforcement system are subject to inspection and copying to the same extent the records would be subject to inspection and copying if the contractor were a public agency under IC 5-14-3.

(2) A provision that records that are provided by a contractor to the prosecuting attorney that relate to compliance by the contractor with the terms of the contract are subject to inspection and copying in accordance with IC 5-14-3.

(d) Not later than July 1, ~~2001,~~ **2006,** the bureau shall provide the legislative council with a report:

(1) evaluating the effectiveness of the program established under this section; **and**

(2) evaluating the impact of arrearage reductions for child support orders under which collection agencies have collected under IC 12-17-2-18(c).

(e) The bureau is not liable for any costs related to a contract entered into under this section that are disallowed for reimbursement by the federal government under the Title IV-D program of the federal Social Security Act.

(f) The bureau shall treat costs incurred by a prosecuting attorney under this section as administrative costs of the prosecuting attorney.

(g) Contracts between a collection agency licensed under IC 25-11 and the bureau or a prosecuting attorney:

(1) must:

(A) be in writing;

(B) include:

(i) all fees, charges, and costs, including administrative and application fees; and

(ii) the right of the bureau or the prosecuting attorney to cancel the contract at any time;

(C) require the collection agency, upon the request of the bureau or the prosecuting attorney, to provide the:

(i) source of each payment received for arrearage on a child support order;

(ii) form of each payment received for arrearage on a child support order;

(iii) amount and percentage that is deducted as a fee or a charge from each payment of arrearage on a child support order; and

(iv) amount of arrearage owed under a child support order; and

(D) be one (1) year renewable contracts; and

(2) may be negotiable contingency contracts in which a collection agency may not collect a fee that exceeds fifteen percent (15%) of the arrearages collected per case.

SECTION 33. IC 12-17-12-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. The division may not approve a grant from the fund to an applicant unless the applicant agrees to adopt the following program enrollment priorities:

(1) First priority must be given to children who are referred to a program by the ~~local~~ **department of** child ~~protection service agency~~ **services** under IC 31-33 (or IC 31-6-11 before its repeal). Within this priority, children in families with the lowest gross monthly income compared to other children in this priority level must be enrolled first.

(2) Second priority must be given to children in kindergarten and grades 1 through 3 and the children's siblings if the children's families need school age child care services because of:

(A) enrollment of a child's legal custodian in vocational training under a degree program;

(B) employment of a child's legal custodian; or

(C) physical or mental incapacitation of a child's legal custodian.

(3) Third priority must be given to children in grades 4 through 9 if the children's families need school age child care services because of:

(A) enrollment of a child's legal custodian in vocational training under a degree program;

(B) employment of a child's legal custodian; or

(C) physical or mental incapacitation of a child's legal custodian.

SECTION 34. IC 12-17.4-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. A waiver or variance granted under section 8 of this chapter and a waiver or variance renewed under section 10 of this chapter expires on the earlier of the following:

(1) The date when the license affected by the waiver or variance expires.

(2) The date set by the division for the expiration of the waiver or variance.

(3) The occurrence of the event set by the division for the expiration of the waiver or variance.

(4) ~~Two (2)~~ **Four (4)** years after the date that the waiver or variance becomes effective.

SECTION 35. IC 12-17.4-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) A license for a child caring institution expires ~~two (2)~~ **four (4)** years after the date of issuance, unless the license is revoked, modified to a probationary or suspended status, or voluntarily returned.

(b) A license issued under this chapter:

(1) is not transferable;

(2) applies only to the licensee and the location stated in the application; and

(3) remains the property of the division.

(c) When a licensee submits a timely application for renewal, the current license shall remain in effect until the division issues a license or denies the application.

(d) A current license must be publicly displayed.

SECTION 36. IC 12-17.4-4-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. (a) A person may not operate a therapeutic foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a therapeutic foster family home without a license issued under this article.

(c) The division may only issue a license for a therapeutic foster family home that meets:

(1) all of the licensing requirements of a foster family home; and

(2) the additional requirements described in this section.

(d) An applicant for a therapeutic foster family home license must do the following:

(1) Be licensed as a foster parent under 470 IAC 3-1-1 et seq.

(2) Participate in ~~thirty (30) hours of~~ preservice training that includes:

(A) ~~twenty (20) hours of~~ preservice training to be licensed as a foster parent under 470 IAC 3-1-1 et seq.; and

(B) ~~ten (10) hours of~~ additional preservice training in therapeutic foster care.

(e) A person who is issued a license to operate a therapeutic foster family home shall, within one (1) year after meeting the training requirements of subsection (d)(2) and annually thereafter, participate in ~~twenty (20) hours of~~ training that includes:

(1) ~~ten (10) hours of~~ training as required in order to be licensed as a foster parent under 470 IAC 3-1-1 et seq.; and

(2) ~~ten (10) hours of~~ additional training in order to be licensed as a therapeutic foster parent under this chapter.

(f) An operator of a therapeutic foster family home may not provide supervision and care in a therapeutic foster family home to more than two (2) foster children at the same time, not including the children for whom the applicant or operator is a parent, stepparent, guardian, custodian, or other relative. The division may grant an exception to this subsection whenever the placement of siblings in the same therapeutic foster family home is desirable or in the best interests of the foster children residing in the home.

(g) The department of child services shall adopt rules under IC 4-22-2 necessary to carry out this section, including rules governing the number of hours of training required under subsections (d) and (e).

SECTION 37. IC 12-17.4-4-1.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.7. (a) A person may not operate a special needs foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a special needs foster family home without a license issued under this article.

(c) The division may only issue a license for a special needs foster family home that meets:

(1) all of the licensing requirements of a foster family home; and

(2) the additional requirements described in this section.

(d) An applicant for a special needs foster family home license must be licensed as a foster parent under 470 IAC 3-1-1 et seq. that includes participating in ~~twenty (20) hours of~~ preservice training.

(e) A person who is issued a license to operate a special needs foster family home shall, within one (1) year after meeting the training requirements of subsection (d) and annually thereafter, participate in ~~twenty (20) hours of~~ training that includes:

(1) ~~ten (10) hours of~~ training as required in order to be licensed as a foster parent under 470 IAC 3-1-1 et seq.; and

(2) ~~ten (10) hours of~~ additional training that includes specialized training to meet the child's specific needs.

(f) An operator of a special needs foster family home may not provide supervision and care as a special needs foster family home if more than:

(1) eight (8) individuals, each of whom either:

(A) is less than eighteen (18) years of age; or

(B) is at least eighteen (18) years of age and is receiving care and supervision under an order of a juvenile court; or

(2) four (4) individuals less than six (6) years of age;

including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative, receive care and supervision in the home at the same time. Not more than four (4) of the eight (8) individuals described in subdivision (1) may be less than six (6) years of age. The division may grant an exception to this section whenever the division determines that the placement of siblings in the same special needs foster home is desirable.

(g) The division shall consider the specific needs of each special needs foster child whenever the division determines the appropriate number of children to place in the special needs foster home under subsection (f). The division may require a special needs foster family home to provide care and supervision to less than the maximum number of children allowed under subsection (f) upon consideration of the specific needs of a special needs foster child.

(h) The department of child services shall adopt rules under IC 4-22-2 necessary to carry out this section, including rules governing the number of hours of training required under subsection (e).

SECTION 38. IC 12-17.4-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) A license for a foster family home expires ~~two (2)~~ **four (4)** years after the date of issuance, unless the license is revoked, modified to a probationary or suspended status, or voluntarily returned.

(b) A license issued under this chapter:

(1) is not transferable;

(2) applies only to the licensee and the location stated in the application; and

(3) remains the property of the division.

(c) A foster family home shall have the foster family home's license available for inspection.

(d) If a licensee submits a timely application for renewal, the current license shall remain in effect until the division issues a license or denies the application.

SECTION 39. IC 12-17.4-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) A license for a group home expires ~~two (2)~~ **four (4)** years after the date of issuance, unless the license is revoked, modified to a probationary or suspended status, or voluntarily returned.

(b) A license issued under this chapter:

(1) is not transferable;

(2) applies only to the licensee and the location stated in the application; and

(3) remains the property of the division.

(c) A current license shall be publicly displayed.

(d) If a licensee submits a timely application for renewal, the current license remains in effect until the division issues a license or denies the application.

SECTION 40. IC 12-17.4-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) A license for a child placing agency expires ~~two (2)~~ **four (4)** years after the date of issuance, unless the license is revoked, modified to a probationary or suspended status, or voluntarily returned.

(b) A license issued under this chapter:

(1) is not transferable;

(2) applies only to the licensee and the location stated in the application; and

(3) remains the property of the division.

(c) A child placing agency shall have the child placing agency's license available for inspection.

(d) If a licensee submits a timely application for renewal, the current license shall remain in effect until the division issues a license or denies the application.

SECTION 41. IC 12-18-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) A local domestic violence fatality review team consists of the following members:

(1) A survivor of domestic violence.

(2) A domestic violence direct service provider.

(3) A representative of law enforcement from the area served by the local domestic violence fatality review team.

(4) A prosecuting attorney or the prosecuting attorney's designee from the area served by the local domestic violence fatality review team.

(5) An expert in the field of forensic pathology, a coroner, or a deputy coroner.

(6) A medical practitioner with expertise in domestic violence.

(7) A judge who hears civil or criminal cases.

(8) An employee of ~~a~~ **the department of** child ~~protective~~ services. ~~agency.~~

(b) If a local domestic violence fatality review team is established in one (1) county, the legislative body that voted to establish the local domestic violence fatality review team under section 6 of this chapter shall:

(1) adopt an ordinance for the appointment and reappointment of members of the local domestic violence fatality review team; and

(2) appoint members to the local domestic violence fatality review team under the ordinance adopted.

(c) If a local domestic violence fatality review team is established in a region, the county legislative bodies that voted to establish the local domestic violence fatality review team under section 6 of this chapter shall:

(1) each adopt substantially similar ordinances for the appointment and reappointment of members of the local domestic violence fatality review team; and

(2) appoint members to the local domestic violence fatality review team under the ordinances adopted.

(d) A local domestic violence fatality review team may not have more than fifteen (15) members.

SECTION 42. IC 12-19-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The director **of the division, in consultation with the director of the department of child services,** shall appoint a county director in each county.

(b) The director shall appoint each county director:

(1) solely on the basis of merit; and

(2) from eligible lists established by the state personnel department.

(c) Each county director must be a citizen of the United States.

SECTION 43. IC 12-19-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The county director shall ~~with the approval of the director of the division,~~ appoint from eligible lists established by the state personnel department the number of assistants necessary to: ~~do the following:~~

(1) administer the welfare activities within the county **that are administered by the division under IC 12-13 through IC 12-19 or by an administrative rule, with the approval of the director of the division; or**

(2) ~~Perform all other duties of the county office.~~ **administer the child protection services and child welfare activities within the county that are the responsibility of the department under IC 12-13 through IC 12-19 and IC 31-33-1.5 or by an administrative rule, with the approval of the director of the department.**

(b) The:

(1) division, **for personnel performing activities described in subsection (a)(1);**

(2) department, for personnel performing activities described in subsection (a)(2); or

(3) the division and the department jointly for personnel performing activities in both subsection (a)(1) and (a)(2);

shall determine the compensation of the assistants within the ~~following:~~

~~(1)~~ ~~The~~ salary ranges of the pay plan adopted by the state personnel department and approved by the budget agency, with the advice of the budget committee,

~~(2)~~ **and within** lawfully established appropriations.

SECTION 44. IC 12-19-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. **(a) Except as provided in subsection (b),** the ~~division shall pay for the~~ costs of personal services in the administration of a county office's duties under this article if the employment is necessary for the administration of the county office's duties imposed upon the county office by this article and rules prescribed by the division **or the department shall be paid by the following:**

(1) The division, for activities described in section 7(a)(1) of this chapter.

(2) The department, for activities described in section 7(a)(2) of this chapter.

(b) The division and the department shall negotiate and agree to the payment of personnel services within the administration of a county office for activities that qualify under both section 7(a)(1) and 7(a)(2) of this chapter.

SECTION 45. IC 12-19-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) Subject to the rules adopted by the director of the division, a county office shall administer the following:

(1) Assistance to dependent children in the homes of the dependent children.

(2) Assistance and services to elderly persons.

(3) Assistance to persons with disabilities.

(4) Care and treatment of the following persons:

~~(A) Children in need of services.~~

~~(B)~~ **(A)** Dependent children.

~~(C)~~ **(B)** Children with disabilities.

~~(5) Licensing of foster family homes for the placement of children in need of services.~~

~~(6) Supervision of the care and treatment of children in need of services in foster family homes.~~

~~(7) Licensing of foster family homes for the placement of delinquent children.~~

~~(8) Supervision of the care and treatment of delinquent children in foster family homes.~~

~~(9)~~ **(5)** Provision of family preservation services.

~~(10)~~ **(6)** Any other welfare activities that are delegated to the county office by the division under this chapter, including services concerning assistance to the blind.

SECTION 46. IC 12-19-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The following are not personally liable, except to the state, for an official act done or omitted in connection with the performance of duties under this article:

(1) The director of the division.

(2) Officers and employees of the division.

(3) Officers and employees of a county office.

(4) The director of the department of child services.

(5) Officers and employees of the department of child services.

SECTION 47. IC 12-19-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. An officer or employee of:

(1) the division; ~~or of~~

(2) a county office; **or**

(3) the department of child services;

may administer oaths and affirmations required to carry out the purposes of this article or of any other statute imposing duties on the county office.

SECTION 48. IC 12-19-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) In addition to the other method of welfare financing provided by this article, the ~~county director~~ **department** may ~~appeal for the right to~~ **conduct a public hearing to determine whether to recommend to a county to** borrow money **under this chapter** on a short term basis to fund:

(1) child services under IC 12-19-7-1;

(2) children's psychiatric residential treatment services under IC 12-19-7.5; or

(3) other welfare services in the county **payable from the family and children's fund or the children's psychiatric residential treatment services fund;**

if the ~~county director~~ **department** determines that the family and children's fund or the children's psychiatric residential treatment services fund will be exhausted before the end of a fiscal year.

(b) In ~~an appeal under this section,~~ the ~~county director~~ **the hearing, the department** must **present facts that** show the following:

(1) That the amount of money in the family and children's fund or the children's psychiatric residential treatment services fund

will be insufficient to fund the appropriate services within the county under this article.

(2) The amount of money that the ~~county director~~ **department** estimates will be needed to fund that deficit.

~~(c) The county director shall immediately transmit an appeal under this section to the director.~~

SECTION 49. IC 12-19-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. ~~Upon receiving an appeal under section 1 of this chapter,~~ The ~~division~~ **department** shall as soon as possible do the following:

(1) Hold a public hearing to decide if the county should ~~be allowed to~~ borrow money.

(2) ~~Adopt~~ **Issue** a ~~resolution at that meeting~~ **recommendation** supporting or rejecting the proposal to borrow money.

~~(3) Transmit the resolution to the county director.~~

SECTION 50. IC 12-19-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) ~~Upon receiving a resolution under section 2 of this chapter,~~ **If** the ~~county director shall submit the appeal and the division's resolution~~ **department makes a recommendation after a hearing to borrow money, the department shall submit a certified copy of the recommendation** to the county fiscal body **and the county auditor.** Upon receiving the ~~appeal and the resolution,~~ **department's certified recommendation,** the:

(1) county fiscal body shall as soon as possible determine whether or not to loan the requested amount to the ~~county office.~~ **department; and**

~~(b)~~ **(2)** if the county fiscal body votes to allow a loan to be made, the county auditor on behalf of the county office shall borrow the money from a financial institution.

~~(c)~~ **(b)** If the county fiscal body determines that the county office should not be allowed to borrow money, the county fiscal body shall inform the ~~county director~~ **department** of the county fiscal body's decision.

SECTION 51. IC 12-19-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. The ~~division~~ **department** or a county fiscal body may not do the following:

(1) Recommend or approve a request to borrow money made under this chapter unless the body determines that the family and children's fund or the children's psychiatric residential treatment services fund will be exhausted before the particular fund can fund all county obligations incurred under this article.

(2) Recommend or approve a loan that will exceed the amount of the estimated deficit.

SECTION 52. IC 12-19-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) If ~~a county director:~~ **money was borrowed under IC 12-1-11.5 (before its repeal) or the department:**

(1) ~~appeals~~ **makes a request** before August 1 of a year for permission to borrow money under this chapter;

(2) receives permission from the county fiscal body to borrow money before November 1 of the year; and

(3) borrows money under IC 12-1-11.5 (before its repeal) or this chapter;

the county auditor shall levy a property tax beginning in the following year and continuing for the term of the loan.

(b) The property tax levied under subsection (a) must be in an amount each year that will be sufficient to pay the principal and interest due on the loan for the year.

(c) The levy under this section shall be retained by the county treasurer and applied by the county auditor to retire the debt.

SECTION 53. IC 12-19-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) If ~~a county director:~~ **the department:**

(1) ~~appeals~~ **makes a request** after August 1 of a year for permission to borrow money;

(2) receives permission from the county fiscal body to borrow money; and

(3) borrows money in the year of the appeal under IC 12-1-11.5 (before its repeal) or this chapter;

the county auditor shall levy a property tax beginning in the second year following the year of the appeal and continuing for the term of the loan.

(b) The property tax levied under subsection (a) must be in an amount each year that will be sufficient to pay the principal and interest due on the loan for the year.

(c) The levy under this section shall be retained by the county treasurer and applied by the county auditor to retire the debt.

SECTION 54. IC 12-19-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) As used in this section, "indirect cost" means a cost that is not directly traceable to a particular activity undertaken in the administration of the following:

(1) The federal Food Stamp program (7 U.S.C. 2011 et seq.).

(2) The federal Aid to Families with Dependent Children program (42 U.S.C. 601 et seq.).

(3) The federal Child Support Enforcement Act (42 U.S.C. 651 et seq.).

(b) The division **and the department** shall pay to each county the money paid to the state as reimbursement for the indirect costs incurred by the county and the county office.

SECTION 55. IC 12-19-7-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. (a) The division of family ~~and children~~ **resources** may transfer any of the following to a county family and children's fund:

(1) Money transferred under P.L.273-1999, SECTION 126, to the division from a county welfare fund on or after July 1, 2000, without regard to the county from which the money was transferred.

(2) Money appropriated to the division **or department** for any of the following:

(A) Assistance awarded by a county to a destitute child under IC 12-17-1.

(B) Child welfare services as described in IC 12-17-3.

(C) Any other services for which the expenses were paid from a county welfare fund before January 1, 2000.

(b) Money transferred under subsection (a)(1) or (a)(2) must be used for purposes described in subsection (a)(2).

SECTION 56. IC 12-19-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A family and children's fund is established in each county. The fund shall be raised by a separate tax levy (the county family and children property tax levy) that:

(1) is in addition to all other tax levies authorized; and

(2) shall be levied annually by the county fiscal body on all taxable property in the county in the amount necessary to raise the part of the fund that the county must raise to pay the items, awards, claims, allowances, assistance, and other expenses set forth in the annual budget under section 6 of this chapter.

(b) The tax imposed under this section shall be collected as other state and county ad valorem taxes are collected.

(c) The following shall be paid into the county treasury and constitute the family and children's fund:

(1) All receipts from the tax imposed under this section.

(2) All grants-in-aid, whether received from the federal government or state government.

(3) Any other money required by law to be placed in the fund.

(d) The fund is available for the purpose of paying expenses and obligations set forth in the annual budget that is submitted and approved.

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

SECTION 57. IC 12-19-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) For taxes first due and payable in each year after ~~2003,~~ **2005,** each county shall impose a county family and children property tax levy equal to the ~~product of:~~

~~(1) the~~ county family and children property tax levy ~~imposed for taxes first due and payable in the preceding year, as that levy was determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17 and after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to the levy for the calendar year, multiplied by~~

~~(2) the greater of:~~

~~(A) the county's assessed value growth quotient for the~~

~~ensuing calendar year, as determined under IC 6-1.1-18.5-2;~~
~~or~~
~~(B) one (1).~~
~~When a year in which a statewide general reassessment of real property first becomes effective is the year preceding the year that the property tax levy under this subsection will be first due and payable, the amount to be used in subdivision (2) equals the average of the amounts used in determining the two (2) most recent adjustments in the county's levy under this section. If the amount levied in a particular year exceeds the amount necessary to cover the costs payable from the fund, the levy in the following year shall be reduced by the amount of surplus money.~~ **necessary to pay the costs of the child services of the county for the next fiscal year.**

(b) The department of local government finance shall review each county's property tax levy under this section and shall enforce the requirements of this section with respect to that levy **and comply with IC 6-1.1-17-3.**

SECTION 58. IC 12-19-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The ~~county director,~~ **department,** upon the advice of the judges of the courts with juvenile jurisdiction in the county **and after consulting with the division of family resources,** shall annually compile and adopt a child services budget, which must be in a form prescribed by the state board of accounts. ~~The budget may not exceed the levy limitation set forth in IC 6-1.1-18.6.~~

(b) The budget must contain an estimate of the amount of money that will be needed by the ~~county office~~ **department** during the ~~fiscal~~ **ensuing** year to defray the expenses and obligations incurred by the ~~county office~~ **department** in the payment of services for children adjudicated to be children in need of services or delinquent children and other related services, but not including the payment of AFDC.

SECTION 59. IC 12-19-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. ~~(a)~~ The ~~county director~~ **department** shall, with the assistance of the judges of courts with juvenile jurisdiction in the county, **after consulting with the division of family resources,** and at the same time the budget is compiled and adopted, ~~recommend to the division~~ **compute** the tax levy that the ~~director~~ **department** and judges determine will be required to raise the amount of revenue necessary to pay the expenses and obligations of the ~~county office~~ **department** set forth in the budget under section 6 of this chapter. ~~However, the tax levy may not exceed the maximum permissible levy set forth in IC 6-1.1-18.6 and the budget may not exceed the levy limitation set forth in IC 6-1.1-18.~~

~~(b) After the county budget has been compiled, the county director shall submit a copy of the budget and the tax levy recommended by the county director and the judges of courts with juvenile jurisdiction in the county to the division. The division shall examine the budget and the tax levy for the purpose of determining whether, in the judgment of the division:~~

~~(1) the appropriations requested in the budget will be adequate to defray the expenses and obligations incurred by the county office in the payment of child services for the next fiscal year; and~~

~~(2) the tax levy recommended will yield the amount of the appropriation set forth in the budget.~~

SECTION 60. IC 12-19-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. The budget ~~finally approved~~ and the tax levy recommended by the ~~division~~ **department** shall be:

(1) certified to the county ~~office;~~ **auditor;** ~~and~~

(2) filed for consideration by the county fiscal body; **and**

(3) filed with the department of local government finance.

SECTION 61. IC 12-19-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. In September of each year, at the time provided by law, the county fiscal body shall do the following:

(1) Make the appropriations out of the family and children's fund that are:

(A) based on the budget as submitted; and

(B) necessary to ~~maintain~~ **pay** the child services of the county for the next fiscal year. ~~subject to the maximum levy set forth in IC 6-1.1-18.6.~~

(2) Levy a tax in an amount necessary to produce the appropriated money.

SECTION 62. IC 12-19-7-11.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11.1. (a) The judges of the courts with juvenile jurisdiction in the county and the ~~county director~~ **department** shall meet with the county fiscal body at a public meeting:

(1) in April; and

(2) after June 30 and before October 1;

in each year.

(b) At a meeting required in subsection (a), the ~~county director~~ **department** shall present to the county fiscal body and the judges the following reports:

(1) Expenditures made:

(A) during the immediately preceding calendar quarter from the family and children's fund in comparison to one-fourth (1/4) of the budget and appropriations approved by the county fiscal body for the calendar year; and

(B) from the fund in the corresponding calendar quarter of each of the two (2) preceding calendar years.

(2) Obligations incurred through the end of the immediately preceding calendar quarter that will be payable from the family and children's fund during the remainder of the calendar year or in any subsequent calendar year.

(3) The number of children, by category, for whom the family and children's fund was required to provide funds for services during the immediately preceding calendar quarter, in comparison to the corresponding calendar quarter of each of the two (2) preceding calendar years.

(4) The number and type of out-of-home placements, by category, for which the family and children's fund was required to provide funds for foster home care or institutional placement, and the average daily, weekly, or monthly cost of out of home placement care and services by category, during the immediately preceding calendar quarter, in comparison to the corresponding calendar quarter of each of the two (2) preceding calendar years.

(5) The number of children, by category, for whom the family and children's fund was required to provide funds for services for children residing with the child's parent, guardian, or custodian (other than foster home or institutional placement), and the average monthly cost of those services, during the immediately preceding calendar quarter, in comparison to the corresponding calendar quarter for each of the two (2) preceding calendar years.

(c) In preparing the reports described in subsection (b), the ~~county director~~ **department** may use the best information reasonably available from the records of the ~~county office~~ **department** and the county family and children's fund. ~~for calendar years before 1998.~~

(d) At each meeting described in subsection (a), the county fiscal body, judges, and ~~county director~~ **department** may:

(1) discuss and suggest procedures to provide child welfare services in the most effective and cost-efficient manner; and

(2) consider actions needed, including revision of budgeting procedures, to eliminate or minimize any anticipated need for short term borrowing for the family and children's fund under any provisions of this chapter or IC 12-19-5.

SECTION 63. IC 12-19-7-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) If at any time the ~~county director~~ **department** determines that the family and children's fund is exhausted or will be exhausted before the close of a fiscal year, the ~~county director~~ **department** shall prepare an estimate and statement showing the amount of money, in addition to the money already made available, that will be necessary to defray the expenses of the ~~county office~~ **department** and pay the obligations of the ~~county office,~~ **department,** excluding administrative expenses and facilities, supplies, and equipment expenses for the ~~county office,~~ **department,** in the administration of the ~~county office's~~ **department's** activities for the unexpired part of the fiscal year.

(b) The ~~county director~~ **department** shall do the following:

(1) Certify the estimate and statement to the county executive.

(2) File the estimate and statement with the county auditor.

(3) File the estimate and statement with the department of local government finance.

SECTION 64. IC 12-19-7-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) The county executive shall consider and act upon an estimate and statement under section 15 of this chapter at:

(1) the county executive's regular session immediately following the filing of the estimate and statement; or

(2) a special session that is:

(A) called for the purpose of considering and acting upon the estimate and statement; and

(B) called before the executive's regular session described in subdivision (1).

(b) The county executive shall, for and on behalf of the county, borrow sufficient money to carry out the purposes described in section 15 of this chapter if after consideration of the estimate and statement the county executive finds the following:

(1) That the ~~county director~~ **department** has not ~~appealed~~ **certified a recommendation** to borrow money under IC 12-19-5. ~~or that the appeal has been denied.~~

(2) That the amount of money required, in addition to any money already available, to defray the expenses and pay the obligations of the ~~county office~~ **department** in the administration of the county's child services for the unexpired part of the fiscal year, is greater than the amount of money that may be advanced from the general fund of the county.

(c) If the county executive fails to borrow sufficient money to carry out the purposes under section 15 of this chapter either under this chapter or IC 12-19-5, the department may appeal to the department of local government finance for a determination. A copy of the appeal must be filed with the county fiscal body. The department of local government finance shall immediately conduct a hearing in the county on an appeal filed under this subsection. If the department determines that insufficient money is available to carry out the purposes under section 15 of this chapter, the department of local government finance shall issue an appropriate order. The order may allow the county to reduce its general fund budget and transfer sufficient money to the fund or require the county to borrow money for the fund to carry out the purposes under section 15 of this chapter.

SECTION 65. IC 12-19-7-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) Before making a loan under section 16 of this chapter, the county executive shall record a finding that the amount of money that will be required is greater than the amount of money that may be advanced from the general fund of the county. The finding must:

(1) set forth the estimated requirements of the ~~county office;~~ **department;** and

(2) direct the county auditor to call the county fiscal body into special session for the purpose of considering the making of the loan.

(b) In the notice of the special session of the county fiscal body, the auditor shall include a statement of the estimated amount of the proposed loan.

SECTION 66. IC 12-19-7-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. An ordinance adopted by the county fiscal body authorizing a loan under this chapter must do the following:

(1) Authorize the issuance of the bonds of the county to evidence the loan.

(2) Fix the following:

(A) The loan's maximum amount, which may be less than the amount shown by the estimate of the ~~county director.~~ **department.**

(B) The number of semiannual series in which the bonds are payable, which may not exceed twenty (20).

SECTION 67. IC 12-19-7.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. As used in this chapter, "private psychiatric residential treatment facility" means a privately owned and operated facility that:

(1) provides inpatient treatment to individuals less than twenty-one (21) years of age for mental health conditions;

(2) is licensed or certified by:

(A) the ~~division of family and children;~~ **department;** or

(B) the division of mental health and addiction;

to provide children's psychiatric residential treatment services; and

(3) is enrolled in the state Medicaid program as a provider eligible to provide children's psychiatric residential treatment services.

SECTION 68. IC 12-19-7.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A children's psychiatric residential treatment services fund is established in each county. The fund shall be raised by a separate tax levy (the county children's psychiatric residential treatment services property tax levy) that:

(1) is in addition to all other tax levies authorized; and

(2) shall be levied annually by the county fiscal body on all taxable property in the county in the amount necessary to raise the part of the fund that the county must raise to pay the items, awards, claims, allowances, assistance, and other expenses set forth in the annual budget under section 8 of this chapter.

(b) The tax imposed under this section shall be collected as other state and county ad valorem taxes are collected.

(c) The following shall be paid into the county treasury and constitute the children's psychiatric residential treatment services fund:

(1) All receipts from the tax imposed under this section.

(2) All grants-in-aid, whether received from the federal government or state government.

(3) Any other money required by law to be placed in the fund.

(d) The fund is available for the purpose of paying expenses and obligations set forth in the annual budget that is submitted and approved.

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

SECTION 69. IC 12-19-7.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. ~~(a) For taxes first due and payable in 2004, each county must impose a county children's psychiatric residential services property tax levy equal to the amount determined using the following formula:~~

~~STEP ONE: Determine the sum of the amounts that were paid by the county minus the amounts reimbursed by the state (including reimbursements made with federal money), as determined by the state board of accounts in 2000, 2001, and 2002 for payments to facilities licensed under 470 IAC 3-13 for services that were made on behalf of the children and for which payment was made from the county family and children fund, or five percent (5%) of the average family and children budget, as determined by the department of local government finance in 2000, 2001, and 2002, whichever is greater.~~

~~STEP TWO: Subtract from the amount determined in STEP ONE the sum of the miscellaneous taxes that were allocated to the county family and children fund and used to pay the costs for providing services in facilities licensed under 470 IAC 3-13 in 2000, 2001, and 2002.~~

~~STEP THREE: Divide the amount determined in STEP TWO by three (3).~~

~~STEP FOUR: Calculate the STEP ONE amount and the STEP TWO amount for 2002 expenses only.~~

~~STEP FIVE: Adjust the amounts determined in STEP THREE and STEP FOUR by the amount determined by the department of local government finance under subsection (c).~~

~~STEP SIX: Determine whether the amount calculated in STEP THREE, as adjusted in STEP FIVE, or the amount calculated in STEP FOUR, as adjusted in STEP FIVE, is greater. Multiply the greater amount by the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the county for property taxes first due and payable in 2003.~~

~~STEP SEVEN: Multiply the amount determined in STEP SIX by the county's assessed value growth quotient for property taxes first due and payable in 2004, as determined under IC 6-1.1-18.5-2.~~

~~(b)~~ **(a)** For taxes first due and payable in each year after ~~2004,~~ **2005,** each county shall impose a county children's psychiatric residential treatment services property tax levy equal to the ~~product of:~~

~~(1)~~ ~~the~~ county children's psychiatric residential treatment

services property tax levy ~~imposed for taxes first due and payable in the preceding year, as that levy was determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17 and after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to the levy for the calendar year, multiplied by~~

~~(2) the greater of:~~

~~(A) the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2; or~~

~~(B) one (1).~~

~~When a year in which a statewide general reassessment of real property first becomes effective is the year preceding the year that the property tax levy under this subsection will be first due and payable, the amount to be used in subdivision (2) equals the average of the amounts used in determining the two (2) most recent adjustments in the county's levy under this section. If the amount levied in a particular year exceeds the amount necessary to cover the costs payable from the fund, the levy in the following year shall be reduced by the amount of surplus money.~~

~~(c) For taxes first due and payable in 2004, the department of local government finance shall adjust the levy for each county to reflect the county's actual expenses incurred in providing services to children in facilities licensed under 470 IAC 3-13 in 2000, 2001, and 2002. In making this adjustment, the department of local government finance may consider all relevant information, including the county's use of bond and loan proceeds to pay these expenses.~~ **necessary to pay the costs of children's psychiatric residential treatment services of the county for the next fiscal year.**

~~(d)~~ **(b)** The department of local government finance shall review each county's property tax levy under this section and shall enforce the requirements of this section with respect to that levy.

SECTION 70. IC 12-19-7.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) For purposes of this section, "expenses and obligations incurred by the ~~county office"~~ **department"** include all anticipated costs of children's residential psychiatric services that are equal to the state share of the cost of those services that are reimbursable under the state Medicaid plan.

(b) The ~~county director,~~ **department,** upon the advice of the judges of the courts with juvenile jurisdiction in the county **and after consulting with the division of family resources,** shall annually compile and adopt a children's psychiatric residential treatment services budget, which must be in a form prescribed by the state board of accounts. ~~The budget may not exceed the levy limitation set forth in IC 6-1.1-18.6.~~

(c) The budget must contain an estimate of the amount of money that will be needed by the ~~county office~~ **department** during the fiscal year to defray the expenses and obligations incurred by the ~~county office~~ **department** in the payment of children's psychiatric residential treatment services for children who are residents of the county.

SECTION 71. IC 12-19-7.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. ~~(a)~~ The ~~county director~~ **department** shall, with the assistance of the judges of courts with juvenile jurisdiction in the county, **after consulting with the division of family resources,** and at the same time the budget is compiled and adopted, ~~recommend to the division~~ **compute** the tax levy that the director and judges determine will be required to raise the amount of revenue necessary to pay the expenses and obligations of the county office set forth in the budget under section 8 of this chapter. ~~However, the tax levy may not exceed the maximum permissible levy set forth in IC 6-1.1-18.6, and the budget may not exceed the levy limitation set forth in IC 6-1.1-18.~~

~~(b) After the county budget has been compiled, the county director shall submit a copy of the budget and the tax levy recommended by the county director and the judges of courts with juvenile jurisdiction in the county to the division. The division shall examine the budget and the tax levy for the purpose of determining whether, in the judgment of the division:~~

~~(1) the appropriations requested in the budget will be adequate to defray the expenses and obligations incurred by the county office in the payment of children's psychiatric residential treatment services for the next fiscal year; and~~

~~(2) the tax levy recommended will yield the amount of the appropriation set forth in the budget.~~

SECTION 72. IC 12-19-7.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. The budget ~~finally approved and the tax levy~~ **and tax levy** recommended by the ~~division~~ **department** shall be:

(1) certified to the county ~~office, and~~ **auditor;**

(2) filed ~~for consideration by~~ **with** the county fiscal body; **and**

(3) filed with the department of local government finance.

SECTION 73. IC 12-19-7.5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. In September of each year, at the time provided by law, the county fiscal body shall do the following:

(1) Make the appropriations out of the children's psychiatric residential treatment services fund that are:

(A) based on the budget as submitted; and

(B) necessary to ~~maintain~~ **pay** the children's psychiatric residential treatment services of the county for the next fiscal year. ~~subject to the maximum levy set forth in IC 6-1.1-18.6.~~

(2) Levy a tax in an amount necessary to produce the appropriated money.

SECTION 74. IC 12-19-7.5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) If at any time the ~~county director~~ **department** determines that the children's psychiatric residential treatment services fund is exhausted or will be exhausted before the close of a fiscal year, the ~~county director~~ **department** shall prepare an estimate and statement showing the amount of money, in addition to the money already made available, that will be necessary to defray the expenses of the county office and pay the obligations of the ~~county office,~~ **department,** excluding administrative expenses and facilities, supplies, and equipment expenses for the ~~county office,~~ **department,** in the administration of the ~~county office's~~ **department's** activities for the unexpired part of the fiscal year.

(b) The ~~county director~~ **department** shall do the following:

(1) Certify the estimate and statement to the county executive.

(2) File the estimate and statement with the county auditor.

(3) File the estimate and statement with the department of local government finance.

SECTION 75. IC 12-19-7.5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) The county executive shall consider and act upon an estimate and statement under section 14 of this chapter at:

(1) the county executive's regular session immediately following the filing of the estimate and statement; or

(2) a special session that is:

(A) called for the purpose of considering and acting upon the estimate and statement; and

(B) called before the executive's regular session described in subdivision (1).

(b) The county executive shall, for and on behalf of the county, borrow sufficient money to carry out the purposes described in section 14 of this chapter if after consideration of the estimate and statement the county executive finds the following:

(1) That the ~~county director~~ **department** has not ~~appealed~~ **certified a recommendation** to borrow money under IC 12-19-5. ~~or that the appeal has been denied.~~

(2) That the amount of money required, in addition to any money already available, to defray the expenses and pay the obligations of the county office in the administration of the county's children's psychiatric residential treatment services for the unexpired part of the fiscal year is greater than the amount of money that may be advanced from the general fund of the county.

(c) If the county executive fails to borrow sufficient money to carry out the purposes under section 14 of this chapter either under this chapter or IC 12-19-5, the department may appeal to the department of local government finance for a determination. A copy of the appeal must be filed with the county fiscal body. The department of local government finance shall immediately conduct a hearing in the county on an appeal filed under this

subsection. If the department determines that insufficient money is available to carry out the purposes under section 14 of this chapter, the department of local government finance shall issue an appropriate order. The order may allow the county to reduce its general fund budget and transfer sufficient money to the fund or require the county to borrow money for the fund to carry out the purposes under section 14 of this chapter.

SECTION 76. IC 12-19-7.5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. An ordinance adopted by the county fiscal body authorizing a loan under this chapter must do the following:

(1) Authorize the issuance of the bonds of the county to evidence the loan.

(2) Fix the following:

(A) The loan's maximum amount, which may **not** be less than the amount shown by the estimate of the ~~county director.~~ **department.**

(B) The number of semiannual series in which the bonds are payable, which may not exceed twenty (20).

SECTION 77. IC 12-19-7.5-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 33. (a) A county auditor shall annually, not before January 1 and not later than March 31, determine the amount of any excess funds available in the county children's psychiatric treatment services fund based on the following formula:

STEP ONE: Determine the ending cash balance in the fund ~~in~~ **for** the preceding fiscal year.

STEP TWO: Calculate one-half **(½)** of the actual cost of providing children's psychiatric treatment services **for the preceding fiscal year.**

STEP THREE: Subtract the amount determined in STEP TWO from the amount determined in STEP ONE.

~~(b) The county auditor shall transfer the amount determined in subsection (a) STEP THREE, if any, from the county children's psychiatric treatment services fund to the county general fund to be used to pay for the part of the care and maintenance of the inmates of the Plainfield juvenile correctional facility and the Indianapolis juvenile correctional facility that is charged back to the counties.~~

(b) If the county has a debt for juvenile per diem under IC 11-10-2-3, as determined by the budget agency, the lesser of the amount determined in subsection (a) STEP THREE or the actual debt shall be paid to the state within forty-five (45) days. If the county does not have juvenile debt, the funds remain in the children's psychiatric residential treatment services fund. Funds remaining in the children's psychiatric residential treatment services fund will be considered excess and used to reduce the succeeding year's levy.

SECTION 78. IC 12-24-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A superintendent who receives a written report of an alleged violation of section 3 of this chapter shall begin an investigation within twenty-four (24) hours after receipt of the written report.

(b) In accordance with IC 31-33, the superintendent shall report the alleged violation of section 3 of this chapter to either of the following:

(1) The ~~local~~ **department of** child ~~protection service established within the county office~~ **services** if the alleged victim is less than eighteen (18) years of age.

(2) The adult protective services unit designated under IC 12-10-3 if the alleged victim is at least eighteen (18) years of age.

SECTION 79. IC 20-19-5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 5. Children's Social, Emotional, and Behavioral Health Plan

Sec. 1. The department of education, in cooperation with the department of child services, the department of correction, and the division of mental health and addiction, shall:

(1) develop and coordinate the children's social, emotional, and behavioral health plan that is to provide recommendations concerning:

(A) comprehensive mental health services;

(B) early intervention; and

(C) treatment services;

for individuals from birth through twenty-two (22) years of age;

(2) make recommendations to the state board, which shall adopt rules under IC 4-22-2 concerning the children's social, emotional, and behavioral health plan; and

(3) conduct hearings on the implementation of the plan before adopting rules under this chapter.

Sec. 2. The children's social, emotional, and behavioral health plan shall recommend:

(1) procedures for the identification and assessment of social, emotional, and mental health issues;

(2) procedures to assist a child and the child's family in obtaining necessary services to treat social, emotional, and mental health issues;

(3) procedures to coordinate provider services and interagency referral networks for an individual from birth through twenty-two (22) years of age;

(4) guidelines for incorporating social, emotional, and behavioral development into school learning standards and education programs;

(5) that social, emotional, and mental health screening be included as a part of routine examinations in schools and by health care providers;

(6) procedures concerning the positive development of children, including:

(A) social, emotional, and behavioral development;

(B) learning; and

(C) behavioral health;

(7) plans for creating a children's social, emotional, and behavioral health system with shared accountability among state agencies that will:

(A) conduct ongoing needs assessments;

(B) use outcome indicators and benchmarks to measure progress; and

(C) implement quality data tracking and reporting systems;

(8) a state budget for children's social, emotional, and mental health prevention and treatment;

(9) how state agencies and local entities can obtain federal funding and other sources of funding to implement a children's social, emotional, and behavioral health plan;

(10) how to maintain and expand the workforce to provide mental health services for individuals from birth through twenty-two (22) years of age and families;

(11) how employers of mental health professionals may:

(A) improve employee job satisfaction; and

(B) retain employees;

(12) how to facilitate research on best practices and model programs for children's social, emotional, and behavioral health;

(13) how to disseminate research and provide training and educational materials concerning the children's social, emotional, and behavioral health program to:

(A) policymakers;

(B) practitioners; and

(C) the general public; and

(14) how to implement a public awareness campaign to:

(A) reduce the stigma of mental illness; and

(B) educate individuals:

(i) about the benefits of children's social, emotional, and behavioral development; and

(ii) how to access children's social, emotional, and behavioral development services.

SECTION 80. IC 25-11-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter, unless the context otherwise requires:

(a) The term "person" means any individual, firm, partnership, limited liability company, or corporation.

(b) The term "collection agency" means and includes all persons engaging directly or indirectly and as a primary or secondary object, business, or pursuit, in soliciting claims for collection, or in the collection of claims owed or due or asserted to be owed or due to another, **including child support arrearages under IC 12-17-2.** The

term "collection agency" also means and includes, but shall not be limited to, any person who sells, furnishes, or maintains a letter or written demand service, including stickers or coupon books, designed for the purpose of making demand on any debtor on behalf of any creditor for the payment of any claim wherein the person furnishing or maintaining such letter or written demand service, including stickers or coupon books, shall sell such services for a stated amount or for a percentage of money collected whether paid to the creditor or to the collection agency, or where such services may be rendered as a part of a membership in such collection agency regardless of whether or not a separate fee or percentage is charged. The term "collection agency" shall also include, but not be limited to, any individual, firm, partnership, limited liability company, or corporation who uses a fictitious name, or any name other than the individual's or entity's name, in the collection of accounts receivable with the intention of conveying to the debtor that a third person has been employed.

(c) The term "claim" means any obligation for the payment of money or its equivalent and any sum or sums owed or due or asserted to be owed or due to another, for which any person may be employed to demand payment and to collect or enforce payment thereof. The term "claim" also includes obligations for the payment of money in the form of conditional sales agreements, notwithstanding that the personal property sold thereunder, for which payment is claimed, may be or is repossessed in lieu of payment.

SECTION 81. IC 31-9-2-22.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 22.5. "Conduct a criminal history check", for purposes of IC 12-14-25.5, IC 31-19, IC 31-33, IC 31-34, IC 31-37, and IC 31-39-2-13.5, means to:**

(1) request the state police department to:

(A) release or allow inspection of a limited criminal history (as defined in IC 10-13-3-11) and juvenile history data (as defined in IC 10-13-4-4) concerning a person who is currently residing in a location designated by the department of child services or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location; and

(B) conduct a:

(i) national fingerprint based criminal history background check in accordance with IC 10-13-3-39; or

(ii) national name based criminal history record check (as defined in IC 10-13-3-12.5) of a person described in clause (A) as provided by IC 10-13-3-27.5; and

(2) collect each:

(A) substantiated report of child abuse or neglect reported in a jurisdiction where a probation officer, a caseworker, or the department of child services has reason to believe that a person described in subdivision (1)(A) resided; and

(B) adjudication for a delinquent act described in IC 31-37-1-2 reported in a jurisdiction where a probation officer, a caseworker, or the department of child services has reason to believe a person described in subdivision (1)(A) resided.

SECTION 82. IC 31-9-2-38.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 38.5. "Department", for purposes of IC 31-19, IC 31-33, IC 31-34, and IC 31-40, has the meaning set forth in IC 31-33-1.5-1.**

SECTION 83. IC 31-9-2-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 40. "Director", for purposes of IC 31-33, IC 31-34, and IC 31-37, refers to the director of the ~~division of family and children.~~ **department of child services.**

SECTION 84. IC 31-9-2-130 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 130. "Title IV-D agency" means:

~~(1) the child support bureau created within the division of family and children as the single state agency to administer the child support provisions of Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669);~~

(1) the bureau of child support established in the department of child services established by IC 31-33-1.5-8; or

(2) a designated agent of the ~~bureau~~ **department** described in subdivision (1).

SECTION 85. IC 31-16-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) In a proceeding under IC 31-14 or IC 31-16-2 through IC 31-16-12 to establish, modify, or enforce a child support order, the court shall:

(1) enter an order for immediate income withholding; and

(2) modify any previously issued income withholding order that has not been activated under this chapter to provide for immediate income withholding.

(b) The court shall issue the income withholding order to the income payor not later than fifteen (15) calendar days after the court's determination.

(c) The income withholding order must order income payors to send to the ~~clerk of the court~~ **state central collection unit** or other person specified in the support order under:

(1) IC 31-14-11-11;

(2) IC 31-16-4; or

(3) IC 31-16-9;

the amount of income established by the court for child support at the time the order for child support is established, enforced, or modified.

(d) However, the court shall issue an income withholding order that will not become activated except upon the occurrence of the two (2) conditions described in section 2 of this chapter if:

(1) the parties submit a written agreement providing for an alternative child support arrangement; or

(2) the court determines that good cause exists not to require immediate income withholding.

(e) A finding of good cause under subsection (d)(2) must:

(1) be written; and

(2) include:

(A) all reasons why immediate income withholding is not in the best interests of the child; and

(B) if the case involves a modification of support, a statement that past support has been timely paid.

(f) The income withholding order must contain a statement that if the withholding order is activated, income payors will be ordered to send to the ~~clerk of the court~~ **state central collection unit** or other person specified in the support order under:

(1) IC 31-14-11-11;

(2) IC 31-16-4; or

(3) IC 31-16-9;

the amount of income established by the court for child support.

SECTION 86. IC 31-16-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) This section applies to the implementation of income withholding under an order issued under sections 1 and 3 of this chapter.

(b) If the Title IV-D agency or the court becomes aware that the obligor has an income payor to whom a notice has not been sent under subsection (c) or an income payor to whom notice of delinquent support has not been sent under subsection (c):

(1) the Title IV-D agency in a case arising under Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669); or

(2) the court;

shall not later than fifteen (15) calendar days after becoming aware of an income payor send a written notice to the income payor that the withholding is binding on the income payor.

(c) The notice to an income payor under this section must contain a statement of the following:

(1) That the income payor is required to withhold a certain amount of income from the obligor.

(2) That the total amount to be withheld under court order by the obligor's income payor from the obligor's income is the sum of:

(A) the obligor's current child support obligation;

(B) an amount to be applied toward the liquidation of any arrearages; and

(C) an optional fee of two dollars ($2), which is payable to and imposed at the option of the income payor, each time the income payor forwards income to the ~~clerk of the court~~ **state central collection unit** or other person specified in the

notice;

up to the maximum amount permitted under 15 U.S.C. 1673(b).

(3) That the income payor shall:

(A) forward the withheld income described in subdivision (2)(A) and (2)(B) to the ~~clerk of the court~~ **state central collection unit** or other person named in the notice at the same time that the obligor is paid; and

(B) include a statement identifying:

(i) each cause number;

(ii) the name of each obligor; and

(iii) the name of each payee with the withheld income forwarded by the income payor.

(4) That withholding is binding upon the income payor until further notice from a Title IV-D agency.

(5) That the obligor may recover from the income payor in a civil action an amount not less than one hundred dollars ($100) if the income payor:

(A) discharges the obligor from employment;

(B) refuses the obligor employment; or

(C) disciplines the obligor;

solely because the income payor is required to forward income under this chapter.

(6) That the income payor is liable for any amount that the income payor fails to forward under this chapter.

(7) That withholding under this chapter has priority over any secured or unsecured claim on income except claims for federal, state, and local taxes.

(8) That, if the income payor is required to withhold income from more than one (1) obligor, the income payor may:

(A) combine in a single payment the withheld amounts for all obligors who have been ordered to pay the ~~same clerk~~ **state central collection unit** or other governmental agency; and

(B) separately identify the part of the single payment that is attributable to each individual obligor.

(9) That if:

(A) there is more than one (1) order for withholding against a single obligor; and

(B) the obligor has insufficient disposable earnings to pay the amount required by all the orders;

the income payor shall distribute the withheld earnings pro rata among the entities entitled to receive earnings under the orders, giving priority to a current support withholding order. The income payor shall honor all withholdings to the extent that the total amount withheld does not exceed the limits imposed under 15 U.S.C. 1673(b).

(10) That the income payor shall implement withholding not later than the first pay date after fourteen (14) days following the date the notice was received.

(11) That the income payor shall:

(A) notify:

(i) the Title IV-D agency if the Title IV-D agency gives the notice under this section; or

(ii) the court if the court gives the notice under this section;

when the obligor ceases employment or no longer receives income not later than ten (10) days after the employment or income ceases; and

(B) provide:

(i) the obligor's last known address; and

(ii) the name and address of the obligor's new income payor, if known.

SECTION 87. IC 31-16-15-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Whenever an income withholding order is to be:

(1) activated in a case arising under section 5 of this chapter; or

(2) implemented by a Title IV-D agency under section 3 of this chapter despite the absence of a withholding order in the support order;

the Title IV-D agency shall send a written notice to the obligor.

(b) The notice required under subsection (a) must contain a statement of the following:

(1) Whether the obligor is delinquent in the payment of child support.

(2) The amount of child support, if any, that the obligor is in arrears.

(3) That a certain amount of income is to be:

(A) withheld under court order or action by the Title IV-D agency from the obligor's income; and

(B) forwarded to the ~~clerk of the court.~~ **state central collection unit or other person named in the notice.**

(4) That the total amount to be withheld under court order or action by the Title IV-D agency by the obligor's income payor from the obligor's income is the sum of:

(A) the obligor's current monthly child support obligation;

(B) an amount to be applied toward the liquidation of any arrearages; and

(C) an optional fee of two dollars ($2), which is payable to and imposed at the option of the income payor, each time the income payor forwards income to the clerk of the court or other person specified in the notice to the income payor under this chapter;

up to the maximum amount permitted under 15 U.S.C. 1673(b).

(5) That the provision for withholding applies to the receipt of any current or subsequent income.

(6) That the only basis for contesting activation of income withholding is a mistake of fact.

(7) That an obligor may contest the Title IV-D agency's determination to activate income withholding by making written application to the Title IV-D agency not later than twenty (20) days after the date the notice is mailed.

(8) That if the obligor contests the Title IV-D agency's determination to activate the income withholding order, the Title IV-D agency shall schedule an administrative hearing.

(9) That if the obligor does not contest the Title IV-D agency's determination to activate the income withholding order, the Title IV-D agency will activate income withholding.

(10) That income withholding will continue until a court or the Title IV-D agency terminates activation of income withholding.

SECTION 88. IC 31-16-15-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) If a petition to activate an income withholding order is filed under section 6(2) or 6(3) of this chapter, the court shall set a date for a hearing on the petition that is not later than twenty (20) days after the date the petition is filed. The court shall send a summons and a written notice to the obligor. The notice must contain a statement of the following:

(1) Whether the obligor is delinquent in the payment of child support.

(2) The amount of child support, if any, that the obligor is in arrears.

(3) That a certain amount for the payment of current and past due child support is to be withheld each month from the obligor's income and forwarded to the ~~clerk of the court.~~ **state central collection unit or other person named in the notice.**

(4) That the total amount to be withheld each month by the obligor's income payor from the obligor's income is the sum of:

(A) the obligor's current monthly child support obligation;

(B) an amount to be applied toward the liquidation of any arrearages; and

(C) an optional fee of two dollars ($2), which is payable to and imposed at the option of the income payor, each time the income payor forwards income to the ~~clerk of the court,~~ **state central collection unit or other person named in the notice;**

up to the maximum amount permitted under 15 U.S.C. 1673(b).

(5) That the provision for withholding applies to receipt of any current or subsequent income.

(6) That any of the following constitutes a basis for contesting the withholding:

(A) A mistake of fact.

(B) The parties have submitted a written agreement providing for an alternative child support arrangement.

(C) A court determines that good cause exists not to require immediate income withholding.

(7) That income withholding will continue until the activation of the income withholding order is terminated by the court.

(8) That if the obligor does not appear at the hearing, the court

will activate the income withholding order.

(b) If:

(1) the obligor does not appear at the hearing on the petition filed under section 6(2) or 6(3) of this chapter; or

(2) the court grants the petition;

the court shall activate the income withholding order by mailing a written notice to the income payor as provided in section 10 of this chapter.

SECTION 89. IC 31-16-15-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) To activate or implement an income withholding order, in addition to the notice requirements imposed by sections 7 and 8 of this chapter:

(1) the Title IV-D agency in a case arising under section 3 or 5 of this chapter; or

(2) the court in a case arising under section 6 of this chapter;

shall mail a written notice to each income payor not later than fifteen (15) calendar days after the issuance of the income withholding order.

(b) The notice to each income payor must contain a statement of the following:

(1) That the income payor is required to withhold a certain amount of income from the obligor.

(2) That the total amount to be withheld each month by the obligor's income payor from the obligor's income is the sum of:

(A) the obligor's current monthly child support obligation;

(B) an amount to be applied toward the liquidation of any arrearages; and

(C) an optional fee of two dollars ($2), which is payable to and imposed at the option of the income payor, each time the income payor forwards income to the ~~clerk of the court,~~ **state central collection unit or other person named in the notice;**

up to the maximum amount permitted under 15 U.S.C. 1673(b).

(3) That the income payor shall:

(A) forward the withheld income described in subdivision (2)(A) and (2)(B) to the ~~clerk of the court or the~~ state central collection unit **or other person** named in the notice at the same time that the obligor is paid; and

(B) include a statement identifying:

(i) each cause number;

(ii) the Indiana support enforcement tracking system (ISETS) case number;

(iii) the name of each obligor; ~~and~~

(iv) the name of each payee with the withheld income forwarded by the income payor; **and**

(v) the obligor's Social Security number.

(4) That withholding is binding upon the income payor until further notice.

(5) That the obligor may recover from the income payor in a civil action an amount not less than one hundred dollars ($100) if the income payor:

(A) discharges the obligor from employment;

(B) refuses the obligor employment; or

(C) disciplines the obligor;

because the income payor is required to forward income under this chapter.

(6) That the income payor is liable for any amount that the income payor fails to forward under this chapter.

(7) That withholding under this chapter has priority over any secured or unsecured claim on income except claims for federal, state, and local taxes.

(8) That, if the income payor is required to withhold income from more than one (1) obligor, the income payor may:

(A) combine in a single payment the withheld amounts for all obligors who have been ordered to pay the ~~same clerk~~ **state central collection unit** or other governmental agency; and

(B) separately identify the part of the single payment that is attributable to each individual obligor.

(9) That if:

(A) there is more than one (1) order for withholding against a single obligor; and

(B) the obligor has insufficient disposable earnings to pay the amount required by all the orders;

the income payor shall distribute the withheld earnings pro rata among the entities entitled to receive earnings under the orders, giving priority to a current support withholding order, and shall honor all withholdings to the extent that the total amount withheld does not exceed the limits imposed under 15 U.S.C. 1673(b).

(10) That the income payor shall implement withholding not later than the first pay date after fourteen (14) days following the date the notice was received.

(11) That the income payor shall:

(A) notify:

(i) the Title IV-D agency in a case arising under section 5 of this chapter; or

(ii) the court in a case arising under section 1 or 6 of this chapter;

when the obligor terminates employment or ceases to receive other income not later than ten (10) days after termination; and

(B) provide:

(i) the obligor's last known address; and

(ii) the name and address of the obligor's new income payor if known.

SECTION 90. IC 31-16-15-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) An income payor that is required to withhold income under this chapter shall:

(1) forward income withheld for the payment of current and past due child support to the ~~clerk of the court, the~~ state central collection unit or other person named in the notice at the same time that the obligor is paid;

(2) include a statement identifying:

(A) each cause number;

(B) the Indiana support enforcement tracking system (ISETS) case number;

(C) the name of each obligor **and the obligor's Social Security number;** and

(D) the name of each payee with the withheld income forwarded by the income payor; and

(3) implement withholding not later than the first pay date after fourteen (14) days following the date the notice was received.

(b) The income payor may retain, in addition to the amount required to be forwarded to the ~~clerk of court~~ **state central collection unit** under subsection (a), a fee of two dollars ($2) from the obligor's income each time the income payor forwards income to the ~~clerk of the court~~ **state central collection unit** or other person specified in the notice to an income payor under this chapter. If the income payor elects to withhold the fee, the amount to be withheld for the payment of current and past due child support must be reduced accordingly if necessary to avoid exceeding the maximum amount permitted to be withheld under 15 U.S.C. 1673(b).

SECTION 91. IC 31-16-15-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) Except as provided in subsection (b), if the income payor is required to withhold income from more than one (1) obligor under this chapter, the income payor may:

(1) combine in a single payment the withheld amounts for all obligors who have been ordered to pay to the ~~same clerk~~ **state central collection unit** or other governmental agency; and

(2) separately identify the part of the single payment that is attributable to each individual obligor.

(b) If the income payor:

(1) is required to withhold income from more than one (1) obligor under this chapter; and

(2) employs more than fifty (50) employees;

the income payor shall make payments to the state central collection unit through electronic funds transfer **or through electronic or Internet access made available by the state central collection unit.**

(c) The department of child services shall assess a civil penalty of twenty-five dollars ($25) per obligor per pay period against an income payor that:

(1) is required to make a payment under subsection (b); and

(2) does not make the payment through electronic funds transfer or other means described in subsection (b).

The department shall deposit the penalties into the state general

fund.

SECTION 92. IC 31-19-2-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.5. **(a) This section does not apply to a petitioner for adoption who provides the licensed child placing agency or county office of family and children with the results of a criminal history check conducted:**

(1) in accordance with IC 31-9-2-22.5; and

(2) not more than one (1) year before the date on which the petition is filed.

(b) Every petitioner for adoption shall submit the necessary information, forms, or consents for:

(1) a licensed child placing agency; or

(2) the county office of family and children;

that conducts the inspection and investigation required for adoption of a child under ~~IC 31-19-8-1~~ **IC 31-19-8-5** to conduct a criminal history check **(as defined in IC 31-9-2-22.5)** of the petitioner as part of its investigation.

(c) The petitioner for adoption shall pay the fees and other costs of the criminal history check required under this section.

SECTION 93. IC 31-19-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. **(a)** Except:

(1) for:

(A) a child sought to be adopted by a stepparent;

(B) a child sought to be adopted by a ~~blood relative~~ **grandparent, an aunt, or an uncle;** or

(C) a child received by the petitioner for adoption from an agency outside Indiana with the written consent of the division of family ~~and children;~~ **resources;** or

(2) if the court in its discretion, after a hearing held upon proper notice, has waived the requirement for prior written approval;

a child may not be placed in a proposed adoptive home without the prior written approval of a licensed child placing agency or county office of family and children approved for that purpose by the division of family ~~and children.~~ **resources.**

(b) Except as provided in subsection (d), before giving prior written approval for placement in a proposed adoptive home of a child who is under the care and supervision of:

(1) the juvenile court; or

(2) the department of child services;

a licensed child placing agency or the department of child services shall conduct a criminal history check (as defined in IC 31-9-2-22.5) concerning the proposed adoptive parent and any other person who is currently residing in the proposed adoptive home.

(c) The prospective adoptive parent shall pay the fees and other costs of the criminal history check required under this section.

(d) A licensed child placing agency or the department of child services is not required to conduct a criminal history check (as defined in IC 31-9-2-22.5) if a prospective adoptive parent provides the licensed child placing agency or county office of family and children with the results of a criminal history check conducted:

(1) in accordance with IC 31-9-2-22.5; and

(2) not more than one (1) year before the date on which the licensed child placing agency or county office of family and children provides written approval for the placement.

SECTION 94. IC 31-33-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The purpose of this article is to:

(1) encourage effective reporting of suspected or known incidents of child abuse or neglect;

(2) provide ~~in each county an~~ effective child ~~protection service~~ **services** to quickly investigate reports of child abuse or neglect;

(3) provide protection for an abused or a neglected child from further abuse or neglect;

(4) provide rehabilitative services for an abused or a neglected child and the child's parent, guardian, or custodian; and

(5) establish a centralized statewide child abuse registry and an automated child protection system.

SECTION 95. IC 31-33-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 1.5. Department of Child Services

Sec. 1. As used in this article, "department" refers to the department of child services established by section 2 of this chapter.

Sec. 2. (a) The department of child services is established.

(b) The governor shall appoint a director who is responsible for administering the department. The director:

(1) serves at the governor's pleasure; and

(2) is entitled to compensation set by the budget agency.

Sec. 3. The director may employ necessary personnel to carry out the department's responsibilities subject to:

(1) the budget agency's approval under IC 4-12-1-13; and

(2) IC 4-15-2.

Sec. 4. The director shall determine the best manner of organizing the department to provide the necessary services throughout Indiana to fulfill the purposes of this article.

Sec. 5. One (1) time every three (3) months, the department shall submit a report to the budget committee and to the legislative council that provides data and statistical information regarding caseloads of child protection caseworkers. The report made to the legislative council must be in an electronic format under IC 5-14-6.

Sec. 6. The report required under section 5 of this chapter must do the following:

(1) Indicate the department's progress in recruiting, training, and retaining caseworkers.

(2) Describe the methodology used to compute caseloads for each child protection caseworker.

(3) Indicate whether the statewide average caseloads for child protection caseworkers exceed the caseload standards established by the department.

(4) If the report indicates that average caseloads exceed caseload standards, include a written plan that indicates the steps that are being taken to reduce caseloads.

(5) Identify, describe, and, if appropriate, recommend best management practices and resources required to achieve effective and efficient delivery of child protection services.

Sec. 7. The department is responsible for the following:

(1) Providing child protection services under this article.

(2) Providing and administering child abuse and neglect prevention services.

(3) Providing and administering child services (as defined in IC 12-19-7-1).

(4) Providing and administering family services (as defined in IC 31-9-2-45).

(5) Providing family preservation services under IC 12-14-25.5.

(6) Regulating and licensing the following under IC 12-17.4:

(A) Child caring institutions.

(B) Foster family homes.

(C) Group homes.

(D) Child placing agencies.

(7) Administering the state's plan for the administration of Title IV-D of the federal Social Security Act (42 U.S.C. 651 et seq.).

(8) Administering foster care services.

(9) Administering independent living services (as described in 42 U.S.C. 677 et seq.).

(10) Administering adoption services.

Sec. 8. (a) The child support bureau is created within the department of child services. The bureau is charged with the administration of Title IV-D of the federal Social Security Act.

(b) The state's plan for the administration of Title IV-D must comply with all provisions of state law and with the federal statutes and regulations governing the program.

Sec. 9. (a) The bureau shall operate the state parent locator service. The bureau shall make all necessary requests and responses to the federal parent locator service and to the parent locator services of the other states.

(b) To carry out the bureau's responsibilities under this chapter, the bureau, through the parent locator service, may request information and assistance from a state, county, city, or town agency. Officers and employees of a state, county, city, or town agency shall cooperate with the bureau in determining the

location of a parent who:

(1) owes child support; or

(2) has abandoned or deserted a child;

by providing the pertinent information relative to the location, income, and property of the parent, notwithstanding a statute making the information confidential.

(c) Notwithstanding a statute making the information confidential, each person doing business in Indiana shall provide the bureau or an agent of the bureau with the following information, if available, upon receipt of the certification described in subsection (d):

(1) Full name of the parent.

(2) Social Security number of the parent.

(3) Date of birth of the parent.

(4) Address of the parent's residence.

(5) Amount of wages earned by the parent.

(6) Number of dependents claimed by the parent on state and federal tax withholding forms.

(7) Name and address of the parent's employer.

(8) Name and address of any financial institution maintaining an account for the parent.

(9) Address of any real property owned by the parent.

(10) Name and address of the parent's health insurance carrier and health coverage policy number.

(d) The parent locator service shall certify that the information requested in subsection (c) is for the purpose of locating a parent who owes child support or who has abandoned a child and that the information obtained is to be treated as confidential by the bureau and any other state to which the information is released.

(e) A business in Indiana and each unit of state and local government shall comply with an administrative subpoena issued by a Title IV-D agency in another jurisdiction. The information requested may not be provided unless the Title IV-D agency of the other jurisdiction certifies that the information will be treated as confidential. The business or unit of government shall provide the Title IV-D agency of the other jurisdiction with the information listed in subsection (c), if available, if requested in the subpoena, upon certification by the Title IV-D agency of the other jurisdiction that the information is for the purpose of locating a parent who owes child support or who has abandoned or deserted a child.

(f) A person may not knowingly refuse to give the bureau, the bureau's agents, or the Title IV-D agency of another jurisdiction the following:

(1) The name of a parent of a child for whom the state is providing public assistance.

(2) Information that may assist the parent locator service or other jurisdiction in locating the parent of a child.

(g) Information obtained under this section may not be used in a criminal prosecution against the informant.

(h) A person may not knowingly give the bureau or the Title IV-D agency of another jurisdiction the incorrect name of a parent of a child or knowingly give the parent locator service incorrect information on the parent's whereabouts for the purpose of concealing the identity of the real parent of the child or the location of the parent.

Sec. 10. (a) The department may establish a program to procure any of the services described in section 7 of this chapter under a procurement agreement administered by the department. The department may enter into procurement agreements that cover the delivery of one (1) or more categories of services to all the counties in a region determined by the department. An agreement may provide for payment from state funds appropriated for the purpose or direct billing of services to the county receiving the service.

(b) If the department enters into a procurement agreement covering a county, the county, including the county's juvenile court, shall procure all services covered by the procurement agreement in accordance with the regional procurement agreement and the policies prescribed by the department. With the approval of the department, a county may use services from an alternate provider.

(c) The costs incurred under a procurement agreement shall be shared by the counties covered by the procurement agreement. The department shall allocate the costs of a regional procurement agreement among the counties covered by the agreement in proportion to the use of the services by each county under the schedule prescribed by the department. A county shall pay the costs incurred under a procurement agreement from the:

(1) family and children's fund; or

(2) children's psychiatric residential treatment services fund;

as appropriate.

(d) If the department pays the costs incurred under a procurement contract from state funds appropriated for the purpose, the department shall present a claim for reimbursement to the appropriate county auditor. The county executive shall review and allow the full amount of the claim in the manner provided in IC 36-2-6.

Sec. 11. The department may adopt rules under IC 4-22-2 necessary to carry out the department's or bureau's duties under this chapter.

Sec. 12. The department is the single state agency responsible for administering the following:

(1) Title IV-B of the federal Social Security Act under 42 U.S.C. 620 et seq.

(2) Title IV-E of the federal Social Security Act under 42 U.S.C. 670 et seq.

(3) The federal Child Abuse Prevention and Treatment Act under 42 U.S.C. 5106 et seq.

(4) The federal Social Services Block Grant under 42 U.S.C. 1397 et seq.

(5) Any other federal program that provides funds to states for services related to the prevention of child abuse and neglect, child welfare services, foster care, independent living, or adoption services.

SECTION 96. IC 31-33-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. **(a)** The ~~local child protection service:~~ **department:**

(1) must have sufficient qualified and trained staff to fulfill the purpose of this article;

(2) must be organized to maximize the continuity of responsibility, care, and service of individual caseworkers toward individual children and families;

(3) must provide training to representatives of the child ~~protective~~ **protection** services system regarding the legal duties of the representatives, which may consist of various methods of informing the representatives of their duties, in order to protect the legal rights and safety of children and families from the initial time of contact during the investigation through treatment; and

(4) must provide training to representatives of the child ~~protective~~ **protection** services system regarding the constitutional rights of the child's family, including a child's guardian or custodian, that is the subject of an investigation of child abuse or neglect consistent with the Fourth Amendment to the United States Constitution and Article I, Section 11 of the Constitution of the State of Indiana.

(b) This section expires June 30, 2008.

SECTION 97. IC 31-33-2-2.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2.1. (a) This section applies after June 30, 2008.**

(b) The department:

(1) must have sufficient qualified and trained staff to fulfill the purpose of this article;

(2) must be organized to maximize the continuity of responsibility, care, and service of individual caseworkers toward individual children and families;

(3) must provide training to representatives of the child protection services system regarding the legal duties of the representatives, which may consist of various methods of informing the representatives of their duties, in order to protect the legal rights and safety of children and families from the initial time of contact during the investigation through treatment; and

(4) must provide training to representatives of the child

protection services system regarding the constitutional rights of the child's family, including a child's guardian or custodian, that is the subject of an investigation of child abuse or neglect consistent with the Fourth Amendment to the United States Constitution and Article 1, Section 11 of the Constitution of the State of Indiana.

SECTION 98. IC 31-33-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Except in cases involving a child who may be a victim of institutional abuse or cases in which police investigation also appears appropriate, the ~~local child protection service~~ **department** is the primary public agency responsible for:

(1) receiving;

(2) investigating or arranging for investigation; and

(3) coordinating;

the investigation of all reports of a child who may be a victim of known or suspected child abuse or neglect.

(b) In accordance with ~~the~~ **a** local plan for ~~the~~ child protection services, the ~~local child protection service~~ **department** shall, by juvenile court order:

(1) provide protective services to prevent cases where a child may be a victim of further child abuse or neglect; and

(2) provide for or arrange for and coordinate and monitor the provision of the services necessary to ensure the safety of children.

(c) Reasonable efforts must be made to provide family services designed to prevent a child's removal from the child's parent, guardian, or custodian.

SECTION 99. IC 31-33-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The ~~local child protection service~~ **department** shall give notice of the existence and location of photographs, x-rays, and physical medical examination reports to:

(1) the **appropriate** prosecuting attorney; and

(2) the appropriate law enforcement agency, if the law enforcement agency has not already received the items described in this section under IC 31-33-10-3.

SECTION 100. IC 31-33-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The ~~local child protection service~~ **department** shall cooperate with and shall seek and receive the cooperation of appropriate public and private agencies, including the following:

(1) Law enforcement agencies.

(2) The courts.

(3) Organizations, groups, and programs providing or concerned with services related to the prevention, identification, or treatment of a child who may be a victim of child abuse or neglect.

(b) The ~~local child protection service~~ **department** shall also cooperate with public and private agencies, organizations, and groups that provide family services designed to prevent a child's removal from the child's home.

(c) Cooperation and involvement under this section may include the following:

(1) Consultation services.

(2) Planning.

(3) Case management.

(4) Public education and information services.

(5) Utilization of each other's facilities, staff, and other training.

SECTION 101. IC 31-33-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) Notwithstanding any other law, the ~~child protection service~~ **department** may purchase and use the services of any public or private agency if adequate provision is made for continuity of care and accountability. ~~between the local protection service and the agency.~~

(b) If the ~~local child protection service~~ **department** purchases services under this article, the state shall reimburse the expenses, to the extent allowed by state and federal statutes, rules, and regulations, to the locality or agency in the same manner and to the same extent as if the services were provided directly by the ~~local child protection service.~~ **department.**

SECTION 102. IC 31-33-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The community child protection team is a communitywide, multidisciplinary child protection team. The team must include the following eleven (11) members:

(1) The director of the ~~local child protection service~~ **county office of family and children** or the **county office** director's designee.

(2) Two (2) designees of the juvenile court judge.

(3) The county prosecuting attorney or the prosecuting attorney's designee.

(4) The county sheriff or the sheriff's designee.

(5) Either:

(A) the president of the county executive in a county not containing a consolidated city or the president's designee; or

(B) the executive of a consolidated city in a county containing a consolidated city or the executive's designee.

(6) A director of a court appointed special advocate or guardian ad litem program or the director's designee in the county in which the team is to be formed.

(7) Either:

(A) a public school superintendent or the superintendent's designee; or

(B) a director of a local special education cooperative or the director's designee.

(8) Two (2) persons, each of whom is a physician or nurse, with experience in pediatrics or family practice.

(9) One (1) citizen of the community.

(b) The director of the county office of family and children shall appoint, subject to the approval of the director of the ~~division of family and children,~~ **department,** the members of the team under subsection (a)(7), (a)(8), and (a)(9).

SECTION 103. IC 31-33-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The community child protection team shall meet:

(1) at least one (1) time each month; or

(2) at the times that the team's services are needed by the ~~child protection service.~~ **department.**

(b) Meetings of the team shall be called by the majority vote of the members of the team.

(c) The team coordinator or at least two (2) other members of the team may determine the agenda.

(d) Notwithstanding IC 5-14-1.5, meetings of the team are open only to persons authorized to receive information under this article.

SECTION 104. IC 31-33-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The community child protection team:

(1) shall provide diagnostic and prognostic services for the ~~local child protection service~~ **department** or the juvenile court; and

(2) may recommend to the ~~local child protection service~~ **department** that a petition be filed in the juvenile court on behalf of the subject child if the team believes this would best serve the interests of the child.

SECTION 105. IC 31-33-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The community child protection team may receive and review:

(1) any case that the ~~local child protection service~~ **department** has been involved in within the county where the team presides; and

(2) complaints regarding child abuse and neglect cases that are brought to the team by a person or an agency.

SECTION 106. IC 31-33-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The local plan must describe the ~~county office of family and children's~~ **department's** implementation of this article, including the following:

(1) Organization.

(2) Staffing.

(3) Mode of operations.

(4) Financing of the child protection services.

(5) The provisions made for the purchase of service and interagency relations.

SECTION 107. IC 31-33-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. A person who has a duty under this chapter to report that a child may be a victim of

child abuse or neglect shall immediately make an oral report to:

(1) the ~~local child protection service;~~ **department;** or

(2) the local law enforcement agency.

SECTION 108. IC 31-33-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The ~~local child protection service~~ **department** shall arrange for receipt, on a twenty-four (24) hour, seven (7) day per week basis, of all reports under this article of suspected child abuse or neglect.

SECTION 109. IC 31-33-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. To carry out section 1 of this chapter, ~~a local child protection service~~ **the department** must use a phone access system for receiving calls that is standardized among all counties. The ~~division of family and children~~ **department** shall adopt rules under IC 4-22-2 for the administration of this section.

SECTION 110. IC 31-33-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~Each local child protection service~~ **The department** shall cause to be inserted in each local telephone directory in the county a listing of the child abuse hotline's telephone number under the name "child abuse hotline". The child abuse hotline number under this section must be included with the other emergency numbers listed in the directory.

SECTION 111. IC 31-33-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The ~~local child protection service~~ **department** shall make a written report of a child who may be a victim of child abuse or neglect not later than forty-eight (48) hours after receipt of the oral report required of individuals by IC 31-33-5-4.

(b) Written reports under this section must be made on forms supplied by the administrator. The written reports must include, if known, the following information:

(1) The names and addresses of the following:

(A) The child.

(B) The child's parents, guardian, custodian, or other person responsible for the child's care.

(2) The child's age and sex.

(3) The nature and apparent extent of the child's injuries, abuse, or neglect, including any evidence of prior:

(A) injuries of the child; or

(B) abuse or neglect of the child or the child's siblings.

(4) The name of the person allegedly responsible for causing the injury, abuse, or neglect.

(5) The source of the report.

(6) The person making the report and where the person can be reached.

(7) The actions taken by the reporting source, including the following:

(A) Taking of photographs and x-rays.

(B) Removal or keeping of the child.

(C) Notifying the coroner.

(8) The written documentation required by IC 31-34-2-3 if a child was taken into custody without a court order.

(9) Any other information that:

(A) the director requires by rule; or

(B) the person making the report believes might be helpful.

SECTION 112. IC 31-33-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. A copy of the written report of the ~~local child protection service~~ **department** shall immediately be made available to:

(1) the appropriate law enforcement agency;

(2) the prosecuting attorney; and

(3) in a case involving death, the coroner for the coroner's consideration.

SECTION 113. IC 31-33-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. Upon receiving a written report under section 5(3) of this chapter, the coroner shall:

(1) accept a report for investigation; and

(2) report the coroner's findings to:

(A) the appropriate law enforcement agency;

(B) the prosecuting attorney;

(C) the ~~local child protection service;~~ **department;** and

(D) the hospital if the institution making the report is a hospital.

SECTION 114. IC 31-33-7-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.5. Child abuse or neglect information may be expunged under IC 31-39-8 if the probative value of the information is so doubtful as to outweigh its validity. Child abuse or neglect information shall be expunged if it is determined to be unsubstantiated after:

(1) an investigation **by the department** of a report of a child who may be a victim of child abuse or neglect; ~~by the child protection service;~~ or

(2) a court proceeding.

SECTION 115. IC 31-33-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) When a law enforcement agency receives an initial report under IC 31-33-5-4 that a child may be a victim of child abuse or neglect, the law enforcement agency shall:

(1) immediately communicate the report to the ~~local child protection service;~~ **department,** whether or not the law enforcement agency has reason to believe there exists an imminent danger to the child's health or welfare; and

(2) conduct an immediate, onsite investigation of the report along with the ~~local child protection service~~ **department** whenever the law enforcement agency has reason to believe that an offense has been committed.

(b) In all cases, the law enforcement agency shall forward any information, including copies of investigation reports, on incidents of cases in which a child may be a victim of child abuse or neglect, whether or not obtained under this article, to:

(1) the ~~local child protection agency;~~ **department;** and

(2) the juvenile court under IC 31-34-7.

SECTION 116. IC 31-33-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) This section applies if the ~~local child protection service~~ **department** receives a report of suspected child abuse or neglect from:

(1) a hospital;

(2) a community mental health center;

(3) a managed care provider (as defined in IC 12-7-2-127(b));

(4) a referring physician;

(5) a dentist;

(6) a licensed psychologist; or

(7) a school.

(b) Not later than thirty (30) days after the date ~~a local child protection service~~ **the department** receives a report of suspected child abuse or neglect from a person described in subsection (a), the ~~child protection service~~ **department** shall send a report to:

(1) the administrator of the hospital;

(2) the community mental health center;

(3) the managed care provider;

(4) the referring physician;

(5) the dentist; or

(6) the principal of the school.

The report must contain the items listed in subsection (e) that are known at the time the report is sent.

(c) Not later than ninety (90) days after the date ~~a local child protection service~~ **the department** receives a report of suspected child abuse or neglect, the ~~local child protection service~~ **department** shall send a report that contains any additional items listed in subsection (e) that were not covered in the prior report if available.

(d) The administrator, director, referring physician, dentist, licensed psychologist, or principal may appoint a designee to receive the report.

(e) A report made by the ~~local child protection service~~ **department** under this section must contain the following information:

(1) The name of the alleged victim of child abuse or neglect.

(2) The name of the alleged perpetrator and the alleged perpetrator's relationship to the alleged victim.

(3) Whether the case is closed.

(4) Whether information concerning the case has been expunged.

(5) The name of any agency to which the alleged victim has been referred.

(6) Whether the ~~local child protection service~~ **department** has made an investigation of the case and has not taken any further action.

(7) Whether a substantiated case of child abuse or neglect was informally adjusted.

(8) Whether the alleged victim was referred to the juvenile court as a child in need of services.

(9) Whether the alleged victim was returned to the victim's home.

(10) Whether the alleged victim was placed in residential care outside the victim's home.

(11) Whether a wardship was established for the alleged victim.

(12) Whether criminal action is pending or has been brought against the alleged perpetrator.

(13) A brief description of any casework plan that has been developed by the ~~child protection service.~~ **department.**

(14) The caseworker's name and telephone number.

(15) The date the report is prepared.

(16) Other information that the ~~division of family and children~~ **department** may prescribe.

(f) A report made under this section:

(1) is confidential; and

(2) may be made available only to:

(A) the agencies named in this section; and

(B) the persons and agencies listed in IC 31-33-18-2.

SECTION 117. IC 31-33-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The ~~local child protection service~~ **department** shall initiate an immediate and appropriately thorough child protection investigation of every report of known or suspected child abuse or neglect the ~~local child protection service~~ **department** receives, whether in accordance with this article or otherwise.

(b) Subject to subsections (d) and (e), if the report alleges a child may be a victim of child abuse, the investigation shall be initiated immediately, but not later than twenty-four (24) hours after receipt of the report.

(c) Subject to subsections (d) and (e), if reports of child neglect are received, the investigation shall be initiated within a reasonably prompt time, but not later than five (5) days, with the primary consideration being the well-being of the child who is the subject of the report.

(d) If the immediate safety or well-being of a child appears to be endangered or the facts otherwise warrant, the investigation shall be initiated regardless of the time of day.

(e) If the ~~child protection service~~ **department** has reason to believe that the child is in imminent danger of serious bodily harm, the ~~child protection service~~ **department** shall initiate within one (1) hour an immediate, onsite investigation.

SECTION 118. IC 31-33-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Upon the receipt of each report under this chapter of known or suspected child abuse, the ~~local child protection service~~ **department** shall contact the law enforcement agency in the appropriate jurisdiction.

(b) The law enforcement agency, with the ~~local child protection service,~~ **department,** shall conduct an immediate onsite investigation of the report if the law enforcement agency has reason to believe that an offense has been committed. The law enforcement agency shall investigate the alleged child abuse or neglect under this chapter in the same manner that the law enforcement agency conducts any other criminal investigation.

SECTION 119. IC 31-33-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Except as provided in subsection (b), the ~~local child protection service~~ **department** shall:

(1) cause color photographs to be taken of the areas of trauma visible on a child who is subject to a report; and

(2) if medically indicated, cause a radiological examination of the child to be performed.

(b) If the law enforcement agency participates in the investigation, the law enforcement agency shall cause the color photographs to be taken as provided by this section.

(c) The ~~division of family and children~~ **department** shall reimburse the expenses of the photographs and x-rays.

SECTION 120. IC 31-33-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The ~~local child protection service~~ **department** shall immediately forward a copy of all reports made under this article to the appropriate prosecuting attorney if the prosecuting attorney has made a prior request to the service in writing for the copies.

SECTION 121. IC 31-33-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The ~~local child protection service~~ **department** shall promptly make a thorough investigation upon either the oral or written report. The primary purpose of the investigation is the protection of the child.

SECTION 122. IC 31-33-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The ~~local child protection service's~~ **department's** investigation, to the extent that is reasonably possible, must include the following:

(1) The nature, extent, and cause of the known or suspected child abuse or neglect.

(2) The identity of the person allegedly responsible for the child abuse or neglect.

(3) The names and conditions of other children in the home.

(4) An evaluation of the parent, guardian, custodian or person responsible for the care of the child.

(5) The home environment and the relationship of the child to the parent, guardian, or custodian or other persons responsible for the child's care.

(6) All other data considered pertinent.

(b) The investigation may include the following:

(1) A visit to the child's home.

(2) An interview with the subject child.

(3) A physical, psychological, or psychiatric examination of any child in the home.

(c) If:

(1) admission to the home, the school, or any other place that the child may be; or

(2) permission of the parent, guardian, custodian, or other persons responsible for the child for the physical, psychological, or psychiatric examination;

under subsection (b) cannot be obtained, the juvenile court, upon good cause shown, shall follow the procedures under IC 31-32-12.

SECTION 123. IC 31-33-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) If, before the investigation is complete, the opinion of the law enforcement agency or the ~~local child protection service~~ **department** is that immediate removal is necessary to protect the child from further abuse or neglect, the juvenile court may issue an order under IC 31-32-13.

(b) The ~~child protection service~~ **department** shall make a complete written report of the investigation.

(c) If a law enforcement agency participates in the investigation, the law enforcement agency shall also make a complete written report of the investigation.

SECTION 124. IC 31-33-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The ~~local child protection service's~~ **department's** report under section 8 of this chapter shall be made available to:

(1) the appropriate court;

(2) the prosecuting attorney; or

(3) the appropriate law enforcement agency;

upon request.

(b) If child abuse or neglect is substantiated after an investigation is conducted under section 7 of this chapter, the ~~local child protection service~~ **department** shall forward its report to the office of the prosecuting attorney having jurisdiction in the county in which the alleged child abuse or neglect occurred.

(c) If the investigation substantiates a finding of child abuse or neglect as determined by the ~~local child protection service~~, **department,** a report shall be sent to the coordinator of the community child protection team under IC 31-33-3.

SECTION 125. IC 31-33-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. In all cases, the law enforcement agency shall release information on an incident in which a child may be a victim of alleged child abuse or neglect, whether obtained under this article or not, to the ~~local child protection service.~~ **department.**

SECTION 126. IC 31-33-8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) Upon completion of an investigation, the ~~local child protection service~~

department shall classify reports as substantiated, indicated, or unsubstantiated.

(b) Except as provided in subsection (c), ~~a local child protection service~~ **the department** shall expunge investigation records one (1) year after a report has been classified as indicated under subsection (a).

(c) If ~~a local child protection service~~ **the department** has:

(1) classified a report under subsection (a) as indicated; and

(2) not expunged the report under subsection (b);

and the subject of the report is the subject of a subsequent report, the one (1) year period in subsection (b) is tolled for one (1) year after the date of the subsequent report.

SECTION 127. IC 31-33-8-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. Whenever:

(1) an arrest relating to child abuse or neglect is made, the law enforcement agency that makes the arrest;

(2) criminal charges relating to child abuse or neglect are filed, the court in which the charges are filed;

(3) a child in need of services determination is made, the ~~local child protection service that files the petition upon which the determination is based;~~ **department;**

(4) a court approves a program of informal adjustment under IC 31-34-8 arising out of a child abuse or neglect report, the ~~appropriate child protection service;~~ **department;** or

(5) a person who is accused of child abuse or neglect:

(A) enters into a services referral agreement; and

(B) fails to substantially comply with the terms of the services referral agreement;

under IC 31-33-13, the ~~local child protection service that obtains the agreement from the person;~~ **department;**

shall transmit to the registry, not more than five (5) working days after the circumstances described by subdivisions (1) through (5) occur, the relevant child abuse or neglect report.

SECTION 128. IC 31-33-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Through a written protocol or agreement, the ~~division of family and children~~ **department** shall designate the public or private agencies primarily responsible for investigating reports involving a child who:

(1) may be a victim of child abuse or neglect; and

(2) is under the care of a public or private institution.

(b) The designated agency must be different from and separately administered from the agency involved in the alleged act or omission. Subject to this limitation, the agency:

(1) may be:

(A) the ~~division of family and children;~~ **department; or**

~~(B) the local child protection service; or~~

~~(C)~~ **(B)** a law enforcement agency; and

(2) may not be the office of the prosecuting attorney.

SECTION 129. IC 31-33-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The protocol or agreement must describe the specific terms or conditions of the designation, including the following:

(1) The manner in which reports of a child who may be a victim of child abuse or neglect and who is under the care of a public or private institution will be received.

(2) The manner in which the reports will be investigated.

(3) The remedial action that will be taken.

(4) The manner in which the ~~division of family and children~~ **department** will be kept fully informed on the progress, findings, and disposition of the investigation.

SECTION 130. IC 31-33-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. To fulfill the purposes of this chapter, the ~~division of family and children~~ **department** may purchase the services of the public or private agency designated to investigate reports of child abuse or neglect.

SECTION 131. IC 31-33-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The ~~division of family and children~~ **department** shall reimburse the reasonable cost of photographs, x-rays, or physical medical examinations made under this chapter.

SECTION 132. IC 31-33-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. All photographs taken and a summary of x-rays and other medical care shall be sent to the ~~local child protection service~~ **department** and, upon request, to a law enforcement agency that investigates the alleged child abuse or neglect, at the time the written report is sent or as soon thereafter as possible. The ~~local child protection service~~ **department** shall give notice of the existence of photographs, x-rays, and physical medical examination reports in accordance with IC 31-33-2-4.

SECTION 133. IC 31-33-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Whenever:

(1) a child is subject to investigation by ~~a local child protection service~~ **the department** for reported child abuse or neglect;

(2) the child is a patient in a hospital; and

(3) the hospital has reported or has been informed of the report and investigation;

the hospital may not release the child to the child's parent, guardian, custodian, or to a court approved placement until the hospital receives authorization or a copy of a court order from the ~~investigating local child protection service~~ **department** indicating that the child may be released to the child's parent, guardian, custodian, or court approved placement.

(b) If the authorization that is granted under this section is verbal, the ~~investigating local child protection service~~ **department** shall send a letter to the hospital confirming that the ~~local child protection service~~ **department** has granted authorization for the child's release.

(c) The individual or third party payor responsible financially for the hospital stay of the child remains responsible for any extended stay under this section. If no party is responsible for the extended stay, the ~~division of family and children~~ **department** shall pay the expenses of the extended hospital stay.

SECTION 134. IC 31-33-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. Based on the investigation and evaluation conducted under this article, the ~~local child protection service~~ **department** shall offer to the family or any child believed to be suffering from child abuse or neglect:

(1) family services;

(2) rehabilitative services; or

(3) both types of services;

that appear appropriate for either the child or the family.

SECTION 135. IC 31-33-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. Before offering services under section 1 of this chapter to a family, the ~~local child protection service:~~ **department:**

(1) shall explain that the ~~local child protection service~~ **department** has no legal authority to compel the family to receive the social services; and

(2) may inform the family of the obligations and authority of the ~~local child protection service~~ **department** to petition a juvenile court for a proceeding alleging that the child may be a victim of child abuse or neglect.

SECTION 136. IC 31-33-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. The ~~local child protection service~~ **department** shall coordinate, provide or arrange for, and monitor, as authorized by this article and IC 12, family or rehabilitative services, or both types of services, for a child and the child's family on a voluntary basis or under an order of the court, subject to IC 31-34-11 and IC 31-34-18.

SECTION 137. IC 31-33-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This chapter applies if:

(1) a child abuse or neglect report is classified as substantiated;

(2) the ~~local child protection service~~ **department** does not seek court involvement under IC 31-34; and

(3) the ~~local child protection service~~ **department** recommends voluntary participation in family or rehabilitative services for not more than six (6) months.

SECTION 138. IC 31-33-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. A person who is accused of child abuse or neglect may enter into a voluntary services referral agreement with the ~~local child protection service~~ **department** under this chapter. Under the terms of the agreement, the person shall successfully participate in and complete any family or rehabilitative services recommended by the ~~local child protection service.~~ **department.**

SECTION 139. IC 31-33-13-3 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. If a person who enters into an agreement under section 2 of this chapter (or IC 31-6-11-13.5(b) before its repeal) fails to substantially carry out the terms of the agreement, the ~~local child protection service~~ **department** shall:

(1) terminate the agreement; and

(2) ~~forward~~ **enter** the child abuse or neglect report relating to the person ~~to the division of family and children for entry~~ into the registry under IC 31-33-17.

SECTION 140. IC 31-33-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. Before a person enters into a services referral agreement under this chapter, the ~~local child protection service~~ **department** shall advise the person, orally and in writing, that the ~~division of family and children~~ **department** shall enter information contained in the child abuse or neglect report that gave rise to the service referral agreement into the registry as provided under IC 31-33-17 if the person fails to substantially comply with the terms of the agreement.

SECTION 141. IC 31-33-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The ~~local child protection service~~ **department** shall provide a court with access to information relating to a services referral agreement whenever the court:

(1) approves a program of informal adjustment; or

(2) presides over a child in need of services proceeding;

involving the same person or family to whom services were recommended under the services referral agreement.

SECTION 142. IC 31-33-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. If the ~~local child protection services~~ **department** determines that the best interests of the child require action in the juvenile or criminal court, the ~~local child protection service~~ **department** shall:

(1) refer the case to the juvenile court under IC 31-34-7; or

(2) make a referral to the prosecuting attorney if criminal prosecution is desired.

SECTION 143. IC 31-33-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The ~~local child protection service~~ **department** shall assist the juvenile court or the court having criminal jurisdiction during all stages of the proceedings in accordance with the purposes of this article.

SECTION 144. IC 31-33-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The ~~division of family and children~~ **department** shall establish and maintain a centralized, computerized child abuse registry for the purpose of organizing and accessing data regarding substantiated reports of child abuse and neglect described under section 2 of this chapter that the ~~division of family and children~~ **department** receives from throughout Indiana under this article.

SECTION 145. IC 31-33-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The ~~division of family and children~~ **department** shall enter a substantiated report into the registry only if at least one (1) of the following applies:

(1) An arrest of the alleged perpetrator of the child abuse or neglect is made.

(2) Criminal charges are filed in state or federal court against the alleged perpetrator of the child abuse or neglect.

(3) A court determines that a child is a child in need of services based on a report of child abuse or neglect.

(4) A court approves a program of informal adjustment relating to the child abuse or neglect report under IC 31-34-8.

(5) A person does not substantially comply with the terms of a services referral agreement under IC 31-33-13.

SECTION 146. IC 31-33-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. The ~~division of family and children~~ **department** may not enter an unsubstantiated report into the registry.

SECTION 147. IC 31-33-17-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The ~~division of family and children~~ **department** shall store data regarding the child abuse or neglect reports in a manner so that the data is accessible under the following if known:

(1) The child's name.

(2) The child's date of birth.

(3) The alleged perpetrator's name.

(4) The child's mother's name.

(5) The child's father's name.

(6) The name of a sibling of the child.

(7) The name of the child's guardian or custodian if applicable.

SECTION 148. IC 31-33-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The ~~division of family and children~~ **department** shall adopt rules under IC 4-22-2 for the purpose of ensuring that the confidentiality and access to reports of child abuse or neglect are maintained as provided in this chapter.

SECTION 149. IC 31-33-17-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. Upon request, a person or an organization may have access to information contained in the registry as follows:

(1) A law enforcement agency or ~~local child protective service~~ **the department** may have access to a substantiated report.

(2) A person may have access to information consisting of an identifiable notation of a conviction arising out of a report of child abuse or neglect.

(3) Upon submitting written verification of an application for employment or a consent for release of information signed by a child care provider, a person or an agency may obtain the following information contained in the child abuse registry regarding an individual who has applied for employment or volunteered for services in a capacity that would place the individual in a position of trust with children less than eighteen (18) years of age or regarding a child care provider who is providing or may provide child care for the person's child:

(A) Whether a child was found by a court to be a child in need of services based on a report of child abuse or neglect naming the applicant, volunteer, or child care provider as the alleged perpetrator.

(B) Whether criminal charges were filed against the applicant, volunteer, or child care provider based on a report of child abuse or neglect naming the applicant, volunteer, or child care provider as the alleged perpetrator.

(C) Whether a court has issued an arrest warrant for the applicant, volunteer, or child care provider based on a report of child abuse or neglect in which the applicant, volunteer, or child care provider is named as the alleged perpetrator.

(4) A person may have access to whatever information is contained in the registry pertaining to the person, with protection for the identity of:

(A) the person who reports the alleged child abuse or neglect; and

(B) any other appropriate person.

(5) A person or an agency to whom child abuse and neglect reports are available under IC 31-33-18 may also have access to information contained in the registry.

(6) If a child care provider provides child care in the provider's home, upon submitting a consent for release of information signed by an individual who is at least eighteen (18) years of age, who resides with the child care provider, and who may have direct contact with children for whom the provider provides child care, a person may obtain the following information contained in the child abuse registry regarding the individual:

(A) Whether a child was found by a court to be a child in need of services based on a report of child abuse or neglect naming the individual as the alleged perpetrator.

(B) Whether criminal charges were filed against the individual based on a report of child abuse or neglect naming the individual as the alleged perpetrator.

(C) Whether a court has issued an arrest warrant for the individual based on a report of child abuse or neglect in which the individual is named as the alleged perpetrator.

(7) The ~~division of family and children~~ **department** may use the following information contained in the registry regarding an individual described in IC 12-17.2-3.5-4.1(a) for purposes of determining the eligibility of a child care provider to receive a voucher payment (as defined in IC 12-17.2-3.5-3):

(A) Whether a child has been found by a court to be a child in need of services based on a report of child abuse or

neglect naming the individual as the alleged perpetrator.

(B) Whether criminal charges have been filed against the individual based on a report of child abuse or neglect naming the individual as the alleged perpetrator.

(C) Whether a court has issued an arrest warrant for the individual based on a report of child abuse or neglect in which the individual is named as the alleged perpetrator.

The ~~division of family and children~~ **department** may not disclose information used in connection with the ~~division's~~ **department's** activities under this subdivision.

SECTION 150. IC 31-33-17-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The ~~division of family and children~~ **department** shall administer the registry and ~~each local child protection service shall administer~~ the automated child protection system under IC 31-33-20 in a manner that enables the ~~division of family and children or each local child protection service~~ **department** to do the following:

(1) Immediately identify and locate prior reports of child abuse or neglect through the use of the ~~division of family and children's~~ **department's:**

(A) computerized tracking system; and

~~the local child protection service's~~ **(B)** automated risk assessment system.

(2) Track steps in the investigative process to ensure compliance with all requirements for a report of child abuse and neglect.

(3) Maintain and produce aggregate statistical reports monitoring patterns of child abuse and neglect that the ~~division of family and children~~ **department** shall make available to the public upon request.

(4) Serve as a resource for the evaluation, management, and planning of preventative and remedial services to children who have been subject to child abuse or neglect.

SECTION 151. IC 31-33-17-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) This section does not apply to substantiated cases if a court determines that a child is a child in need of services based on a report of child abuse or neglect that names the alleged perpetrator as the individual who committed the alleged child abuse or neglect.

(b) Not later than thirty (30) days after the ~~division of family and children~~ **department** enters a substantiated child abuse or neglect report into the registry, the ~~division of family and children~~ **department** shall notify:

(1) the parent, guardian, or custodian of the child who is named in the report as the victim of the child abuse or neglect; and

(2) the alleged perpetrator, if other than the child's parent, guardian, or custodian, named in the report under IC 31-33-5-4;

that the ~~division of family and children~~ **department** has entered the report into the registry.

(c) The ~~division of family and children~~ **department** shall state the following in a notice to an alleged perpetrator of a substantiated report under subsection (b):

(1) The report has been classified as substantiated.

(2) The alleged perpetrator may request that a substantiated report be amended or expunged at an administrative hearing if the alleged perpetrator does not agree with the classification of the report unless a court is in the process of making a determination described in IC 31-33-19.

(3) The alleged perpetrator's request for an administrative hearing to contest the classification of a substantiated report must be received by the ~~division of family and children~~ **department** not more than thirty (30) days after the alleged perpetrator receives the notice.

(d) If the alleged perpetrator fails to request an administrative hearing within the time specified in subsection (c)(3), the alleged perpetrator named in a substantiated report may request an administrative hearing to contest the classification of the report if the alleged perpetrator demonstrates that the failure to request an administrative hearing was due to excusable neglect or fraud. The Indiana Rules of Civil Procedure provide the standard for excusable neglect or fraud.

SECTION 152. IC 31-33-17-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) Whenever a court grants a name change under IC 34-28-2 (or IC 34-4-6 before its repeal) to a person:

(1) against whom an allegation of child abuse or neglect has been substantiated; and

(2) whose name is maintained within the registry in accordance with this chapter;

the person must notify the ~~division of family and children~~ **department** regarding the name change not more than ten (10) business days after the court enters a decree changing the person's name.

(b) The notice must include a copy of the decree of the court that changes the name of the person, certified under the seal of the clerk of court.

SECTION 153. IC 31-33-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Except as provided in section 1.5 of this chapter, the following are confidential:

(1) Reports made under this article (or IC 31-6-11 before its repeal).

(2) Any other information obtained, reports written, or photographs taken concerning the reports in the possession of:

(A) the division of family ~~and children,~~ **resources;**

(B) the county office of family and children; or

(C) the ~~local child protection service.~~ **department.**

(b) Except as provided in section 1.5 of this chapter, all records held by:

(1) the division of family ~~and children,~~ **resources;**

(2) a county office of family and children;

~~(3) a local child protection service;~~

(3) the department;

(4) a local child fatality review team established under IC 12-13-15; or

(5) the statewide child fatality review committee established under IC 12-13-15.1-6;

regarding the death of a child determined to be a result of abuse, abandonment, or neglect are confidential and may not be disclosed.

SECTION 154. IC 31-33-18-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. (a) This section applies to records held by:

(1) the division of family ~~and children,~~ **resources;**

(2) a county office of family and children;

~~(3) a local child protection service;~~

(3) the department;

(4) a local child fatality review team established under IC 12-13-15; or

(5) the statewide child fatality review committee established under IC 12-13-15.1-6;

regarding ~~the death of~~ a child ~~determined to be a~~ **whose death or near fatality may have been the** result of abuse, abandonment, or neglect.

(b) For purposes of subsection (a), a child's death or near fatality may have been the result of abuse, abandonment, or neglect if:

(1) an entity described in subsection (a) determines that the child's death or near fatality is the result of abuse, abandonment, or neglect; or

(2) a prosecuting attorney files:

(A) an indictment or information; or

(B) a complaint alleging the commission of a delinquent act;

that, if proven, would cause a reasonable person to believe that the child's death or near fatality may have been the result of abuse, abandonment, or neglect.

Upon the request of any person, or upon its own motion, the court exercising juvenile jurisdiction in the county in which the child's death or near fatality occurred shall determine whether the allegations contained in the indictment, information, or complaint described in subdivision (2), if proven, would cause a reasonable person to believe that the child's death or near fatality may have been the result of abuse, abandonment, or neglect.

~~(b)~~ **(c)** As used in this section:

(1) "identifying information" means information that identifies an individual, including an individual's:

~~(1)~~ **(A)** name, address, date of birth, occupation, place of

employment, **and telephone number;**

(B) employer identification number, mother's maiden name, Social Security number, or any identification number issued by a governmental entity;

~~(2)~~ **(C)** unique biometric data, including the individual's fingerprint, voice print, or retina or iris image;

~~(3)~~ **(D)** unique electronic identification number, address, or routing code;

~~(4)~~ **(E)** telecommunication identifying information; or

~~(5)~~ **(F)** telecommunication access device, including a card, a plate, a code, ~~a telephone number,~~ an account number, a personal identification number, an electronic serial number, a mobile identification number, or another telecommunications service or device or means of account access; **and**

(2) "near fatality" has the meaning set forth in 42 U.S.C. 5106a.

~~(c)~~ **(d)** Unless information in a record is otherwise confidential under state or federal law, a record described in subsection (a) that has been redacted in accordance with this section is not confidential and may be disclosed to any person who requests the record. The person requesting the record may be required to pay the reasonable expenses of copying the record.

~~(d)~~ **(e)** When a person requests a record described in subsection (a), the entity having control of the record shall immediately transmit a copy of the record to the court exercising juvenile jurisdiction in the county in which the death **or near fatality** of the child occurred. However, if the court requests that the entity having control of a record transmit the original record, the entity shall transmit the original record.

~~(e)~~ **(f)** Upon receipt of the record described in subsection (a), the court shall, within thirty (30) days, redact the record to exclude:

(1) identifying information **described in subsection (c)(1)(B) through (c)(1)(F)** of a person; **and**

~~or other information not relevant to establishing the facts and circumstances leading to the death of the child. However, the court shall not redact the record to exclude information that relates to an employee of the division of family and children, an employee of a county office of family and children, or an employee of a local child protection service.~~

(2) all identifying information of a child less than eighteen (18) years of age.

~~(f)~~ **(g)** The court shall disclose the record redacted in accordance with subsection ~~(c)~~ **(f)** to any person who requests the record, if the person has paid:

(1) to the entity having control of the record, the reasonable expenses of copying under IC 5-14-3-8; and

(2) to the court, the reasonable expenses of copying the record.

~~(g)~~ **(h)** The court's determination under subsection ~~(c)~~ **(f)** that certain identifying information or other information is not relevant to establishing the facts and circumstances leading to the death **or near fatality** of a child is not admissible in a criminal proceeding or civil action.

SECTION 155. IC 31-33-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The reports and other material described in section 1(a) of this chapter and the unredacted reports and other material described in section 1(b) of this chapter shall be made available only to the following:

(1) Persons authorized by this article.

(2) A legally mandated public or private child protective agency investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.

(3) A police or other law enforcement agency, prosecuting attorney, or coroner in the case of the death of a child who is investigating a report of a child who may be a victim of child abuse or neglect.

(4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.

(5) An individual legally authorized to place a child in protective custody if:

(A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and

(B) the individual requires the information in the report or record to determine whether to place the child in protective custody.

(6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.

(7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.

(8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.

(9) A court, for redaction of the record in accordance with section 1.5 of this chapter, or upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, except for disclosure of a redacted record in accordance with section 1.5 of this chapter, access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.

(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for ~~the~~ child ~~protective service~~ **protection services** or legislation carrying out the official's official functions.

(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.

(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(14) A person about whom a report has been made, with protection for the identity of:

(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

(15) An employee of the division of family ~~and children,~~ **resources,** a caseworker, or a juvenile probation officer conducting a criminal history check under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(A) child at imminent risk of placement;

(B) child in need of services; or

(C) delinquent child.

The results of a criminal history check conducted under this subdivision must be disclosed to a court determining the placement of a child described in clauses (A) through (C).

(16) A local child fatality review team established under IC 12-13-15-6.

(17) The statewide child fatality review committee established by IC 12-13-15.1-6.

(18) The department.

SECTION 156. IC 31-33-18-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Section 2 of this chapter does not prevent the county office of family and children or the ~~local child protection service~~ **department** from disclosing to a qualified individual engaged in a good faith research project either:

(1) information of a general nature, including the incidents of reported child abuse or neglect or other statistical or social data used in connection with studies, reports, or surveys, and

information related to their function and activities; or

(2) information relating to case histories of child abuse or neglect if:

(A) the information disclosed does not identify or reasonably tend to identify the persons involved; and

(B) the information is not a subject of pending litigation.

(b) To implement this section, the ~~division of family and children~~ **department** shall adopt under IC 4-22-2 rules to govern the dissemination of information to qualifying researchers.

SECTION 157. IC 31-33-18-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Whenever a child abuse or neglect investigation is conducted under this article, the ~~local child protection service~~ **department** shall give verbal and written notice to each parent, guardian, or custodian of the child that:

(1) the reports and information described under section 1 of this chapter relating to the child abuse or neglect investigation; and

(2) if the child abuse or neglect allegations are pursued in juvenile court, the juvenile court's records described under IC 31-39;

are available upon the request of the parent, guardian, or custodian except as prohibited by federal law.

(b) A parent, guardian, or custodian requesting information under this section may be required to sign a written release form that delineates the information that is requested before the information is made available. However, no other prerequisites for obtaining the information may be placed on the parent, guardian, or custodian except for reasonable copying costs.

SECTION 158. IC 31-33-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. Except as provided in sections 6 and 7 of this chapter, the ~~division of family and children~~ **department** shall conduct an administrative hearing under IC 4-21.5-3 upon a request made under IC 31-33-17-8.

SECTION 159. IC 31-33-19-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. If the classifying agency fails to carry the burden of proof under section 2 of this chapter, the ~~division of family and children~~ **department** shall amend or expunge the report as ordered by the administrative hearing officer within the period provided under section 8 of this chapter.

SECTION 160. IC 31-33-19-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The ~~division of family and children~~ **department** shall expunge identifying information in a substantiated report contained within the registry as follows:

(1) Not later than ten (10) working days after any of the following occurs:

(A) A court having jurisdiction over a child in need of services proceeding determines that child abuse or neglect has not occurred.

(B) An administrative hearing officer under this chapter finds that the child abuse or neglect report is unsubstantiated.

(C) A court having criminal jurisdiction over a case involving child abuse or neglect in which criminal charges are filed and the court:

(i) dismisses the charges; or

(ii) enters a not guilty verdict.

(2) Not later than ten (10) working days after the period of informal adjustment ceases under IC 31-34-8.

(3) Not later than six (6) months after the date that the ~~division of family and children~~ **department** enters the report into the registry as the result of a person's failure to successfully participate in a services referral agreement under IC 31-33-13.

(4) Not later than twenty (20) years after a court determines that a child is a child in need of services based upon the report.

(b) However, if subsection (a)(1) through (a)(4) does not apply, the ~~division of family and children~~ **department** shall expunge the report not later than when the child who is named as the victim of child abuse or neglect reaches twenty-four (24) years of age.

SECTION 161. IC 31-33-19-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. The ~~division of family and children~~ **department** shall immediately amend or expunge from the registry a substantiated report containing an inaccuracy arising from an administrative or a clerical error.

SECTION 162. IC 31-33-20-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. ~~Each local child protection service~~ **The department** shall establish and maintain an automated child protection system.

SECTION 163. IC 31-33-20-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The system consists of the following components:

(1) One (1) computer to be purchased for every two (2) child welfare caseworkers.

(2) Automated risk assessment in which a child welfare worker or supervisor is able to review a substantiated child abuse and neglect case to determine prior case history during the intake, investigation, assessment, and case management processes.

(3) The capability to allow supervisors to monitor child abuse and neglect cases and reports relating to the cases.

(4) The automated production of standard reports to enable the automated compilation of information gathered on forms used by child welfare workers to report the information and results of child abuse and neglect cases. The system must also provide for the automation of other data for planning and evaluation as determined by the ~~division of family and children.~~ **department.**

(5) The capability of same day notification and transfer of statistical information to the ~~division of family and children~~ **department** regarding new and closed child abuse and neglect cases.

(6) The enabling of child welfare supervisors to review a child abuse or neglect case at any point after the case is initially determined to be substantiated abuse or neglect to confirm the status of the case and allow for the consolidated management of cases.

(7) The capability for adjustment to the system's programming at a later date if additional reporting requirements occur at a later date.

(8) A word processing capability to allow case notes to be recorded with each substantiated child abuse and neglect case.

SECTION 164. IC 31-33-20-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) In addition to the components under section 2 of this chapter, the system must have the capability to maintain a case history file.

(b) Whenever a child abuse or neglect case is substantiated as provided under IC 31-33-17-2, the system must have the capability to transmit the information regarding the case to the ~~division of family and children.~~ **department.**

(c) Whenever a person enters a new child abuse or neglect report into the system, the system must have the capability to automatically search:

~~(A)~~ **(1)** within the county; and

~~(B)~~ **(2)** within the child abuse and neglect registry maintained by the ~~division of family and children~~ **department** under IC 31-33-17;

for reports that match the name of the perpetrator, victim, or person who is legally responsible for the victim's welfare with the persons named in the new report as described in this chapter.

(d) If the system identifies a previous, substantiated report, the system must have the capability to transfer the report to the county where the new report originated not later than twenty-four (24) hours after receipt of the new report. If the previous, matching report is located, a case history extract must be made available to the assigned caseworker.

SECTION 165. IC 31-33-20-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. At least ten (10) levels of security for confidentiality in the system must be maintained. The system must have a comprehensive system of limited access to information as follows:

(1) The system must be accessed only by the entry of an operator identification number and a person's secret password.

(2) Child welfare caseworkers and investigators must be allowed to access only cases that are assigned to the caseworker or investigator.

(3) Child welfare supervisors may access only the following:

(A) Cases assigned to the supervisor.

(B) Cases assigned to a caseworker or an investigator who reports to the supervisor.

(C) Cases that are unassigned.

(4) To preserve confidentiality in the workplace, case welfare managers, as designated by the ~~division of family and children,~~ **department,** may access any case, except restricted cases involving a state employee or the immediate family member of a state employee who has access to the system. Access to restricted information under this subdivision may be obtained only if an additional level of security is implemented.

(5) Access to records of authorized users, including passwords, is restricted to:

(A) users designated by the ~~division of family and children~~ **department** as an administrator; and

(B) the administrator's level of administration as determined by the ~~division of family and children.~~ **department.**

(6) Ancillary programs that may be designed for the system may not be executed in a manner that would circumvent the system's log on security measures.

(7) Certain system functions must be accessible only to system operators with specified levels of authorization as determined by the ~~division of family and children.~~ **department.**

(8) Files containing passwords must be encrypted.

(9) There must be two (2) additional levels of security for confidentiality as determined by the ~~division of family and children.~~ **department.**

SECTION 166. IC 31-33-22-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A person who intentionally communicates to:

(1) a law enforcement agency; or

~~(2) a local child protection service;~~

(2) the department;

a report of child abuse or neglect knowing the report to be false commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a previous unrelated conviction for making a report of child abuse or neglect knowing the report to be false.

(b) A person who intentionally communicates to:

(1) a law enforcement agency; or

~~(2) a local child protection service;~~

(2) the department;

a report of child abuse or neglect knowing the report to be false is liable to the person accused of child abuse or neglect for actual damages. The finder of fact may award punitive damages and attorney's fees in an amount determined by the finder of fact against the person.

(c) The director ~~of the county office of family and children~~ **or the director's designee** shall, after review by the ~~county office's~~ **department's** attorney, notify the prosecuting attorney whenever the director **or the director's designee** and the ~~county office's~~ **department's** attorney have reason to believe that a person has violated this section.

(d) A person who:

(1) has reason to believe that the person is a victim of a false report of child abuse or neglect under this section; and

(2) is not named in a pending criminal charge or under investigation relating to the report;

may file a complaint with the prosecuting attorney. The prosecuting attorney shall review the relevant child abuse or neglect records of the ~~county office of family and children~~ **department** and any other relevant evidence.

SECTION 167. IC 31-33-22-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. A person who is accused of committing child abuse or neglect is entitled to access to a report relevant to an alleged false accusation filed under this article if a court finds that the report:

(1) is unsubstantiated; and

(2) was intentionally communicated to a law enforcement agency or ~~a local child protection service~~ **the department** by a person who knew the report was false.

SECTION 168. IC 31-34-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) A person taking a child into custody under section 3 of this chapter shall make written documentation evidencing the following:

(1) The facts establishing probable cause to believe that the child is a child in need of services.

(2) Why the child's physical or mental condition will be seriously impaired or seriously endangered if the child is not immediately taken into custody.

(3) Why the person is unable to obtain a court order and what steps have been taken to obtain a court order.

(4) Why the ~~local child protection service~~ **department of child services** is unable to protect the safety of the child without taking the child into custody.

(5) Why the person is unable to obtain the assistance of a law enforcement officer if the child is taken into custody by a probation officer or caseworker without the assistance of a law enforcement officer.

(b) The ~~division~~ **department of child services** shall create forms to be used for documentation under this section.

(c) The person taking the child into custody shall immediately forward a copy of the documentation to the ~~local~~ **department of** child ~~protection service~~ **services** to be included in the report required by IC 31-33-7-4.

SECTION 169. IC 31-34-2.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Immediately after an emergency medical services provider takes custody of a child under section 1 of this chapter, the provider shall notify the ~~local~~ **department of** child ~~protection service~~ **services** that the provider has taken custody of the child.

(b) The ~~local~~ **department of** child ~~protection service~~ **services** shall:

(1) assume the care, control, and custody of the child immediately after receiving notice under subsection (a); and

(2) not later than forty-eight (48) hours after the ~~local~~ **department of** child ~~protection service~~ **services** has taken custody of the child, contact the Indiana clearinghouse for information on missing children established by IC 10-13-5-5 to determine if the child has been reported missing.

SECTION 170. IC 31-34-2.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. A child for whom the ~~local~~ **department of** child ~~protection service~~ **services** assumes care, control, and custody under section 2 of this chapter shall be treated as a child taken into custody without a court order, except that efforts to locate the child's parents or reunify the child's family are not necessary, if the court makes a finding to that effect under IC 31-34-21-5.6(b)(5).

SECTION 171. IC 31-34-2.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. Whenever a child is taken into custody without a court order under this chapter, the attorney for the ~~county office of family and children~~ **department of child services** shall, without unnecessary delay, request the juvenile court to:

(1) authorize the filing of a petition alleging that the child is a child in need of services;

(2) hold an initial hearing under IC 31-34-10 not later than the next business day after the child is taken into custody; and

(3) appoint a guardian ad litem for the child.

SECTION 172. IC 31-34-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. If a child is taken into custody under IC 31-34-2, the ~~local~~ **department of** child ~~protection service~~ **services** shall notify the child's custodial parent, guardian, or custodian not more than two (2) hours after the child has been taken into custody that the child has been taken into custody as the result of alleged child abuse or neglect.

SECTION 173. IC 31-34-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. Subject to section 3 of this chapter, if after making a reasonable effort the child's custodial parent, guardian, or custodian cannot be located, the **department of** child ~~protection service~~ **services** shall make a good faith effort, not more than six (6) hours after the child has been taken into custody, to leave written notice at the last known address of the child's custodial parent, guardian, or custodian that the child has been taken into custody.

SECTION 174. IC 31-34-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. If the custodial parent, guardian, or custodian is believed to reside outside ~~of~~ Indiana, the ~~local~~ **department of** child ~~protection service~~ **services** shall send written notice by certified mail to the last known address of the noncustodial parent, guardian, or custodian on the same date that the

child is taken into custody. However, if the child is not taken into custody on a business day, the **department of** child ~~protection service~~ **services** shall send notice by certified mail on the next business day after the child is taken into custody.

SECTION 175. IC 31-34-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The ~~local~~ **department of** child ~~protection service~~ **services** must have as the ~~service's~~ **department's** first priority the immediate needs of the child for medical care, shelter, food, or other crisis services.

SECTION 176. IC 31-34-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) If a child alleged to be a child in need of services is taken into custody under an order of the court under this chapter, the court shall consider placing the child with a suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering any other out-of-home placement.

(b) Before placing a child in need of services with a blood relative or an adoptive relative caretaker, the court may order the division of family ~~and children~~ **resources** to:

(1) complete a home study of the relative's home; and

(2) provide the court with a placement recommendation.

(c) Except as provided in subsection (e), before placing a child in need of services in an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the court shall order the division of family ~~and children~~ **resources** to conduct a criminal history check **(as defined in IC 31-9-2-22.5)** of each person who is:

(1) currently residing in the location designated as the out-of-home placement; or

(2) in the reasonable belief of the division of family ~~and children,~~ **resources,** expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.

(d) Except as provided in subsection (f), a court may not order an out-of-home placement if a person described in subsection (c)(1) or (c)(2) has:

(1) committed an act resulting in a substantiated report of child abuse or neglect; or

(2) been convicted of a felony listed in IC 12-17.4-4-11 or had a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult.

(e) The court is not required to order the division of family ~~and children~~ **resources** to conduct a criminal history check under subsection (c) if the court orders an out-of-home placement to an entity or a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

(f) A court may order an out-of-home placement if:

(1) a person described in subsection (c)(1) or (c)(2) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect; or

(B) been convicted or had a juvenile adjudication for:

(i) reckless homicide (IC 35-42-1-5);

(ii) battery (IC 35-42-2-1) as a Class C or D felony;

(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;

(iv) arson (IC 35-43-1-1) as a Class C or D felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;

(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or

(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that the placement is in the best interest of the child.

However, a court may not order an out-of-home placement if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(g) In making its written finding under subsection (f), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 177. IC 31-34-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The advisement required by this section applies only to a person who:

(1) is named as being responsible for child abuse or neglect as the result of a substantiated report; and

(2) agrees to participate in a program of informal adjustment under this chapter.

(b) Before the person signs an agreement to participate in a program of informal adjustment, the ~~local~~ **department of** child ~~protection service~~ **services** shall advise the person, orally and in writing, of the extent to which information contained in the substantiated report must be entered into the child abuse registry under IC 31-33-17 if the court approves the informal adjustment under section 1 of this chapter.

SECTION 178. IC 31-34-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. Whenever the court approves a program of informal adjustment arising out of a child abuse or neglect report, the ~~local~~ **department of** child ~~protection service~~ **services** shall transmit the report to the child abuse registry within five (5) working days as required by IC 31-33-8-13.

SECTION 179. IC 31-34-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Not later than five (5) months after a court approves a program of informal adjustment under this chapter, the ~~local~~ **department of** child ~~protection service~~ **services** shall file with the court a report indicating the extent of compliance with the program.

(b) If the court extends the period of the informal adjustment under section 6 of this chapter, the ~~local~~ **department of** child ~~protection service~~ **services** shall file a supplemental report not later than eleven (11) months after the court initially approves the program of informal adjustment updating the court on the status of a person's compliance with the program.

SECTION 180. IC 31-34-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Before complying with the other requirements of this chapter, the juvenile court shall first determine whether the following conditions make it appropriate to appoint a guardian ad litem or a court appointed special advocate, or both, for the child:

(1) If the child is alleged to be a child in need of services:

(A) under IC 31-34-1-6;

(B) under IC 31-34-1-10 or IC 31-34-1-11;

(C) due to the inability, refusal, or neglect of the child's parent, guardian, or custodian to supply the child with the necessary medical care; or

(D) because the location of both of the child's parents is unknown;

the court shall appoint a guardian ad litem or court appointed special advocate, or both, for the child.

(2) If the child is alleged to be a child in need of services under:

(A) IC 31-34-1-1;

(B) IC 31-34-1-2;

(C) IC 31-34-1-3;

(D) IC 31-34-1-4;

(E) IC 31-34-1-5;

(F) IC 31-34-1-7; or

(G) IC 31-34-1-8;

the court ~~may~~ **shall** appoint a guardian ad litem, court appointed special advocate, or both, for the child.

(3) If the parent, guardian, or custodian of a child denies the allegations of a petition under section 6 of this chapter, the court shall appoint a guardian ad litem, court appointed special advocate, or both, for the child.

SECTION 181. IC 31-34-18-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.1. (a) The predispositional report prepared by a probation officer or caseworker

shall include the following information:

(1) A description of all dispositional options considered in preparing the report.

(2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended under the guidelines described in section 4 of this chapter.

(3) The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

(b) If a probation officer or a caseworker is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the probation officer or caseworker shall conduct a criminal history check **(as defined in IC 31-9-2-22.5)** for each person who:

(1) is currently residing in the location designated as the out-of-home placement; or

(2) in the reasonable belief of the probation officer or caseworker, is expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.

The results of the criminal history check must be included in the predispositional report.

(c) A probation officer or caseworker is not required to conduct a criminal history check under this section if:

(1) the probation officer or caseworker is considering only an out-of-home placement to an entity or facility that:

(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

SECTION 182. IC 31-34-19-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. ~~(a) Except as provided in subsection (d), a court may not enter a dispositional decree under subsection (b) if a person who is:~~

~~(1) currently residing in the location designated as the out-of-home placement; or~~

~~(2) reasonably expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location;~~

~~has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. If a criminal history check has not been conducted before a dispositional decree is entered under this section, the court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check in the manner set forth in IC 31-34-18-6.1.~~

~~(b)~~ In addition to the factors under section 6 of this chapter, if the court enters a dispositional decree regarding a child in need of services that includes an out-of-home placement, the court shall consider whether the child should be placed with the child's suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering other out-of-home placements for the child.

~~(c) The court is not required to order a probation officer or caseworker to conduct a criminal history check under subsection (a) if the court orders an out-of-home placement to an entity or a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.~~

~~(d) A court may enter a dispositional decree under subsection (b) if:~~

~~(1) a person described in subsection (a)(1) or (a)(2) has:~~

~~(A) committed an act resulting in a substantiated report of child abuse or neglect; or~~

~~(B) been convicted or had a juvenile adjudication for:~~

~~(i) reckless homicide (IC 35-42-1-5);~~

~~(ii) battery (IC 35-42-2-1) as a Class C or D felony;~~

~~(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;~~

~~(iv) arson (IC 35-43-1-1) as a Class C or D felony;~~

~~(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;~~

~~(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or~~

~~(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and~~

~~(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and the dispositional decree is in the best interest of the child.~~

~~However, a court may not enter a dispositional decree if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B).~~

~~(e) In making its written finding under subsection (d), the court shall consider the following:~~

~~(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the conviction, adjudication, or substantiated report of abuse or neglect.~~

~~(2) The severity of the offense, delinquent act, or abuse or neglect.~~

~~(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.~~

SECTION 183. IC 31-34-20-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. (a) Except as provided in subsection ~~(c),~~ **(d)** the juvenile court may not enter a dispositional decree placing a child in another home under section 1(3) of this chapter or awarding wardship to a county office of family and children that will place the child with a person under section 1(4) of this chapter if a person who is:

(1) currently residing in the home in which the child would be placed under section 1(3) or 1(4) of this chapter; or

(2) reasonably expected to be residing in the home in which the child would be placed under section 1(3) or 1(4) of this chapter during the time the child would be placed in the home;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check **(as defined in IC 31-9-2-22.5)** to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-34-4-2 **or** IC 31-34-18-6.1 ~~or IC 31-34-19-7~~ establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(c) A probation officer or caseworker is not required to conduct a criminal history check under this section if:

(1) the probation officer or caseworker is considering only an out-of-home placement to an entity or a facility that:

(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

~~(c)~~ **(d)** A court may enter a dispositional decree placing a child in another home or award wardship to a county office of family and children if:

(1) a person described in subsection (a)(1) or (a)(2) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect; or

(B) been convicted or had a juvenile adjudication for:

(i) reckless homicide (IC 35-42-1-5);

(ii) battery (IC 35-42-2-1) as a Class C or D felony;

(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;
(iv) arson (IC 35-43-1-1) as a Class C or D felony;
(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;
(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or
(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that the dispositional decree placing a child in another home or awarding wardship to a county office of family and children is in the best interest of the child.

However, a court may not enter a dispositional decree placing a child in another home or award wardship to a county office of family and children if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(d) In making its written finding under subsection ~~(c),~~ **(d),** the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.
(2) The severity of the offense, delinquent act, or abuse or neglect.
(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 184. IC 31-34-21-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.5. (a) Except as provided in subsection (d), the juvenile court may not approve a permanency plan under subsection (c)(1)(D), ~~or~~ (c)(1)(E), **or (c)(1)(F)** if a person who is ~~(1)~~ currently residing with a person described in subsection (c)(1)(D) or (c)(1)(E) or **in a residence in which the child would be placed under subsection (c)(1)(F)**

~~(2) reasonably expected to be residing with a person described in subsection (c)(1)(D) or (c)(1)(E) during the time the child would be placed in the location;~~

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check **(as defined in IC 31-9-2-22.5)** to determine if a person described in subsection ~~(a)(1) or (a)(2)~~ **(a)** has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-34-4-2, IC 31-34-18-6.1, ~~IC 31-34-19-7,~~ or IC 31-34-20-1.5 establishes whether a person described in subsection ~~(a)(1) or (a)(2)~~ **(a)** has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(c) A permanency plan under this chapter includes the following:

(1) The intended permanent or long term arrangements for care and custody of the child that may include any of the following arrangements that the court considers most appropriate and consistent with the best interests of the child:
(A) Return to or continuation of existing custodial care within the home of the child's parent, guardian, or custodian or placement of the child with the child's noncustodial parent.
(B) Initiation of a proceeding by the agency or appropriate person for termination of the parent-child relationship under IC 31-35.
(C) Placement of the child for adoption.
(D) Placement of the child with a responsible person, including:
(i) an adult sibling;
(ii) a grandparent;
(iii) an aunt;
(iv) an uncle; or
(v) another relative;
who is able and willing to act as the child's permanent custodian and carry out the responsibilities required by the permanency plan.
(E) Appointment of a legal guardian. The legal guardian appointed under this section is a caretaker in a judicially created relationship between the child and caretaker that is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child:
(i) Care, custody, and control of the child.
(ii) Decision making concerning the child's upbringing.
(F) Placement of the child in another planned, permanent living arrangement.

(2) A time schedule for implementing the applicable provisions of the permanency plan.
(3) Provisions for temporary or interim arrangements for care and custody of the child, pending completion of implementation of the permanency plan.
(4) Other items required to be included in a case plan under IC 31-34-15 or federal law, consistent with the permanent or long term arrangements described by the permanency plan.

(d) A juvenile court may approve a permanency plan if:

(1) a person described in subsection ~~(a)(1) or (a)(2)~~ **(a)** has:
(A) committed an act resulting in a substantiated report of child abuse or neglect; or
(B) been convicted or had a juvenile adjudication for:
(i) reckless homicide (IC 35-42-1-5);
(ii) battery (IC 35-42-2-1) as a Class C or D felony;
(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;
(iv) arson (IC 35-43-1-1) as a Class C or D felony;
(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;
(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or
(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that approval of the permanency plan is in the best interest of the child.

However, a court may not approve a permanency plan if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(e) In making its written finding under subsection (d), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.
(2) The severity of the offense, delinquent act, or abuse or neglect.
(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 185. IC 31-34-24-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. The:

(1) juvenile court, in implementing a program of informal adjustment for a child under IC 31-34-8; and
(2) ~~local~~ **department of** child ~~protection service,~~ **services,** in proposing a voluntary services referral agreement for the benefit

of a child under IC 31-33-13;

shall consider and use to the extent feasible any available services described in an early intervention plan approved under this chapter.

SECTION 186. IC 31-37-17-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.1. (a) The predispositional report prepared by a probation officer or caseworker shall include the following information:

(1) A description of all dispositional options considered in preparing the report.

(2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended under the guidelines described in section 4 of this chapter.

(3) The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

(b) If a probation officer or a caseworker is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the probation officer or caseworker must conduct a criminal history check **(as defined in IC 31-9-2-22.5)** for each person who:

(1) is currently residing in the location designated as the out-of-home placement; or

(2) in the reasonable belief of the probation officer or caseworker, is expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.

The results of the criminal history check must be included in the predispositional report.

(c) A probation officer or caseworker is not required to conduct a criminal history check under this section if:

(1) the probation officer or caseworker is considering only an out-of-home placement to an entity or a facility that:

(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

SECTION 187. IC 31-37-19-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.5. (a) Except as provided in subsection (c), the juvenile court may not enter a dispositional decree placing a child in another home under section 1(3) or 6(b)(2)(D) of this chapter or awarding wardship to the county office of family and children that results in a placement with a person under section 1(4) or 6(b)(2)(E) of this chapter if a person who is:

(1) currently residing in the home in which the child would be placed under section 1(3), 1(4), 6(b)(2)(D), or 6(b)(2)(E) of this chapter; or

(2) reasonably expected to be residing in the home in which the child would be placed under section 1(3), 1(4), 6(b)(2)(D), or 6(b)(2)(E) of this chapter during the time the child would be placed in the home;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check **(as defined in IC 31-9-2-22.5)** to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-37-17-6.1 establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(c) The juvenile court may enter a dispositional decree placing a child in another home under section 1(3) or 6(b)(2)(D) of this chapter or awarding wardship to the county office of family and children that results in a placement with a person under section 1(4) or 6(b)(2)(E) of this chapter if:

(1) a person described in subsection (a)(1) or (a)(2) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect; or

(B) been convicted or had a juvenile adjudication for:

(i) reckless homicide (IC 35-42-1-5);

(ii) battery (IC 35-42-2-1) as a Class C or D felony;

(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;

(iv) arson (IC 35-43-1-1) as a Class C or D felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;

(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or

(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that entry of a dispositional decree placing the child in another home is in the best interest of the child.

However, a court may not enter a dispositional decree placing a child in another home under section 1(3) or 6(b)(2)(D) of this chapter or awarding wardship to the county office of family and children if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(d) In making its written finding under subsection (c), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 188. IC 31-37-24-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. The:

(1) juvenile court, in implementing a program of informal adjustment for a child under IC 31-34-8; and

(2) ~~local~~ **department of** child ~~protection service,~~ **services,** in proposing a voluntary services referral agreement for the benefit of a child under IC 31-33-13;

shall consider and use to the extent feasible any available services described in an early intervention plan approved under this chapter.

SECTION 189. IC 31-39-2-13.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13.5. The records of the juvenile court are available without a court order to an employee of the division of family ~~and children,~~ **resources,** a caseworker, or a juvenile probation officer conducting a criminal history check **(as defined in IC 31-9-2-22.5)** under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(1) child at imminent risk of placement;

(2) child in need of services; or

(3) delinquent child.

SECTION 190. IC 31-39-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Child abuse or neglect information may be expunged under this chapter if the probative value of the information is so doubtful as to outweigh the information's validity.

(b) Child abuse or neglect information shall be expunged if the information is determined to be unsubstantiated after:

(1) an investigation of a report of a child who may be a victim of child abuse or neglect by the **department of** child ~~protection service;~~ **services;** or

(2) a court proceeding.

SECTION 191. IC 36-2-6-4.5 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. (a) A county executive may adopt an ordinance allowing money to be disbursed for lawful county purposes under this section.

(b) Notwithstanding IC 5-11-10, with the prior written approval of the board having jurisdiction over the allowance of claims, the county auditor may make claim payments in advance of board allowance for the following kinds of expenses if the county executive has adopted an ordinance under subsection (a):

(1) Property or services purchased or leased from the United States government, its agencies, or its political subdivisions.
(2) License or permit fees.
(3) Insurance premiums.
(4) Utility payments or utility connection charges.
(5) General grant programs where advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.
(6) Grants of state funds authorized by statute.
(7) Maintenance or service agreements.
(8) Leases or rental agreements.
(9) Bond or coupon payments.
(10) Payroll.
(11) State or federal taxes.
(12) Expenses that must be paid because of emergency circumstances.
(13) Expenses described in an ordinance.
(14) Expenses incurred under a procurement contract under IC 31-33-1.5-10.

(c) Each payment of expenses under this section must be supported by a fully itemized invoice or bill and certification by the county auditor.

(d) The county executive or the county board having jurisdiction over the allowance of the claim shall review and allow the claim at its next regular or special meeting following the preapproved payment of the expense.

(e) A payment of expenses under this section must be published in the manner provided under section 3 of this chapter.

SECTION 192. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 6-1.1-18.6; IC 12-7-2-31.5; IC 12-7-2-31.6; IC 12-13-14.5; IC 12-17-2-4; IC 12-17-2-5; IC 12-17-2-8; IC 12-17-2-16; IC 12-17.4-3-12; IC 12-17.4-4-15; IC 12-17.4-5-12; IC 12-17.4-6-11; IC 12-19-7-5; IC 12-19-7-8; IC 12-19-7.5-7; IC 12-19-7.5-10; IC 31-9-2-29.7; IC 31-33-2-1; IC 31-33-2-7.

SECTION 193. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "division" refers to the division of family and children established by IC 12-13-1-1.**

(b) The division shall take any steps necessary to transfer, beginning July 1, 2005, the designated state agency charged with the administration of Title IV-D of the federal Social Security Act from the child support bureau established by IC 12-17-2-5 to the department of child services established by IC 31-33-1.5-2, as added by this act.

(c) If the federal government has not approved the transfer of designation described in this SECTION by July 1, 2005, the department of child services shall enforce Title IV-D under the designation of the child support bureau established by IC 12-17-2-5.

(d) This SECTION expires December 31, 2006.

SECTION 194. [EFFECTIVE JULY 1, 2005] **(a) As used in this SECTION, "department" refers to the department of child services established by IC 31-33-1.5-2, as added by this act.**

(b) On July 1, 2005, the following occur:

(1) The powers, duties, and functions of:
(A) a local, joint county, or multiple county child protection service established by IC 31-33-2-1 (before its repeal) or IC 31-33-2-7 (before its repeal);
(B) the child support bureau created by IC 12-17-2-5 (before its repeal); and
(C) the division of family and children established by IC 12-13-1-1, before its amendment by this act, concerning:
(i) foster care;
(ii) independent living (as described in 42 U.S.C. 677 et seq.);
(iii) adoption;
(iv) the delivery of child services (as defined in IC 12-19-7-1);
(v) the regulation of residential child care establishments;
(vi) children in need of services;
(vii) children psychiatric residential treatment services (as defined in IC 12-19-7.5-1); and
(viii) family services (as defined in IC 31-9-2-45);
are transferred to the department.

(2) A reference in the Indiana Code or a rule to:
(A) child protection services or local, joint county, or multiple county child protection service;
(B) the child support bureau or the state's Title IV-D agency; and
(C) the division of family and children concerning the provision of:
(i) foster care;
(ii) independent living;
(iii) adoption;
(iv) the delivery of child;
(v) residential child care establishment;
(vi) children in need of;
(vii) children psychiatric residential treatment; and
(viii) family;
services;
shall be construed as a reference to the department.

(3) The property and records of:
(A) the child protection services and local, joint county, and multiple county child protection services;
(B) the child support bureau; and
(C) the division of family and children concerning:
(i) foster care;
(ii) independent living;
(iii) adoption;
(iv) the delivery of child;
(v) residential child care establishment;
(vi) children in need of;
(vii) children psychiatric residential treatment; and
(viii) family;
services;
are transferred to the department.

(4) Any appropriations made to the office of the secretary of family and social services to administer:
(A) child protection services;
(B) the child support bureau or Title IV-D;
(C) foster care services;
(D) independent living services;
(E) adoption services;
(F) the delivery of child services;
(G) the regulation of residential child care establishments;
(H) children in need of services;
(I) children psychiatric residential treatment services; and
(J) family services;
are transferred to the department.

(5) An individual who was an employee of:
(A) a local, joint county, or multiple county child protection services;
(B) the child support bureau; or
(C) the division of family and children or a local county office of family and children concerning:
(i) foster care;
(ii) independent living;
(iii) adoption;
(iv) the delivery of child;
(v) residential child care establishment;
(vi) children in need of;
(vii) children psychiatric residential treatment; and
(viii) family;
services;
becomes an employee of the department. The employee is

entitled to have the employee's service before July 1, 2005, recognized for the purposes of computing retention points under IC 4-15-2-32 if a layoff occurs and all other applicable employee benefits.

(c) This SECTION expires December 31, 2006.

SECTION 195. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "department" refers to the department of child services established by IC 31-33-1.5-2, as added by this act.

(b) Rules adopted before July 1, 2005, by the division of family and children concerning:

(1) child protection services;
(2) Title IV-D or the child support bureau;
(3) foster care services;
(4) independent living services;
(5) adoption services;
(6) the delivery of child services;
(7) the regulation of residential child care establishments;
(8) children in need of services;
(9) children psychiatric residential treatment; and
(10) family services;

are considered after June 30, 2005, rules of the department.

(c) The department shall amend references in rules to indicate that the department and not the division of family and children is the entity that administers:

(1) child protection services;
(2) Title IV-D;
(3) foster care services;
(4) independent living services;
(5) adoption services;
(6) the delivery of child services;
(7) the regulation of residential child care establishments;
(8) children in need of services;
(9) children psychiatric residential treatment; and
(10) family services.

(d) This SECTION expires December 31, 2006.

SECTION 196. [EFFECTIVE JULY 1, 2005] (a) The legislative services agency shall prepare legislation for introduction in the 2006 regular session of the general assembly to make appropriate changes in statutes that are required by this act, including the review of the following cites to determine whether changes are necessary:

(1) IC 12-7-2.
(2) IC 12-13-5.
(3) IC 12-13-6.
(4) IC 12-13-7.
(5) IC 12-13-13.
(6) IC 12-13-15.
(7) IC 12-13-15.1.
(8) IC 12-14-24.
(9) IC 12-17-1.
(10) IC 12-17-2.
(11) IC 12-17-3.
(12) IC 12-17-8.
(13) IC 12-17-9.
(14) IC 12-17-10.
(15) IC 12-17-11.
(16) IC 12-17-16.
(17) IC 12-17.4.
(18) IC 12-19-1.
(19) IC 12-19-2.
(20) IC 12-19-5.
(21) IC 12-19-7.
(22) IC 12-19-7.5.
(23) IC 31-19.
(24) IC 31-34-4.
(25) IC 31-34-21.
(26) IC 31-34-24.
(27) IC 31-39-2-13.5.
(28) IC 31-40-1.
(29) Any other statute needing to be changed as required by this act.

(b) A reference in the following statutes to the division of family and children shall be construed as a reference to the department of child services established by IC 31-33-1.5:

(1) IC 12-13-13.
(2) IC 12-13-15.
(3) IC 12-13-15.1.
(4) IC 12-14-24.
(5) IC 12-17-1.
(6) IC 12-17-3.
(7) IC 12-17-8.
(8) IC 12-17-9.
(9) IC 12-17-10.
(10) IC 12-17-11.
(11) IC 12-17-16.
(12) IC 12-17.4.
(13) IC 12-19-1-11.
(14) IC 12-19-1-14.
(15) IC 20-8.1-6.1-5.5.
(16) IC 31-19.
(17) IC 31-30 through IC 31-40 that are duties, functions, or responsibilities of the department of child services under IC 31-33-1.5.

(c) This SECTION expires December 31, 2007.

SECTION 197. [EFFECTIVE JULY 1, 2005] (a) On July 1, 2005, the following occur:

(1) The division of family and children established by IC 12-13-1-1 becomes the division of family resources.
(2) The powers, duties, and functions of the division of family and children, except for the powers, duties, and functions transferred to the department of child services established by this act, are transferred to the division of family resources.
(3) A reference in the Indiana Code or the Indiana Administrative Code to the division of family and children, except as changed by this act, shall be construed as a reference to the division of family resources.
(4) The property and records of the division of family and children, except for the property and records transferred by this act to the department of child services, are transferred to the division of family resources.
(5) Any appropriations made to the division of family and children, except for an appropriation concerning a power, duty, or function transferred to the department of child services under this act, are transferred to the division of family resources.
(6) An individual who is an employee of the division of family and children, except for an employee who is transferred to the department of child services under this act, becomes an employee of the division of family resources. The employee is entitled to have the employee's service before July 1, 2005, recognized for the purposes of computing retention points under IC 4-15-2-32 if a layoff occurs and all other applicable employee benefits.
(7) Rules adopted by the division of family and children before July 1, 2005, except for a rule concerning a power, duty, or function transferred to the department of child services under this act, are considered after June 30, 2005, to be rules of the division of family resources.
(8) The division of family resources shall amend references to the division of family and children in rules adopted by the division of family and children before July 1, 2005, to reflect the change described in subdivision (1).

(b) This SECTION expires December 31, 2009.

SECTION 198. [EFFECTIVE JULY 1, 2005] The amendments to IC 12-19-7 and IC 12-19-7.5 by this act apply only to property taxes first due and payable after December 31, 2005.

SECTION 199. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(b) As used in this SECTION, "special needs adopted child" means a child who:

(1) has been adopted by an individual; and
(2) has been diagnosed with a mental illness, including an emotional or behavioral condition, by a psychologist licensed under IC 25-33 or a psychiatrist licensed under IC 25-22.5.

(c) As used in this SECTION, "waiver" refers to a Medicaid

waiver allowed under the federal Social Security Act.

(d) Before September 1, 2005, the office shall apply to the United States Department of Health and Human Services for a waiver to allow the office to disregard parental income for Medicaid eligibility purposes if the parental income:

(1) is three hundred fifty percent (350%) or less of the federal income poverty level and the individual is otherwise ineligible for Medicaid; or

(2) exceeds three hundred fifty percent (350%) and is less than one thousand one percent (1001%) of the federal income poverty level and the office adopts a cost participation plan for these individuals;

and provide coverage of mental health services for a special needs adopted child who is less than nineteen (19) years of age.

(e) The office may not implement the waiver until the office files an affidavit with the governor attesting that the federal waiver applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the waiver is approved.

(f) If the office receives a waiver applied for under subsection (d) and the governor receives the affidavit filed under subsection (e), the office shall implement the waiver not more than sixty (60) days after the governor receives the affidavit.

(g) The office may adopt rules under IC 4-22-2 necessary to implement this SECTION.

(h) This SECTION expires December 31, 2012.

SECTION 200. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "committee" refers to the select committee on the reorganization of child services established by this SECTION.**

(b) There is established the select committee on the reorganization of child services. The committee shall study the organization of child services provided in Indiana and consider which is the proper agency to administer each program that has an impact on services for children. The duties of the committee include the following:

(1) Studying and making recommendations concerning the means in which the department of child services and the office of the secretary of family and social services shall cooperate in providing child services.

(2) Studying and making recommendations concerning the determination of the proper agency:

(A) to administer specific child service programs; and

(B) to employ the individuals providing child services.

(3) Studying and making a recommendation concerning the proper organization of the department of child services established by this act to deliver services for children on a statewide basis.

(4) Studying any other matter the committee determines is relevant to the reorganization of child services in Indiana.

(5) Studying the efficient provision of administrative functions used by more than one (1) agency providing child services.

(c) The committee consists of the following members:

(1) Two (2) legislators appointed by the president pro tempore of the senate. Members appointed under this subdivision may not be members of the same political party.

(2) Two (2) legislators appointed by the speaker of the house of representatives. Members appointed under this subdivision may not be members of the same political party.

(3) The secretary of family and social services.

(4) The director of the department of child services appointed under IC 31-33-1.5-2, as added by this act.

(5) Three (3) directors of county offices of family and children appointed as follows:

(A) One (1) director appointed by the secretary of the office of the secretary of family and social services.

(B) One (1) director appointed by the director of the department of child services.

(C) One (1) director appointed by the governor.

(6) One (1) guardian ad litem or court appointed special advocate appointed by the governor.

(7) One (1) school superintendent appointed by the governor.

The chairperson of the legislative council shall appoint a member described in subdivision (1) or (2) as chairperson of the committee.

(d) The committee shall operate under the policies governing study committees adopted by the legislative council.

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

(f) The final report of the committee must be submitted to the legislative council in electronic format under IC 5-14-6 not later than December 1, 2005.

(g) This SECTION expires December 31, 2005.

SECTION 201. [EFFECTIVE JULY 1, 2005] **(a) The department of child services shall submit a report to the legislative council and the health finance commission established by IC 2-5-23-3 that contains statistics concerning the education levels and salaries of all:**

(1) child protection caseworkers and child welfare caseworkers; and

(2) child protection caseworker and child welfare caseworker supervisors;

by September 1, 2005.

(b) The report required by subsection (a) must be in an electronic format under IC 5-14-6.

(c) This SECTION expires December 31, 2005.

SECTION 202. [EFFECTIVE JULY 1, 2005] **(a) The department of education, in cooperation with the department of child services, the department of correction, and the division of mental health and addiction, shall submit a joint report not later than June 1, 2006, to the legislative council and the commission on mental health concerning the implementation of IC 12-13-16, as added by this act.**

(b) The report required by subsection (a) must be in an electronic format under IC 5-14-6.

(c) This SECTION expires July 1, 2006.

SECTION 203. **An emergency is declared for this act.**

(Reference is to ESB 529 as reprinted April 8, 2005.)

C. LAWSON	BEHNING
BREAUX	AVERY
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1646–1; filed April 27, 2005, at 12:49 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1646 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 23-2-1-17.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 17.5. (a) This section applies to the following:**

(1) The secretary of state.

(2) The securities commissioner.

(3) A prosecuting attorney.

(4) The attorney general.

(5) A designee of a person specified in subdivisions (1) through (4).

(b) A person specified in subsection (a) shall not take any action against another person under this chapter solely because a:

(1) viatical settlement contract; or

(2) fractional or pooled interest in a viatical settlement contract;

that was the subject of a transaction in which the other person was involved before March 17, 2000, was not registered under this chapter.

(c) A person specified in subsection (a) shall not take any action against another person under this chapter solely because

the other person did not, before March 17, 2000, comply with the:

(1) registration requirements of this chapter; or

(2) requirements of this chapter that apply to a person that offers or sells securities in Indiana;

if the other person did not at the time of the offer or sale, and before March 17, 2000, offer or sell securities other than a viatical settlement contract or a fractional or pooled interest in a viatical settlement contract.

(d) A person specified in subsection (a) shall not take any action against another person under this chapter solely because the other person did not comply with the registration requirements referred to in subsections (b) and (c).

SECTION 2. IC 23-2-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) A person who offers or sells a security in violation of this chapter, and who does not sustain the burden of proof that the person did not know and in the exercise of reasonable care could not have known of the violation, is liable to any other party to the transaction who did not knowingly participate in the violation or who did not have, at the time of the transaction, knowledge of the violation, who may sue either at law or in equity to rescind the transaction or to recover the consideration paid, together, in either case, with interest as computed in subsection (g)(1), plus costs, and reasonable attorney's fees, less the amount of any cash or other property received on the security upon the tender of the security by the person bringing the action or for damages if the person no longer owns the security. Damages are the amount that would be recoverable upon a tender less:

(1) the value of the security when the buyer disposed of the security; and

(2) the interest as computed in subsection (g)(1) on the value of the security from the date of disposition.

(b) A person who purchases a security in violation of this chapter, and who does not sustain the burden of proof that the person did not know and in the exercise of reasonable care could not have known of the violation, is liable to any other party to the transaction who did not knowingly participate in the violation or who did not have, at the time of the transaction, knowledge of the violation. The other party to the transaction may bring an action to rescind the transaction or for damages, together, in either case, with reasonable attorney's fees, upon the tender of the consideration received by the person bringing the action.

(c) A person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues analyses or reports concerning securities and:

(1) violates section 8, 12.1(b), 14, or 26 of this chapter;

(2) employs a device, scheme, or artifice to defraud a person; or

(3) engages in an act that operates or would operate as fraud or deceit upon a person;

is liable to the other person, who may bring an action to recover any consideration paid for advice, any loss due to advice, interest at eight percent (8%) each year from the date consideration was paid, costs, and reasonable attorney's fees less the value of cash or property received due to the advice. It is a defense to an action brought for a violation of section 12.1(b) or 26 of this chapter that the person accused of the violation did not know of the violation and, exercising reasonable care, could not have known of the violation.

(d) A person who directly or indirectly controls a person liable under subsection (a), (b), or (c), a partner, officer, or director of the person, a person occupying a similar status or performing similar functions, an employee of a person who materially aids in the conduct creating the liability, and a broker-dealer or agent who materially aids in the conduct are also liable jointly and severally with and to the same extent as the person, unless the person who is liable sustains the burden of proof that the person did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist. There is contribution as in cases of contract among the several persons liable.

(e) A tender specified in this section may be made at any time before entry of judgment.

(f) A cause of action under this statute survives the death of a person who might have been a plaintiff or defendant.

(g) Action under this section shall be commenced within three (3) years after discovery by the person bringing the action of a violation of this chapter, and not afterwards, **but in no event may an action, unless the period is extended by operation of IC 34-11-5-1, be commenced more than six (6) years after the purchase or sale of a viatical settlement contract or fractional or pooled interest in a viatical settlement contract that occurred before March 17, 2000, and is the subject of the action. This subsection does not affect a remedy that is available to a person bringing a cause of action under IC 27 or IC 34 or based on common law fraud.** No person may sue under this section:

(1) if that person received a written offer, before suit and at a time when the person owned the security, to refund the consideration paid together with interest on that amount from the date of payment to the date of repayment, with interest on:

(A) interest-bearing obligations to be computed at the same rate as provided on the security; and

(B) all other securities at the rate of eight percent (8%) per year;

less the amount of any income received on the security, and the person failed to accept the offer within thirty (30) days of its receipt; or

(2) if the person received an offer before suit and at a time when the person did not own the security, unless the person rejected the offer in writing within thirty (30) days of its receipt.

(h) No person who has made or engaged in the performance of a contract in violation of this chapter or a rule or order under this chapter, or who has acquired a purported right under a contract with knowledge of the facts by reason of which its making or performance was in violation, may base a suit on the contract.

(i) A condition, stipulation, or provision binding a person acquiring a security to waive compliance with this chapter or a rule or order under this chapter is void.

(j) The rights and remedies specifically prescribed by this chapter are the only rights and remedies created by this chapter, but are in addition to any other rights or remedies that exist at law or in equity.

SECTION 4. IC 27-8-19.8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter, "applicant" refers to ~~an applicant~~ **a person that applies** for a viatical settlement provider license under this chapter.

SECTION 5. IC 27-8-19.8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. As used in this chapter, "insured" refers to an individual ~~who has a catastrophic or life threatening illness or condition.~~ **whose life is the subject of insurance under a life insurance policy or contract.**

SECTION 6. IC 27-8-19.8-9.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9.2. An insurance producer that:**

(1) is licensed under IC 27-1-15.6; and

(2) sells a life insurance policy or contract that, less than two (2) years after the insurance producer sells the policy or contract, is the subject of a viatical settlement contract;

shall not accept a commission or other remuneration in connection with the viatical settlement contract.

SECTION 7. IC 27-8-19.8-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. (a) A viatical settlement contract must establish the terms under which the viatical settlement provider will pay value, in return for the viator's assignment, bequest, devise, sale, or transfer of the death benefit, certificate, or ownership of the insurance policy to the viatical settlement provider.

(b) A viatical settlement contract must provide for the unconditional rescission of the contract by the viator for the longer of the following:

(1) the period ending not more than fifteen (15) days after the receipt of the viatical settlement proceeds by the viator; or

(2) the period ending not more than thirty (30) days after execution of the contract.

(c) A viatical settlement contract is rescinded if the insured dies during the rescission period, subject to repayment **to the viatical**

settlement provider of all proceeds ~~to the viatical settlement provider~~ **and any premiums, loans, and loan interest that have been paid by the viatical settlement provider.**

SECTION 8. IC 27-8-19.8-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. **(a) A viatical settlement provider or viatical settlement broker shall, not later than the date of application, provide to a viator a brochure approved by the commissioner and describing the viatical settlement process. If a brochure describes only a viatical settlement contract in which the insured does not have a catastrophic or life threatening illness or condition, the brochure may use the term "life settlement" in place of the term "viatical settlement".**

(b) A viatical settlement provider or viatical settlement broker shall, **in a separate document that is signed by the viator and the viatical settlement provider or viatical settlement broker,** disclose the following information to the viator not later than the date of application:

(1) Possible alternatives to viatical settlement contracts, including accelerated benefits **or policy loans** offered by the issuer of the life insurance policy.

(2) **Federal and state** tax consequences that may result from entering into a viatical settlement contract, **and that the viator should seek assistance from a professional tax advisor.**

(3) Possible:

(A) adverse effect on eligibility for; or

(B) interruption of assistance provided by;

medical or public assistance programs as a consequence of entering into a viatical settlement contract, **and that the viator should seek advice from the appropriate government agencies.**

(4) The viator's right to rescind a viatical settlement contract as provided in section 21 of this chapter.

(5) The amount of any fees paid by a viatical settlement provider to a viatical settlement broker.

(6) A statement that proceeds of the viatical settlement could be subject to claims of creditors.

(7) A statement that:

(A) entering into a viatical settlement contract may cause other rights or benefits under the policy, including conversion rights, waiver of premium benefits, family riders, or coverage of a life other than ~~an ill individual,~~ **the insured,** to be forfeited by the viator; **and**

(B) the viator should seek advice from a financial advisor.

(8) The procedure for contacts with the insured.

(9) That the proceeds of the viatical settlement will be transferred to the viator as provided in section 24.2 of this chapter.

(10) A statement containing the following language:

"All medical, financial, or personal information solicited or obtained by a viatical settlement provider or viatical settlement broker about an insured, including the insured's identity or the identity of family members, a spouse, or a significant other may be disclosed as necessary to effect the viatical settlement between the viator and the viatical settlement provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years.".

(11) That the insured may be contacted by the viatical settlement provider or viatical settlement broker to determine the health status of the insured in accordance with section 24.9 of this chapter.

(c) The viatical settlement provider shall disclose the following information to the viator, conspicuously displayed in the viatical settlement contract or in a separate document signed by the viatical settlement provider and the viator, before a viatical settlement contract is signed:

(1) Any affiliation between the viatical settlement provider and the insurer that issued the life insurance policy or certificate that is the subject of the viatical settlement contract.

(2) The name, address, and telephone number of the viatical settlement provider.

(3) If the life insurance policy or certificate that is the subject of the viatical settlement contract was issued as a joint policy or includes family riders or any coverage of an individual other than the insured:

(A) the possible loss of coverage of the other individuals under the policy or certificate; and

(B) that the viator should consult with the viator's insurance producer or the insurer that issued the policy or certificate for advice concerning the proposed viatical settlement contract.

(4) The:

(A) dollar amount of the current death benefit payable to the viatical settlement provider; and

(B) if known, the:

(i) availability of any additional guaranteed insurance benefits;

(ii) dollar amount of any accidental death and dismemberment benefits; and

(iii) viatical settlement provider's interest in the benefits described in items (i) and (ii);

under the policy or certificate.

(5) The:

(A) name, business address, and telephone number of the trustee or escrow agent described in section 24.2 of this chapter; and

(B) right of the viator or insured to inspect or receive copies of the relevant escrow or trust agreements or documents.

(d) A viatical settlement broker shall disclose to the viator, conspicuously displayed in the viatical settlement contract or in a separate document signed by the viatical settlement broker and the viator before a viatical settlement contract is signed, the amount and method of calculation of the viatical settlement broker's compensation.

(e) If a viatical settlement provider transfers ownership or changes the beneficiary of a viaticated policy, the viatical settlement provider shall, not more than twenty (20) days after the transfer or change occurs, inform the insured of the transfer or change.

SECTION 9. IC 27-8-19.8-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. A viatical settlement provider shall obtain the following before entering into a viatical settlement contract:

(1) If the viator is the insured, a written statement from a licensed attending physician that the insured is of sound mind and under no constraint or undue influence.

(2) A document signed by the viator and witnessed by two (2) disinterested witnesses in which the viator does the following:

(A) Consents to the viatical settlement contract.

(B) **If the insured has a catastrophic or life threatening illness or condition,** acknowledges the catastrophic or life threatening illness **or condition.**

(C) Represents that the viator has a full and complete understanding of the viatical settlement contract.

(D) Represents that the viator has a full and complete understanding of the benefits of the life insurance policy.

(E) Acknowledges that the viator has entered into the viatical settlement contract freely and voluntarily.

(F) Discloses the identity of any person that served as a viatical settlement broker in connection with the viatical settlement contract.

(3) A document in which the insured consents to the release of the insured's medical records.

SECTION 10. **An emergency is declared for this act.**

(Reference is to EHB 1646 as reprinted April 9, 2005.)

RIPLEY	M. YOUNG
FRY	LEWIS
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 419–1; filed April 27, 2005, at 12:58 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 419 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete the title and insert the following:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 3-7-32-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. A voter may not submit a registration application by **fax or an** electronic transmission except as provided in:

(1) IC 3-11-4 **concerning an absent uniformed services voter or overseas voter submitting a registration application on the standard form approved under 42 U.S.C. 1973ff(b);** or **(2)** after December 31, 2005, IC 3-7-26.3.

SECTION 2. IC 3-11-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) This section applies, notwithstanding any other provision of this title, to absentee ballot applications for the following:

(1) An absent uniformed services voter.

(2) An address confidentiality program participant (as defined in IC 5-26.5-1-6).

(3) An overseas voter.

(b) A county election board shall make blank absentee ballot applications available for persons covered by this section after November 20 preceding the election to which the application applies. Except as provided in subsection (c), the person may apply for an absentee ballot at any time after the applications are made available.

(c) A person covered by this section may apply for an absentee ballot for the next scheduled primary, general, or special election at any time by filing a standard form approved under 42 U.S.C. 1973ff(b).

(d) If the county election board receives an absentee ballot application from a person described by this section, the circuit court clerk shall mail to the person, free of postage as provided by 39 U.S.C. 3406, all ballots for the election immediately upon receipt of the ballots under sections 13 and 15 of this chapter.

(e) In accordance with 42 U.S.C. 1973ff-3, whenever a voter files an application for an absentee ballot and indicates on the application that the voter:

(1) is an absent uniformed services voter or an overseas voter; and

(2) does not expect to be in the county on the next general election day following the date the application is filed and expects to remain absent from the county until at least the date of the second general election following the date the application is filed;

the application is an adequate application for an absentee ballot for both subsequent general elections and any municipal or special election conducted during that period. The circuit court clerk and county election board shall process this application and send general election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and sent under this chapter.

(f) Whenever a voter described in subsection (a)(2) files an application for a primary election absentee ballot and indicates on the application that the voter is an address confidentiality program participant, the application is an adequate application for a general election absentee ballot under this chapter and an absentee ballot for a special election conducted during the twelve (12) months following the date of the application. The circuit court clerk and county election board shall process this application and send general election and special election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and sent under this chapter.

(g) The name, address, telephone number, and any other identifying information relating to a program participant (as defined in IC 5-26.5-1-6) in the address confidentiality program, as contained in a voting registration record, is declared confidential for purposes of IC 5-14-3-4(a)(1). The county voter registration office may not disclose for public inspection or copying a name, an address, a telephone number, or any other information described in this subsection, as contained in a voting registration record, except as follows:

(1) To a law enforcement agency, upon request.

(2) As directed by a court order.

(h) The county election board shall by fax **(or electronic mail when authorized under this section)** transmit an absentee ballot to and receive an absentee ballot from an absent uniformed services voter or an overseas voter at the request of the voter. If the voter wants to submit absentee ballots by fax **or electronic mail,** the voter must separately sign and date a statement on the cover of the fax transmission that states substantively the following: "I understand that by faxing **or e-mailing** my voted ballot I am voluntarily waiving my right to a secret ballot.".

(i) The county election board shall send confirmation to a voter described in subsection (h) that the voter's absentee ballot has been received as follows:

(1) If the voter provides a fax number to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the fax number provided by the voter.

(2) If the voter provides an electronic mail address to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the electronic mail address provided by the voter.

(3) If:

(A) the voter does not provide a fax number or an electronic mail address; or

(B) the number or address provided does not permit the board to send the confirmation not later than the end of the first business day after the board receives the voter's absentee ballot;

the county election board shall send the confirmation by United States mail.

The county election board shall send the confirmation required by this subsection not later than the end of the first business day after the county election board receives the voter's absentee ballot.

(j) A county election board may transmit an absentee ballot to an absent uniformed services voter or an overseas voter by electronic mail under a program authorized and administered by the Federal Voting Assistance Program of the United States Department of Defense. A voter described by this section may transmit the voted absentee ballot to a county election board by electronic mail in accordance with the procedures established under this program. An electronic mail message transmitting a voted absentee ballot under this subsection must include an optically scanned image of the voter's signature on the statement required under subsection (h).

SECTION 3. IC 3-11-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. **(a) This section applies to an overseas voter described in IC 3-5-2-34.5(3).**

~~(a)~~ **(b)** An overseas voter who resides outside the United States and who is no longer a resident of a precinct in Indiana is only entitled to receive absentee ballots for a federal office under this chapter.

~~(b)~~ **(c)** A voter described in subsection (a) is considered to be a voter of the Indiana precinct where the voter registration office **of the county where the person was domiciled before leaving the United States** is located.

SECTION 4. IC 3-11-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. ~~(a) The absentee ballots for:~~

~~(1) President and Vice President of the United States;~~

~~(2) United States Senator;~~

~~(3) all state offices; and~~

~~(4) the ratification or rejection of a public question to be voted for by the electorate of the entire state or for the retention of a judge of the Indiana court of appeals;~~

~~shall be prepared and printed under the direction of the election~~

~~division.~~

~~(b) The election division shall have the ballots printed upon certification of the political party tickets and independent candidates.~~

~~(c) Except as provided in subsection (f), ballots prepared under this section must provide space for the voter to cast a write-in ballot.~~

~~(d)~~ **(a)** The election division shall prepare a special absentee ballot for use by:

(1) absent uniformed services voters; and

(2) overseas voters;

who will be outside of the United States on general election day.

~~(c)~~ **(b)** The ballot described by ~~subsection (d).~~ **subsection (a):**

(1) must indicate each state office to be elected by the voters at the general election;

(2) must set forth each public question to be voted for at the general election by the electorate of the entire state;

(3) may not state the name of any political party or candidate for election;

(4) must permit the voter to write in the name of a political party or a candidate for election to each office; and

(5) must include a notice stating that regular absentee ballots will be mailed to the voter by the county election board as soon as the ballots are available.

~~(f)~~ **(c)** Space for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

SECTION 5. IC 3-11-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) Except as provided in subsections (b) and (c), the absentee ballots that are prepared and printed under the direction of the election division shall be delivered to the circuit court clerk or the clerk's authorized deputy not less than forty-five (45) days before a general election or twenty-nine (29) days before a special election. The absentee ballots shall be delivered in the same manner that other official ballots are delivered.

(b) This subsection applies to the printing of absentee ballots for a general election in which the names of nominees for President and Vice President of the United States are to be printed on the ballot. The absentee ballots that are prepared and printed under the direction of the election division shall be delivered to the circuit court clerk not later than thirty-eight (38) days before the general election.

(c) An absentee ballot described by ~~section 12(d)~~ **section 12(a)** of this chapter shall be delivered by the election division to the circuit court clerk or the clerk's authorized deputy not later than the first Monday in June before a general election.

SECTION 6. IC 3-11-4-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. Upon receipt of an application for an absentee ballot, a circuit court clerk shall file the application in the clerk's office and record all of the following:

(1) The voter's name.

(2) The date the application is received.

(3) The date the ballot is sent to the voter.

(4) If mailed, the address to which the ballot is sent.

(5) If transmitted by fax, the fax number to which the ballot is faxed.

(6) The date the ballot is marked before the clerk or otherwise received from the voter.

(7) The combined total number of absentee ballots sent by the county to absent uniformed services voters and overseas voters.

(8) The total number of absentee ballots returned by voters described in subdivision (7) in time to be counted.

(9) The total number of absentee ballots described in subdivision (7) that were counted in whole or in part.

~~(7)~~ **(10)** Any other information that is necessary or advisable.

SECTION 7. IC 3-11-10-1, AS AMENDED BY SEA 15-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A voter voting by absentee ballot shall make and subscribe to the affidavit prescribed by IC 3-11-4-21. The voter then shall, except as provided in subsection (b), do the following:

(1) Mark the ballot in the presence of no other person.

(2) Fold each ballot separately.

(3) Fold each ballot so as to conceal the marking.

(4) Enclose each ballot, with the seal and signature of the circuit court clerk on the outside, together with any unused ballot, in the envelope provided.

(5) Securely seal the envelope.

(6) Do one (1) of the following:

(A) Mail the envelope to the county election board, with not more than one (1) ballot per envelope.

(B) Deliver the envelope to the county election board in person.

(C) Deliver the envelope to a member of the voter's household or a person designated as the attorney in fact for the voter under IC 30-5 for delivery to the county election board:

(i) in person;

(ii) by United States mail; or

(iii) by a bonded courier company.

(b) A voter permitted to transmit the voter's absentee ballots by fax **or electronic mail** under IC 3-11-4-6 is not required to comply with subsection (a). The individual designated by the circuit court clerk to receive absentee ballots transmitted by fax **or electronic mail** shall do the following upon receipt of an absentee ballot transmitted by fax:

(1) Note the receipt of the absentee ballot in the records of the circuit court clerk as other absentee ballots received by the circuit court clerk are noted.

(2) Fold each ballot received from the voter separately so as to conceal the marking.

(3) Enclose each ballot in a blank absentee ballot envelope.

(4) Securely seal the envelope.

(5) Mark on the envelope: "Absentee Ballot Received by Fax **or Electronic Mail**".

(6) Securely attach to the envelope the faxed affidavit received with the voter's absentee ballots.

(c) Except as otherwise provided in this title, absentee ballots received by fax **or electronic mail** shall be handled and processed as other absentee ballots received by the circuit court clerk are handled and processed.

SECTION 8. IC 3-11-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Upon receipt of an absentee ballot, a county election board (or the absentee voter board in the office of the circuit court clerk) shall immediately examine the signature of the absentee voter to determine its genuineness.

(b) This subsection does not apply to an absentee ballot cast by a voter permitted to transmit the voter's absentee ballots by fax **or electronic mail** under IC 3-11-4-6. The board shall compare the signature as it appears upon the envelope containing the absentee ballot with the signature of the voter as it appears upon the application for the absentee ballot. The board may also compare the signature on the ballot envelope with any other admittedly genuine signature of the voter.

(c) This subsection applies to an absentee ballot cast by a voter permitted to transmit the voter's absentee ballots by fax **or electronic mail** under IC 3-11-4-6. The board shall compare the signature as it appears on the affidavit transmitted with the voter's absentee ballot to the voter's signature as it appears on the application for the absentee ballot. The board may also compare the signature on the affidavit with any other admittedly genuine signature of the voter.

(d) If a member of the absentee voter board questions whether a signature on a ballot envelope or transmitted affidavit is genuine, the matter shall be referred to the county election board for consideration under section 5 of this chapter.

SECTION 9. IC 3-11-10-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) Each county election board shall have all absentee ballots delivered to the precinct election boards at their respective polls on election day.

(b) The absentee ballots shall be delivered during the hours that the polls are open and in sufficient time to enable the precinct election boards to vote the ballots during the time the polls are open.

(c) ~~This subsection applies after December 31, 2003.~~ Along with the absentee ballots delivered to the precinct election boards under subsection (a), each county election board shall provide a list certified by the circuit court clerk. This list must state the name of each voter

subject to IC 3-7-33-4.5 who:

(1) filed the documentation required by IC 3-7-33-4.5 with the county voter registration office after the printing of the certified list under IC 3-7-29 or the poll list under IC 3-11-3-18; and

(2) as a result, is entitled to have the voter's absentee ballot counted if the ballot otherwise complies with this title.

(d) ~~This subsection applies after December 31, 2003.~~ If the county election board is notified not later than 3 p.m. on election day by the county voter registration office that a voter subject to IC 3-7-33-4.5 and not identified in the list certified under subsection (c) has filed documentation with the office that complies with IC 3-7-33-4.5, the county election board shall transmit a supplemental certified list to the appropriate precinct election board. If the board determines that the supplemental list may not be received before the closing of the polls, the board shall:

(1) attempt to contact the precinct election board to inform the board regarding the content of the supplemental list; and

(2) file a copy of the supplemental list for that precinct as part of the permanent records of the board.

(e) This subsection applies to a special write-in absentee ballot described in:

(1) 42 U.S.C. 1973ff for federal offices; and

(2) ~~IC 3-11-4-12(d)~~ **IC 3-11-4-12(a)** for state offices.

If the county election board receives both a special write-in absentee ballot and the regular absentee ballot described by IC 3-11-4-12 from the same voter, the county election board shall reject the special write-in ballot and deliver only the regular absentee ballot to the precinct election board.

SECTION 10. IC 3-11-10-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. Subject to section 11 of this chapter, absentee ballots received by mail (or **by** fax **or electronic mail under IC 3-11-4-6)** after the county election board has started the final delivery of the ballots to the precincts on election day are considered as arriving too late and need not be delivered to the polls.

SECTION 11. IC 3-11-10-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) If the inspector finds under section 15 of this chapter that any of the following applies, a ballot may not be accepted or counted:

(1) The affidavit is insufficient or the ballot has not been endorsed with the initials of:

(A) the two (2) members of the absentee voter board in the office of the circuit court clerk under IC 3-11-4-19 or section 27 of this chapter;

(B) the two (2) members of the absentee voter board visiting the voter under section 25(b) of the chapter; or

(C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.

(2) A copy of the voter's signature has been furnished to the precinct election board and that the signatures do not correspond or there is no signature.

(3) The absentee voter is not a qualified voter in the precinct.

(4) The absentee voter has voted in person at the election.

(5) The absentee voter has not registered.

(6) The ballot is open or has been opened and resealed. This subdivision does not permit an absentee ballot transmitted by fax **or electronic mail under IC 3-11-4-6** to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax **or electronic mail.**

(7) The ballot envelope contains more than one (1) ballot of any kind for the same office or public question.

(8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate.

(9) The ballot has been challenged and not supported.

(b) Subsection (c) applies whenever a voter with a disability is unable to make a signature:

(1) on an absentee ballot application that corresponds to the voter's signature in the records of the county voter registration office; or

(2) on an absentee ballot secrecy envelope that corresponds with the voter's signature:

(A) in the records of the county voter registration office; or

(B) on the absentee ballot application.

(c) The voter may request that the voter's signature or mark be attested to by:

(1) the absentee voter board under section 25(b) of this chapter;

(2) a member of the voter's household; or

(3) an individual serving as attorney in fact for the voter.

(d) An attestation under subsection (c) provides an adequate basis for an inspector to determine that a signature or mark complies with subsection (a)(2).

SECTION 12. IC 3-11.5-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. Subject to section 7 of this chapter, absentee ballots received by mail (or **by** fax **or electronic mail under IC 3-11-4-6)** after noon on election day are considered as arriving too late and may not be counted.

SECTION 13. IC 3-11.5-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) If the absentee ballot counters find under section 11 of this chapter that any of the following applies, the ballots shall be rejected:

(1) The affidavit is insufficient or that the ballot has not been endorsed with the initials of:

(A) the two (2) members of the absentee voter board in the office of the clerk of the circuit court under IC 3-11-4-19 or IC 3-11-10-27;

(B) the two (2) members of the absentee voter board visiting the voter under IC 3-11-10-25; or

(C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.

(2) The signatures do not correspond or there is no signature.

(3) The absentee voter is not a qualified voter in the precinct.

(4) The absentee voter has voted in person at the election.

(5) The absentee voter has not registered.

(6) The ballot is open or has been opened and resealed. This subdivision does not permit an absentee ballot transmitted by fax **or electronic mail under IC 3-11-4-6** to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax **or electronic mail.**

(7) The ballot envelope contains more than one (1) ballot of any kind for the same office or public question.

(8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate.

(9) The ballot has been challenged and not supported.

(b) Subsection (c) applies whenever a voter with a disability is unable to make a signature:

(1) on an absentee ballot application that corresponds to the voter's signature in the records of the county voter registration office; or

(2) on an absentee ballot security envelope that corresponds with the voter's signature:

(A) in the records of the county voter registration office; or

(B) on the absentee ballot application.

(c) The voter may request that the voter's signature or mark be attested to by any of the following:

(1) The absentee voter board under section 22 of this chapter.

(2) A member of the voter's household.

(3) An individual serving as attorney in fact for the voter.

(d) An attestation under subsection (c) provides an adequate basis for the absentee ballot counters to determine that a signature or mark complies with subsection (a)(2).

(e) If the absentee ballot counters are unable to agree on a finding described under this section or section 12 of this chapter, the county election board shall make the finding.

(f) The absentee ballot counters or county election board shall issue a certificate to a voter whose ballot has been rejected under this section if the voter appears in person before the board not later than 5 p.m. on election day. The certificate must state that the voter's absentee ballot has been rejected and that the voter may vote in person under section 21 of this chapter if otherwise qualified to vote.

SECTION 14. IC 3-11.5-5-14 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) This section applies to the counting of write-in absentee ballots for:

(1) a federal office received under 42 U.S.C. 1973ff; and

(2) a federal office, state office, or public question under ~~IC 3-11-4-12(d).~~ **IC 3-11-4-12(a).**

(b) If a voter writes an abbreviation, a misspelling, or other minor variation instead of the correct name of a candidate or political party, that vote shall be counted if the intent of the voter can be determined.

(c) If a voter casts a ballot under this section for President or Vice President and writes in the name of a candidate or political party that has not certified a list of electors under IC 3-10-4-5, the vote for President or Vice President is void. The remaining votes on the ballot may be counted.

(d) IC 3-12-1-7 applies to a ballot subject to this section.

(e) A ballot subject to this section may not be counted if:

(1) the ballot was submitted from within the United States;

(2) the voter's application for a regular absentee ballot was received by the circuit court clerk or board of registration less than thirty (30) days before the election;

(3) the voter's completed regular state absentee ballot was received by the circuit court clerk or board of registration by the deadline for receiving absentee ballots under IC 3-11.5-4-7; or

(4) the ballot subject to this section was not received by the circuit court clerk or board of registration by the deadline for receiving absentee ballots under IC 3-11.5-4-7.

SECTION 15. IC 3-12-2-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.5. (a) This section applies to the counting of write-in absentee ballots for:

(1) a federal office received under 42 U.S.C. 1973ff; and

(2) a federal office, state office, or public question under ~~IC 3-11-4-12(d).~~ **IC 3-11-4-12.**

(b) If a voter writes an abbreviation, misspelling, or other minor variation instead of the correct name of a candidate or political party, that vote shall be counted if the intent of the voter can be determined.

(c) If a voter casts a ballot under this section for President or Vice President of the United States and writes in the name of a candidate or political party that has not:

(1) certified a list of electors under IC 3-10-4-5; or

(2) included a list of electors on the declaration for candidacy filed by a write-in candidate under IC 3-8-2-2.5;

the vote for President or Vice President is void. The remaining votes on the ballot may be counted.

(d) IC 3-12-1-7 applies to a ballot subject to this section.

(e) A ballot subject to this section may not be counted if:

(1) the ballot was submitted:

(A) by an overseas voter who is not an absent uniformed services voter; and

(B) from within the United States;

~~(2) the voter's application for a regular absentee ballot was received by the circuit court clerk or board of registration less than thirty (30) days before the election;~~

~~(3)~~ **(2)** the voter's completed regular state absentee ballot was received by the ~~circuit court clerk or~~ **county election** board ~~of registration~~ by the deadline for receiving absentee ballots under IC 3-11-10-11; or

~~(4)~~ **(3)** the ballot subject to this section was not received by the ~~circuit court clerk or~~ **county election** board ~~of registration~~ by the deadline for receiving absentee ballots under IC 3-11-10-11.

SECTION 16. IC 3-12-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) If a ballot card is damaged or defective so that it cannot properly be counted by the automatic tabulating machines, then a remake team composed of one (1) person from each of the major political parties of the county shall have the card prepared for processing so as to record accurately the intention of the voter insofar as it can be ascertained.

(b) If the ballot card voting system is designed to allow the counting and tabulation of votes by the precinct election board, the members of the remake team must be members of the precinct election board in which the ballot was cast.

(c) If necessary, a true, duplicate copy shall be made of the damaged ballot card in the presence of witnesses and substituted for the damaged card. Similarly, a duplicate ballot card shall be made of a defective card, not including the uncounted votes.

(d) This subsection applies to an absent uniformed services voter **or overseas voter** permitted to transmit an absentee ballot by fax **or electronic mail** under IC 3-11-4-6. To facilitate the transmittal and return of the voter's absentee ballot by fax **or electronic mail,** the county election board may provide the voter with a paper ballot rather than a ballot card. The paper ballot must conform with the requirements for paper ballots set forth in IC 3-10 and IC 3-11. After the voter returns the ballot by fax **or electronic mail,** a remake team appointed under this section shall prepare a ballot card for processing that accurately records the intention of the voter as indicated on the paper ballot. The ballot card created under this subsection must be marked and counted as a duplicate ballot under sections 6 through 7 of this chapter.

(e) If an automatic tabulating machine fails during the counting and tabulation of votes following the close of the polls, the county election board shall immediately arrange for the repair and proper functioning of the system. The county election board may, by unanimous vote of its entire membership, authorize the counting and tabulation of votes for this election on an automatic tabulating machine approved for use in Indiana by the commission:

(1) until the repair and retesting of the malfunctioning machine; and

(2) whether or not the machine was tested under IC 3-11-13-22.

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

(Reference is to ESB 419 as printed April 1, 2005.)

STEELE	KOCH
S. SMITH	RESKE
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 571–1; filed April 27, 2005, at 1:01 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 571 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-3-21-11, AS ADDED BY P.L.5-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. The council shall do the following:

(1) Identify the public infrastructure and other community support necessary:

(A) to improve mission efficiencies; and

(B) for the development and expansion;

of military bases in Indiana.

(2) Identify existing and potential impacts of encroachment on military bases in Indiana.

(3) Identify potential state and local government actions that can:

(A) minimize the impacts of encroachment on; and

(B) enhance the long term potential of;

military bases.

(4) Identify opportunities for collaboration among:

(A) the state, including the military department of the state;

(B) political subdivisions;

(C) military contractors; and

(D) academic institutions;

to enhance the economic potential of military bases and the economic benefits of military bases to the state.

(5) Review state policies, including funding and legislation, to identify actions necessary to prepare for the United States Department of Defense Efficient Facilities Initiative scheduled to begin in 2005.

(6) Study how governmental entities outside Indiana have addressed issues regarding encroachment and partnership formation described in this section.

(7) With respect to a multicounty federal military base

under IC 36-7-30.5:

(A) vote to require the establishment of the development authority under IC 36-7-30.5, if necessary; and

(B) advise and submit recommendations to a development authority board appointed under IC 36-7-30.5.

SECTION 2. IC 5-28-26 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 26. Global Commerce Center Pilot Program

Sec. 1. As used in this chapter, "base assessed value" means:

(1) the net assessed value of all the taxable property located in a global commerce center as finally determined for the assessment date immediately preceding the effective date of the allocation provision of a resolution adopted under section 18 of this chapter; plus

(2) to the extent it is not included in subdivision (1), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

Sec. 2. As used in this chapter, "district" means the Eastern Indiana Economic Development District.

Sec. 3. As used in this chapter, "high technology activity" has the meaning set forth in IC 36-7-32-7.

Sec. 4. As used in this chapter, "hub" means a regional economic development project that is:

(1) selected by a district for development as a global commerce center; and

(2) designated as a global commerce center under this chapter.

Sec. 5. As used in this chapter, "income tax base period amount" means the total amount of the following taxes paid by employees employed in the territory comprising a global commerce center with respect to wages and salary earned for work in the global commerce center for the state fiscal year that precedes the date on which the global commerce center was designated under section 12 of this chapter:

(1) The county adjusted gross income tax.

(2) The county option income tax.

(3) The county economic development income tax.

Sec. 6. As used in this chapter, "income tax incremental amount" means the remainder of:

(1) the total amount of county adjusted gross income tax, county option income taxes, and county economic development income taxes paid by employees employed in the territory comprising the global commerce center with respect to wages and salary earned for work in the territory comprising the global commerce center for a particular state fiscal year; minus

(2) the income tax base period amount;

as determined by the department of state revenue.

Sec. 7. As used in this chapter, "public facilities" includes a street, a road, a bridge, a storm water or sanitary sewer, a sewage treatment facility, a facility designed to reduce, eliminate, or prevent the spread of identified soil or groundwater contamination, a drainage system, a retention basin, a pretreatment facility, a waterway, a waterline, a water storage facility, a rail line, an electric, gas, telephone or other communications line or any other type of utility line or pipeline, or another similar or related structure or improvement, together with necessary easements for the structure or improvement. Except for rail lines, utility lines, or pipelines, the structures or improvements described in this section must be either owned or used by a public agency, functionally connected to similar or supporting facilities owned or used by a public agency, or designed and dedicated for use by, for the benefit of, or for the protection of the health, welfare, or safety of the public generally, whether or not used by a single business entity. Any road, street, or bridge must be continuously open to public access. A public facility must be located on public property or in a public, utility, or transportation easement or right-of-way.

Sec. 8. As used in this chapter, "spoke" means an economic development project that is:

(1) located within the area served by a district;

(2) undertaken to support the activities of a hub; and

(3) treated as a global commerce center under this chapter upon the approval of the district board and fiscal body of the county in which the project is located.

Sec. 9. As used in this chapter, "tax increment revenues" means the property taxes attributable to the assessed value of property located in a global commerce center in excess of the base assessed value.

Sec. 10. As used in this chapter, "unit" means a county, city, or town.

Sec. 11. The corporation may do the following:

(1) Designate a global commerce center pilot program under section 12 of this chapter.

(2) Establish a procedure by which the global commerce center pilot program may be monitored and evaluated on an annual basis.

(3) Promote the global commerce center pilot program.

Sec. 12. (a) If a district applies to the corporation to have part of the area served by the district designated as a global commerce center, the corporation may approve the district's application if the corporation determines that the district's proposed global commerce center meets the following criteria:

(1) The proposed global commerce center is well suited for the development of a hub and its supporting spokes.

(2) The proposed global commerce center has the support of the surrounding community.

(3) The proposed global commerce center is well suited for the development of at least one (1) of the following:

(A) A high technology activity.

(B) Advanced manufacturing.

(C) Transportation, distribution, and logistics.

(D) Agribusiness.

(b) The corporation may adopt rules under IC 4-22-2 specifying application procedures.

(c) A global commerce center designated under this section must include a hub. The boundaries of the global commerce center are not required to be contiguous. Only one (1) global commerce center pilot program may be designated under this section.

Sec. 13. If a global commerce center is designated under section 12 of this chapter, an unlimited number of spokes may be added to the global commerce center at the discretion of the fiscal bodies of the counties served by the district and the district board.

Sec. 14. (a) After a global commerce center is designated under section 12 of this chapter, the district shall send to the department of state revenue:

(1) a certified copy of the designation of the global commerce center under section 12 of this chapter; and

(2) a complete list of the employers in the global commerce center and the street names and the range of street numbers of each street in the global commerce center.

The district shall update the list provided under subdivision (2) before July 1 of each year.

(b) Not later than sixty (60) days after receiving a copy of the designation of the global commerce center, the department of state revenue shall determine the gross retail base period amount and the income tax base period amount.

Sec. 15. Before the first business day in October of each year, the department of state revenue shall calculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for each global commerce center designated under this chapter.

Sec. 16. (a) The treasurer of state shall establish an incremental tax financing fund for each global commerce center designated under this chapter. The fund shall be administered by the treasurer of state. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) The total amount of the following taxes paid by employees employed in the global commerce center with respect to wages earned for work in the global commerce center shall be deposited in the incremental tax financing fund established for a global

commerce center until the amount deposited equals the income tax incremental amount:

(1) The county adjusted gross income tax.

(2) The county option income tax.

(3) The county economic development income tax.

(c) On or before the twentieth day of each month, all amounts held in the incremental tax financing fund established for a global commerce center shall be distributed to the district that administers the global commerce center for deposit in the regional economic development fund established under section 19 of this chapter.

Sec. 17. (a) A county fiscal body in which a hub or spoke is located may allocate three percent (3%) of the tax increment revenues attributable to the hub or spoke to the district if the county fiscal body adopts a resolution under subsection (b).

(b) The county fiscal body may adopt a resolution designating a hub or spoke as an allocation area for purposes of the allocation and distribution of the amount of property taxes described in subsection (a).

(c) After adoption of the resolution under subsection (b), the county fiscal body shall:

(1) publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and

(2) file the following information with each taxing unit that has authority to levy property taxes in the geographic area where the global commerce center is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement disclosing the impact of the global commerce center, including the following:

(i) The estimated economic benefits and costs incurred by the global commerce center, as measured by increased employment and anticipated growth of real property assessed values.

(ii) The anticipated impact on tax revenues of each taxing unit.

The notice must state the general boundaries of the global commerce center and must state that written remonstrances may be filed with the county fiscal body until the time designated for the hearing. The notice must also name the place, date, and time when the county fiscal body will receive and hear remonstrances and objections from persons interested in or affected by the proceedings pertaining to the proposed allocation area and will determine the public utility and benefit of the proposed allocation area. The county fiscal body shall file the information required by subdivision (2) with the officers of the taxing unit who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date of the public hearing. All persons affected in any manner by the hearing, including all taxpayers within the county, shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and orders of the county fiscal body affecting the allocation area if the county fiscal body gives the notice required by this section.

(d) At the hearing, which may be recessed and reconvened periodically, the county fiscal body shall hear all persons interested in the proceedings and shall consider all written remonstrances and objections that have been filed. After considering the evidence presented, the county fiscal body shall take final action in determining the public utility and benefit of the proposed allocation area confirming, modifying and confirming, or rescinding the resolution. The final action taken by the county fiscal body shall be recorded and is final and conclusive.

Sec. 18. (a) A unit may issue bonds for the purpose of providing public facilities under this chapter.

(b) The bonds are payable from any funds available to the unit.

(c) The bonds shall be authorized by a resolution of the unit.

(d) The terms and form of the bonds shall be set out either in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds must mature within fifty (50) years.

(f) The unit shall sell the bonds at public or private sale upon terms determined by the district.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of providing public facilities within a global commerce center, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include the cost of:

(1) planning and development of the public facilities and all related buildings, facilities, structures, and improvements;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the public facilities suitable for use and operation;

(4) architectural, engineering, consultant, and attorney's fees;

(5) incidental expenses in connection with the issuance and sale of bonds;

(6) reserves for principal and interest;

(7) interest during construction and for a period thereafter determined by the district, but not to exceed five (5) years;

(8) financial advisory fees;

(9) insurance during construction;

(10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and

(11) in the case of refunding or refinancing, payment of the principal of, redemption premiums, if any, for, and interest on, the bonds being refunded or refinanced.

(h) A unit that issues bonds under this section may enter an interlocal agreement with any other unit located in the area served by the district in which the global commerce center is designated. A party to an agreement under this section may pledge any of its revenues, including taxes or allocated taxes under IC 36-7-14, to the bonds or lease rental obligations of another party to the agreement.

Sec. 19. (a) The district shall establish a regional economic development fund.

(b) The fund consists of:

(1) revenues received under section 16 of this chapter;

(2) property taxes allocated to the district under section 17 of this chapter; and

(3) any other funds made available to the district for the purposes of economic development within a global commerce center.

(c) Money in the fund may be used to:

(1) provide rent subsidies to businesses locating in the global commerce center; and

(2) maintain, improve, and expand economic development projects located in a global commerce center and the surrounding communities.

Sec. 20. A global commerce center expires fifteen (15) years after it is designated by the corporation.

Sec. 21. (a) The corporation may revoke the corporation's designation of a global commerce center pilot program at the discretion of the corporation.

(b) Notwithstanding a revocation made under subsection (a), a debt or an obligation incurred during the period in which the global commerce center pilot program was in effect remains valid and payable.

SECTION 3. IC 6-2.5-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) As used in this section, a "power subsidiary" means a corporation which is owned or controlled by one (1) or more public utilities that furnish or sell electrical energy, natural or artificial gas, water, steam, or steam heat and which produces power exclusively for the use of those public utilities.

(b) A power subsidiary or a person engaged as a public utility is a retail merchant making a retail transaction when the subsidiary or person furnishes or sells electrical energy, natural or artificial gas, water, steam, or steam heating service to a person for commercial or domestic consumption.

(c) Notwithstanding subsection (b), a power subsidiary or a person engaged as a public utility is not a retail merchant making a retail transaction in any of the following transactions:

(1) The power subsidiary or person provides, installs, constructs, services, or removes tangible personal property

which is used in connection with the furnishing of the services or commodities listed in subsection (b).

(2) The power subsidiary or person sells the services or commodities listed in subsection (b) to another public utility or power subsidiary described in this section or a person described in section 6 of this chapter.

(3) The power subsidiary or person sells the services or commodities listed in subsection (b) to a person for use in manufacturing, mining, production, refining, oil extraction, mineral extraction, irrigation, agriculture, or horticulture. However, this exclusion for sales of the services and commodities only applies if the services are consumed as an essential and integral part of an integrated process that produces tangible personal property and those sales are separately metered for the excepted uses listed in this subdivision, or if those sales are not separately metered but are predominately used by the purchaser for the excepted uses listed in this subdivision.

(4) The power subsidiary or person sells the services or commodities listed in subsection (b) and all the following conditions are satisfied:

(A) The services or commodities are sold to a business that after June 30, 2004:

(i) relocates all or part of its operations to a facility; or

(ii) expands all or part of its operations in a facility;

located in a military base (as defined in IC 36-7-30-1(c)), a military base reuse area established under IC 36-7-30, an economic development area established under IC 36-7-14.5-12.5, ~~or~~ a military base recovery site designated under IC 6-3.1-11.5, **or a qualified military base enhancement area established under IC 36-7-34.**

(B) The business uses the services or commodities in the facility described in clause (A) not later than five (5) years after the operations that are relocated to the facility or expanded in the facility commence.

(C) The sales of the services or commodities are separately metered for use by the relocated or expanded operations.

(D) In the case of a business that uses the services or commodities in a qualified military base enhancement area, the business must satisfy at least one (1) of the following criteria:

(i) The business is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).

(ii) The business is a United States Department of Defense contractor.

(iii) The business and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the business and the United States Department of Defense.

However, this subdivision does not apply to a business that substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations in an area described in this subdivision, unless the department determines that the business had existing operations in the area described in this subdivision and that the operations relocated to the area are an expansion of the business's operations in the area.

SECTION 4. IC 6-3-2-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1.5. (a) As used in this section, "qualified area" means:

(1) a military base (as defined in IC 36-7-30-1(c));

(2) a military base reuse area established under IC 36-7-30;

(3) an economic development area established under IC 36-7-14.5-12.5; ~~or~~

(4) a military base recovery site designated under IC 6-3.1-11.5; **or**

(5) a qualified military base enhancement area established under IC 36-7-34.

(b) Except as provided in subsection (c), a tax at the rate of five percent (5%) of adjusted gross income is imposed on that part of the adjusted gross income of a corporation that is derived from sources within a qualified area if the corporation locates all or part of its operations in a qualified area during the taxable year, as determined under subsection (e). The tax rate under this section applies to the taxable year in which the corporation locates its operations in the qualified area and to the next succeeding four (4) taxable years. **In the case of a corporation that locates all or part of its operations in a qualified military base enhancement area, the tax rate imposed under this section applies to the corporation only if the corporation meets at least one (1) of the following criteria:**

(1) The corporation is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).

(2) The corporation is a United States Department of Defense contractor.

(3) The corporation and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the corporation and the United States Department of Defense.

(c) A taxpayer is not entitled to the tax rate described in subsection (b) to the extent that the taxpayer substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations within the qualified area, unless:

(1) the taxpayer had existing operations in the qualified area; and

(2) the operations relocated to the qualified area are an expansion of the taxpayer's operations in the qualified area.

(d) A determination under subsection (c) that a taxpayer is not entitled to the tax rate provided by this section as a result of a substantial reduction or cessation of operations applies to the taxable year in which the substantial reduction or cessation occurs and in all subsequent years. Determinations under this section shall be made by the department of state revenue.

(e) The department of state revenue:

(1) shall adopt rules under IC 4-22-2 to establish a procedure for determining the part of a corporation's adjusted gross income that was derived from sources within a qualified area; and

(2) may adopt other rules that the department considers necessary for the implementation of this chapter.

SECTION 5. IC 6-3.1-11.6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. As used in this chapter, "qualified area" means:

(1) a military base (as defined in IC 36-7-30-1(c));

(2) a military base reuse area established under IC 36-7-30;

(3) an economic development area established under IC 36-7-14.5-12.5; ~~or~~

(4) a military base recovery site designated under IC 6-3.1-11.5; **or**

(5) a qualified military base enhancement area established under IC 36-7-34.

SECTION 6. IC 6-3.1-11.6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 9. (a) **Subject to subsection (c),** a taxpayer is entitled to a credit against the taxpayer's state tax liability for a taxable year if the taxpayer makes a qualified investment in that taxable year.

(b) The amount of the credit to which a taxpayer is entitled is the percentage determined under section 12 of this chapter multiplied by the amount of the qualified investment made by the taxpayer during the taxable year.

(c) This subsection applies to a taxpayer making a qualified investment in a business located in a qualified military base enhancement area. To qualify for a credit under this chapter, the taxpayer's qualified investment must be in a business that satisfies at least one (1) of the following criteria:

(1) The business is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).

(2) The business is a United States Department of Defense contractor.

(3) The business and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the business and the United States Department of Defense.

SECTION 7. IC 36-1-7-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. ~~(a) This section~~

~~applies only to political subdivisions in the following:~~

~~(1) A city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).~~

~~(2) A county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000).~~

~~(3) A county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).~~

~~(b)~~ **(a)** As used in this section, "economic development entity" means a department of redevelopment organized under IC 36-7-14, **a department of metropolitan development under IC 36-7-15.1,** a port authority organized under IC 8-10-5, or an airport authority organized under IC 8-22-3.

~~(c)~~ **(b)** Notwithstanding section 2 of this chapter, two (2) or more economic development entities may enter into a written agreement under section 3 of this chapter ~~if the agreement is requested by the executive of a city or county described in subsection (a) and~~ if the agreement is approved by each entity's governing body. ~~and by the executive of a city or county described in subsection (a).~~

~~(d)~~ **(c)** A party to an agreement under this section may do one (1) or more of the following:

(1) Except as provided in subsection ~~(c),~~ **(d),** grant one (1) or more of its powers to another party to the agreement.

(2) Exercise any power granted to it by a party to the agreement.

(3) Pledge any of its revenues, including taxes or allocated taxes under IC 36-7-14, **IC 36-7-15.1,** or IC 8-22-3.5, to the bonds or lease rental obligations of another party to the agreement under IC 5-1-14-4.

~~(e)~~ **(d)** An economic development entity may not grant to another entity the power to tax or to establish an allocation area under IC 8-22-3.5, ~~or~~ IC 36-7-14-39, **or IC 36-7-15.1.**

~~(f)~~ **(e)** An agreement under this section does not have to comply with section 3(a)(5) or 4 of this chapter.

~~(g)~~ **(f)** An action to challenge the validity of an agreement under this section must be brought within thirty (30) days after the agreement has been approved by all the parties to the agreement. After that period has passed, the agreement is not contestable for any cause.

SECTION 8. IC 36-7-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) To provide money for the purposes set forth in section 3 of this chapter, the unit shall create a special revolving fund to be known as the industrial development fund, into which any available and unappropriated money of the unit may be transferred by the unit's legislative body.

(b) The legislative body may also by ordinance levy a tax not to exceed one and sixty-seven hundredths cents ($0.0167) on each one hundred dollars ($100) of assessed value of all personal and real property within its jurisdiction. The proceeds of this tax shall be deposited in the industrial development fund. The unit may collect the tax as other municipal or county taxes are collected, or may set up a system for the collection and enforcement of the tax in the unit. ~~The proceeds of the tax~~ **Money in the industrial development fund** may be used for any purpose authorized by this chapter and may be pledged for the payment of principal and interest on bonds or other ~~obligation~~ **obligations** issued under this chapter.

SECTION 9. IC 36-7-13-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 21. (a) Two (2) or more:**

(1) advisory commissions; or

(2) legislative bodies;

or any combination of advisory commissions and legislative bodies may enter into a written agreement under this section to jointly undertake economic development projects.

(b) A party to an agreement under this section may do one (1) or more of the following:

(1) Except as provided in subsection (c), grant one (1) or more of its powers to another party to the agreement.

(2) Exercise any power granted to it by a party to the agreement.

(3) Pledge any of its revenues to the bonds or lease rental obligations of another party to the agreement under IC 5-1-14-4.

(c) A party to an agreement under this section may not grant another party to the agreement the power to tax or to establish a district under this chapter.

(d) An action to challenge the validity of an agreement under this section must be brought not more than thirty (30) days after the agreement has been approved by all the parties to the agreement. After that period has passed, the agreement is not contestable for any cause.

SECTION 10. IC 36-7-13-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 22. An agreement described in section 21 of this chapter must provide for the following:**

(1) The duration of the agreement.

(2) The purpose of the agreement.

(3) The manner of financing, staffing, and supplying the joint undertaking and of establishing and maintaining a budget for the joint undertaking.

(4) The methods that may be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon partial or complete termination of the agreement.

(5) The manner of acquiring, holding, and disposing of real and personal property used in the joint undertaking.

(6) Any other appropriate matters.

SECTION 11. IC 36-7-30.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 30.5. Development of Multicounty Federal Military Bases

Sec. 1. This chapter applies only to a military base that is located in more than two (2) counties.

Sec. 2. As used in sections 23 and 29 of this chapter, "bonds" means bonds, notes, evidences of indebtedness, or other obligations issued by the development authority in the name of a unit.

Sec. 3. As used in this chapter, "council" refers to the military base planning council established under IC 4-3-21-3.

Sec. 4. As used in this chapter, "development authority" means a military base development authority established under section 8 of this chapter.

Sec. 5. As used in this chapter, "military base" means a United States government military base or other military installation that is:

(1) scheduled for closing or realignment; or

(2) completely or partially inactive or closed.

Sec. 6. As used in this chapter, "military base property" means real and personal property that is currently or was formerly part of a military base and is subject to development or reuse.

Sec. 7. (a) The planning, replanning, rehabilitation, development, redevelopment, and other preparation for development or reuse of military bases and military base property are public and governmental functions that cannot be accomplished through the ordinary operations of private enterprise because of the following:

(1) The provisions of federal law that provide for the expeditious and affordable transfer of military base property to an entity established by local government for these purposes.

(2) The necessity for requiring the proper use of the land to best serve the interests of the unit and its citizens.

(3) The costs of the projects.

(b) The planning, replanning, rehabilitation, development, redevelopment, and other preparation for development or reuse will do the following:

(1) Benefit the public health, safety, morals, and welfare.

(2) Increase the economic well-being of counties represented on the development authority and the state.

(3) Serve to protect and increase property values in the counties represented on the development authority and the state.

(c) The planning, replanning, rehabilitation, development, redevelopment, and other preparation for development or reuse of military bases and military base property under this chapter are public uses and purposes for which public money may be

spent and private property may be acquired.

(d) A development authority and all appropriate units shall, to the extent feasible under this chapter and consistent with the needs of the development authority and the units, provide a maximum opportunity for development or reuse of federal military bases by private enterprise or state and local government.

(e) This section shall be liberally construed to carry out the purposes of this section.

Sec. 8. (a) If the council, by the affirmative votes of a majority of the voting members of the council, votes to require that a development authority should be established under this chapter, the development authority shall be established.

(b) A unit may not create a reuse authority under IC 36-7-30 for all or part of a military base that is:

(1) governed by this chapter; and

(2) located within the boundaries of the unit.

Sec. 9. A development authority established under this chapter shall be governed by a board of nine (9) members to be known as the "Crane Development Authority".

Sec. 10. (a) The nine (9) members of a development authority shall be appointed as follows:

(1) Two (2) members shall be appointed by the county executive of Greene County.

(2) Two (2) members shall be appointed by the county executive of Lawrence County.

(3) Two (2) members shall be appointed by the county executive of Martin County.

(4) One (1) member shall be appointed by the county executive of Daviess County.

(5) One (1) member shall be appointed by the county executive of Monroe County.

(6) One (1) member shall be appointed by the county executive of Orange County.

Sec. 11. (a) Each member of a military base development authority shall serve the longer of:

(1) three (3) years beginning with the first day of January after the member's appointment; or

(2) until the member's successor has been appointed and qualified.

If a vacancy occurs, a successor shall be appointed in the same manner as the original member. The successor shall serve for the remainder of the vacated term.

(b) Each member of a development authority, before beginning the member's duties, shall take and subscribe an oath of office in the usual form, to be endorsed on the certificate of the member's appointment. The endorsed certificate must be promptly filed with the clerk for the unit that the member serves.

(c) Each member of a development authority, before beginning the member's duties, shall execute a bond payable to the state, with surety to be approved by the executive of the unit. The bond must be:

(1) in the penal sum of fifteen thousand dollars ($15,000); and

(2) conditioned on the faithful performance of the duties of the member's office and the accounting for all money and property that may come into the member's hands or under the member's control.

(d) A member of a development authority must be:

(1) at least eighteen (18) years of age; and

(2) a resident of the county responsible for the member's appointment.

(e) If a member ceases to be qualified under this section, the member forfeits the member's office.

(f) Members of a development authority are not entitled to salaries but are entitled to reimbursement for expenses necessarily incurred in the performance of their duties.

Sec. 12. (a) The development authority members shall hold a meeting for the purpose of organization not later than thirty (30) days after they are appointed and, after that, each year on the first day in January that is not a Saturday, Sunday, or legal holiday. The members shall choose one (1) of their members as president, another as vice president, and another as secretary-treasurer. These officers shall perform the duties usually concerning their offices and shall serve from the date of their election until their successors are elected and qualified.

(b) Except as otherwise provided in this chapter, the secretary-treasurer shall be responsible for the funds and accounts of the development authority. The development authority may:

(1) employ personnel for compensation to assist the secretary-treasurer; or

(2) designate or appoint a fiscal officer of a county responsible for appointing one (1) or more development authority members to perform the duties that are delegated by the development authority and accepted by the fiscal officer.

(c) The members of a development authority may adopt rules and bylaws the members consider necessary for:

(1) the proper conduct of proceedings;

(2) carrying out of the members' duties; and

(3) safeguarding the money and property placed in the members' custody by this chapter.

In addition to the annual meeting, the members may by resolution or in accordance with the rules and bylaws prescribe the date and manner of notice of other regular or special meetings.

(d) Five (5) members of the development authority constitute a quorum. The concurrence of five (5) members is necessary to authorize an action.

Sec. 13. A member of a military base development authority may be summarily removed from office at any time by the county executive that appointed the member.

Sec. 14. The development authority shall do the following:

(1) Investigate, study, and survey the area surrounding and the real property and structures that are part of the military base.

(2) Investigate, study, and determine the means by which military base property may be developed or reused by private enterprise to promote economic development within counties represented on the development authority or by state and local government to otherwise benefit the welfare of the citizens of the counties represented on the development authority.

(3) Promote the development of military base property in the manner that best serves the interests of the state and its inhabitants.

(4) Cooperate with the departments and agencies of units and of other governmental entities, including the state and the federal government, in the manner that best serves the purposes of this chapter.

(5) Make findings and reports on their activities under this section, and keep the reports available for inspection by the public.

(6) Select and acquire military base property to be developed or reused by private enterprise or state or local government under this chapter.

(7) Transfer acquired military base property and other real and personal property to private enterprise or state or local government in the manner that best serves the social and economic interests of the state and the state's inhabitants.

(8) Consider recommendations made by the council concerning the operations of the development authority.

Sec. 15. The development authority may do the following:

(1) Acquire by purchase, exchange, gift, grant, condemnation, or lease, or any combination of methods, any personal military base property or interest in real military base property or other real or personal property located within the corporate boundaries of a unit that contains all or part of the military base.

(2) Hold, use, sell (by conveyance by deed, land sale contract, or other instrument), exchange, lease, rent, or otherwise dispose of real or personal military base property or other real and personal property to private enterprise or state or local government, on the terms and conditions that the development authority considers best for the state and the state's inhabitants.

(3) Sell, lease, or grant interests in all or part of the real

property acquired from a military base to a department of a unit or to any other governmental agency for public ways, levees, sewerage, parks, playgrounds, schools, and other public purposes on any terms that may be agreed on.

(4) Clear real property acquired for the purposes of this chapter.

(5) Repair and maintain structures acquired for the purposes of this chapter.

(6) Remodel, rebuild, enlarge, or make major structural improvements on structures acquired from a military base.

(7) Survey or examine any land to determine whether it should be acquired for the purpose of this chapter and to determine the value of the land.

(8) Appear before any other department or agency of a unit or any other governmental agency in respect to any matter affecting:

(A) real property acquired or being acquired for the purposes of this chapter; or

(B) any development area within the jurisdiction of the development authority.

(9) Institute or defend in the name of the development authority any civil action.

(10) Use any legal or equitable remedy that is necessary or considered proper to protect and enforce the rights of and perform the duties of the development authority.

(11) Exercise the power of eminent domain within military base property in the manner prescribed by section 21 of this chapter.

(12) Appoint an executive director, appraisers, real estate experts, engineers, architects, surveyors, attorneys, accountants, and other consultants that are necessary or desired by the authority in exercising its powers or carrying out its responsibilities under this chapter.

(13) Appoint clerks, guards, laborers, and other employees the development authority considers advisable.

(14) Prescribe the duties and regulate the compensation of employees of the development authority.

(15) Provide a pension and retirement system for employees of the development authority.

(16) Discharge and appoint successors to employees of the development authority.

(17) Rent offices for use of the development authority or accept the use of offices furnished by a unit.

(18) Equip the offices of the development authority with the necessary furniture, furnishings, equipment, records, and supplies.

(19) Expend on behalf of the counties represented on the development authority all or any part of the money of the development authority.

(20) Design, order, contract for, construct, reconstruct, improve, or renovate the following:

(A) Local public improvements or structures that are necessary for the development of military base property.

(B) Any structure that enhances the development, economic development, or reuse of military base property.

(21) Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a municipal corporation, a special taxing district, a foundation, or any other source.

(22) Provide financial assistance, in the manner that best serves the purposes of this chapter, including grants and loans, to enable private enterprise to develop, redevelop, and reuse military base property or otherwise enable private enterprise to provide social and economic benefits to the citizens of the state.

(23) Enter into contracts for providing police, fire protection, and utility services to the military base development area.

(24) Make and enter into all contracts and agreements necessary or incidental to the performance of the duties of the development authority and the execution of the power of the development authority under this chapter.

(25) Adopt a seal.

(26) Take any action necessary to implement the purposes of the development authority.

Sec. 16. (a) The development authority shall adopt a plan for the:

(1) rehabilitation;

(2) development;

(3) redevelopment; and

(4) reuse;

of military base property to be acquired from the federal government upon the closure or scheduled closure of the military base.

(b) In conjunction with the plan adopted under subsection (a), the development authority may adopt a resolution declaring that a geographic area is a military base development area and approving the plan if it makes the following findings:

(1) All or part of a military base is located in the military base development area.

(2) The plan for the military base development area will accomplish the public purposes of this chapter, supported by specific findings of fact to be adopted by the development authority.

(3) The public health and welfare will be benefitted by accomplishment of the plan for the military base development area.

(4) The plan for the military base development area conforms to other development and redevelopment plans for the counties represented on the development authority.

(c) A military base development area may include territory within military base property. However, a military base development area may not include any area of land that constitutes part of an economic development area, a blighted area, or an urban renewal area under IC 36-7-14.

(d) The resolution must state:

(1) the general boundaries of the area; and

(2) that the development authority proposes to acquire all the interests in the land within the boundaries, with certain designated exceptions, if any.

(e) For the purpose of adopting a resolution under subsection (b), it is sufficient to describe the boundaries of the area by its location in relation to public ways or streams, or otherwise, as determined by the development authority. Property excepted from the acquisition may be described by street numbers or location.

Sec. 17. (a) After adoption of a resolution under section 16 of this chapter, the development authority shall submit the resolution and supporting data to the plan commission of an affected unit or other body charged with the duty of developing a general plan for the unit, if there is such a body. The plan commission may determine whether the resolution and the development plan conform to the plan of development for the unit and approve or disapprove the resolution and plan proposed. The development authority may amend or modify the resolution and proposed plan to conform to the requirements of a plan commission. A plan commission shall issue a written order approving or disapproving the resolution and military base development plan, and may with the consent of the development authority rescind or modify the order.

(b) The determination that a geographic area is a military base development area must be approved by an affected unit's legislative body.

(c) After receipt of all orders and approvals required under subsections (a) and (b), the development authority shall publish notice of the adoption and the substance of the resolution in accordance with IC 5-3-1. The notice must name a date when the development authority will receive and hear remonstrances and objections from persons interested in or affected by the proceedings concerning the proposed project and will determine the public utility and benefit of the proposed project. All persons affected in any manner by the hearing shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and orders of the development authority by the notice given under this section.

(d) At the hearing under subsection (c), which may be adjourned from time to time, the development authority shall:

(1) hear all persons interested in the proceedings; and

(2) consider all written remonstrances and objections that have been filed.

After considering the evidence presented, the development authority shall take final action determining the public utility and benefit of the proposed project, and confirming, modifying and confirming, or rescinding the resolution. The final action taken by the development authority is final and conclusive, except that an appeal may be taken in the manner prescribed by section 19 of this chapter.

Sec. 18. (a) The development authority must conduct a public hearing before amending a resolution or plan for a military base development area. The development authority shall give notice of the hearing in accordance with IC 5-3-1. The notice must do the following:

(1) Set forth the substance of the proposed amendment.

(2) State the time and place where written remonstrances against the proposed amendment may be filed.

(3) Set forth the date, time, and place of the hearing.

(4) State that the development authority will hear any person who has filed a written remonstrance during the filing period set forth in subdivision (2).

(b) For the purposes of this section, the consolidation of areas is not considered the enlargement of the boundaries of an area.

(c) If the development authority proposes to amend a resolution or plan, the development authority is not required to have evidence or make findings that were required for the establishment of the original military base development area. However, the development authority must make the following findings before approving the amendment:

(1) The amendment is reasonable and appropriate when considered in relation to the original resolution or plan and the purposes of this chapter.

(2) The resolution or plan, with the proposed amendment, conforms to the comprehensive plan for an affected unit.

(d) Notwithstanding subsections (a) and (c), if the resolution or plan is proposed to be amended in a way that enlarges the original boundaries of the area by more than twenty percent (20%), the development authority must use the procedure provided for the original establishment of areas and must comply with sections 16 through 17 of this chapter.

(e) At the hearing on the amendments, the development authority shall consider written remonstrances that are filed. The action of the development authority on the amendment is final and conclusive, except that an appeal of the development authority's action may be taken under section 19 of this chapter.

Sec. 19. (a) A person who filed a written remonstrance with the development authority under section 17 or 18 of this chapter and is aggrieved by the final action taken may, not more than ten (10) days after that final action, file in the office of the clerk of an appropriate circuit or superior court a copy of the order of the development authority and person's remonstrances against that order, together with the person's bond conditioned to pay the costs of the person's appeal if the appeal is determined against the person. The only ground of remonstrance that the court may hear is whether the proposed project will be of public utility and benefit. The burden of proof is on the remonstrator.

(b) An appeal under this section shall be promptly heard by the court without a jury. All remonstrances upon which an appeal has been taken shall be consolidated and heard and determined not more than thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the remonstrances and may confirm the final action of the development authority or sustain the remonstrances. The judgment of the court is final and conclusive, unless an appeal is taken as in other civil actions.

Sec. 20. (a) If:

(1) an appeal is not taken; or

(2) an appeal is taken but is unsuccessful;

the development authority shall proceed with the plan to the extent that money is available for that purpose.

(b) Negotiations for the purchase of property may be carried on directly by the development authority, by its employees, or by expert negotiators. However, an option, a contract, or an understanding relative to the purchase of real property is not binding on the development authority until approved and accepted by the development authority in writing. Payment for the property purchased shall be made when and as directed by the development authority but only on delivery of proper instruments conveying the title or interest of the owner to the development authority or its designee.

(c) The acquisition of real and personal property by the development authority under this chapter is not subject to the provisions of IC 5-22, IC 36-1-10.5, or any other statutes governing the purchase of property by public bodies or their agencies.

Sec. 21. (a) If the development authority considers it necessary to acquire real property in or serving a development area by the exercise of the power of eminent domain, the development authority shall adopt a resolution setting out its determination to exercise that power and directing its attorney to file a petition on behalf of the development authority in the circuit or superior court of the county in which the property is situated. The resolution must be approved by the legislative body of the affected unit before the petition is filed.

(b) Eminent domain proceedings under this section are governed by IC 32-24 and other applicable statutory provisions for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired under this section. However, property belonging to the state or a political subdivision may not be acquired without the consent of the state or the political subdivision.

(c) The court having jurisdiction shall direct the clerk of the circuit court to execute a deed conveying the title of real property acquired under this section to the development authority for the use and benefit of the development authority.

Sec. 22. (a) The development authority may proceed with the clearing and replanning of the area described in the resolution before the acquisition of all of the area. The development authority may also proceed with the repair and maintenance of buildings that have been acquired and are not to be cleared. This clearance, repair, and maintenance may be carried out by labor employed directly by the development authority or by contract. Contracts for clearance may provide that the contractor is entitled to retain and dispose of salvaged material, as a part of the contract price or on the basis of stated prices for the amounts of the various materials actually salvaged.

(b) All contracts for material or labor under this section shall be let under IC 36-1.

(c) To the extent the development authority undertakes to engage in the planning and rezoning of the real property acquired, in the opening, closing, relocation, and improvement of public ways, and in the construction, relocation, and improvement of levees, sewers, parking facilities, and utility services, the development authority shall proceed in the same manner as private owners of the property. The development authority may negotiate with the proper officers and agencies of the unit to secure the proper orders, approvals, and consents.

(d) Construction work required in connection with improvements in the area described in the resolution may be carried out by the following:

(1) The appropriate municipal or county department or agency.

(2) The development authority, if:

(A) all plans, specifications, and drawings are approved by the appropriate department or agency; and

(B) the statutory procedures for the letting of contracts by the appropriate department or agency are followed by the development authority.

(e) The development authority may pay any charges or assessments made on account of orders, approvals, consents, and construction work under this section, or may agree to pay the assessments in installments as provided by statute in the case of private owners. The development authority may do the following:

(1) By special waiver filed with the appropriate municipal works board or county executive, waive the statutory procedure and notices required by law in order to create valid liens on private property.

(2) Cause any assessments to be spread on a different basis than that provided by statute.

(f) The real property acquired under this chapter may not be set aside and dedicated for public ways, parking facilities, sewers, levees, parks, or other public purposes until the development authority has obtained the consent and approval of the department or agency under whose jurisdiction the property will be placed.

(g) The development authority may negotiate for the sale, lease, or other disposition of real and personal property without complying with the provisions of IC 36-1-11 or any other statute governing the disposition of public property. A conveyance under this section may not be made until the agreed consideration has been paid, unless the development authority passes a resolution expressly providing that the consideration does not have to be paid before the conveyance is made. The resolution may provide for a mortgage or other security. All deeds, leases, land sale contracts, or other conveyances shall be:

(1) executed in the name of the development authority; and

(2) signed by the president or vice president of the development authority and attested by the secretary-treasurer.

A seal is not required on these instruments or any other instruments executed in the name of the development authority. Proceeds from the sale, lease, or other disposition of property may be deposited in any fund and used for any purpose allowed under this chapter, as directed by the development authority.

Sec. 23. (a) In addition to other methods of raising money for property acquisition, redevelopment, reuse, or economic development activities in or directly serving or benefitting a military base development area, and in anticipation of the taxes allocated under section 30 of this chapter, other revenues of the district, or any combination of these sources, the development authority may by resolution issue the bonds of the development authority.

(b) The secretary-treasurer of the development authority shall prepare the bonds. The seal of the development authority must be impressed on the bonds or a facsimile of the seal must be printed on the bonds.

(c) The bonds must be executed by the president of the development authority and attested by the secretary-treasurer.

(d) The bonds are exempt from taxation for all purposes.

(e) Bonds issued under this section may be sold at public sale in accordance with IC 5-1-11 or at a negotiated sale.

(f) The bonds are not a corporate obligation of a unit but are an indebtedness of only the development authority. The bonds and interest are payable, as set forth in the bond resolution of the development authority, from any of the following:

(1) The tax proceeds allocated under section 30 of this chapter.

(2) Other revenues available to the development authority.

(3) A combination of the methods stated in subdivisions (1) through (2).

The bonds issued under this section may be issued in any amount without limitation.

(g) Proceeds from the sale of bonds may be used to pay the cost of interest on the bonds for a period not to exceed five (5) years after the date of issuance.

(h) All laws relating to the filing of petitions requesting the issuance of bonds and the right of taxpayers to remonstrate against the issuance of bonds do not apply to bonds issued under this chapter.

(i) If a debt service reserve is created from the proceeds of bonds, the debt service reserve may be used to pay principal and interest on the bonds as provided in the bond resolution.

(j) If bonds are issued under this chapter that are payable solely or in part from revenues of the development authority, the development authority may adopt a resolution or trust indenture or enter into covenants as is customary in the issuance of revenue bonds. The resolution or trust indenture may pledge or assign revenues of the development authority and properties becoming available to the development authority under this chapter. The resolution or trust indenture may also contain provisions for protecting and enforcing the rights and remedies of the bond owners as may be reasonable and proper and not in violation of law, including a covenant setting forth the duties of the development authority. The development authority may establish fees and charges for the use of any project and covenant with the owners of any bonds to set the fees and charges at a rate sufficient to protect the interest of the owners of the bonds. Revenue bonds issued by the development authority that are payable solely from revenues of the development authority shall contain a statement to that effect in the form of the bond.

Sec. 24. (a) A development authority may enter into a lease of any property that could be financed with the proceeds of bonds issued under this chapter with a lessor for a term of not more than fifty (50) years. The lease may provide for payments to be made by the development authority from taxes allocated under section 30 of this chapter, any other revenues available to the development authority, or any combination of these sources.

(b) A lease may provide that payments by the development authority to the lessor are required only to the extent and only for the period that the lessor is able to provide the leased facilities in accordance with the lease. The terms of each lease must be based upon the value of the facilities leased and may not create a debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(c) A lease may be entered into by the development authority only after a public hearing by the development authority at which all interested parties are provided the opportunity to be heard. After the public hearing, the development authority may adopt a resolution authorizing the execution of the lease on behalf of the unit if the development authority finds that the service to be provided throughout the term of the lease will serve the public purpose of the unit and is in the best interests of its residents. Any lease approved by a resolution of the development authority must be approved by the fiscal body of the appropriate unit.

(d) A development authority entering into a lease payable from allocated taxes under section 30 of this chapter or other available funds of the development authority may do the following:

(1) Pledge the revenue to make payments under the lease under IC 5-1-14-4.

(2) Establish a special fund to make the payments.

(e) Lease payments may be limited to money in the special fund so that the obligations of the development authority to make the lease rental payments are not considered a debt of a unit or the district for purposes of the Constitution of the State of Indiana.

(f) Except as provided in this section, approvals of any governmental body or agency are not required before the development authority may enter into a lease under this section.

(g) If a development authority exercises an option to buy a leased facility from a lessor, the development authority may subsequently sell the leased facility, without regard to any other statute, to the lessor at the end of the lease term at a price set forth in the lease or at fair market value established at the time of the sale by the development authority through auction, appraisal, or negotiation. If the facility is sold at auction, after appraisal or through negotiation, the development authority shall conduct a hearing after public notice in accordance with IC 5-3-1 before the sale. Any action to contest the sale must be brought not more than fifteen (15) days after the hearing.

(h) Notwithstanding this section, a development authority may negotiate and enter into leases of property from the United States or any department or agency of the United States without complying with the requirements of this section.

Sec. 25. (a) Any of the following persons may lease facilities referred to in section 24 of this chapter to a development authority under this chapter:

(1) A for-profit or nonprofit corporation organized under Indiana law or admitted to do business in Indiana.

(2) A partnership, an association, a limited liability company, or a firm.

(3) An individual.

(4) A redevelopment authority established under IC 36-7-14.5.

(b) Notwithstanding any other law, a lessor under this section and section 24 of this chapter is a qualified entity for purposes of IC 5-1.4.

(c) Notwithstanding any other law, a military base development facility leased by the development authority under this chapter from a lessor borrowing bond proceeds from a unit under IC 36-7-12 is an economic development facility for purposes of IC 36-7-11.9-3 and IC 36-7-12.

(d) Notwithstanding IC 36-7-12-25 and IC 36-7-12-26, payments by a development authority to a lessor described in subsection (c) may be made from sources set forth in section 24 of this chapter if the payments and the lease are structured to prevent the lease obligation from constituting a debt of a unit or the district for purposes of the Constitution of the State of Indiana.

Sec. 26. (a) Notwithstanding any other law, the legislative body of a unit may pledge revenues received or to be received by the unit from:

(1) the unit's distributive share of the county adjusted gross income tax under IC 6-3.5-1.1;

(2) the unit's distributive share of the county option income tax under IC 6-3.5-6;

(3) the unit's distributive share of the county economic development income tax under IC 6-3.5-7;

(4) any other source legally available to the unit for the purposes of this chapter; or

(5) any combination of revenues under subdivisions (1) through (4);

in any amount to pay amounts payable under section 23 or 24 of this chapter.

(b) The legislative body may covenant to adopt an ordinance to increase its tax rate under the county adjusted gross income tax, county option income tax, county economic development income tax, or any other revenues at the time it is necessary to raise funds to pay any amounts payable under section 23 or 24 of this chapter.

(c) The development authority may pledge revenues received or to be received from any source legally available to the development authority for the purposes of this chapter in any amount to pay amounts payable under section 23 or 24 of this chapter.

(d) The pledge or covenant under this section may be for:

(1) the term of the bonds issued under section 23 of this chapter;

(2) the term of a lease entered into under section 24 of this chapter; or

(3) for a shorter period as determined by the legislative body.

Money pledged by the legislative body under this section shall be considered revenues or other money available to the development authority under sections 23 through 24 of this chapter.

(e) The general assembly covenants not to impair this pledge or covenant as long as any bonds issued under section 23 of this chapter are outstanding or as long as any lease entered into under section 24 of this chapter is still in effect. The pledge or covenant shall be enforced as provided in IC 5-1-14-4.

Sec. 27. (a) All proceeds from the sale of bonds under section 23 of this chapter shall be kept as a separate and specific fund to pay the expenses incurred in connection with the property acquisition, redevelopment, reuse, and economic development of the military base development area. The fund shall be known as the military base development district capital fund.

(b) All gifts or donations that are given or paid to the development authority or to a unit for military base development purposes shall be promptly deposited to the credit of the military base development district general fund unless otherwise directed by the grantor. The development authority may use these gifts and donations for the purposes of this chapter.

Sec. 28. (a) All payments from any of the funds established by this chapter shall be made by warrants drawn by the secretary-treasurer or the secretary-treasurer's agent under section 12 of this chapter on vouchers of the development authority signed by the president or vice president and the secretary-treasurer or executive director. An appropriation is not necessary, but all money raised under this chapter is considered appropriated to the respective purposes stated and is under the control of the development authority. The development authority has complete and exclusive authority to expend the money for the purposes provided.

(b) Each fund established by this chapter is a continuing fund.

Sec. 29. (a) To finance activities authorized under this chapter, the development authority may apply for and accept advances, short term and long term loans, grants, contributions, and any other form of financial assistance from the federal government, or from any of its agencies. The development authority may also enter into and carry out contracts and agreements in connection with that financial assistance upon the terms and conditions that the development authority considers reasonable and appropriate, if those terms and conditions are not inconsistent with the purposes of this chapter. The provisions of a contract or an agreement in regard to the handling, deposit, and application of project funds, as well as all other provisions, are valid and binding on the development authority, notwithstanding any other provision of this chapter.

(b) The development authority may issue and sell bonds, notes, or warrants to the federal government to evidence short term or long term loans made under this section, without notice of sale being given or a public offering being made.

(c) Notwithstanding the provisions of this chapter or any other law, the bonds, notes, or warrants issued by the development authority under this section may:

(1) be in the amounts, form, or denomination;

(2) be either coupon or registered;

(3) carry conversion or other privileges;

(4) have a rank or priority;

(5) be of such description;

(6) be secured, subject to other provisions of this section, in such manner;

(7) bear interest at a rate or rates;

(8) be payable as to both principal and interest in a medium of payment, at time or times, which may be upon demand, and at a place or places;

(9) be subject to terms of redemption, with or without premium;

(10) contain or be subject to any covenants, conditions, and provisions; and

(11) have any other characteristics;

that the development authority considers reasonable and appropriate.

(d) Bonds, notes, or warrants issued under this section are not an indebtedness of a unit or taxing district within the meaning of any constitutional or statutory limitation of indebtedness. The bonds, notes, or warrants are not payable from or secured by a levy of taxes, but are payable only from and secured only by any combination of:

(1) income;

(2) funds;

(3) properties of the project becoming available to the development authority under this chapter; or

(4) any other legally available revenues of the development authority;

as the development authority specifies in the resolution authorizing their issuance.

(e) Bonds, notes, or warrants issued under this section are exempt from taxation for all purposes.

(f) Bonds, notes, or warrants issued under this section must be executed by the appropriate officers of a development authority and must be attested by the appropriate officers of a development authority.

(g) Following the adoption of the resolution authorizing the issuance of bonds, notes, or warrants under this section, the development authority shall certify a copy of that resolution to the officers who have duties with respect to bonds, notes, or warrants of the development authority. At the proper time, the development authority shall deliver to the officers the unexecuted bonds, notes, or warrants prepared for execution in accordance with the resolution.

(h) All bonds, notes, or warrants issued under this section shall be sold by the officers of a development authority who have duties with respect to the sale of bonds, notes, or warrants of the development authority. If an officer whose signature appears on

any bonds, notes, or warrants issued under this section leaves office before their delivery, the signature remains valid and sufficient for all purposes as if the officer had remained in office until the delivery.

(i) If at any time during the life of a loan contract or agreement under this section the development authority may obtain loans for the purposes of this section from sources other than the federal government at interest rates not less favorable than provided in the loan contract or agreement, and if the loan contract or agreement allows, the development authority may do so and may pledge the loan contract and any rights under the contract as security for the repayment of the loans obtained from other sources. A loan under this subsection may be evidenced by bonds, notes, or warrants issued and secured in the same manner as provided in this section for loans from the federal government. The bonds, notes, or warrants may be sold at either public or private sale, as the development authority considers appropriate.

(j) Money obtained from the federal government or from other sources under this section, and money that is required by a contract or an agreement under this section to be used for project expenditure purposes, repayment of survey and planning advances, or repayment of temporary or definitive loans, may be expended by the development authority without regard to any law concerning the making and approval of budgets, appropriations, and expenditures.

(k) Bonds, notes, or warrants issued under this section are declared to be issued for an essential public and governmental purpose.

Sec. 30. (a) The following definitions apply throughout this section:

(1) "Allocation area" means that part of a military base development area to which an allocation provision of a declaratory resolution adopted under section 16 of this chapter refers for purposes of distribution and allocation of property taxes.

(2) "Base assessed value" means:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the adoption date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A) or (C), the net assessed value of any and all parcels or classes of parcels identified as part of the base assessed value in the declaratory resolution or an amendment to the declaratory resolution, as finally determined for any subsequent assessment date; plus

(C) to the extent that it is not included in clause (A) or (B), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(3) "Property taxes" means taxes imposed under IC 6-1.1 on real property.

(b) A declaratory resolution adopted under section 16 of this chapter before the date set forth in IC 36-7-14-39(b) pertaining to declaratory resolutions adopted under IC 36-7-14-15 may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A declaratory resolution previously adopted may include an allocation provision by the amendment of that declaratory resolution in accordance with the procedures set forth in section 18 of this chapter. The allocation provision may apply to all or part of the military base development area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the development authority and, when collected, paid into an allocation fund for that allocation area that may be used by the development authority and only to do one (1) or more of the following:

(A) Pay the principal of and interest and redemption premium on any obligations incurred by the development authority or any other entity for the purpose of financing or refinancing military base development or reuse activities in or directly serving or benefitting that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area or from other revenues of the development authority, including lease rental revenues.

(C) Make payments on leases payable solely or in part from allocated tax proceeds in that allocation area.

(D) Reimburse any other governmental body for expenditures made for local public improvements (or structures) in or directly serving or benefitting that allocation area.

(E) Pay all or a part of a property tax replacement credit to taxpayers in an allocation area as determined by the development authority. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(i) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(ii) the STEP ONE sum.

STEP THREE: Multiply:

(i) the STEP TWO quotient; by

(ii) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that have been allocated during that year to an allocation fund under this section.

If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under section 32 of this chapter in the same year.

(F) Pay expenses incurred by the development authority for local public improvements or structures that were in the allocation area or directly serving or benefitting the allocation area.

(G) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made not more than three (3) years after the date on which the investments that are the basis for the increment financing are made.

The allocation fund may not be used for operating expenses

of the development authority.

(3) Except as provided in subsection (g), before July 15 of each year the development authority shall do the following:

(A) Determine the amount, if any, by which property taxes payable to the allocation fund in the following year will exceed the amount of property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2).

(B) Notify the appropriate county auditor of the amount, if any, of the amount of excess property taxes that the development authority has determined may be paid to the respective taxing units in the manner prescribed in subdivision (1). The development authority may not authorize a payment to the respective taxing units under this subdivision if to do so would endanger the interest of the holders of bonds described in subdivision (2) or lessors under section 24 of this chapter. Property taxes received by a taxing unit under this subdivision are eligible for the property tax replacement credit provided under IC 6-1.1-21.

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by a taxing unit after the effective date of the allocation provision of the declaratory resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the military base development district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the military base development district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the development authority, reassess the taxable property situated upon or in or added to the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and the making of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the development authority shall create funds as specified in this subsection. A development authority that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. The development authority shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund any amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. The amount sufficient for purposes specified in subsection (b)(2) for the year shall be determined based on the pro rata part of such current property tax proceeds from the part of the enterprise zone that is within the allocation area as compared to all such current property tax proceeds derived from the allocation area. A development authority that does not have obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) that are derived from property in the enterprise zone in the fund. The development authority that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or for other purposes specified in subsection (b)(2), except that where reference is made in subsection (b)(2) to an allocation area it shall refer for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone. The programs shall reserve at least one-half (½) of their enrollment in any session for residents of the enterprise zone.

(h) After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the military base development district under this section. However, the adjustment may not include the effect of property tax abatements under IC 6-1.1-12.1, and the adjustment may not produce less property tax proceeds allocable to the military base development district under subsection (b)(2) than would otherwise have been received if the general reassessment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

Sec. 31. (a) As used in this section, "depreciable personal property" refers to:

(1) all or any part of the designated taxpayer's depreciable personal property that is located in the allocation area; and

(2) all or any part of the other depreciable property located and taxable on the designated taxpayer's site of operations within the allocation area;

that is designated as depreciable personal property for purposes of this section by the development authority in a declaratory resolution adopted or amended under section 16 or 18 of this chapter.

(b) As used in this section, "designated taxpayer" means a taxpayer designated by the development authority in a declaratory resolution adopted or amended under section 16 or 18 of this chapter, and with respect to which the development authority finds that taxes to be derived from the depreciable personal property in the allocation area, in excess of the taxes attributable to the base assessed value of the personal property, are needed to pay debt service or provide security for bonds issued or to be issued under section 23 of this chapter or make payments or provide security on leases payable or to be payable under section 24 of this chapter in order to provide local public improvements or structures for a particular allocation area.

(c) The allocation provision of a declaratory resolution may modify the definition of "property taxes" under section 30(a) of this chapter to include taxes imposed under IC 6-1.1 on the depreciable personal property located and taxable on the site of operations of the designated taxpayers in accordance with the procedures and limitations set forth in this section and section 30 of this chapter. If a modification is included in the resolution, for purposes of section 30 of this chapter, the term "base assessed value" with respect to the depreciable personal property means the net assessed value of all the depreciable personal property as finally determined for the assessment date immediately preceding the adoption date of the modification, as adjusted under section 30(b) of this chapter.

Sec. 32. (a) As used in this section, "allocation area" has the meaning set forth in section 30 of this chapter.

(b) As used in this section, "taxing district" has the meaning set forth in IC 6-1.1-1-20.

(c) Subject to subsection (e) and except a provided in subsection (h), each taxpayer in an allocation area is entitled to an additional credit for taxes (as defined in IC 6-1.1-21-2) that under IC 6-1.1-22-9 are due and payable in May and November of that year. Except as provided in subsection (h), one-half (½) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2). This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's eligible property tax

replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that would have been allocated to an allocation fund under section 30 of this chapter had the additional credit described in this section not been given.

The additional credit reduces the amount of proceeds allocated to the military base development district and paid into an allocation fund under section 30(b)(2) of this chapter.

(d) If the additional credit under subsection (c) is not reduced under subsection (e) or (f), the credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (c) shall be computed on an aggregate basis for all taxpayers in a taxing district that contains all or part of an allocation area. The credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (c) shall be combined on the tax statements sent to each taxpayer.

(e) Upon the recommendation of the development authority, the municipal legislative body of an affected municipality or the county executive of an affected county may by resolution provide that the additional credit described in subsection (c):

(1) does not apply in a specified allocation area; or

(2) is to be reduced by a uniform percentage for all taxpayers in a specified allocation area.

(f) If the municipal legislative body or county executive determines that granting the full additional credit under subsection (c) would adversely affect the interests of the holders of bonds or other contractual obligations that are payable from allocated tax proceeds in that allocation area in a way that would create a reasonable expectation that those bonds or other contractual obligations would not be paid when due, the municipal legislative body or county executive must adopt a resolution under subsection (e) to deny the additional credit or reduce the credit to a level that creates a reasonable expectation that the bonds or other obligations will be paid when due. A resolution adopted under subsection (e) denies or reduces the additional credit for property taxes first due and payable in the allocation area in any year following the year in which the resolution is adopted.

(g) A resolution adopted under subsection (e) remains in effect until rescinded by the body that originally adopted the resolution. However, a resolution may not be rescinded if the rescission would adversely affect the interests of the holders of bonds or other obligations that are payable from allocated tax proceeds in that allocation area in a way that would create a reasonable expectation that the principal of or interest on the bonds or other obligations would not be paid when due. If a resolution is rescinded and no other resolution is adopted, the additional credit described in subsection (c) applies to property taxes first due and payable in the allocation area in each year following the year in which the resolution is rescinded.

(h) This subsection applies to an allocation area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (c) for the taxes (as defined in IC 6-1.1-21-2) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2).

Sec. 33. Notwithstanding any other law, utility services provided within the military base development district are subject to regulation by the appropriate regulatory agencies unless the utility service is provided by a utility that provides utility service solely within the geographic boundaries of an existing or a closed military installation by a utility facility in existence and operating on July 1, 1995, in which case the utility service is not subject to regulation for purposes of rate making, regulation, service delivery, or issuance of bonds or other forms of indebtedness. However, this exemption from regulation does not apply to utility service if the service is generated, treated, or produced outside the boundaries of the existing or closed military installation.

Sec. 34. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

(1) Assessed value.

(2) Owner.

(3) Person.

(4) Personal property.

(5) Property taxation.

(6) Tangible property.

(7) Township assessor.

(b) As used in this section, "PILOTS" means payments in lieu of taxes.

(c) The general assembly finds the following:

(1) That the closing of a military base in a unit results in an increased cost to the unit of providing governmental services to the area formerly occupied by the military base.

(2) That military base property held by a development authority is exempt from property taxation, resulting in the lack of an adequate tax base to support the increased governmental services.

(3) That to restore this tax base and provide a proper allocation of the cost of providing governmental services the fiscal body of the unit should be authorized to collect PILOTS from the development authority.

(4) That the appropriate maximum PILOTS would be the amount of the property taxes that would be paid if the tangible property were not exempt.

(d) The fiscal body of the unit may adopt an ordinance to require a development authority to pay PILOTS at times set forth in the ordinance with respect to tangible property of which the development authority is the owner or the lessee and that is exempt from property taxes. The ordinance remains in full force and effect until repealed or modified by the fiscal body.

(e) The PILOTS must be calculated so that the PILOTS do not exceed the amount of property taxes that would have been levied by the fiscal body for the unit upon the tangible property described in subsection (d) if the property were not exempt from property taxation.

(f) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the tangible property described in subsection (d). The township assessors shall assess the tangible property described in subsection (d) as though the property were not exempt. The development authority shall report the value of personal property in a manner consistent with IC 6-1.1-3.

(g) Notwithstanding any other law, a development authority is authorized to pay PILOTS imposed under this section from any legally available source of revenues. The development authority may consider these payments to be operating expenses for all purposes.

(h) PILOTS shall be deposited in the general fund of the unit and used for any purpose for which the general fund may be used.

(i) PILOTS shall be due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS shall be treated in the same manner as property taxes for purposes of all procedural and substantive provisions of law.

Sec. 35. (a) Notwithstanding any other law, a development authority may:

(1) impose conditions on the development of any property in a development area; and

(2) require the payment of development fees or other fees by private persons to pay, defray, or mitigate the costs of the construction, operation, and maintenance of infrastructure that is required or needed to serve the development, redevelopment, and reuse of property within the development area.

(b) Before a development authority may impose conditions under subsection (a)(1), the development authority shall adopt a

written resolution finding that the conditions to be imposed are:

(1) necessary to carry out at least one (1) of the purposes of this chapter; and

(2) reasonably related in nature and extent to the impact upon the development, redevelopment, and reuse of the property upon which the conditions are imposed.

(c) Before a development authority may impose fees under subsection (a)(2), the development authority shall adopt a written resolution finding that:

(1) the infrastructure for which the fees are to be imposed is necessary to carry out at least one (1) of the purposes of this chapter and is required or needed to serve the development, redevelopment, and reuse of the property within the development area; and

(2) the fees to be imposed are reasonably related in nature and extent to the impact upon the infrastructure attributable to the development, redevelopment, and reuse of the property within the development area upon which the fees are imposed.

(d) Conditions imposed under subsection (a)(1) must be approved by the plan commission of the unit or other body responsible for developing a general plan for the unit. To approve the conditions, the plan commission or other body shall adopt a written resolution making the same findings required to be made by the development authority under subsection (b).

(e) Fees imposed under subsection (a)(2) must be deposited in the appropriate fund of the unit responsible for constructing, operating, and maintaining the particular infrastructure for which the fee has been imposed.

Sec. 36. A person who knowingly:

(1) applies any money raised under this chapter to any purpose other than those permitted by this chapter; or

(2) fails to follow the voucher and warrant procedure prescribed by this chapter in expending any money raised under this chapter;

commits a Class C felony.

SECTION 12. IC 36-7-32-10, AS AMENDED BY P.L.4-2005, SECTION 143, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. **(a)** A unit may apply to the Indiana economic development corporation for designation of all or part of the territory within the jurisdiction of the unit's redevelopment commission as a certified technology park and to enter into an agreement governing the terms and conditions of the designation. The application must be in a form specified by the Indiana economic development corporation and must include information the corporation determines necessary to make the determinations required under section 11 of this chapter.

(b) This subsection applies only to a unit in which a certified technology park designated before January 1, 2005, is located. A unit may apply to the Indiana economic development corporation for permission to expand the unit's certified technology park to include territory that is adjacent to the unit's certified technology park but located in another county. The corporation shall grant the unit permission to expand the certified technology park if the unit and the redevelopment commission having jurisdiction over the adjacent territory approve the proposed expansion in a resolution. A certified copy of each resolution approving the proposed expansion must be attached to the application submitted under this subsection.

SECTION 13. IC 36-7-32-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. (a) Each redevelopment commission that establishes a certified technology park under this chapter shall establish a certified technology park fund to receive:

(1) property tax proceeds allocated under section 17 of this chapter; and

(2) money distributed to the redevelopment commission under section 22 of this chapter.

(b) Money deposited in the certified technology park fund may be used by the redevelopment commission only for one (1) or more of the following purposes:

(1) Acquisition, improvement, preparation, demolition, disposal, construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair, furnishing, and equipping of public facilities.

(2) Operation of public facilities described in section 9(2) of this chapter.

(3) Payment of the principal of and interest on any obligations that are payable solely or in part from money deposited in the fund and that are incurred by the redevelopment commission for the purpose of financing or refinancing the development of public facilities in the certified technology park.

(4) Establishment, augmentation, or restoration of the debt service reserve for obligations described in subdivision (3).

(5) Payment of the principal of and interest on bonds issued by the unit to pay for public facilities in or serving the certified technology park.

(6) Payment of premiums on the redemption before maturity of bonds described in subdivision (3).

(7) Payment of amounts due under leases payable from money deposited in the fund.

(8) Reimbursement to the unit for expenditures made by it for public facilities in or serving the certified technology park.

(9) Payment of expenses incurred by the redevelopment commission for public facilities that are in the certified technology park or serving the certified technology park.

(10) For any purpose authorized by an agreement between redevelopment commissions entered into under section 26 of this section.

(c) The certified technology park fund may not be used for operating expenses of the redevelopment commission.

SECTION 14. IC 36-7-32-26 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 26. (a) Two (2) or more redevelopment commissions may enter into a written agreement under this section to jointly undertake economic development projects in the certified technology parks established by the redevelopment commissions that are parties to the agreement.**

(b) A party to an agreement under this section may do one (1) or more of the following:

(1) Except as provided in subsection (c), grant one (1) or more of its powers to another party to the agreement.

(2) Exercise any power granted to it by a party to the agreement.

(3) Pledge any of its revenues, including taxes or allocated taxes under section 17 of this chapter, to the bonds or lease rental obligations of another party to the agreement under IC 5-1-14-4.

(c) A redevelopment commission may not grant to another redevelopment commission the power to tax or to establish an allocation area under this chapter.

(d) An action to challenge the validity of an agreement under this section must be brought not more than thirty (30) days after the agreement has been approved by all the parties to the agreement. After that period has passed, the agreement is not contestable for any cause.

SECTION 15. IC 36-7-32-27 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 27. An agreement described in section 26 of this chapter must provide for the following:**

(1) The duration of the agreement.

(2) The purpose of the agreement.

(3) The manner of financing, staffing, and supplying the joint undertaking and of establishing and maintaining a budget for the joint undertaking.

(4) The methods that may be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon partial or complete termination of the agreement.

(5) The manner of acquiring, holding, and disposing of real and personal property used in the joint undertaking.

(6) Any other appropriate matters.

SECTION 16. IC 36-7-34 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]:

Chapter 34. Qualified Military Base Enhancement Area

Sec. 1. "Area" refers to a qualified military base enhancement area established by this chapter.

Sec. 2. As used in this chapter, "technology park" refers to a certified technology park established under IC 36-7-32.

Sec. 3. "Qualified military base" means a United States government military installation that:

(1) has an area of at least sixty thousand (60,000) acres; and

(2) is used for the design, construction, maintenance, and testing of electronic devices and ordnance.

Sec. 4. A qualified military base enhancement area is established for each technology park located within a radius of five (5) miles of a qualified military base. The geographic area of the qualified military base enhancement area is the geographic area of the technology park.

Sec. 5. The department of commerce shall do the following:

(1) Coordinate area development activities.

(2) Serve as a catalyst for area development.

(3) Promote each area to outside groups and individuals.

(4) Establish a formal line of communication with businesses in each area.

(5) Act as a liaison between businesses and local governments for any development activity that may affect each area.

(6) Act as a liaison between each area and residents of nearby communities.

SECTION 17. [EFFECTIVE JULY 1, 2005] **(a) The counties served by the Eastern Indiana Economic Development District comprise an area that:**

(1) is at a competitive disadvantage for economic development due to the area's rural character;

(2) faces unique challenges because the area borders another state;

(3) consistently ranks among the highest areas in unemployment in Indiana; and

(4) is served by an interstate highway and rail infrastructure that is well suited for the development of a proposed global commerce center.

(b) These special circumstances require legislation particular to the counties.

SECTION 18. [EFFECTIVE JANUARY 1, 2006] **(a) IC 6-2.5-4-5, as amended by this act, applies to services or commodities sold after December 31, 2005, to a business located in a qualified military base enhancement area established under IC 36-7-34, as added by this act.**

(b) IC 6-3-2-1.5, as amended by this act, applies to taxable years beginning after December 31, 2005.

(c) IC 6-3.1-11.6-2 and IC 6-3.1-11.6-9, both as amended by this act, apply to taxable years beginning after December 31, 2005.

SECTION 19. [EFFECTIVE JULY 1, 2005] **(a) The department of environmental management shall give priority to permit applications that concern:**

(1) current or former United States government military bases or other military installations; and

(2) the destruction, reclamation, recycling, reprocessing, or demilitarization of ordnance and other explosive materials.

(b) This SECTION expires July 1, 2008.

SECTION 20. **An emergency is declared for this act.**

(Reference is to ESB 571 as printed April 1, 2005.)

FORD	KOCH
SIMPSON	CROOKS
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 590–1; filed April 27, 2005, at 1:16 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 590 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 16-18-2-106.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 106.3. For purposes of IC 16-42-3 and IC 16-42-22, "electronic signature" means an electronic sound, symbol, or process:**

(1) attached to or logically associated with an electronically transmitted prescription or order; and

(2) executed or adopted by a person;

with the intent to sign the electronically transmitted prescription or order.

SECTION 2. IC 16-18-2-106.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 106.4. For purposes of IC 16-42-3, IC 16-42-19, and IC 16-42-22, "electronically transmitted" or "electronic transmission" means the transmission of a prescription in electronic form. The term does not include transmission of a prescription by facsimile.**

SECTION 3. IC 16-28-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. A health facility that possesses unused medication that meets the requirements of ~~IC 25-26-13-25(i)(1)~~ **IC 25-26-13-25(j)(1)** through ~~IC 25-26-13-25(i)(6).~~ **IC 25-26-13-25(j)(6):**

(1) shall return medication that belonged to a Medicaid recipient; and

(2) may return other unused medication;

to the pharmacy that dispensed the medication.

SECTION 4. IC 16-42-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) This section applies to a drug intended for use by humans that:

(1) is a habit forming drug to which section 4(4) of this chapter applies;

(2) because of:

(A) the drug's toxicity or other potential for harmful effect;

(B) the method of the drug's use; or

(C) the collateral measures necessary to the drug's use;

is not safe for use except under the supervision of a practitioner licensed by law to administer the drug; or

(3) is limited by an approved application under Section 505 of the Federal Act or section 7 or 8 of this chapter to use under the professional supervision of a practitioner licensed by law to administer the drug.

(b) A drug described in subsection (a) may be dispensed only:

(1) upon a written **or an electronically transmitted** prescription of a practitioner licensed by law to administer the drug;

(2) upon an oral prescription of the practitioner that is reduced promptly to writing and filed by the ~~pharmacist,~~ **pharmacist or pharmacist intern (as defined in IC 25-26-13-2);** or

(3) by refilling a ~~written or oral~~ prescription if the refilling is authorized by the prescriber either in the original prescription, **by an electronically transmitted order that is recorded in an electronic format,** or by oral order that is reduced promptly to writing **or is entered into an electronic format** and filed by the pharmacist **or pharmacist intern (as defined in IC 25-26-13-2).**

(c) If a prescription for a drug described in subsection (a) does not indicate how many times the prescription may be refilled, if any, the prescription may not be refilled unless the pharmacist is subsequently authorized to do so by the practitioner.

(d) The act of dispensing a drug contrary to subsection (a), (b), or (c) is considered to be an act that results in a drug being misbranded while held for sale.

(e) A drug dispensed by filling or refilling a ~~written or oral~~ prescription of a practitioner licensed by law to administer the drug is exempt from the requirements of section 4(2), 4(3), 4(4), 4(5), 4(6), 4(7), 4(8), and 4(9) of this chapter if the drug bears a label containing the following:

(1) The name and address of the dispenser.

(2) The serial number and date of the prescription or of the prescription's filling.

(3) The name of the drug's prescriber and, if stated in the

prescription, the name of the patient.

(4) The directions for use and cautionary statements, if any, contained in the prescription.

This exemption does not apply to any drugs dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail or to a drug dispensed in violation of subsection (a), (b), (c), or (d).

(f) The state department may adopt rules to remove drugs subject to section 4(4) of this chapter, section 7 of this chapter, or section 8 of this chapter from the requirements of subsections (a) through (d) when the requirements are not necessary for the protection of public health. Drugs removed from the prescription requirements of the Federal Act by regulations issued under the Federal Act may also, by rules adopted by the state department, be removed from the requirement of subsections (a) through (d).

(g) A drug that is subject to subsections (a) through (d) is considered to be misbranded if at any time before dispensing the drug's label fails to bear the statement "Caution: Federal Law Prohibits Dispensing Without Prescription" or "Caution: State Law Prohibits Dispensing Without Prescription". A drug to which subsections (a) through (d) ~~does~~ **do** not apply is considered to be misbranded if, at any time before dispensing, the drug's label bears the caution statement described in this subsection.

(h) This section does not relieve a person from a requirement prescribed by or under authority of law with respect to drugs included within the classifications of narcotic drugs or marijuana as defined in the applicable federal and state laws relating to narcotic drugs and marijuana.

(i) A drug may be dispensed under subsection (b) upon an electronically transmitted prescription only to the extent permitted by federal law.

SECTION 5. IC 16-42-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Sections 7 and 8 of this chapter do not apply to the following:

(1) To a drug dispensed on a written **or an electronically transmitted** prescription signed by **or with an electronic signature of** a physician, dentist, or veterinarian (except a drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail) if the physician, dentist, or veterinarian is licensed by law to administer the drug, and the drug bears a label containing the name and place of business of the dispenser, the serial number and date of the prescription, and the name of the physician, dentist, or veterinarian.

(2) To a drug exempted by rule of the state department and that is intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of drugs.

(3) To a drug sold in Indiana or introduced into intrastate commerce at any time before the enactment of the Federal Act, if the drug's labeling contained the same representations concerning the conditions of the drug's use.

(4) To any drug that is licensed under the Public Health Service Act of July 1, 1944 (58 Stat. 682, as amended; 42 U.S.C. 201 et seq.) or under the Animal Virus-Serum Toxin Act of March 4, 1913 (13 Stat. 832; 21 U.S.C. 151 et seq.).

(5) To a drug subject to section 4(10) of this chapter.

(b) Rules exempting drugs intended for investigational use under subsection (a)(2) may, within the discretion of the state department among other conditions relating to the protection of the public health, provide for conditioning the exemption upon the following:

(1) The submission to the state department, before any clinical testing of a new drug is undertaken, of reports by the manufacturer or the sponsor of the investigation of the drug or preclinical tests, including tests on animals, of the drug adequate to justify the proposed clinical testing.

(2) The manufacturer or the sponsor of the investigation of a new drug proposed to be distributed to investigators for clinical testing obtaining a signed agreement from each of the investigators that patients to whom the drug is administered will be under the manufacturer's or sponsor's personal supervision or under the supervision of investigators responsible to the manufacturer or sponsor and that the manufacturer or sponsor will not supply the drug to any other investigator or to clinics for administration to human beings.

(3) The establishment and maintenance of the records and the making of the reports to the state department by the manufacturer or the sponsor of the investigation of the drug of data (including analytical reports by investigators) obtained as the result of the investigational use of the drug that the state department finds will enable the state department to evaluate the safety and effectiveness of the drug if an application is filed under section 8 of this chapter.

(c) Rules exempting drugs intended for investigational use under subsection (a)(2) must provide that the exemption is conditioned upon the manufacturer or the sponsor of the investigation requiring that experts using the drugs for investigational purposes certify to the manufacturer or sponsor that the experts will inform any human beings to whom the drugs or any controls used in connection with the drugs are being administered that the drugs are being used for investigational purposes and will obtain the consent of the human beings or their representatives, except where they consider it not feasible or, in their professional judgment, contrary to the best interests of the human beings.

(d) This section does not require a clinical investigator to submit directly to the state department reports on the investigational use of drugs. The regulations adopted under Section 505(i) of the Federal Act are the rules in Indiana. The state may adopt rules, whether or not in accordance with regulations promulgated under the Federal Act.

SECTION 6. IC 16-42-19-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. As used in this chapter, "prescription" means:

(1) a written order to or for an ultimate user for a drug or device containing the name and address of the patient, the name and strength or size of the drug or device, the amount to be dispensed, adequate directions for the proper use of the drug or device by the patient, and the name of the practitioner, issued and signed by a practitioner; or

(2) an order transmitted by other means of communication from a practitioner that is:

(A) immediately reduced to writing by the ~~pharmacist;~~ **pharmacist or pharmacist intern (as defined in IC 25-26-13-2); or**

(B) for an electronically transmitted prescription:

(i) has the electronic signature of the practitioner; and

(ii) is recorded by the pharmacist in an electronic format.

SECTION 7. IC 16-42-19-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. Except as authorized under ~~IC 25-26-13-25(c),~~ **IC 25-26-13-25(d),** a person may not refill a prescription or drug order for a legend drug except in the manner designated on the prescription or drug order or by the authorization of the practitioner.

SECTION 8. IC 16-42-22-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. As used in this chapter, "customer" means the individual for whom a prescription is written **or electronically transmitted** or the individual's representative.

SECTION 9. IC 16-42-22-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. **(a)** Each written prescription issued by a practitioner must have two (2) signature lines printed at the bottom of the prescription form, one (1) of which must be signed by the practitioner for the prescription to be valid. Under the blank line on the left side of the form must be printed the words "Dispense as written.". Under the blank line on the right side of the form must be printed the words "May substitute.".

(b) Each electronically transmitted prescription issued by a practitioner must:

(1) have an electronic signature; and

(2) include the electronically transmitted instructions "Dispense as written." or "May substitute.".

SECTION 10. IC 16-42-22-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) For substitution to occur for a prescription other than a prescription filled under the Medicaid program (42 U.S.C. 1396 et seq.), the children's health insurance program established under IC 12-17.6-2, or the Medicare

program (42 U.S.C. 1395 et seq.):

(1) the practitioner must:

(A) sign on the line under which the words "May substitute" appear; **or**

(B) for an electronically transmitted prescription, electronically transmit the instruction "May substitute."; and

(2) the pharmacist must inform the customer of the substitution.

(b) This section does not authorize any substitution other than substitution of a generically equivalent drug product.

SECTION 11. IC 16-42-22-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. If the practitioner communicates instructions to the pharmacist orally **or electronically,** the pharmacist shall:

(1) indicate the instructions in the pharmacist's own handwriting on the written copy of the prescription order; **or**

(2) record the electronically transmitted instructions in an electronic format.

SECTION 12. IC 16-42-22-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) If a prescription is filled under the Medicaid program (42 U.S.C. 1396 et seq.), the children's health insurance program established under IC 12-17.6-2, or the Medicare program (42 U.S.C. 1395 et seq.), the pharmacist shall substitute a generically equivalent drug product and inform the customer of the substitution if the substitution would result in a lower price unless:

(1) the words "Brand Medically Necessary" are:

(A) written in the practitioner's own writing on the form; or

(B) electronically transmitted with an electronically transmitted prescription; or

(2) the practitioner has indicated that the pharmacist may not substitute a generically equivalent drug product by:

(A) orally stating that a substitution is not permitted; **or**

(B) for an electronically transmitted prescription, indicating with the electronic prescription that a substitution is not permitted.

(b) If a practitioner orally states that a generically equivalent drug product may not be substituted, the practitioner must subsequently forward to the pharmacist a written **or electronically transmitted** prescription with the "Brand Medically Necessary" instruction appropriately indicated in the physician's own handwriting.

(c) This section does not authorize any substitution other than substitution of a generically equivalent drug product.

SECTION 13. IC 16-42-22-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. The pharmacist shall record on the prescription **in writing or in an electronic format for an electronically transmitted prescription** the name of the manufacturer or distributor, or both, of the actual drug product dispensed under this chapter.

SECTION 14. IC 25-26-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this chapter:

"Board" means the Indiana board of pharmacy.

"Controlled drugs" are those drugs on schedules I through V of the Federal Controlled Substances Act or on schedules I through V of IC 35-48-2.

"Counseling" means effective communication between a pharmacist and a patient concerning the contents, drug to drug interactions, route, dosage, form, directions for use, precautions, and effective use of a drug or device to improve the therapeutic outcome of the patient through the effective use of the drug or device.

"Dispensing" means issuing one (1) or more doses of a drug in a suitable container with appropriate labeling for subsequent administration to or use by a patient.

"Drug" means:

(1) articles or substances recognized in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them;

(2) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;

(3) articles other than food intended to affect the structure or any function of the body of man or animals; or

(4) articles intended for use as a component of any article specified in subdivisions (1) through (3) and devices.

"Drug order" means a written order in a hospital or other health care institution for an ultimate user for any drug or device, issued and signed by a practitioner, or an order transmitted by other means of communication from a practitioner, which is immediately reduced to writing by the pharmacist, registered nurse, or other licensed health care practitioner authorized by the hospital or institution. The order shall contain the name and bed number of the patient; the name and strength or size of the drug or device; unless specified by individual institution policy or guideline, the amount to be dispensed either in quantity or days; adequate directions for the proper use of the drug or device when it is administered to the patient; and the name of the prescriber.

"Drug regimen review" means the retrospective, concurrent, and prospective review by a pharmacist of a patient's drug related history that includes the following areas:

(1) Evaluation of prescriptions or drug orders and patient records for drug allergies, rational therapy contradictions, appropriate dose and route of administration, appropriate directions for use, or duplicative therapies.

(2) Evaluation of prescriptions or drug orders and patient records for drug-drug, drug-food, drug-disease, and drug-clinical laboratory interactions.

(3) Evaluation of prescriptions or drug orders and patient records for adverse drug reactions.

(4) Evaluation of prescriptions or drug orders and patient records for proper utilization and optimal therapeutic outcomes.

"Drug utilization review" means a program designed to measure and assess on a retrospective and prospective basis the proper use of drugs.

"Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article including any component part or accessory, which is:

(1) recognized in the official United States Pharmacopoeia, official National Formulary, or any supplement to them;

(2) intended for use in the diagnosis of disease or other conditions or the cure, mitigation, treatment, or prevention of disease in man or other animals; or

(3) intended to affect the structure or any function of the body of man or other animals and which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

"Electronic data intermediary" means an entity that provides the infrastructure that connects a computer system or another electronic device used by a prescribing practitioner with a computer system or another electronic device used by a pharmacy to facilitate the secure transmission of:

(1) an electronic prescription order;

(2) a refill authorization request;

(3) a communication; and

(4) other patient care information;

between a practitioner and a pharmacy.

"Electronic signature" means an electronic sound, symbol, or process:

(1) attached to or logically associated with a record; and

(2) executed or adopted by a person;

with the intent to sign the record.

"Electronically transmitted" or "electronic transmission" means the transmission of a prescription in electronic form. The term does not include the transmission of a prescription by facsimile.

"Investigational or new drug" means any drug which is limited by state or federal law to use under professional supervision of a practitioner authorized by law to prescribe or administer such drug.

"Legend drug" has the meaning set forth in IC 16-18-2-199.

"License" and "permit" are interchangeable and mean a written certificate from the Indiana board of pharmacy for the practice of pharmacy or the operation of a pharmacy.

"Nonprescription drug" means a drug that may be sold without a

prescription and that is labeled for use by a patient in accordance with state and federal laws.

"Person" means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, or municipality, or a legal representative or agent, unless this chapter expressly provides otherwise.

"Practitioner" has the meaning set forth in IC 16-42-19-5.

"Pharmacist" means a person licensed under this chapter.

"Pharmacist extern" means a pharmacy student enrolled full time in an approved school of pharmacy and who is working in a school sponsored, board approved program related to the practice of pharmacy.

"Pharmacist intern" means a person who is working to secure additional hours of practice and experience prior to making application for a license to practice as a pharmacist.

"Pharmacy" means any facility, department, or other place where prescriptions are filled or compounded and are sold, dispensed, offered, or displayed for sale and which has as its principal purpose the dispensing of drug and health supplies intended for the general health, welfare, and safety of the public, without placing any other activity on a more important level than the practice of pharmacy.

"The practice of pharmacy" or "the practice of the profession of pharmacy" means a patient oriented health care profession in which pharmacists interact with and counsel patients and with other health care professionals concerning drugs and devices used to enhance patients' wellness, prevent illness, and optimize the outcome of a drug or device, by accepting responsibility for performing or supervising a pharmacist intern, a pharmacist extern, or an unlicensed person under section 18(a)(4) of this chapter to do the following acts, services, and operations:

(1) The offering of or performing of those acts, service operations, or transactions incidental to the interpretation, evaluation, and implementation of prescriptions or drug orders.

(2) The compounding, labeling, administering, dispensing, or selling of drugs and devices, including radioactive substances, whether dispensed under a practitioner's prescription or drug order or sold or given directly to the ultimate consumer.

(3) The proper and safe storage and distribution of drugs and devices.

(4) The maintenance of proper records of the receipt, storage, sale, and dispensing of drugs and devices.

(5) Counseling, advising, and educating patients, patients' caregivers, and health care providers and professionals, as necessary, as to the contents, therapeutic values, uses, significant problems, risks, and appropriate manner of use of drugs and devices.

(6) Assessing, recording, and reporting events related to the use of drugs or devices.

(7) Provision of the professional acts, professional decisions, and professional services necessary to maintain all areas of a patient's pharmacy related care as specifically authorized to a pharmacist under this article.

~~"Prescription" means a written order or an order transmitted by other means of communication from a practitioner to or for an ultimate user for any drug or device containing the name and address of the patient, the name and strength or size of the drug or device, the amount to be dispensed, adequate directions for the proper use of the drug or device by the patient, and the name of the practitioner issued and, if the prescription is in written form, signed by a practitioner.~~

"Prescription" means a written order or an order transmitted by other means of communication from a practitioner to or for an ultimate user for any drug or device containing:

(1) the name and address of the patient;

(2) the date of issue;

(3) the name and strength or size (if applicable) of the drug or device;

(4) the amount to be dispensed (unless indicated by directions and duration of therapy);

(5) adequate directions for the proper use of the drug or device by the patient;

(6) the name of the practitioner; and

(7) ~~the signature of the practitioner~~ if the prescription:

(A) is in written form, **the signature of the practitioner; or**

(B) is in electronic form, the electronic signature of the practitioner.

"Qualifying pharmacist" means the pharmacist who will qualify the pharmacy by being responsible to the board for the legal operations of the pharmacy under the permit.

"Record" means all papers, letters, memoranda, notes, prescriptions, drug orders, invoices, statements, patient medication charts or files, computerized records, or other written indicia, documents, or objects which are used in any way in connection with the purchase, sale, or handling of any drug or device.

"Sale" means every sale and includes:

(1) manufacturing, processing, transporting, handling, packaging, or any other production, preparation, or repackaging;

(2) exposure, offer, or any other proffer;

(3) holding, storing, or any other possession;

(4) dispensing, giving, delivering, or any other supplying; and

(5) applying, administering, or any other using.

SECTION 15. IC 25-26-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The board may:

(1) promulgate rules and regulations under IC 4-22-2 for implementing and enforcing this chapter;

(2) establish requirements and tests to determine the moral, physical, intellectual, educational, scientific, technical, and professional qualifications for applicants for pharmacists' licenses;

(3) refuse to issue, deny, suspend, or revoke a license or permit or place on probation or fine any licensee or permittee under this chapter;

(4) regulate the sale of drugs and devices in the state of Indiana;

(5) impound, embargo, confiscate, or otherwise prevent from disposition any drugs, medicines, chemicals, poisons, or devices which by inspection are deemed unfit for use or would be dangerous to the health and welfare of the citizens of the state of Indiana; the board shall follow those embargo procedures found in IC 16-42-1-18 through IC 16-42-1-31, and persons may not refuse to permit or otherwise prevent members of the board or their representatives from entering such places and making such inspections;

(6) prescribe minimum standards with respect to physical characteristics of pharmacies, as may be necessary to the maintenance of professional surroundings and to the protection of the safety and welfare of the public;

(7) subject to IC 25-1-7, investigate complaints, subpoena witnesses, schedule and conduct hearings on behalf of the public interest on any matter under the jurisdiction of the board;

(8) prescribe the time, place, method, manner, scope, and subjects of licensing examinations which shall be given at least twice annually; and

(9) perform such other duties and functions and exercise such other powers as may be necessary to implement and enforce this chapter.

(b) The board shall adopt rules under IC 4-22-2 for the following:

(1) Establishing standards for the competent practice of pharmacy.

(2) Establishing the standards for a pharmacist to counsel individuals regarding the proper use of drugs.

(c) The board may grant or deny a temporary variance to a rule it has adopted if:

(1) the board has adopted rules which set forth the procedures and standards governing the grant or denial of a temporary variance; and

(2) the board sets forth in writing the reasons for a grant or denial of a temporary variance.

(d) The board shall adopt rules and procedures, in consultation with the medical licensing board, concerning the electronic transmission of prescriptions. The rules adopted under this subsection must address the following:

(1) Privacy protection for the practitioner and the practitioner's patient.

(2) Security of the electronic transmission.

(3) A process for approving electronic data intermediaries for the electronic transmission of prescriptions.

(4) Use of a practitioner's United States Drug Enforcement Agency registration number.

(5) Protection of the practitioner from identity theft or fraudulent use of the practitioner's prescribing authority.

SECTION 16. IC 25-26-13-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25. (a) All original prescriptions, whether in written or electronic format, shall be numbered and maintained in numerical and chronological order, or in a manner approved by the board and accessible for at least two (2) years in the pharmacy. A prescription transmitted from a practitioner by means of communication other than writing must immediately be reduced to writing or recorded in an electronic format by the pharmacist. The files shall be open for inspection to any member of the board or its duly authorized agent or representative.

(b) A prescription may be electronically transmitted from the practitioner by computer or another electronic device to a pharmacy that is licensed under this article or any other state or territory. An electronic data intermediary that is approved by the board:

(1) may transmit the prescription information between the prescribing practitioner and the pharmacy;

(2) may archive copies of the electronic information related to the transmissions as necessary for auditing and security purposes; and

(3) must maintain patient privacy and confidentiality of all archived information as required by applicable state and federal laws.

~~(b)~~ **(c)** Except as provided in subsection ~~(c),~~ **(d),** a prescription for any drug, the label of which bears either the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may not be refilled without written, **electronically transmitted,** or oral authorization of a licensed practitioner.

~~(c)~~ **(d)** A prescription for any drug, the label of which bears either the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may be refilled by a pharmacist one (1) time without the written, **electronically transmitted,** or oral authorization of a licensed practitioner if all of the following conditions are met:

(1) The pharmacist has made every reasonable effort to contact the original prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.

(2) The pharmacist believes that, under the circumstances, failure to provide a refill would be seriously detrimental to the patient's health.

(3) The original prescription authorized a refill but a refill would otherwise be invalid for either of the following reasons:

(A) All of the authorized refills have been dispensed.

(B) The prescription has expired under subsection ~~(f).~~ **(g).**

(4) The prescription for which the patient requests the refill was:

(A) originally filled at the pharmacy where the request for a refill is received and the prescription has not been transferred for refills to another pharmacy at any time; or

(B) filled at or transferred to another location of the same pharmacy or its affiliate owned by the same parent corporation if the pharmacy filling the prescription has full access to prescription and patient profile information that is simultaneously and continuously updated on the parent corporation's information system.

(5) The drug is prescribed for continuous and uninterrupted use and the pharmacist determines that the drug is being taken properly in accordance with IC 25-26-16.

(6) The pharmacist shall document the following information regarding the refill:

(A) The information required for any refill dispensed under subsection ~~(d).~~ **(e).**

(B) The dates and times that the pharmacist attempted to contact the prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.

(C) The fact that the pharmacist dispensed the refill without the authorization of a licensed practitioner.

(7) The pharmacist notifies the original prescribing practitioner of the refill and the reason for the refill by the practitioner's next business day after the refill has been made by the pharmacist.

(8) Any pharmacist initiated refill under this subsection may not be for more than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day. However, a pharmacist may dispense a drug in an amount greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day if:

(A) the drug is packaged in a form that requires the pharmacist to dispense the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day; or

(B) the pharmacist documents in the patient's record the amount of the drug dispensed and a compelling reason for dispensing the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day.

(9) Not more than one (1) pharmacist initiated refill is dispensed under this subsection for a single prescription.

(10) The drug prescribed is not a controlled substance.

A pharmacist may not refill a prescription under this subsection if the practitioner has designated on the prescription form the words "No Emergency Refill".

~~(d)~~ **(e)** When refilling a prescription, the refill record shall include:

(1) the date of the refill;

(2) the quantity dispensed if other than the original quantity; and

(3) the dispenser's identity on:

(A) the original prescription form; or

(B) another board approved, uniformly maintained, readily retrievable record.

~~(e)~~ **(f)** The original prescription form or the other board approved record described in subsection ~~(d)~~ **(e)** must indicate by the number of the original prescription the following information:

(1) The name and dosage form of the drug.

(2) The date of each refill.

(3) The quantity dispensed.

(4) The identity of the pharmacist who dispensed the refill.

(5) The total number of refills for that prescription.

~~(f)~~ **(g)** A prescription is valid for not more than one (1) year after the original date of issue.

~~(g)~~ **(h)** A pharmacist may not knowingly dispense a prescription after the demise of the practitioner, unless in the pharmacist's professional judgment it is in the best interest of the patient's health.

~~(h)~~ **(i)** A pharmacist may not knowingly dispense a prescription after the demise of the patient.

~~(i)~~ **(j)** A pharmacist or a pharmacy shall not resell, reuse, or redistribute a medication that is returned to the pharmacy after being dispensed unless the medication:

(1) was dispensed to a patient:

(A) residing in an institutional facility (as defined in 856 IAC 1-28.1-1(6)); or

(B) in a hospice program under IC 16-25;

(2) was properly stored and securely maintained according to sound pharmacy practices;

(3) is returned unopened and:

(A) was dispensed in the manufacturer's original:

(i) bulk, multiple dose container with an unbroken tamper resistant seal; or

(ii) unit dose package; or

(B) was packaged by the dispensing pharmacy in a:

(i) multiple dose blister container; or

(ii) unit dose package;

(4) was dispensed by the same pharmacy as the pharmacy accepting the return;

(5) is not expired; and

(6) is not a controlled substance (as defined in IC 35-48-1-9), unless the pharmacy holds a Type II permit (as described in section 17 of this chapter).

~~(j)~~ **(k)** A pharmacist may use the pharmacist's professional judgment as to whether to accept medication for return under this section.

~~(k)~~ **(l)** A pharmacist who violates subsection ~~(c)~~ **(d)** commits a

Class A infraction.

SECTION 17. IC 25-26-13-25.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 25.5. A prescription may be transmitted electronically from a practitioner to a pharmacy only through the use of an electronic data intermediary approved by the board.**

SECTION 18. IC 25-26-15-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. As used in this chapter, "prescription" means a written order or an order transmitted by other means of communication that is immediately reduced to writing by the pharmacist **or, for electronically transmitted orders, recorded in an electronic format** from an optometrist to or for an ultimate user for a drug or device, containing:

(1) the name and address of the patient;

(2) the date of issue;

(3) the name and strength or size (if applicable) of the drug or device;

(4) the amount to be dispensed (unless indicated by directions and duration of therapy);

(5) adequate directions for the proper use of the drug or device by the patient;

(6) the name and certification number of the prescribing optometrist; and

(7) ~~the signature of the optometrist~~ if the prescription:

(A) is in written form, **the signature of the optometrist; or**

(B) is in electronic form, the electronic signature of the optometrist.

SECTION 19. IC 25-26-20-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Except as provided in subsections (b) and (c), unadulterated drugs that meet the requirements set forth in ~~IC 25-26-13-25(i)~~ **IC 25-26-13-25(j)** may be donated without a prescription or drug order to the regional drug repository program by the following:

(1) A pharmacist or pharmacy.

(2) A wholesale drug distributor.

(3) A hospital licensed under IC 16-21.

(4) A health care facility (as defined in IC 16-18-2-161).

(5) A hospice.

(6) A practitioner.

(b) An unadulterated drug that:

(1) was returned under IC 25-26-13-25; and

(2) was prescribed for a Medicaid recipient;

may not be donated under this section unless the Medicaid program has been credited for the product cost of the drug as provided in policies under the Medicaid program.

(c) A controlled drug may not be donated under this section.

SECTION 20. IC 27-13-38-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. Subject to IC 16-42-22:

(1) a pharmacist shall not substitute; and

(2) a health maintenance organization shall not require the substitution of;

a different single source brand name drug for a single source brand name drug written on a prescription form **or electronically transmitted to a pharmacy** unless the substitution is approved by the prescribing provider.

SECTION 21. IC 35-48-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Except for dosages medically required for a period of not more than forty-eight (48) hours that are dispensed by or on the direction of a practitioner or medication dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in schedule II may be dispensed without the written prescription of a practitioner.

(b) In emergency situations, as defined by rule of the board, schedule II drugs may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of section 7 of this chapter. No prescription for a schedule II substance may be refilled.

(c) Except for dosages medically required for a period of not more than forty-eight (48) hours that are dispensed by or on the direction of a practitioner, or medication dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in schedule III or IV, which is a prescription drug as determined under IC 16-42-19, shall not be dispensed without a written or oral prescription of a practitioner. The prescription shall not be filled or refilled more than six (6) months after the date thereof or be refilled more than five (5) times, unless renewed by the practitioner. **Prescriptions for schedule III, IV, and V controlled substances may be transmitted by facsimile from the practitioner or the agent of the practitioner to a pharmacy. The facsimile prescription is equivalent to an original prescription to the extent permitted under federal law.**

(d) A controlled substance included in schedule V shall not be distributed or dispensed other than for a medical purpose.

SECTION 22. IC 35-48-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. As used in this chapter, "identification number" refers to **the following:**

(1) The unique number contained on any of the following:

~~(1)~~ **(A)** A valid driver's license of a recipient or a recipient's representative issued under Indiana law or the law of any other state.

~~(2)~~ **(B)** A recipient's or a recipient representative's valid military identification card.

~~(3)~~ **(C)** A valid identification card of a recipient or a recipient's representative issued by:

~~(A)~~ **(i)** the bureau of motor vehicles ~~and~~ **as** described in IC 9-24-16-3; or

~~(B)~~ **(ii)** any other state and that is similar to the identification card issued by the bureau of motor vehicles.

~~(4)~~ **(D)** If the recipient is an animal:

~~(A)~~ **(i)** the valid driver's license issued under Indiana law or the law of any other state;

~~(B)~~ **(ii)** the valid military identification card; or

~~(C)~~ **(iii)** the valid identification card issued by the bureau of motor vehicles and described in IC 9-24-16-3 or a valid identification card of similar description that is issued by any other state;

of the animal's owner.

(2) The identification number or phrase designated by the central repository.

SECTION 23. IC 35-48-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. The advisory committee shall provide for a controlled substance prescription monitoring program that includes the following components:

(1) Each time a controlled substance designated by the advisory committee under IC 35-48-2-5 through IC 35-48-2-10 is dispensed, the dispenser shall transmit to the central repository the following information:

(A) The recipient's name.

(B) The recipient's or the recipient representative's identification number **or the identification number or phrase designated by the central repository.**

(C) The recipient's date of birth.

(D) The national drug code number of the controlled substance dispensed.

(E) The date the controlled substance is dispensed.

(F) The quantity of the controlled substance dispensed.

(G) The number of days of supply dispensed.

(H) The dispenser's United States Drug Enforcement Agency registration number.

(I) The prescriber's United States Drug Enforcement Agency registration number.

(J) An indication as to whether the prescription was transmitted to the pharmacist orally or in writing.

(2) The information required to be transmitted under this section must be transmitted not more than fifteen (15) days after the date on which a controlled substance is dispensed.

(3) A dispenser shall transmit the information required under this section by:

(A) an electronic device compatible with the receiving device of the central repository;

(B) a computer diskette;

(C) a magnetic tape; or

(D) a pharmacy universal claim form;

that meets specifications prescribed by the advisory committee. (4) The advisory committee may require that prescriptions for controlled substances be written on a one (1) part form that cannot be duplicated. However, the advisory committee may not apply such a requirement to prescriptions filled at a pharmacy with a Type II permit (as described in IC 25-26-13-17) and operated by a hospital licensed under IC 16-21, or prescriptions ordered for and dispensed to bona fide enrolled patients in facilities licensed under IC 16-28. The committee may not require multiple copy prescription forms and serially numbered prescription forms for any prescriptions written. The committee may not require different prescription forms for any individual drug or group of drugs. Prescription forms required under this subdivision must be jointly approved by the committee and by the Indiana board of pharmacy established by IC 25-26-13-3. (5) The costs of the program.

(Reference is to ESB 590 as printed March 18, 2005.)

RIEGSECKER	BUDAK
SIMPSON	C. BROWN
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 83

Representative Bosma introduced House Concurrent Resolution 83:

A CONCURRENT RESOLUTION to memorialize Dr. H. Dean Evans for his years of service to the State of Indiana.

Whereas, As Indiana's Superintendent of Public Instruction from 1985 to 1992, Dr. H. Dean Evans with Governor Robert Orr, successfully developed and passed the A+ Education Reform Package, a comprehensive package that has served as a national model for improving student academic achievement;

Whereas, Dr. H. Dean Evans' A+ Education Reform Package was acclaimed by many as the most comprehensive and effective reform package in the nation;

Whereas, Dr. H. Dean Evans was a compassionate man who truly believed that the future of the State of Indiana rests on what is currently being done for our children;

Whereas, Dr. H. Dean Evans served the public education system as a teacher, a counselor, a coach, a principal, and a local superintendent in the Washington Township School Corporation prior to serving as State Superintendent of Public Instruction;

Whereas, Dr. H. Dean Evans was a person who made outstanding contributions, not only to the Washington Township School District, but also to public education throughout the State of Indiana and beyond;

Whereas, Dr. H. Dean Evans also served as an advisor on the first President Bush's President's Education Policy Advisory Committee and as senior program Officer for Lilly Endowment;

Whereas, On August 31st, 2004 the Washington Township School Board recognized the accomplishments of their former leader and long-time resident by renaming the District's Community and Education Center to the "H. Dean Evans Community and Education Center" which houses the Office of the Superintendent that Dr. H. Dean Evans once so ably filled for the School District;

Whereas, Dr. H. Dean Evans was born on September 1, 1929, grew up in Indianapolis where he attended School 69 and Arsenal Technical High School, and later graduated with degrees from Franklin College, and Indiana University;

Whereas, Dr. H. Dean Evans was an esteemed resident of Washington Township where he and his wonderful wife of 50 years Vera, raised their three sons, Greg, David, and Mike; and

Whereas, Dr. H. Dean Evans was a man of impeccable character, integrity, and class, a friend to many, a wonderful family man, a gifted educator, a man of faith, and a great Hoosier: Therefore,

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

SECTION 1. That the Indiana House of Representatives memorializes Dr. H. Dean Evans for his years of service to the State of Indiana.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the family of Dr. H. Dean Evans.

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

House Resolution 90

Representatives Bosma, Alderman, Foley, Koch, and Whetstone introduced House Resolution 90:

A HOUSE RESOLUTION to recognize Jason Lunderman for his service to the Indiana General Assembly and his country.

Whereas, Jason Lunderman has worked as a Legislative Assistant for the Indiana House of Representatives Republican Caucus for three and half years;

Whereas, Jason Lunderman was a House Republican intern in 2002;

Whereas, Jason Lunderman is currently a Sergeant with the United States Army Reserve in the 425th Quartermaster Company and has served since August of 2003;

Whereas, Sergeant Lunderman graduated from basic training at Fort Knox, Kentucky, receiving the honor of Commandant's List Graduate (PLDC) and Top All-Around Graduate of the 45B School;

Whereas, Sergeant Lunderman received the NCO Professional Development Ribbon and the Army Service Ribbon;

Whereas, Sergeant Lunderman was nominated for Noncommissioned Officer of the Year in 2005;

Whereas, Sergeant Lunderman was nominated for the prestigious Audie Murphy Award in 2005, an elite organization of NCOs who consistently demonstrate the highest quality of leadership, professionalism and regard for the welfare of his soldiers, inherent leadership qualities and abilities characterized by those of Sergeant Audie Murphy;

Whereas, Sergeant Lunderman has been called to active duty to serve his country overseas in Iraq and will be mobilized in August 2005; and

Whereas, the Indiana General Assembly wishes to thank Jason Lunderman for his service, hard work, and loyalty: Therefore,

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

SECTION 1. That the Indiana House of Representatives offers its gratitude and appreciation for Jason Lunderman's public service to the State of Indiana and for his service to the United States as a soldier in the Army Reserve.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Sergeant Jason Lunderman.

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

House Concurrent Resolution 84

Representative Frizzell introduced House Concurrent Resolution 84:

A CONCURRENT RESOLUTION to honor George Fuller as an outstanding automobile salesman.

Whereas, George Fuller is an automobile salesman employed by Beck Toyota Corporation;

Whereas, George Fuller handles his customers in a professional manner and gives personal consideration for each of them;

Whereas, George Fuller's salesmanship has earned him many repeat and long-term customers;

Whereas, George Fuller seeks to find out what is important to each of his customers and strives to deliver exactly what they need;

Whereas, George Fuller views his job as understanding the customer's needs and providing leadership in helping the customer make a decision;

Whereas, George Fuller's listening skills has given him the title of " Know me, Understand me, Help me, and Lead me";

Whereas, George Fuller consistently sells more cars to loyal customers than others in his field;

Whereas, George Fuller's salesman awards that line his office wall include two Toyota Gold Sales Society Awards, numerous Salesman of the Month Awards, and Toyota Bronze Sales Society Awards; and

Whereas, George Fuller is considered a "one-of-a-kind" type of salesman: Therefore,

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

SECTION 1. That the Indiana House of Representatives, the Senate concurring, honors George Fuller as an outstanding automobile salesman.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to George Fuller.

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

The Speaker Pro Tempore yielded the gavel to the Speaker.

House Resolution 91

Representatives Whetstone, Buell, Espich, and GiaQuinta introduced House Resolution 91:

A HOUSE RESOLUTION to honor the courage and Hoosier spirit of the crew of the USS Indianapolis.

Whereas, The USS Indianapolis was commissioned at the Philadelphia Navy Yard November 15, 1932, and, on July 30, 1945, while sailing from Guam to Leyte Gulf, was torpedoed by a Japanese submarine;

Whereas, When torpedoed, the USS Indianapolis was returning from its assignment to deliver components for the world's second and third atomic bombs to the island of Tinian;

Whereas, The USS Indianapolis capsized and sank in 12 minutes;

Whereas, Of the original 1,196 men on board, approximately 300 went down with the ship;

Whereas, The remaining sailors were left with very few lifeboats and struggled to survive in shark infested waters;

Whereas, On August 2, 1945, while flying a routine anti-submarine patrol in the area, Lieutenant Wilbur C. Gwinn spotted the survivors;

Whereas, By the end of the search on August 8, 1945, only 316 survivors were found;

Whereas, In a highly controversial proceeding, Captain Charles McVay III, the captain of the USS Indianapolis and one of the survivors, was court-martialed and convicted of "hazarding his ship by failing to zigzag", making him the only captain to be court-martialed for losing a ship in combat;

Whereas, In October 2000, President Clinton signed legislation exonerating Captain McVay and the Navy conceded that Captain McVay was innocent of any wrongdoing;

Whereas, The sinking of the USS Indianapolis remains the worst U.S. Naval disaster in history and the worst loss of life from shark attack in naval history; and

Whereas, On the 60th anniversary of this disaster, keeping the memory of the USS Indianapolis and her valiant crew alive is of the utmost importance: Therefore,

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

SECTION 1. That the Indiana House of Representatives does honor the courage and Hoosier spirit of the crew of the USS Indianapolis.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Paul J. Murphy, Chairman of the Board of the USS Indianapolis Survivors Organization.

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

Representatives Behning and Hinkle, who had been excused, were present. Representatives Bauer and Messer were excused.

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

Engrossed House Bill 1063–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 20 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1063–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 20 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1063–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 580: yeas 88, nays 0. Report adopted.

Engrossed Senate Bill 79–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11: Engrossed Senate Bill 79–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11: Engrossed Senate Bill 79–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 581: yeas 87, nays 0. Report adopted.

Representative Messer, who had been excused, was present.

Engrossed Senate Bill 564–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and

recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11: Engrossed Senate Bill 564–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11: Engrossed Senate Bill 564–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 582: yeas 92, nays 0. Report adopted.

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

Representative Yount was excused.

Engrossed Senate Bill 242–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 20 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 242–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 20 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 242–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 583: yeas 88, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
ESB 132–1; filed April 27, 2005, at 2:11 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 132 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 34-6-2-88.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 88.3. "Nonprofit religious organization", for purposes of IC 34-31-7, means an organization, a church, a body of communicants, or a group organized primarily for religious purposes and not for pecuniary profit that:**

(1) operates:

(A) under Section 501 of the Internal Revenue Code or the Section 501 nonprofit status of the parent organization of the organization, church, body of communicants, or group; and

(B) has a constitution, a charter, an article, or a bylaw containing a clause that provides that upon dissolution, all remaining assets must:

(i) be used for nonprofit religious purposes; or

(ii) revert to the parent organization for nonprofit religious purposes; or

(2) operates as a place of worship and is recognized as a nonprofit organization by the Internal Revenue Service.

SECTION 2. IC 34-31-7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 7. Premises Liability of Religious Organizations

Sec. 1. This chapter applies to premises liability only.

Sec. 2. Except as provided in section 3 of this chapter, a nonprofit religious organization has only the following duties concerning persons who enter premises owned, operated, or controlled by the nonprofit religious organization and used primarily for worship services:

(1) If a person enters the premises with the actual or implied permission of the nonprofit religious organization, the nonprofit religious organization has a duty to:

(A) warn the person of a hidden danger on the premises if a representative of the nonprofit religious organization has actual knowledge of the hidden danger; and

(B) refrain from intentionally harming the person.

(2) If a person enters the premises without the actual or implied permission of the nonprofit religious organization, the nonprofit religious organization has the duty to refrain from intentionally harming the person.

Sec. 3. (a) As used in this section, "premises" means a part of a building that is:

(1) used primarily for worship services;

(2) owned, operated, or controlled by a nonprofit religious organization; and

(3) used for purposes of providing childcare services for which a fee is charged.

(b) If a customer who purchases childcare services or the customer's child enters the premises for the purpose of receiving fee based childcare services, with the actual or implied consent of the childcare provider or nonprofit religious organization, the childcare provider and nonprofit religious institution have the duty to:

(1) warn the customer or the customer's child of a hidden danger on the premises if a representative of the childcare provider or the nonprofit religious institution has actual knowledge of the hidden danger;

(2) refrain from intentionally harming the customer or the customer's child;

(3) inspect the premises for dangerous hazards and defects, and correct any dangerous hazard or defect within a reasonable period of time after becoming aware of the existence of the dangerous hazard or defect.

SECTION 3. [EFFECTIVE JULY 1, 2005] **IC 34-31-7, as added by this act, applies only to a cause of action that accrues after June 30, 2005.**

(Reference is to ESB 132 as reprinted April 1, 2005.)

ZAKAS	BORDERS
LEWIS	KUZMAN
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 268–2; filed April 27, 2005, at 2:13 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 268 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 16-18-2-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5.5. "Adult stem cell" means an undifferentiated cell that:**

(1) is found in a differentiated tissue;

(2) is renewable; and

(3) yields specialized cell types with certain limitations of the tissue from which it originated.

SECTION 2. IC 16-18-2-56.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 56.5. (a) "Cloning" means the use of asexual reproduction to create or grow a human embryo from a single cell or cells of a genetically identical human.**

(b) The term does not include:

(1) a treatment or procedure to enhance human reproductive capability through the manipulation of human oocytes or embryos, including the following:

(A) In vitro fertilization.

(B) Gamete intrafallopian transfer.

(C) Zygote intrafallopian transfer; or

(2) the following types of stem cell research:

(A) Adult stem cell.

(B) Fetal stem cell, as long as the biological parent has given written consent for the use of the fetal stem cells.

(C) Embryonic stem cells from lines that are permissible for use under applicable federal law.

SECTION 3. IC 16-18-2-128.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 128.5. (a) "Fetal stem cell" means any of the following types of stem cells taken from a fetus that was either miscarried or stillborn from any of the following sources:**

(1) Placenta.

(2) Umbilical cord.

(3) Amniotic fluid.

(4) Fetal tissue.

(b) The term does not include any cells that are taken as the result of an abortion unless the cells are permissible for use under applicable federal law.

SECTION 4. IC 16-18-2-183.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 183.5. "Human embryo" means a human egg cell with a full genetic composition capable of differentiating and maturing into a complete human being.**

SECTION 5. IC 16-21-3-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4. Notwithstanding section 1 of this chapter, the state department shall revoke the license of a hospital licensed under this article if, after appropriate notice and an opportunity for a hearing, the state health commissioner proves by a preponderance of the evidence that the hospital:**

(1) knowingly allows the hospital's facilities to be used for cloning or attempted cloning; or

(2) knowingly allows the hospital's employees, in the course of the employee's employment, to participate in cloning or attempted cloning.

SECTION 6. IC 16-34.5 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

ARTICLE 34.5. CLONING

Chapter 1. Public Policy Against Human Cloning

Sec. 1. The general assembly declares that human cloning is against public policy.

Sec. 2. The state, a state educational institution (as defined in IC 20-12-0.5-1), or a political subdivision of the state may not use public funds, facilities, or employees to knowingly participate in cloning or attempted cloning.

SECTION 7. IC 20-12-29.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 29.7. Adult Stem Cell Research Center

Sec. 1. As used in this chapter, "center" refers to an adult stem cell research center established under section 2 of this chapter to carry out the duties specified by this chapter.

Sec. 2. The board of trustees of Indiana University may establish an adult stem cell research center.

Sec. 3. The center must be under the administration of the school of medicine.

Sec. 4. The dean of the school of medicine shall appoint the director of the center.

Sec. 5. The board of trustees of Indiana University may receive, accept, hold, and apply donations, bequests of funds, property, gifts, and other income in support of the center's purposes.

Sec. 6. The center shall:

(1) conduct a thorough and comprehensive needs assessment of the state of science of adult stem cell research; and

(2) develop strategies to move Indiana University into the forefront of the nation in its capacity to attract and retain adult stem cell researchers.

SECTION 8. IC 25-22.5-8-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. (a) As used in this section, "cloning" has the meaning set forth in IC 16-18-2-56.5.**

(b) Notwithstanding IC 25-1-9, the board shall revoke the license of a physician if, after appropriate notice and an opportunity for a hearing, the attorney general proves by a preponderance of the evidence that the physician knowingly participated in cloning or attempted cloning.

SECTION 9. IC 35-46-5-2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2. (a) This section does not apply to in vitro fertilization.**

(b) As used in this section, "cloning" has the meaning set forth in IC 16-18-2-56.5.

(c) A person who knowingly or intentionally:

(1) participates in cloning;

(2) implants or attempts to implant a cloned human embryo into a uterine environment to initiate a pregnancy; or

(3) ships or receives a cloned human embryo;

commits unlawful participation in human cloning, a Class D felony.

SECTION 10. IC 35-46-5-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3. (a) A person who knowingly or intentionally purchases or sells a human ovum, zygote, embryo, or fetus commits unlawful transfer of a human organism, a Class C felony.**

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

(1) The transfer to or receipt by a woman donor of an ovum of an amount for:

(A) earnings lost due to absence from employment;

(B) travel expenses;

(C) hospital expenses;

(D) medical expenses; and

(E) recovery time in an amount not to exceed three thousand dollars ($3,000);

concerning a treatment or procedure to enhance human reproductive capability through in vitro fertilization, gamete intrafallopian transfer, or zygote intrafallopian transfer.

(2) The following types of stem cell research:

(A) Adult stem cell.

(B) Fetal stem cell, as long as the biological parent has given written consent for the use of the fetal stem cells.

SECTION 11. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "state department" refers to the state department of health.**

(b) Before November 1, 2005, the state department shall investigate and report to the legislative council in an electronic format under IC 5-14-6 the following information:

(1) The feasibility of the state creating an embryo adoption bank to which embryos in Indiana would be transferred and in which the embryos would be stored instead of being destroyed.

(2) The costs of creating an embryo adoption bank.

(3) The legal implications and requirements for the adoption of an embryo.

(4) Any other relevant information concerning the state creating and embryo adoption bank.

(c) This SECTION expires December 31, 2005.

SECTION 12. **An emergency is declared for this act.**

(Reference is to ESB 268 as printed March 23, 2005.)

MILLER	T. BROWN
CRAYCRAFT	C. BROWN
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

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 House Concurrent Resolutions 79, 81, and 82 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 House Concurrent Resolution 83 and the same is 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 Senate Concurrent Resolution 72 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 4:45 p.m. with the Speaker in the Chair.

Representative Pelath rose to a point of order requesting a quorum call.

The Speaker ordered the roll of the House to be called. Roll Call 584: 67 present. The Speaker declared a quorum in attendance.

Representatives Koch and VanHaaften were excused.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
ESB 549–1; filed April 27, 2005, at 2:15 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 549 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Page 3, line 15, after "reduce" insert "**the annual aggregate**".

(Reference is to ESB 549 as reprinted April 8, 2005.)

LONG	WHETSTONE
BRODEN	KROMKOWSKI
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 397–1; filed April 27, 2005, at 2:17 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 397 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert:

SECTION 1. IC 6-1.1-18.5-10.3, AS AMENDED BY P.L.2-2005, SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10.3. (a) The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a library board for a capital projects fund under ~~IC 36-12-3.~~ **IC 36-12-12.** However, the maximum amount that is exempt from the levy limits under this section may not exceed the property taxes that would be raised in the ensuing calendar year with a property tax rate of one and thirty-three hundredths cents ($0.0133) per one hundred dollars ($100) of assessed valuation.

(b) For purposes of computing the ad valorem property tax levy limit imposed on a library board under section 3 of this chapter, the library board's ad valorem property tax levy for a particular calendar year does not include that part of the levy imposed under ~~IC 36-12-3~~ **IC 36-12-12** that is exempt from the ad valorem property tax levy limits under subsection (a).

SECTION 2. IC 9-21-5-13, AS AMENDED BY HEA 1288-2005, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) Except as provided in subsections (b) and (c), a person who violates this chapter commits a Class C infraction.

(b) A person who exceeds a speed limit that is:

(1) established under section 6 of this chapter and imposed only in the immediate vicinity of a school when children are present; or

(2) established under section 11 of this chapter and imposed only in the immediate vicinity of a worksite when workers are present;

commits a Class B infraction.

(c) A person who while operating a school bus **knowingly or intentionally** exceeds a speed limit set forth in section 14 of this chapter commits a Class C misdemeanor.

SECTION 3. IC 9-21-12-11, AS AMENDED BY HEA 1288-2005, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) A person who violates section 5, 6, or 7 of this chapter commits a Class C infraction.

(b) A person who **knowingly or intentionally** violates section 12, 13, 14, 15, 16, or 17 of this chapter commits a Class C misdemeanor.

SECTION 4. IC 10-13-3-21, AS AMENDED BY HEA 1288-2005, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. As used in this chapter, "special education cooperative" has the meaning set forth in ~~IC 20-35-5-1(a)(7).~~ **IC 20-35-5-1(7).**

SECTION 5. IC 20-1-18-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Two (2) or more school corporations may cooperate to establish and maintain or supervise schools or departments for vocational education if the governing bodies of these school corporations agree to cooperate and apportion the cost of the schools or departments among the school corporations.

(b) If the cooperating school corporations agree to establish and maintain or supervise the schools or departments under subsection (a), the ~~heads of these~~ **designated representatives of the** school corporations ~~or their delegated representatives~~ constitute a board for the management of the schools or departments. The board may adopt a plan of organization, administration, and support for the schools or departments. This plan, if approved by the Indiana state board of education, constitutes a binding contract between the cooperating school corporations.

(c) The governing bodies of the cooperating school corporations may cancel or annul this contract by the vote of a majority of these governing bodies and upon the approval of the Indiana state board of education. However, if a school corporation desires to withdraw a course offering from the cooperative agreement after:

(1) attempting to withdraw the course offering under any

withdrawal procedure authorized by the school corporation's cooperative agreement or by law; and

(2) being denied the authority to withdraw the course offering;

the school corporation may appeal the denial to the Indiana state board of education. In the appeal a school corporation must submit a proposal requesting the withdrawal to the Indiana state board of education for approval. The proposal must describe how the school corporation intends to implement the particular vocational education course and must include a provision that provides for at least a two (2) year phase-out of the educational program or course offering from the cooperative agreement. Upon approval of the proposal by the Indiana state board of education, the school corporation may proceed with the school corporation's withdrawal of the course offering from the agreement and shall proceed under the proposal. This withdrawal procedure may not be construed to permit a school corporation to change any other terms of the contract under subsection (b) except those terms that require the school corporation to provide the particular course offering sought to be withdrawn.

(d) The board described in subsection (b) may enter into an agreement to acquire sites, buildings, and equipment by lease or purchase that are suitable for these schools or departments. This authority extends to the acquisition of facilities available under IC 21-5-11.

(e) This board may, by resolution adopted by a majority of the board, designate three (3) or more individuals from its membership to constitute an executive committee. To the extent provided in the resolution, this committee shall exercise the authority of the full board in the management of the school and shall submit a written summary of its actions to the full board at least semiannually.

SECTION 6. IC 20-1-19-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. (a) A person who **knowingly, intentionally, or recklessly** violates this chapter commits a Class B misdemeanor, except as provided in subsection (b) of this section.

(b) A person who, with intent to defraud, represents himself **or herself** to be an agent of a postsecondary proprietary educational institution commits a Class C felony.

SECTION 7. IC 20-3-14-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. With respect to whether the disposition of the assets and liabilities of the losing school corporation, allocation of school tax receipts, and the amount to be paid by the acquiring school corporation is equitable, the court shall be satisfied that the annexing resolution conforms substantially to the following standards:

(a) The acquiring school corporation shall assume a portion of all installments of principal and interest on any indebtedness of the losing school corporation (other than current obligations or temporary borrowing) which fall due after the end of the last calendar year in which the losing school corporation is entitled to receive current tax receipts from property tax levies on the property on the annexed territory. ~~Such~~ **The** portion ~~shall consist~~ **consists** of the following:

(1) All ~~such~~ installments relating to any indebtedness incurred in connection with the acquisition or construction of any building located in the annexed territory.

(2) A proportion of all ~~such~~ installments relating to any other indebtedness which is the same proportion as the valuation of the real property in the annexed territory bears to the valuation of all the real property in the losing school corporation, as the same is assessed for general taxation immediately prior to annexation.

(b) The acquiring school corporation shall make the payments and assume the obligations provided for a school corporation acquiring territory ~~and/or~~ **or** building or buildings under IC 21-5-10.

~~(c) Unless the losing school corporation shall consent to some other allocation, the portion of the special school and tuition fund moneys collected by the losing school corporation shall not be allocated in a greater amount to the acquiring school corporation than would be awarded if such two (2) corporations were respectively the original school corporation and the annexing school corporation within the meaning of IC 20-4-16, and the amount to be paid the losing corporation by the acquiring school corporation on account of the acquisition by the acquiring school corporation of a building in the annexed territory shall not be less than would be awarded if such two (2) school corporations were respectively the acquiring corporation and original school corporation within the meaning of IC 20-4-15.~~

~~(d)~~ **(c)** Where the annexed territory includes all of any losing school corporation, the acquiring school corporation shall acquire all of the property and assets of the losing school corporation without making payment of any nature for the same and shall assume all of the liabilities and obligations of the losing school corporation.

SECTION 8. IC 20-4-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. As used in this chapter, unless context clearly requires otherwise, the following terms shall have the meanings set forth:

(1) "School corporation" ~~shall mean and include~~ **means** all local school corporations in the state of Indiana.

(2) "Reorganization of school corporations" ~~shall mean and include~~ **means** the formation of new school corporations, the alteration of the boundaries of established school corporations, and the dissolution of established school corporations, through or by means of:

~~(a)~~ **(A)** the uniting of two (2) or more established school corporations;

~~(b)~~ **(B)** the subdivision of one (1) or more school corporations;

~~(c)~~ **(C)** the transfer to any established school corporation of a part of the territory of one (1) or more school corporations, or the attachment thereto of all or any part of the territory of one (1) or more school corporations, or the transfer of said established school corporation; and

~~(d)~~ **(D)** any combination of the methods listed in ~~subdivisions (a)~~ **clauses (A)** through ~~(c).~~ **(C).**

(3) "Community school corporation" ~~shall mean~~ **means** a school corporation proposed to be formed or formed under the provisions of this chapter and shall include a united school corporation as defined in this section.

(4) "United school corporation" ~~shall mean~~ **means** a school corporation having territory in two (2) or more adjacent counties.

(5) "Administrative unit" ~~shall mean~~ **means** a school corporation comprising all the area under a single system of local administration and under the control of a local board of education, board of school trustees, or board of school commissioners.

(6) "Attendance unit" or "school unit" ~~shall mean~~ **means** the geographical and population area served by a single school, consisting of part, or all, of an administrative unit.

(7) "County committee" or "committee" ~~shall mean~~ **means** the county committee for the reorganization of school corporations, provided for in section 5 through ~~14~~ **13** of this chapter.

(8) "State board" or "board" ~~shall mean~~ **refers to** the Indiana state board of education.

(9) "State department" ~~shall mean~~ **refers to** the state department of education.

(10) "State superintendent" ~~shall mean~~ **refers to** the state superintendent of public instruction.

(11) "County superintendent" ~~shall mean~~ **refers to** the county superintendent of schools.

(12) "Party" includes any person, firm, limited liability company, corporation, association, or municipality interested in any proceedings under the provisions of this chapter.

(13) "School aid bonds" ~~shall mean~~ **means** any bonds of a civil unit of government the proceeds of which were used for school purposes in any school corporation.

SECTION 9. IC 20-4-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) With respect to whether the disposition of the assets and liabilities of the losing school corporation, allocation of school tax receipts and the amount to be paid by the acquiring school corporation is equitable, the court subject to the provisions of subdivision (b) shall be satisfied that the annexing resolution conforms substantially to the following standards:

(1) The acquiring school corporation shall assume a portion of all installments of principal and interest on any indebtedness of the losing school corporation (other than current obligations or temporary borrowing) which fall due after the end of the last

calendar year in which the losing school corporation is entitled to receive current tax receipts from property tax levies on the property on the annexed territory. ~~Such~~ **The** portion ~~shall consist~~ **consists** of the following:

~~(i)~~ **(A)** All ~~such~~ installments relating to any indebtedness incurred in connection with the acquisition or construction of any building located in the annexed territory. ~~and~~

~~(ii)~~ **(B)** A proportion of all ~~such~~ installments relating to any other indebtedness which is the same proportion as the valuation of the real property in the annexed territory bears to the valuation of all the real property in the losing school corporation, as the same is assessed for general taxation immediately prior to annexation.

(2) The acquiring school corporation shall make the payments and assume the obligations provided for school corporation acquiring territory and/or building or buildings under IC 21-5-10.

~~(3) Unless the losing school corporation shall consent to some other allocation: the portion of the general fund moneys collected by the losing school corporation shall not be allocated to the acquiring school corporation in a greater amount than would be awarded if such two (2) corporations were respectively the "original school corporation" and the "annexing school corporation" within the meaning of IC 20-4-16, using the method therein provided for allocating the special school and tuition fund moneys.~~

(b) Such standards shall not be applicable to the extent the losing and acquiring school corporations otherwise agree in a situation where all or a majority of the students in the annexed territory have been transferred from the losing to the acquiring school corporation for the five (5) school years immediately preceding the transfer. Such agreement, as between school corporations, shall not, however, prejudice the rights of bondholders or lessors whose rights as against the losing and acquiring school corporations shall, upon enforcement, be allocated between them in accordance with subsection (a)(1) and (2).

SECTION 10. IC 20-4-5-25.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25.5. (a) This section provides an alternative method for a school corporation to reorganize as a community school corporation.

(b) The following may petition directly to the state board to be reorganized as a community school corporation:

(1) A consolidated school corporation organized under section 2 of this chapter.

~~(2) A county school corporation organized under IC 20-4-8-2.~~

~~(3)~~ **(2)** A metropolitan school district organized under IC 20-4-8-12 or IC 20-4-8-24.

(c) The following apply to a school corporation that petitions directly to the state board under subsection (b):

(1) The school corporation is not required to do the following:

(A) Seek approval of a county committee established by IC 20-4-1-5.

(B) Pursue a joint meeting of a county committee and the state board under IC 20-4-1-17.1.

(2) The state board may waive the attainment of any standard required for reorganization as a community school corporation under this chapter.

SECTION 11. IC 20-4-8-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25. In the resolution creating a county school corporation or metropolitan school district, or in the petitions requesting the creation of or requesting a referendum on the question of creating such corporation or district, under section ~~2,~~ 12 or 24 of this chapter, the resolutions or petitions may specify when such school corporation or school district shall be created and come into existence, and such corporation or district shall then be created and come into existence at the time provided in all such resolutions or petitions.

SECTION 12. IC 20-4-57-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) If the department of local government finance submits a petition to the school property tax control board under section 5 of this chapter, the school property tax control board shall hold a fact finding hearing.

(b) At a hearing described in subsection (a), the school property tax control board shall determine the following:

(1) Whether the township school has made all payments required by any statute, including the following:

(A) P.L.32-1999.

(B) IC 20-4-4-7. ~~and IC 20-4-16-3.~~

(C) The resolution or plan of annexation of the township school, including:

(i) any amendment to the resolution or plan;

(ii) any supporting or related documents; and

(iii) any agreement between the township school and an annexing corporation relating to the winding up of affairs of the township school.

(2) The amount, if any, by which the township school is in arrears on any payment described in subdivision (1).

(3) Whether the township school has filed with the department all reports concerning the affairs of the township school, including all transfer tuition reports required for the two (2) school years immediately preceding the date on which the township school was annexed.

(c) In determining the amount of arrears under subsection (b)(2), the school property tax control board shall consider all amounts due to an annexing corporation, including the following:

(1) Any transfer tuition payments due to the annexing corporation.

(2) All levies, excise tax distributions, and state distributions received by the township school and due to the annexing corporation, including levies and distributions received by the township school after the date on which the township school was annexed.

(3) All excessive levies that the township school agreed to impose and pay to an annexing corporation but failed to impose.

(d) If, in a hearing under this section, a school property tax control board determines that a township school has:

(1) under subsection (b)(1), failed to make a required payment; or

(2) under subsection (b)(3), failed to file a required report;

the department may act under section 8 of this chapter.

SECTION 13. IC 20-8.1-5.1-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. Before February 1 and before October 1 of each year, except when a hearing has been requested under IC 9-24-2-1(a)(4), ~~the governing body of the school corporation~~ **a principal** shall submit to the bureau of motor vehicles the pertinent information concerning an individual's ineligibility under IC 9-24-2-1 to be issued a driver's license or learner's permit, or concerning the invalidation of a license or permit under IC 9-24-2-4.

SECTION 14. IC 20-8.1-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) Not later than sixty (60) days after the enrollment of children for the first time and when additional immunizations are required by statute or rule, each school shall file a written report with the state department of health and the local health department having jurisdiction. The report shall include the following:

(1) A statement of the number of children who have demonstrated immunity against diphtheria, pertussis (whooping cough), tetanus, measles, rubella, poliomyelitis, mumps, and hepatitis B.

(2) A statement of the number of children who have not demonstrated immunity against the illnesses listed in subdivision (1).

(3) A statement of the number of children who have been found positive for sickle cell anemia and lead poisoning.

(b) The state department of health and the local health department shall, for good cause shown that there exists a substantial threat to the health and safety of a student or the school community, be able to validate immunization reports by onsite reviews or examinations of nonidentifying immunization record data. This section does not independently authorize the state department of health, a local department of health, or an agent of the state or local department of health to have access to identifying medical or academic record data of individual students attending nonaccredited nonpublic schools.

(c) A **school shall file a** report ~~shall also be filed~~ for each child who enrolls subsequent to the filing of the report for children who enrolled at the beginning of the school year. The state department of

health shall have exclusive power to adopt rules for the administration of this section.

SECTION 15. IC 20-9.1-5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) Except as provided in subsection (b) or in another section of this article, a person who **knowingly, intentionally, or recklessly** violates chapter 2, 2.5, 3, 4, or 5 of this article commits a Class C misdemeanor.

(b) A person who violates section 6.6 of this chapter commits a Class B infraction.

SECTION 16. IC 20-10.1-11-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) Each governing body shall make requisition for the necessary textbooks for the students from the contracting publishers approved by the state board of education. The contracting publisher shall ship the books, within ninety (90) days, directly to these officials. On receipt of the books, each school corporation shall have charge and custody of all books consigned to it, receipting to the contracting publisher for them, and each governing body shall reimburse the contracting publisher the amount owed by the school corporation for these books from its general fund.

(b) Each governing body shall purchase with its general fund money any current textbooks, from a resident student who presents them for sale on or before the beginning of the school term in which the books are to be used, at a price based on the original price to the corporation less a reasonable reduction for damage from usage.

~~(c) The proper school authorities shall likewise purchase any stock of books which are to be used during any school year from any dealer whose business is located in the county in which the school corporation is located, and who was authorized by law to sell these books before March 1, 1935, at not to exceed the price paid by the dealer to the contracting publisher from whom these books were purchased.~~

SECTION 17. IC 20-10.1-25.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The council shall advise the state superintendent and the governor on education related technology initiatives.

(b) The appointed membership of the council shall reflect its purposes and be experienced in technology generally. An appointed member of the council serves at the pleasure of the appointing authority. The council consists of the following sixteen (16) voting members:

(1) The state superintendent of public instruction.

(2) The special assistant to the state superintendent of public instruction responsible for technology who is appointed under section 5 of this chapter.

(3) Four (4) individuals who represent private business appointed jointly by the state superintendent and the governor. Each member appointed under this subdivision must be experienced in development and utilization of information technology. None of the members appointed under this subdivision may represent possible providers of technology or related services.

(4) Three (3) individuals who:

(A) manage educational environments, including higher education; and

(B) are experienced in their educational work with information technology;

are appointed jointly by the state superintendent and the governor.

(5) Three (3) individuals who are public school educators familiar with and experienced in the use of technology in educational settings appointed jointly by the state superintendent and the governor, with one (1) representing an urban school corporation, one (1) representing a suburban school corporation, and one (1) representing a rural school corporation.

(6) Four (4) members who are members of the general assembly and who are appointed as follows:

(A) Two (2) members of the house of representatives, appointed by the speaker of the house of representatives with not more than one (1) from a particular political party.

(B) Two (2) members of the senate, appointed by the president pro tempore of the senate with not more than one (1) from a particular political party.

(c) The state superintendent shall designate the chair of the council from the membership of the council.

(d) Nine (9) members of the council constitute a quorum to conduct business. No action of the council is valid unless approved by at least ~~seven (7)~~ **nine (9)** voting members of the council.

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

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

(g) Each member of the council who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

SECTION 18. IC 20-12-76-18, AS ADDED BY HEA 1288-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) Subject to subsections (b), (c), (e), and (f), the commission shall determine the penal sum of each surety bond based upon the following guidelines:

(1) A postsecondary proprietary educational institution that has no annual gross tuition charges assessed for the previous year shall secure a surety bond in the amount of five thousand dollars ($5,000).

(2) If the postsecondary proprietary educational institution's annual gross tuition charges assessed for the previous year are not more than five thousand dollars ($5,000), the institution shall secure a surety bond in the amount of one hundred percent (100%) of that institution's annual gross tuition charges assessed for the previous year.

(3) If the postsecondary proprietary educational institution's annual gross tuition charges assessed for the previous year are more than five thousand dollars ($5,000) but less than fifty thousand dollars ($50,000), the institution shall secure a surety bond in the amount of five thousand dollars ($5,000).

(4) If the postsecondary proprietary educational institution's annual gross tuition charges assessed for the previous year are more than fifty thousand dollars ($50,000) but less than five hundred thousand dollars ($500,000), the institution shall secure a surety bond in the amount of ten percent (10%) of that institution's annual gross tuition charges assessed for the previous year.

(5) If the postsecondary proprietary educational institution's annual gross tuition charges assessed for the previous year are more than five hundred thousand dollars ($500,000), the institution shall secure a surety bond in the amount of fifty thousand dollars ($50,000).

(b) When a postsecondary proprietary educational institution is required to contribute to the fund and the fund has a balance on the date that the surety bond is due of at least:

(1) one hundred thousand dollars ($100,000), the commission shall reduce the penal sum of the surety bond described in subsection (a) by twenty percent (20%);

(2) two hundred thousand dollars ($200,000), the commission shall reduce the penal sum of the surety bond described in subsection (a) by forty percent (40%);

(3) three hundred thousand dollars ($300,000), the commission shall reduce the penal sum of the surety bond described in subsection (a) by sixty percent (60%);

(4) four hundred thousand dollars ($400,000), the commission shall reduce the penal sum of the surety bond described in subsection (a) by eighty percent (80%); or

(5) five hundred thousand dollars ($500,000), the commission

shall reduce the penal sum of the surety bond described in subsection (a) by one hundred percent (100%).

(c) Except as provided in:

(1) section ~~22~~ **21** of this chapter; and

(2) subsection (f);

and upon the fund achieving at least an initial five hundred thousand dollar ($500,000) balance, each postsecondary proprietary educational institution that contributes to the fund when the initial quarterly contribution as required under this chapter after the fund's establishment is not required to make contributions to the fund or submit a surety bond.

(d) The commission shall determine the number of quarterly contributions required for the fund to initially accumulate five hundred thousand dollars ($500,000).

(e) Except as provided in section ~~22~~ **21** of this chapter and subsection (f), postsecondary proprietary educational institutions that begin making contributions to the fund after the initial quarterly contribution as required under this chapter are:

(1) required to make contributions to the fund for the same number of quarters as determined by the commission under subsection (d); and

(2) after making the contributions to the fund as provided in subdivision (1) for the required number of quarters, may not be required to submit a surety bond.

(f) If after the fund acquires five hundred thousand dollars ($500,000) the balance in the fund becomes less than one hundred thousand dollars ($100,000), all postsecondary proprietary educational institutions not required to make contributions to the fund as described in subsection (c) or (e) shall make contributions to the fund for the number of quarters necessary for the fund to accumulate five hundred thousand dollars ($500,000).

SECTION 19. IC 20-12-76-40, AS ADDED BY HEA 1288-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 40. (a) Except as provided in subsection (b), a person who **knowingly, intentionally, or recklessly** violates this chapter commits a Class B misdemeanor.

(b) A person who, with intent to defraud, represents the person to be an agent of a postsecondary proprietary educational institution commits a Class C felony.

SECTION 20. IC 20-20-14-3 AS ADDED BY HEA 1288-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The council shall advise the state superintendent and the governor on education related technology initiatives.

(b) The appointed membership of the council shall reflect its purposes and be experienced in technology generally. An appointed member of the council serves at the pleasure of the appointing authority. The council consists of the following sixteen (16) voting members:

(1) The state superintendent.

(2) The special assistant to the state superintendent of public instruction responsible for technology who is appointed under section 5 of this chapter.

(3) Four (4) individuals who represent private business appointed jointly by the state superintendent and the governor. Each member appointed under this subdivision must be experienced in development and use of information technology. A member appointed under this subdivision may not represent possible providers of technology or related services.

(4) Three (3) individuals who:

(A) manage educational environments, including higher education; and

(B) are experienced in their educational work with information technology;

are appointed jointly by the state superintendent and the governor.

(5) Three (3) individuals who are public school educators familiar with and experienced in the use of technology in educational settings appointed jointly by the state superintendent and the governor, with one (1) representing an urban school corporation, one (1) representing a suburban school corporation, and one (1) representing a rural school corporation.

(6) Four (4) members who are members of the general assembly and who are appointed as follows:

(A) Two (2) members of the house of representatives, appointed by the speaker of the house of representatives with not more than one (1) from a particular political party.

(B) Two (2) members of the senate, appointed by the president pro tempore of the senate with not more than one (1) from a particular political party.

(c) The state superintendent shall designate the chair of the council from the membership of the council.

(d) Nine (9) members of the council constitute a quorum to conduct business. Action of the council is not valid unless approved by at least ~~seven (7)~~ **nine (9)** voting members of the council.

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

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

(g) Each member of the council who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

SECTION 21. IC 20-23-5-12, AS ADDED BY HEA 1288-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) With respect to whether the disposition of the assets and liabilities of the losing school corporation, allocation of school tax receipts, and the amount to be paid by the acquiring school corporation is equitable, the court, subject to subsection (b), shall be satisfied that the annexing resolution conforms substantially to the following standards:

(1) The acquiring school corporation shall assume a part of all installments of principal and interest on any indebtedness of the losing school corporation (other than current obligations or temporary borrowing) that fall due after the end of the last calendar year in which the losing school corporation is entitled to receive current tax receipts from property tax levies on the property of the annexed territory. The part consists of the following:

(A) All installments relating to any indebtedness incurred in connection with the acquisition or construction of any building located in the annexed territory.

(B) A proportion of all installments relating to any other indebtedness that is the same proportion as the valuation of the real property in the annexed territory bears to the valuation of all the real property in the losing school corporation, as the indebtedness is assessed for general taxation immediately before annexation.

(2) The acquiring school corporation shall make the payments and assume the obligations provided for a school corporation acquiring territory or a building or buildings under IC 21-5-10. ~~(3) Unless the losing school corporation consents to some other allocation, the part of the general fund money collected by the losing school corporation may not be allocated to the acquiring school corporation in a greater amount than would be awarded if the losing school corporation and the acquiring school corporation were respectively the "original school corporation" and the "annexing school corporation" within the meaning of IC 20-23-16, using the method provided in IC 20-23-16 for allocating the special school and tuition fund money.~~

(b) Standards under subsection (a) may not be applicable to the extent the losing school corporation and acquiring school corporation otherwise agree in a situation where all or a majority of the students in the annexed territory have been transferred from the losing school

corporation to the acquiring school corporation for the five (5) school years immediately preceding the transfer. The agreement between school corporations may not prejudice the rights of bondholders or lessors whose rights against the losing school corporation and acquiring school corporation shall, upon enforcement, be allocated between the losing school corporation and acquiring school corporation in accordance with subsection (a)(1) and (a)(2).

SECTION 22. IC 20-23-6-12, AS ADDED BY HEA 1288-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) This section provides an alternative method for a school corporation to be reorganized as a community school corporation.

(b) The following may petition directly to the state board to be reorganized as a community school corporation:

(1) A consolidated school corporation organized under section 3 of this chapter.

~~(2) A county school corporation organized under IC 20-23-16-15.~~

~~(3)~~ **(2)** A metropolitan school district organized under IC 20-23-7-2 or IC 20-23-7-12.

(c) The following apply to a school corporation that petitions directly to the state board under subsection (b):

(1) The school corporation is not required to do the following:

(A) Seek approval of a county committee established by IC 20-23-4-11.

(B) Pursue a joint meeting of a county committee and the state board under IC 20-23-4-18.

(2) The state board may waive the attainment of any standard required for reorganization as a community school corporation under this chapter.

SECTION 23. IC 20-23-7-13, AS ADDED BY HEA 1288-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. In the resolution creating a county school corporation or metropolitan school district or in the petitions requesting the creation of or requesting a referendum on the question of creating a corporation or district under ~~IC 20-23-16-15 or~~ section 2 or 12 of this chapter, the resolutions or petitions may specify when a school corporation or school district shall be created and the corporation or district shall then be created at the time provided in the resolutions or petitions.

SECTION 24. IC 20-23-9-6, AS ADDED BY HEA 1288-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) If the department of local government finance submits a petition to the school property tax control board under section 5 of this chapter, the school property tax control board shall hold a factfinding hearing.

(b) At a hearing described in subsection (a), the school property tax control board shall determine the following:

(1) Whether the township school has made all payments required by any statute, including the following:

(A) P.L.32-1999.

(B) IC 20-23-5-12. ~~and IC 20-23-16-37.~~

(C) The resolution or plan of annexation of the township school, including:

(i) any amendment to the resolution or plan;

(ii) any supporting or related documents; and

(iii) any agreement between the township school and an annexing corporation relating to the winding up of affairs of the township school.

(2) The amount, if any, by which the township school is in arrears on any payment described in subdivision (1).

(3) Whether the township school has filed with the department of local government finance all reports concerning the affairs of the township school, including all transfer tuition reports required for the two (2) school years immediately preceding the date on which the township school was annexed.

(c) In determining the amount of arrears under subsection (b)(2), the school property tax control board shall consider all amounts due to an annexing corporation, including the following:

(1) Any transfer tuition payments due to the annexing corporation.

(2) All levies, excise tax distributions, and state distributions received by the township school and due to the annexing corporation, including levies and distributions received by the township school after the date on which the township school was annexed.

(3) All excessive levies that the township school agreed to impose and pay to an annexing corporation but failed to impose.

(d) If, in a hearing under this section, a school property tax control board determines that a township school has:

(1) under subsection (b)(1), failed to make a required payment; or

(2) under subsection (b)(3), failed to file a required report;

the department may act under section 7 of this chapter.

SECTION 25. IC 20-23-16-2, AS ADDED BY HEA 1288-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Reorganization plans approved before March 15, 1963, by the state board are void on March 15, 1963, except with respect to any community school corporation where:

(1) any plan has received a majority affirmative vote at an election;

(2) the plan has been certified by the clerk of the circuit court as being petitioned in by fifty-five percent (55%) or more of the registered voters for any such reorganized school corporation and notice has been published by the county committee under sections 1 and 6 of this chapter and IC 20-23-4-11 through IC 20-23-4-17, IC 20-23-4-20 through IC 20-23-4-23, IC 20-23-4-42, and IC 20-23-4-43; or

(3) the plan provides for a school corporation meeting the qualifications for formation of a community school corporation under IC 20-23-4-16.

(b) The county committee and other government officials shall, with respect to any such voided reorganization plan, take all actions necessary for the preparation of a comprehensive plan as if a prior plan had not been submitted, and within the time prescribed by ~~IC 20-23-4-5~~ **IC 20-23-4-11** through ~~IC 20-23-4-10~~ **IC 20-23-4-17** and IC 20-23-16-1.

SECTION 26. IC 20-23-16-3, AS ADDED BY HEA 1288-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. With respect to a proposed community school corporation formed out of two (2) or more school corporations operating a joint high school that has an enrollment of at least six hundred (600) in grades 9 through 12 at the time of the adoption of a preliminary plan adopted under ~~IC 20-23-4-5~~ **IC 20-23-4-11** through ~~IC 20-23-4-10,~~ **IC 20-23-4-17,** IC 20-23-16-1, and IC 20-23-16-2, the preliminary plan or final plan adopted under ~~IC 20-23-4-5~~ **IC 20-23-4-11** through ~~IC 20-23-4-10,~~ **IC 20-23-4-17,** IC 20-23-16-1, and IC 20-23-16-2 may provide for a board of nine (9) members.

SECTION 27. IC 20-25-5-15, AS ADDED BY HEA 1288-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. With respect to whether the disposition of the assets and liabilities of the losing school corporation is equitable, the allocation of school tax receipts is equitable, and the amount to be paid by the acquiring school corporation is equitable, a court must be satisfied that the annexing resolution conforms substantially to the following standards:

(1) Except for current obligations or temporary borrowing, the acquiring school corporation shall assume a part of all installments of principal and interest on the indebtedness of the losing school corporation that is due after the end of the last calendar year in which the losing school corporation is entitled to receive current tax receipts from property tax levies on the property in the annexed territory. The part assumed by the acquiring school corporation consists of the following:

(A) All installments relating to any indebtedness incurred in connection with the acquisition or construction of a building located in the annexed territory.

(B) A proportion of all installments relating to any other indebtedness that is in the same proportion as the valuation of the real property in the annexed territory bears to the valuation of all the real property in the losing school corporation. Valuation under this clause is based upon the assessment for general taxation immediately before annexation.

(2) The acquiring school corporation shall make the payments and assume the obligations provided for a school corporation acquiring:

(A) territory;

(B) a building or buildings; or

(C) both territory and a building or buildings;

under IC 21-5-10.

~~(3) Unless the losing school corporation consents to another allocation, the part of the special school and tuition fund money collected by the losing school corporation shall not be allocated in a greater amount to the acquiring school corporation than would be awarded if the:~~

~~(A) two (2) corporations were respectively the original school corporation and the annexing school corporation under IC 20-23-16; and~~

~~(B) amount to be paid to the losing corporation by the acquiring school corporation based on the acquisition by the acquiring school corporation of a building in the annexed territory may not be less than would be awarded if the two (2) school corporations were respectively the acquiring school corporation and original school corporation under IC 20-23-16.~~

~~(4)~~ **(3)** If the annexed territory includes an entire losing school corporation, the acquiring school corporation shall:

(A) acquire all the property and assets of the losing school corporation without making any payments for the losing school corporation; and

(B) assume all of the liabilities and obligations of the losing school corporation.

SECTION 28. IC 20-25-10-3, AS ADDED BY HEA 1288-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. The board shall:

(1) modify, develop, and publish the plan required under this chapter; and

(2) implement the modified plan;

in compliance with the timelines of IC 20-31-1, ~~IC 20-31-2,~~ IC 20-31-5, IC 20-31-6, IC 20-31-7, IC 20-31-8, IC 20-31-9, and IC 20-31-10.

SECTION 29. IC 20-25-10-5, AS ADDED BY HEA 1288-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The board shall annually assess and evaluate educational programs offered by the school city to determine:

(1) the relationship of the programs to improved student achievement; and

(2) the educational value of the programs in relation to cost.

(b) The board may obtain information from:

(1) educators in the schools offering a program;

(2) students participating in a program; and

(3) the parents of students participating in a program;

in preparing an assessment and evaluation under this section. The assessment must include the performance of the school's students in achieving student performance improvement levels under IC 20-31-1, ~~IC 20-31-2,~~ IC 20-31-5, IC 20-31-6, IC 20-31-7, IC 20-31-8, IC 20-31-9, IC 20-31-10, and IC 20-25-11.

SECTION 30. IC 20-25-11-1, AS ADDED BY HEA 1288-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The board shall establish annual student performance improvement levels for each school that are not less rigorous than the student performance improvement levels under IC 20-31-1, ~~IC 20-31-2,~~ IC 20-31-5, IC 20-31-6, IC 20-31-7, IC 20-31-8, IC 20-31-9, and IC 20-31-10, including the following:

(1) For students:

(A) improvement in results on assessment tests and assessment programs;

(B) improvement in attendance rates; and

(C) improvement in progress toward graduation.

(2) For teachers:

(A) improvement in student results on assessment tests and assessment programs;

(B) improvement in the number and percentage of students achieving:

(i) state achievement standards; and

(ii) if applicable, performance levels set by the board;

on assessment tests;

(C) improvement in student progress toward graduation;

(D) improvement in student attendance rates for the school year;

(E) improvement in individual teacher attendance rates;

(F) improvement in:

(i) communication with parents; and

(ii) parental involvement in classroom and extracurricular activities; and

(G) other objectives developed by the board.

(3) For the school and school administrators:

(A) improvement in student results on assessment tests, totaled by class and grade;

(B) improvement in the number and percentage of students achieving:

(i) state achievement standards; and

(ii) if applicable, performance levels set by the board;

on assessment tests, totaled by class and grade;

(C) improvement in:

(i) student graduation rates; and

(ii) progress toward graduation;

(D) improvement in student attendance rates;

(E) management of:

(i) general fund expenditures; and

(ii) total expenditures;

per student;

(F) improvement in teacher attendance rates; and

(G) other objectives developed by the board.

SECTION 31. IC 20-25-13-7, AS ADDED BY HEA 1288-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. IC 20-28-6-4 and IC 20-28-6-5 apply to certificated employees in the school city. A teacher's students' performance improvement levels under the assessment tests and programs of IC 20-31-1, ~~IC 20-31-2,~~ IC 20-31-5, IC 20-31-6, IC 20-31-7, IC 20-31-8, IC 20-31-9, and IC 20-31-10 may be used as a factor, but not the only factor, to evaluate the performance of a teacher in the school city.

SECTION 32. IC 20-26-7-33, AS ADDED BY HEA 1288-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 33. (a) The hearing described in section ~~32~~ **31** of this chapter may be adjourned from day to day.

(b) When the hearing has concluded, the board of county commissioners and county council, acting jointly, shall determine from:

(1) the evidence submitted;

(2) an inspection of the building; or

(3) both the evidence and an inspection;

if the building should be condemned.

(c) If the board of county commissioners and county council, acting jointly, determine that the building should be condemned, the board and council shall fix a date when the order of the board and council becomes effective. An appeal from the finding and determination of the board of county commissioners may be made to the circuit or superior court of the county in the same manner as appeals are taken from the board of county commissioners.

SECTION 33. IC 20-26-11-8, AS ADDED BY HEA 1288-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) A student who is placed in a state licensed private or public health care facility, child care facility, or foster family home:

(1) by or with the consent of the division of family and children;

(2) by a court order; or

(3) by a child placing agency licensed by the division of family and children;

may attend school in the school corporation in which the home or facility is located. If the school corporation in which the home or facility is located is not the school corporation in which the student has legal settlement, the school corporation in which the student has legal settlement shall pay the transfer tuition of the student.

(b) A student who is placed in a state licensed private or public health care or child care facility by a parent may attend school in the school corporation in which the facility is located if:

(1) the placement is necessary for the student's physical or emotional health and well-being and, if the placement is in a health care facility, is recommended by a physician; and

(2) the placement is projected to be for not less than fourteen (14) consecutive calendar days or a total of twenty (20) calendar days.

The school corporation in which the student has legal settlement shall pay the transfer tuition of the student. The parent of the student shall notify the school corporation in which the facility is located and the school corporation of the student's legal settlement, if identifiable, of the placement. Not later than thirty (30) days after this notice, the school corporation of legal settlement shall either pay the transfer tuition of the transferred student or appeal the payment by notice to the department. The acceptance or notice of appeal by the school corporation must be given by certified mail to the parent or guardian of the student and any affected school corporation. In the case of a student who is not identified as disabled under IC 20-35, the state board shall make a determination on transfer tuition according to the procedures in section 15 of this chapter. In the case of a student who has been identified as disabled under IC 20-35, the determination on transfer tuition shall be made under this subsection and the procedures adopted by the state board under ~~IC 20-35-2-1(c)(5).~~ **IC 20-35-2-1(b)(5).**

(c) A student who is placed in:

(1) an institution operated by the division of disability, aging, and rehabilitative services or the division of mental health and addiction; or

(2) an institution, a public or private facility, a home, a group home, or an alternative family setting by the division of disability, aging, and rehabilitative services or the division of mental health and addiction;

may attend school in the school corporation in which the institution is located. The state shall pay the transfer tuition of the student, unless another entity is required to pay the transfer tuition as a result of a placement described in subsection (a) or (b) or another state is obligated to pay the transfer tuition.

SECTION 34. IC 20-26-12-15 AS ADDED BY HEA 1288-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) A governing body shall requisition the necessary textbooks from the contracting publishers approved by the state board. The contracting publisher shall ship the textbooks to the governing body not more than ninety (90) days after the requisition. On receipt of the textbooks, the governing body's school corporation has custody of the textbooks. The governing body shall provide a receipt to the contracting publisher and reimburse the contracting publisher the amount owed by the school corporation from the school corporation's general fund.

(b) A governing body shall purchase textbooks:

(1) from a resident student who presents the textbooks for sale on or before the beginning of the school term in which the books are to be used;

(2) with money from the school corporation's general fund; and

(3) at a price based on the original price to the school corporation minus a reasonable reduction for damage from usage.

~~(c) The proper school authorities shall purchase any textbooks that are to be used during any school year from any dealer:~~

~~(1) whose business is located in the county in which the school corporation is located; and~~

~~(2) who was authorized to sell textbooks before March 1, 1935. The purchase price may not exceed the price paid by the dealer to the contracting publisher.~~

SECTION 35. IC 20-27-3-8, AS ADDED BY HEA 1288-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. A person who **knowingly, intentionally, or recklessly** violates this chapter commits a Class C misdemeanor.

SECTION 36. IC 20-27-5-33, AS ADDED BY HEA 1288-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 33. A person who **knowingly, intentionally, or recklessly** violates this chapter commits a Class C misdemeanor.

SECTION 37. IC 20-27-6-8, AS ADDED BY HEA 1288-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. A person who **knowingly, intentionally, or recklessly** violates this chapter commits a Class C misdemeanor.

SECTION 38. IC 20-27-7-19, AS ADDED BY HEA 1288-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. A person who **knowingly, intentionally, or recklessly** violates this chapter commits a Class C misdemeanor.

SECTION 39. IC 20-27-8-16, AS ADDED BY HEA 1288-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. **Except as provided in section 3(b) of this chapter,** a person who **knowingly, intentionally, or recklessly** violates this chapter commits a Class C misdemeanor.

SECTION 40. IC 20-27-9-17, AS ADDED BY HEA 1288-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. Except as provided in this article, a person who **knowingly, intentionally, or recklessly** violates this chapter commits a Class C misdemeanor.

SECTION 41. IC 20-27-10-4, AS ADDED BY HEA 1288-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. A person who **knowingly, intentionally, or recklessly** violates this chapter commits a Class C misdemeanor.

SECTION 42. IC 20-28-1-10, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. "Managing body" refers to:

(1) the governing body;

(2) the board of managers (as defined in ~~IC 20-35-5-1(a)(3));~~ **IC 20-35-5-1(3));** or

(3) any other governing entity;

that has the responsibility for administering the school corporation's special education program or a special education cooperative organized under IC 20-35-5, IC 20-26-10, or IC 36-1-7.

SECTION 43. IC 20-33-2-32, AS ADDED BY HEA 1288-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 32. (a) In a county that has not been completely reorganized under IC 20-23-4, the governing body of each school corporation that constitutes a separate attendance district under section ~~3~~ **30** of this chapter shall appoint an attendance officer. One (1) additional attendance officer may be appointed for every seven thousand five hundred (7,500) students in average daily attendance in the corporation.

(b) Whenever the governing body of a school corporation makes an appointment under this section, it shall appoint an individual nominated by the superintendent. However, the governing body may decline to appoint any nominee and require another nomination. The salary of each attendance officer appointed under this section shall be fixed by the governing body. In addition to salary, the officer is entitled to receive reimbursement for actual expenses necessary to properly perform the officer's duties. The salary and expenses of an attendance officer appointed under this section shall be paid by the treasurer of the county in which the officer serves, on a warrant signed by the county auditor. The county council shall appropriate, and the board of county commissioners shall allow, the funds necessary to make these payments. However, a warrant shall not be issued to an attendance officer until the attendance officer has filed an itemized statement with the county auditor. This statement shall show the time employed and expenses incurred. The superintendent shall approve the statement and certify that it is correct.

SECTION 44. IC 20-33-8-33, AS ADDED BY HEA 1288-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 33. Before February 1 and before October 1 of each year, except when a hearing has been requested to determine financial hardship under IC 9-24-2-1(a)(4), ~~the governing body of the school corporation~~ **a principal** shall submit to the bureau of motor vehicles the pertinent information concerning an individual's ineligibility under IC 9-24-2-1 to be issued a driver's license or learner's permit, or concerning the invalidation of a license or permit under IC 9-24-2-4.

SECTION 45. IC 20-34-4-6, AS ADDED BY HEA 1288-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) Not later than sixty (60)

days after the enrollment of students for the first time and when additional immunizations are required by statute or rule, each school shall file a written report with the state department of health and the local health department having jurisdiction. The report must include the following:

(1) A statement of the number of students who have demonstrated immunity against diphtheria, pertussis (whooping cough), tetanus, measles, rubella, poliomyelitis, mumps, and hepatitis B.

(2) A statement of the number of students who have not demonstrated immunity against the illnesses listed in subdivision (1).

(3) A statement of the number of students who have been found positive for sickle cell anemia or lead poisoning.

(b) The state department of health and the local health department shall, for good cause shown that there exists a substantial threat to the health and safety of a student or the school community, be able to validate immunization reports by onsite reviews or examinations of nonidentifying immunization record data. This section does not independently authorize the state department of health, a local department of health, or an agent of the state department of health or local department of health to have access to identifying medical or academic record data of individual students attending nonaccredited nonpublic schools.

(c) A **school shall file a** report ~~shall be filed~~ for each student who enrolls ~~subsequent to~~ **after** the filing of the report for students who enrolled at the beginning of the school year. The state department of health has exclusive power to adopt rules for the administration of this section.

SECTION 46. IC 20-35-4-10, AS ADDED BY HEA 1288-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) For purposes of this section, "comprehensive plan" means a plan for educating the following:

(1) All children with disabilities that a school corporation is required to educate under sections 8 through 9 of this chapter.

(2) The additional children with disabilities that the school corporation elects to educate.

(b) For purposes of this section, "school corporation" includes the following:

(1) The Indiana School for the Blind board.

(2) The Indiana School for the Deaf board.

(c) The state board shall adopt rules under IC 4-22-2 detailing the contents of the comprehensive plan. Each school corporation shall complete and submit to the state superintendent a comprehensive plan. School corporations operating cooperative or joint special education services may submit a single comprehensive plan. In addition, if a school corporation enters into a contractual agreement as permitted under section 9 of this chapter, the school corporation shall collaborate with the service provider in formulating the comprehensive plan.

(d) Notwithstanding the age limits set out in ~~IC 20-35-1-1,~~ **IC 20-35-1-2,** the state board may:

(1) conduct a program for the early identification of children with disabilities, between the ages of birth and less than twenty-two (22) years of age not served by the public schools or through a contractual agreement under section 9 of this chapter; and

(2) use agencies that serve children with disabilities other than the public schools.

(e) The state board shall adopt rules under IC 4-22-2 requiring the:

(1) department of correction;

(2) state department of health;

(3) division of disability, aging, and rehabilitative services;

(4) Indiana School for the Blind board;

(5) Indiana School for the Deaf board; and

(6) division of mental health and addiction;

to submit to the state superintendent a plan for the provision of special education for children in programs administered by each respective agency who are entitled to a special education.

(f) The state superintendent shall furnish professional consultant services to school corporations and the entities listed in subsection (e) to aid them in fulfilling the requirements of this section.

SECTION 47. IC 20-35-5-15, AS ADDED BY HEA 1288-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. Meetings of the board of managers shall be held in accordance with ~~IC 20-26-4-2.~~ **IC 20-26-4-3.**

SECTION 48. IC 20-35-8-2, AS ADDED BY HEA 1288-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The state board shall adopt rules under IC 4-22-2 to establish limits on the amount of transportation that may be provided in the student's individualized education program. Unless otherwise specially shown to be essential by the child's individualized education program, in case of residency in a public or private facility, these rules must limit the transportation required by the student's individualized education program to the following:

(1) The student's first entrance and final departure each school year.

(2) Round trip transportation each school holiday period.

(3) Two (2) additional round trips each school year.

(b) If a student is a transfer student receiving special education in a public school, the state or school corporation responsible for the payment of transfer tuition under ~~IC 20-33-6-1~~ **IC 20-26-11-1** through ~~IC 20-33-6-4~~ **IC 20-26-11-4** shall pay the cost of transportation required by the student's individualized education program. However, if a transfer student was counted as an eligible student for purposes of a distribution in a calendar year under IC 21-3-3.1, the transportation costs that the transferee school may charge for a school year ending in the calendar year shall be reduced by the sum of the following:

(1) The quotient of:

(A) the amount of money that the transferee school is eligible to receive under IC 21-3-3.1-2.1 for the calendar year in which the school year ends; divided by

(B) the number of eligible students for the transferee school for the calendar year (as determined under IC 21-3-3.1-2.1).

(2) The amount of money that the transferee school is eligible to receive under IC 21-3-3.1-4 for the calendar year in which the school year ends for the transportation of the transfer student during the school year.

(c) If a student receives a special education:

(1) in a facility operated by:

(A) the state department of health;

(B) the division of disability, aging, and rehabilitative services; or

(C) the division of mental health and addiction;

(2) at the Indiana School for the Blind; or

(3) at the Indiana School for the Deaf;

the school corporation in which the student has legal settlement shall pay the cost of transportation required by the student's individualized education program. However, if the student's legal settlement cannot be ascertained, the state board shall pay the cost of transportation required by the student's individualized education program.

(d) If a student is placed in a private facility under IC 20-35-6-2 in order to receive a special education because the student's school corporation cannot provide an appropriate special education program, the school corporation in which the student has legal settlement shall pay the cost of transportation required by the student's individualized education program. However, if the student's legal settlement cannot be ascertained, the state board shall pay the cost of transportation required by the student's individualized education program.

SECTION 49. IC 20-37-1-1, AS ADDED BY HEA 1288-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Two (2) or more school corporations may cooperate to:

(1) establish; and

(2) maintain or supervise;

schools or departments for vocational education if the governing bodies of the school corporations agree to cooperate and apportion the cost of the schools or departments among the school corporations.

(b) If the cooperating school corporations agree to:

(1) establish; and

(2) maintain or supervise;

the schools or departments under subsection (a), the ~~heads~~ **designated**

representatives of the school corporations ~~or their delegated representatives~~ constitute a board for the management of the schools or departments. The board may adopt a plan of organization, administration, and support for the schools or departments. The plan, if approved by the state board, is a binding contract between the cooperating school corporations.

(c) The governing bodies of the cooperating school corporations may cancel or annul the plan described in subsection (b) by the vote of a majority of the governing bodies and upon the approval of the state board. However, if a school corporation desires to withdraw a course offering from the cooperative agreement after:

(1) attempting to withdraw the course offering under a withdrawal procedure authorized by the school corporation's cooperative agreement or bylaw; and

(2) being denied the authority to withdraw the course offering;

the school corporation may appeal the denial to the state board. In the appeal, a school corporation must submit a proposal requesting the withdrawal to the state board for approval.

(d) The proposal under subsection (c) must do the following:

(1) Describe how the school corporation intends to implement the particular vocational education course.

(2) Include a provision that provides for at least a two (2) year phaseout of the educational program or course offering from the cooperative agreement.

Upon approval of the proposal by the state board, the school corporation may proceed with the school corporation's withdrawal of the course offering from the cooperative agreement and shall proceed under the proposal.

(e) The withdrawal procedure under subsections (c) and (d) may not be construed to permit a school corporation to change any other terms of the plan described in subsection (b) except those terms that require the school corporation to provide the particular course offering sought to be withdrawn.

(f) The board described in subsection (b) may do the following:

(1) Enter into an agreement to acquire by lease or purchase:

(A) sites;

(B) buildings; or

(C) equipment;

that is suitable for these schools or departments. This authority extends to the acquisition of facilities available under IC 21-5-11.

(2) By resolution adopted by a majority of the board, designate three (3) or more individuals from the board's membership to constitute an executive committee.

(g) To the extent provided in a resolution adopted under subsection (f)(2), an executive committee shall do the following:

(1) Exercise the authority of the full board in the management of the schools or departments.

(2) Submit a written summary of its actions to the full board at least semiannually.

SECTION 50. IC 33-33-53-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. In accordance with rules adopted by the judges of the court under section 6 of this chapter, the presiding judge shall do the following:

(1) Ensure that the court operates efficiently and judicially under rules adopted by the court.

(2) Annually submit to the fiscal body of Monroe County a budget for the court, including amounts necessary for:

(A) the operation of the circuit's probation department;

(B) the defense of indigents; and

(C) maintaining an adequate law library.

(3) Make the appointments or selections required of a circuit or superior court judge under the following statutes:

IC 8-4-21-2
IC 11-12-2-2
IC 16-22-2-4
IC 16-22-2-11
IC 16-22-7
IC 20-4-1
IC 20-4-8
~~IC 20-4-15-2~~
IC 20-5-20-4
IC 20-5-23-1
IC 20-14-10-10
IC 21-5-11-8
IC 21-5-12-8
IC 36-9
IC 36-10.

(4) Make appointments or selections required of a circuit or superior court judge by any other statute, if the appointment or selection is not required of the court because of an action before the court.

SECTION 51. IC 36-1-14-1, AS AMENDED BY HEA 1288-2005, SECTION 236, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) This section does not apply to donations of proceeds from riverboat gaming to a public school endowment corporation under ~~IC 20-26-5-19.~~ **IC 20-26-5-21.**

(b) As used in this section, "riverboat gaming revenue" means tax revenue received by a unit under IC 4-33-12-6, IC 4-33-13, or an agreement to share a city's or county's part of the tax revenue.

(c) Notwithstanding IC 8-1.5-2-6(d), a unit may donate the proceeds from the sale of a utility or facility or from a grant, a gift, a donation, an endowment, a bequest, a trust, or riverboat gaming revenue to a foundation under the following conditions:

(1) The foundation is a charitable nonprofit community foundation.

(2) The foundation retains all rights to the donation, including investment powers.

(3) The foundation agrees to do the following:

(A) Hold the donation as a permanent endowment.

(B) Distribute the income from the donation only to the unit as directed by resolution of the fiscal body of the unit.

(C) Return the donation to the general fund of the unit if the foundation:

(i) loses the foundation's status as a public charitable organization;

(ii) is liquidated; or

(iii) violates any condition of the endowment set by the fiscal body of the unit.

SECTION 52. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 20-4-1-14; IC 20-4-1-28; IC 20-4-1-35; IC 20-4-1-36; IC 20-4-1-37; IC 20-4-1-38; IC 20-4-5-9; IC 20-4-5-10; IC 20-4-5-11; IC 20-4-8-2; IC 20-4-8-3; IC 20-4-8-4; IC 20-4-8-5; IC 20-4-8-6; IC 20-4-8-7; IC 20-4-8-8; IC 20-4-8-9; IC 20-4-8-10; IC 20-4-8-11; IC 20-4-8-27; IC 20-4-15-1; IC 20-4-15-2; IC 20-4-15-3; IC 20-4-15-4; IC 20-4-15-5; IC 20-4-15-6; IC 20-4-16-1; IC 20-4-16-2; IC 20-4-16-3; IC 20-4-16-4; IC 20-4-16-5; IC 20-4-16-6; IC 20-23-16-2; IC 20-23-16-6; IC 20-23-16-7; IC 20-23-16-8; IC 20-23-16-9; IC 20-23-16-10; IC 20-23-16-12; IC 20-23-16-13; IC 20-23-16-14; IC 20-23-16-15; IC 20-23-16-16; IC 20-23-16-17; IC 20-23-16-18; IC 20-23-16-19; IC 20-23-16-20; IC 20-23-16-21; IC 20-23-16-22; IC 20-23-16-23; IC 20-23-16-24; IC 20-23-16-28; IC 20-23-16-29; IC 20-23-16-30; IC 20-23-16-31; IC 20-23-16-32; IC 20-23-16-33; IC 20-23-16-34; IC 20-23-16-35; IC 20-23-16-36; IC 20-23-16-37; IC 20-23-16-38; IC 20-23-16-39; IC 20-23-16-40.

(Reference is to ESB 397 as printed March 22, 2005.)

LANDSKE	FOLEY
LANANE	OXLEY
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1112–1; filed April 27, 2005, at 2:34 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1112 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 11-10-14 IS ADDED TO THE INDIANA CODE

AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 14. Transitional Dormitories

Sec. 1. Before January 1, 2007, the department may provide a transitional dormitory at any security facility approved by the commissioner.

Sec. 2. (a) A transitional dormitory may provide programming and training in the following areas:

(1) Drug addiction and alcoholism treatment.

(2) Employment skills and vocations.

(3) Personal responsibility.

(4) Faith and religion.

(5) Peer support.

(6) Motivation.

(b) Except as provided in subsection (c), the department shall:

(1) use volunteers recruited under section 4(b)(2) of this chapter; and

(2) provide other staff;

necessary for the operation of a transitional dormitory.

(c) The department may contract with a faith based organization to provide staff necessary for the operation of a transitional dormitory.

Sec. 3. (a) An offender who wishes to reside in a transitional dormitory must submit a written application to the director of the transitional dormitory. An application must be on a form prescribed by the department.

(b) The director shall review each application and, not more than thirty (30) days after receipt of the application, issue a written decision to the offender.

(c) The director may determine eligibility based on the following criteria:

(1) A preference shall be given to an offender who has less than twenty-four (24) months until the offender's expected release date.

(2) Previous disciplinary action taken against an offender under IC 11-11-5-3.

(3) Security risks presented by admitting an offender to a transitional dormitory.

(4) An offender's demonstrated interest in the programs offered by a transitional dormitory.

(5) An offender's previous attempts to reside in a transitional dormitory at any penal facility.

(6) Other criteria developed by the department.

(d) An offender being treated under IC 11-10-4 is ineligible for placement in a transitional dormitory unless a psychiatrist treating the offender certifies to the director at or near the time the offender submits an application under subsection (a) that the offender can meaningfully participate in the programs offered by a transitional dormitory.

Sec. 4. (a) The department shall select a person to be the director of each transitional dormitory. The department may select a person to be a director who is employed by a faith based organization.

(b) The director's responsibilities include the following:

(1) Implement each program component.

(2) Recruit volunteers to provide instruction and training in the transitional dormitory with an emphasis on recruiting volunteers for religious programs.

(3) Oversee the day to day operations of the transitional dormitory.

(4) Provide information requested by the superintendent regarding an offender or a program.

(5) Remove an offender from the transitional dormitory for:

(A) population management concerns;

(B) misconduct;

(C) security or safety concerns;

(D) mental health concerns; or

(E) lack of meaningful participation in the programs and training.

Sec. 5. (a) The department shall submit an evaluation report to the legislative council on the faith based transitional dormitory program one (1) year after its inception and continue to provide a report to the legislative council on or before December 1 of each year.

(b) The report described in subsection (a) must be in an electronic format under IC 5-14-6.

(c) The report described in subsection (a) must contain the following:

(1) An extensive evaluation of the faith based transitional dormitory program.

(2) Statistics that include the number of inmates who:

(A) have enrolled in a faith based transitional dormitory program;

(B) have completed a faith based transitional dormitory program; and

(C) have been released from the department and did not participate in a faith based transitional dormitory program.

(3) The results of a survey of the employees of faith based transitional dormitories. The survey must ask the employees their opinions concerning the progress of the faith based transitional dormitories, how the program could improve, and how the program is successful.

SECTION 2. IC 11-12-5-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. (a) As used in this section, "medical care expenses" refers to expenses relating to the following services provided to a county jail inmate:**

(1) Medical care.

(2) Dental care.

(3) Eye care.

(4) Any other health care related service.

(b) Notwithstanding section 6 of this chapter and subject to subsection (c), as a term of a sentence, a court may order a county jail inmate to reimburse a county for all or a portion of medical care expenses incurred by the county in providing medical care to the inmate.

(c) A county jail inmate may not be required to reimburse a county for medical care expenses under this section if:

(1) all the charges for which the inmate was detained in the county jail are dismissed; or

(2) the inmate is acquitted of all charges for which the inmate was detained in the county jail.

(d) In determining the amount of reimbursement that an inmate may be required to pay under subsection (b), the court shall consider the inmate's ability to pay.

(e) If a court orders a county jail inmate to reimburse a county for medical care expenses under subsection (b), the amount of the medical care expenses shall be reduced by the amount of any copayment the inmate was required to make for the medical care expenses under IC 11-10-3-5 or section 5 of this chapter.

SECTION 3. IC 35-38-1-7.1, AS ADDED BY SEA 96-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.1. (a) In determining what sentence to impose for a crime, the court may consider ~~any~~ **the following** aggravating circumstances:

(1) The harm, injury, loss, or damage suffered by the victim of an offense was:

(A) significant; and

(B) greater than the elements necessary to prove the commission of the offense.

(2) The person has a history of criminal or delinquent behavior.

(3) The victim of the offense was less than twelve (12) years of age or at least sixty-five (65) years of age at the time the person committed the offense.

(4) The person:

(A) committed a crime of violence (IC 35-50-1-2); and

(B) knowingly committed the offense in the presence or within hearing of an individual who:

(i) was less than eighteen (18) years of age at the time the person committed the offense; and

(ii) is not the victim of the offense.

(5) The person violated a protective order issued against the person under IC 34-26-5 (or IC 31-1-11.5, IC 34-26-2, or IC 34-4-5.1 before their repeal), a workplace violence restraining order issued against the person under IC 34-26-6, or a no contact order issued against the person.

(6) The person has recently violated the conditions of any probation, parole, pardon, community corrections placement, or pretrial release granted to the person.

(7) The victim of the offense was mentally or physically infirm.

(8) The person was in a position having care, custody, or control of the victim of the offense.

(9) The injury to or death of the victim of the offense was the result of shaken baby syndrome (as defined in IC 16-41-40-2).

(10) The person threatened to harm the victim of the offense or a witness if the victim or witness told anyone about the offense.

(11) The person:

(A) committed trafficking with an inmate under IC 35-44-3-9; and

(B) is an employee of the penal facility.

(b) The court may consider the following factors as mitigating circumstances or as favoring suspending the sentence and imposing probation:

(1) The crime neither caused nor threatened serious harm to persons or property, or the person did not contemplate that it would do so.

(2) The crime was the result of circumstances unlikely to recur.

(3) The victim of the crime induced or facilitated the offense.

(4) There are substantial grounds tending to excuse or justify the crime, though failing to establish a defense.

(5) The person acted under strong provocation.

(6) The person has no history of delinquency or criminal activity, or the person has led a law-abiding life for a substantial period before commission of the crime.

(7) The person is likely to respond affirmatively to probation or short term imprisonment.

(8) The character and attitudes of the person indicate that the person is unlikely to commit another crime.

(9) The person has made or will make restitution to the victim of the crime for the injury, damage, or loss sustained.

(10) Imprisonment of the person will result in undue hardship to the person or the dependents of the person.

(11) The person was convicted of a crime involving the use of force against a person who had repeatedly inflicted physical or sexual abuse upon the convicted person and evidence shows that the convicted person suffered from the effects of battery as a result of the past course of conduct of the individual who is the victim of the crime for which the person was convicted.

(c) The criteria listed in ~~subsection~~ **subsections (a) and** (b) do not limit the ~~aggravating circumstances or mitigating circumstances~~ **matters** that the court may consider in determining the sentence.

(d) A court may impose any sentence that is:

(1) authorized by statute; and

(2) permissible under the Constitution of the State of Indiana;

regardless of the presence or absence of aggravating circumstances or mitigating circumstances.

SECTION 4. IC 35-50-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in this section, "crime of violence" means:

(1) murder (IC 35-42-1-1);

(2) attempted murder (IC 35-41-5-1);

(3) voluntary manslaughter (IC 35-42-1-3);

(4) involuntary manslaughter (IC 35-42-1-4);

(5) reckless homicide (IC 35-42-1-5);

(6) aggravated battery (IC 35-42-2-1.5);

(7) kidnapping (IC 35-42-3-2);

(8) rape (IC 35-42-4-1);

(9) criminal deviate conduct (IC 35-42-4-2);

(10) child molesting (IC 35-42-4-3);

(11) sexual misconduct with a minor as a Class A felony under IC 35-42-4-9(a)(2) or a Class B felony under IC 35-42-4-9(b)(2);

(12) robbery as a Class A felony or a Class B felony (IC 35-42-5-1);

(13) burglary as a Class A felony or a Class B felony (IC 35-43-2-1); or

(14) causing death when operating a motor vehicle (IC 9-30-5-5).

(b) As used in this section, "episode of criminal conduct" means offenses or a connected series of offenses that are closely related in time, place, and circumstance.

(c) Except as provided in subsection (d) or (e), the court shall determine whether terms of imprisonment shall be served concurrently or consecutively. The court may consider the:

(1) aggravating ~~and~~ **circumstances in IC 35-38-1-7.1(a); and**

(2) mitigating circumstances in IC 35-38-1-7.1(b); ~~and~~ ~~IC 35-38-1-7.1(c),~~

in making a determination under this subsection. The court may order terms of imprisonment to be served consecutively even if the sentences are not imposed at the same time. However, except for crimes of violence, the total of the consecutive terms of imprisonment, exclusive of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10, to which the defendant is sentenced for felony convictions arising out of an episode of criminal conduct shall not exceed the ~~presumptive~~ **advisory** sentence for a felony which is one (1) class of felony higher than the most serious of the felonies for which the person has been convicted.

(d) If, after being arrested for one (1) crime, a person commits another crime:

(1) before the date the person is discharged from probation, parole, or a term of imprisonment imposed for the first crime; or

(2) while the person is released:

(A) upon the person's own recognizance; or

(B) on bond;

the terms of imprisonment for the crimes shall be served consecutively, regardless of the order in which the crimes are tried and sentences are imposed.

(e) If ~~a court~~ **the factfinder** determines under IC 35-50-2-11 that a person used a firearm in the commission of the offense for which the person was convicted, the term of imprisonment for the underlying offense and the additional term of imprisonment imposed under IC 35-50-2-11 must be served consecutively.

SECTION 5. IC 35-50-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) As used in this section:

(1) "Drug" means a drug or a controlled substance (as defined in IC 35-48-1).

(2) "Substance offense" means a Class A misdemeanor or a felony in which the possession, use, abuse, delivery, transportation, or manufacture of alcohol or drugs is a material element of the crime. The term includes an offense under IC 9-30-5 and an offense under IC 9-11-2 (before its repeal). ~~July 1, 1991).~~

(b) The state may seek to have a person sentenced as a habitual substance offender for any substance offense by alleging, on a page separate from the rest of the charging instrument, that the person has accumulated two (2) prior unrelated substance offense convictions.

(c) After a person has been convicted and sentenced for a substance offense committed after sentencing for a prior unrelated substance offense conviction, the person has accumulated two (2) prior unrelated substance offense convictions. However, a conviction does not count for purposes of this subsection if:

(1) it has been set aside; or

(2) it is a conviction for which the person has been pardoned.

(d) If the person was convicted of the substance offense in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall conduct the sentencing hearing, under IC 35-38-1-3.

(e) A person is a habitual substance offender if the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person had accumulated two (2) prior unrelated substance offense convictions.

(f) The court shall sentence a person found to be a habitual substance offender to an additional fixed term of at least three (3) years but not more than eight (8) years imprisonment, to be added to the term of imprisonment imposed under IC 35-50-2 or IC 35-50-3. If the court finds that:

(1) three (3) years or more have elapsed since the date the person was discharged from probation, imprisonment, or parole (whichever is later) for the last prior unrelated substance offense conviction and the date the person committed the substance offense for which the person is being sentenced as a habitual substance offender; or

(2) all of the substance offenses for which the person has been convicted are substance offenses under IC 16-42-19 or IC 35-48-4, the person has not been convicted of a substance offense listed in section 2(b)(4) of this chapter, and the total number of convictions that the person has for:

(A) dealing in or selling a legend drug under IC 16-42-19-27;

(B) dealing in cocaine or a narcotic drug (IC 35-48-4-1);

(C) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);

(D) dealing in a schedule IV controlled substance (IC 35-48-4-3); and

(E) dealing in a schedule V controlled substance (IC 35-48-4-4);

does not exceed one (1);

then the court may reduce the additional fixed term. However, the court may not reduce the additional fixed term to less than one (1) year.

(g) If a reduction of the additional year fixed term is authorized under subsection (f), the court may also consider the aggravating ~~or~~ **circumstances in IC 35-38-1-7.1(a) and the** mitigating circumstances in ~~IC 35-38-1-7.1~~ **IC 35-38-1-7.1(b)** to:

(1) decide the issue of granting a reduction; or

(2) determine the number of years, if any, to be subtracted under subsection (f).

SECTION 6. IC 35-38-2.6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to the sentencing of a person convicted of:

(1) a felony whenever any part of the sentence may not be suspended under IC 35-50-2-2 or IC 35-50-2-2.1; ~~or~~

(2) a misdemeanor whenever any part of the sentence may not be suspended; **or**

(3) an offense described in IC 35-50-2-2(b)(4)(Q) (operating a vehicle while intoxicated with at least two (2) prior unrelated convictions), if the person:

(A) is required to serve the nonsuspendible part of the sentence in a community corrections:

(i) work release program; or

(ii) program that uses electronic monitoring as a part of the person's supervision; and

(B) participates in a court approved substance abuse program.

(b) This chapter does not apply to persons convicted of any of the following:

(1) Sex crimes under IC 35-42-4 or IC 35-46-1-3.

(2) **Except as provided in subsection (a)(3),** any of the felonies listed in IC 35-50-2-2(b)(4).

(3) An offense under IC 9-30-5-4.

(4) An offense under IC 9-30-5-5.

SECTION 7. IC 35-50-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence, unless the court has approved placement of the offender in a forensic diversion program under IC 11-12-3.7:

(1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.

(2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.

(3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

(4) The felony committed was:

(A) murder (IC 35-42-1-1);

(B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;

(C) sexual battery (IC 35-42-4-8) with a deadly weapon;

(D) kidnapping (IC 35-42-3-2);

(E) confinement (IC 35-42-3-3) with a deadly weapon;

(F) rape (IC 35-42-4-1) as a Class A felony;

(G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;

(H) child molesting (IC 35-42-4-3) as a Class A or Class B felony;

(I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;

(J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;

(K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;

(L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;

(M) escape (IC 35-44-3-5) with a deadly weapon;

(N) rioting (IC 35-45-1-2) with a deadly weapon;

(O) dealing in cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center;

(P) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center;

(Q) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5;

(R) an offense under IC 9-30-5-5**(b)** (operating a vehicle while intoxicated causing death); ~~if the person had:~~

~~(i) at least fifteen-hundredths (0.15) gram of alcohol per one hundred (100) milliliters of the person's blood, or at least fifteen-hundredths (0.15) gram of alcohol per two hundred ten (210) liters of the person's breath; or~~

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

(S) aggravated battery (IC 35-42-2-1.5).

(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.

(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.

(e) Whenever the court suspends that part of an offender's (as defined in IC 5-2-12-4) sentence that is suspendible under subsection (b), the court shall place the offender on probation under IC 35-38-2 for not more than ten (10) years.

(f) An additional term of imprisonment imposed under IC 35-50-2-11 may not be suspended.

(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowing or intentional.

(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) may not be suspended.

SECTION 8. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "department" refers to the department of correction established by IC 11-8-2-1.**

(b) As used in this SECTION, "commissioner" refers to the commissioner of the department of correction appointed under IC 11-8-2-4.

(c) Not later than September 1, 2005, the commissioner shall report progress on entering into a contract with a faith based organization to create a pilot project to operate faith based transitional dormitories at state operated correctional facilities.

(d) Not later than November 1, 2005, the commissioner shall report the status on implementing a pilot project and report a target date for the commencement of the pilot project. A report under subsection (c) and this subsection must be in an electronic format under IC 5-14-6.

(e) This SECTION expires December 31, 2005.

SECTION 9. IC 35-37-2.5 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 10. **An emergency is declared for this act.**

(Reference is to EHB 1112 as reprinted March 30, 2005.)

RICHARDSON	LONG
TURNER	LANANE
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1075–1; filed April 27, 2005, at 2:36 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1075 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 27-8-5-2.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2.7. (a) Notwithstanding section 2.5 of this chapter and any other law, and except as provided in subsection (b), an individual policy of accident and sickness insurance that is issued after June 30, 2005, may contain a waiver of coverage for a specified condition and any complications that arise from the specified condition if:**

(1) the waiver period does not exceed ten (10) years; and

(2) all the following conditions are met:

(A) The insurer provides to the applicant before issuance of the policy written notice explaining the waiver of coverage for the specified condition and complications arising from the specified condition.

(B) The:

(i) offer of coverage; and

(ii) policy;

include the waiver in a separate section stating in bold print that the applicant is receiving coverage with an exception for the waived condition.

(C) The:

(i) offer of coverage; and

(ii) policy;

do not include more than two (2) waivers per individual.

(D) The waiver period is concurrent with and not in addition to any applicable preexisting condition limitation or exclusionary period.

(E) The insurer agrees to:

(i) review the underwriting basis for the waiver upon request one (1) time per year; and

(ii) remove the waiver if the insurer determines that evidence of insurability is satisfactory.

(F) The insurer discloses to the applicant that the applicant may decline the offer of coverage and apply for a policy issued by the Indiana comprehensive health insurance association under IC 27-8-10.

(G) An insurance benefit card issued by the insurer to the applicant includes a telephone number for verification of coverage waived.

The insurer shall require an applicant to initial the written notice provided under subdivision (2)(A) and the waiver included in the offer of coverage and in the policy under subdivision (2)(B) to acknowledge acceptance of the waiver of coverage. An offer of coverage under a policy that includes a waiver under this subsection does not preclude eligibility for an Indiana comprehensive health insurance association policy under IC 27-8-10-5.1.

(b) An individual policy of accident and sickness insurance may not include a waiver of coverage for a:

(1) mental health condition; or

(2) developmental disability.

(c) An insurer may not, on the basis of a waiver contained in a policy as provided in subsection (a), deny coverage for any condition or complication that is not specified as required in the:

(1) written notice under subsection (a)(2)(A); and

(2) offer of coverage and policy under subsection (a)(2)(B).

(d) An insurer that removes a waiver under subsection (a)(2)(E) shall not consider the condition or any complication to which the waiver previously applied in making policy renewal and underwriting determinations.

(e) Upon the expiration of the waiver period allowed under this section, the insurer shall:

(1) remove the waiver;

(2) not consider the condition or any complication to which the waiver previously applied in making policy underwriting determinations; and

(3) renew the policy in accordance with 45 CFR 148.122.

SECTION 2. IC 27-8-5-19.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 19.3. (a) This section applies to an association or a discretionary group policy of accident and sickness insurance:**

(1) under which a certificate of coverage is issued after June 30, 2005, to an individual member of the association or discretionary group;

(2) under which a member of the association or discretionary group is individually underwritten; and

(3) that is not employer based.

(b) Notwithstanding sections 19 and 19.2 of this chapter and any other law, and except as provided in subsection (e), a policy described in subsection (a) may contain a waiver of coverage for a specified condition and any complications that arise from the specified condition if:

(1) the waiver period does not exceed ten (10) years; and

(2) all of the following conditions are met:

(A) The insurer provides to the applicant before issuance of the certificate written notice explaining the waiver of coverage for the specified condition and complications arising from the specified condition.

(B) The:

(i) offer of coverage; and

(ii) certificate of coverage;

include the waiver in a separate section stating in bold print that the applicant is receiving coverage with an exception for the waived condition.

(C) The:

(i) offer of coverage; and

(ii) certificate of coverage;

do not include more than two (2) waivers per individual.

(D) The waiver period is concurrent with and not in

addition to any applicable preexisting condition limitation or exclusionary period.

(E) The insurer agrees to:

(i) review the underwriting basis for the waiver upon request one (1) time per year; and

(ii) remove the waiver if the insurer determines that evidence of insurability is satisfactory.

(F) The insurer discloses to the applicant that the applicant may decline the offer of coverage, and that any individual to whom the waiver would have applied may apply for a policy issued by the Indiana comprehensive health insurance association under IC 27-8-10.

(G) An insurance benefit card issued by the insurer to the applicant includes a telephone number for verification of coverage waived.

(c) The insurer shall require an applicant to initial the written notice provided under subsection (b)(2)(A) and the waiver included in the offer of coverage and in the certificate of coverage under subsection (b)(2)(B) to acknowledge acceptance of the waiver of coverage.

(d) An offer of coverage under a policy that includes a waiver under this section does not preclude eligibility for an Indiana comprehensive health insurance association policy under IC 27-8-10-5.1.

(e) A policy described in subsection (a) may not include a waiver of coverage for a:

(1) mental health condition; or

(2) developmental disability.

(f) An insurer may not, on the basis of a waiver contained in a policy as provided in this section, deny coverage for any condition or complication that is not specified as required in the:

(1) written notice under subsection (b)(2)(A); and

(2) offer of coverage and certificate of coverage under subsection (b)(2)(B).

(g) An insurer that removes a waiver under subsection (b)(2)(E) shall not consider the condition or any complication to which the waiver previously applied in making policy renewal and underwriting determinations.

(h) Upon the expiration of the waiver period allowed under this section, the insurer shall:

(1) remove the waiver;

(2) not consider the condition or any complication to which the waiver previously applied in making policy underwriting determinations; and

(3) renew the policy in accordance with 45 CFR 148.122.

SECTION 3. IC 27-8-10-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.1. (a) A person is not eligible for an association policy if the person is eligible for Medicaid. A person other than a federally eligible individual may not apply for an association policy unless the person has applied for Medicaid not more than sixty (60) days before applying for the association policy.

(b) Except as provided in subsection (c), a person is not eligible for an association policy if, at the effective date of coverage, the person has or is eligible for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana as set forth in IC 27. However, an offer of coverage described in IC 27-8-5-2.5(e), ~~or~~ **IC 27-8-5-2.7,** IC 27-8-5-19.2(e), **or IC 27-8-5-19.3** does not affect an individual's eligibility for an association policy under this subsection. Coverage under any association policy is in excess of, and may not duplicate, coverage under any other form of health insurance.

(c) Except as provided in IC 27-13-16-4 and subsection (a), a person is eligible for an association policy upon a showing that:

(1) the person has been rejected by one (1) carrier for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana, as set forth in IC 27, without material underwriting restrictions;

(2) an insurer has refused to issue insurance except at a rate exceeding the association plan rate; or

(3) the person is a federally eligible individual.

For the purposes of this subsection, eligibility for Medicare coverage does not disqualify a person who is less than sixty-five (65) years of age from eligibility for an association policy.

(d) Coverage under an association policy terminates as follows:

(1) On the first date on which an insured is no longer a resident of Indiana.

(2) On the date on which an insured requests cancellation of the association policy.

(3) On the date of the death of an insured.

(4) At the end of the policy period for which the premium has been paid.

(5) On the first date on which the insured no longer meets the eligibility requirements under this section.

(e) An association policy must provide that coverage of a dependent unmarried child terminates when the child becomes nineteen (19) years of age (or twenty-five (25) years of age if the child is enrolled full time in an accredited educational institution). The policy must also provide in substance that attainment of the limiting age does not operate to terminate a dependent unmarried child's coverage while the dependent is and continues to be both:

(1) incapable of self-sustaining employment by reason of mental retardation or mental or physical disability; and

(2) chiefly dependent upon the person in whose name the contract is issued for support and maintenance.

However, proof of such incapacity and dependency must be furnished to the carrier within one hundred twenty (120) days of the child's attainment of the limiting age, and subsequently as may be required by the carrier, but not more frequently than annually after the two (2) year period following the child's attainment of the limiting age.

(f) An association policy that provides coverage for a family member of the person in whose name the contract is issued must, as to the family member's coverage, also provide that the health insurance benefits applicable for children are payable with respect to a newly born child of the person in whose name the contract is issued from the moment of birth. The coverage for newly born children must consist of coverage of injury or illness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. If payment of a specific premium is required to provide coverage for the child, the contract may require that notification of the birth of a child and payment of the required premium must be furnished to the carrier within thirty-one (31) days after the date of birth in order to have the coverage continued beyond the thirty-one (31) day period.

(g) Except as provided in subsection (h), an association policy may contain provisions under which coverage is excluded during a period of three (3) months following the effective date of coverage as to a given covered individual for preexisting conditions, as long as medical advice or treatment was recommended or received within a period of three (3) months before the effective date of coverage. This subsection may not be construed to prohibit preexisting condition provisions in an insurance policy that are more favorable to the insured.

(h) If a person applies for an association policy within six (6) months after termination of the person's coverage under a health insurance arrangement and the person meets the eligibility requirements of subsection (c), then an association policy may not contain provisions under which:

(1) coverage as to a given individual is delayed to a date after the effective date or excluded from the policy; or

(2) coverage as to a given condition is denied;

on the basis of a preexisting health condition. This subsection may not be construed to prohibit preexisting condition provisions in an insurance policy that are more favorable to the insured.

(i) For purposes of this section, coverage under a health insurance arrangement includes, but is not limited to, coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985.

SECTION 4. [EFFECTIVE JULY 1, 2005] **(a) An insurer that issues a policy of accident and sickness insurance that contains a waiver under IC 27-8-5-2.7 or IC 27-8-5-19.3, both as added by this act, shall submit to the commissioner of the department of insurance the following information for the reporting periods specified under subsection (b) on a form prescribed by the commissioner:**

(1) The number of policies and certificates that the insurer

issued with a waiver.

(2) A list of specified conditions that the insurer waived.

(3) The number of waivers issued for each specified condition listed under subdivision (2).

(4) The number of waivers issued categorized by the period of time for which coverage of a specified condition was waived.

(5) The number of applicants who were denied insurance coverage by the insurer because of a specified condition.

(b) An insurer shall submit to the commissioner of the department of insurance the information required under subsection (a) as follows:

(1) Not later than September 1, 2006, for the reporting period July 1, 2005, through June 30, 2006.

(2) Not later than September 1, 2007, for the reporting period July 1, 2006, through June 30, 2007.

(c) The commissioner of the department of insurance shall forward the information submitted:

(1) under subsection (b)(1) not later than November 1, 2006; and

(2) under subsection (b)(2) not later than November 1, 2007; to the legislative council in an electronic format under IC 5-14-6.

(d) The commissioner of the department of insurance shall compile the information submitted under subsection (b) and, not later than November 1, 2007, report the information to the legislative council in an electronic format under IC 5-14-6.

(e) This SECTION expires June 30, 2008.

(Reference is to EHB 1075 as reprinted April 6, 2005.)

TORR	MILLER
C. BROWN	SIMPSON
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1033–1; filed April 27, 2005, at 3:09 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1033 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-1.1-45.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 45.5. Brownfield Tax Reduction or Waiver

Sec. 1. As used in this chapter:

(1) "board" refers to the county property tax assessment board of appeals;

(2) "brownfield" has the meaning set forth in IC 13-11-2-19.3;

(3) "contaminant" has the meaning set forth in IC 13-11-2-42;

(4) "delinquent tax liability" means:

(A) delinquent property taxes;

(B) delinquent special assessments;

(C) interest;

(D) penalties; and

(E) costs;

assessed against a brownfield and entered on the tax duplicate that a person seeks to have waived or reduced by filing a petition under section 2 of this chapter;

(5) "department" refers to the department of local government finance, unless the specific reference is to the department of environmental management; and

(6) "fiscal body" refers to the fiscal body of:

(A) the city if the brownfield is located in a city;

(B) the town if the brownfield is located in a town; or

(C) the county if the brownfield is not located in a city or town.

Sec. 2. A person that owns or desires to own a brownfield may file a petition with the county auditor seeking a reduction or waiver of the delinquent tax liability. The petition must:

(1) be on a form:

(A) prescribed by the state board of accounts; and

(B) approved by the department;

(2) state:

(A) the amount of the delinquent tax liability; and

(B) when the delinquent tax liability arose;

(3) describe:

(A) the manner in which; and

(B) when;

the petitioner acquired or proposes to acquire the brownfield;

(4) describe the conditions existing on the brownfield that have prevented the sale or the transfer of title to the county;

(5) describe the plan of the petitioner for:

(A) addressing any contaminants on the brownfield; and

(B) the intended use of the brownfield;

(6) include the date by which the plan referred to in subdivision (5) will be completed;

(7) include a statement from the department of environmental management that the property is a brownfield;

(8) state whether the petitioner:

(A) has had an ownership interest in an entity that contributed; or

(B) has contributed;

to the contaminant or contaminants on the brownfield;

(9) state whether any part of the delinquent tax liability can reasonably be collected from a person other than the petitioner;

(10) state that the petitioner seeks:

(A) a waiver of the delinquent tax liability; or

(B) a reduction of the delinquent tax liability in a specified amount; and

(11) be accompanied by a fee in an amount established by the county auditor for:

(A) completing a title search; and

(B) processing the petition.

Sec. 3. On receipt of a petition under section 2 of this chapter, the county auditor shall determine whether the petition is complete. If the petition is not complete, the county auditor shall return the petition to the petitioner and describe the defects in the petition. The petitioner may correct the defects and file the completed petition with the county auditor. On receipt of a complete petition, the county auditor shall forward a copy of the complete petition to:

(1) the assessor of the township in which the brownfield is located;

(2) the owner, if different from the petitioner;

(3) all persons that have, as of the date of the filing of the petition, a substantial property interest of public record in the brownfield;

(4) the board;

(5) the fiscal body;

(6) the department of environmental management; and

(7) the department.

Sec. 4. On receipt of a complete petition as provided under sections 2 and 3 of this chapter, the board shall at its earliest opportunity conduct a public hearing on the petition. The board shall give notice of the date, time, and place fixed for the hearing:

(1) by mail to:

(A) the petitioner;

(B) the owner, if different from the petitioner;

(C) all persons that have, as of the date the petition was filed, a substantial interest of public record in the brownfield; and

(D) the assessor of the township in which the brownfield is located; and

(2) under IC 5-3-1.

Sec. 5. (a) Subject to section 8(g) of this chapter, the board may recommend that the department grant the petition or that the department approve a reduction of the delinquent tax liability in an amount less than the amount sought by the petitioner if the

board determines that:

(1) the brownfield was acquired or is proposed to be acquired as a result of:

(A) sale or abandonment in a bankruptcy proceeding;

(B) foreclosure or a sheriff's sale;

(C) receivership; or

(D) purchase from a political subdivision;

(2) the plan referred to in section 2(5) of this chapter is in the best interest of the community;

(3) the waiver or reduction of the delinquent tax liability:

(A) is in the public interest; and

(B) will facilitate development or use of the brownfield;

(4) the petitioner:

(A) has not had an ownership interest in an entity that contributed; and

(B) has not contributed;

to the contaminant or contaminants on the brownfield;

(5) the department of environmental management has determined that the property is a brownfield;

(6) if the petitioner is the owner of the brownfield, the delinquent tax liability sought to be waived or reduced arose before the petitioner's acquisition of the brownfield; and

(7) no part of the delinquent tax liability can reasonably be collected from a person other than the owner of the brownfield.

(b) After the hearing and completion of any additional investigation of the brownfield or of the petitioner that the board considers necessary, the board shall:

(1) give notice, by mail, to the parties listed in section 4(1) of this chapter of the board's recommendation that:

(A) the fiscal body deny the petition; or

(B) the department:

(i) deny the petition;

(ii) waive the delinquent tax liability, subject to section 8(g) of this chapter; or

(iii) reduce the delinquent tax liability by a specified amount, subject to section 8(g) of this chapter; and

(2) forward to the department and the fiscal body a copy of:

(A) the board's recommendation; and

(B) the documents submitted to or collected by the board at the public hearing or during the course of the board's investigation of the brownfield or of the petitioner.

Sec. 6. (a) The fiscal body shall at a regularly scheduled meeting:

(1) review the petition and all other materials submitted by the board under section 5 of this chapter; and

(2) determine whether to:

(A) deny the petition;

(B) recommend that the department waive the delinquent tax liability, subject to section 8(g) of this chapter; or

(C) recommend that the department reduce the delinquent tax liability by a specified amount, subject to section 8(g) of this chapter.

The fiscal body may recommend a reduction of the delinquent tax liability in an amount that differs from the amount of reduction recommended by the board.

(b) The fiscal body shall:

(1) publish notice under IC 5-3-1 of its consideration of the petition under this section; and

(2) forward to the department written notice of its action under this section.

Sec. 7. (a) On receipt by the department of a recommendation by the fiscal body to waive or reduce the delinquent tax liability, the department shall:

(1) review:

(A) the petition and all other materials submitted by the board; and

(B) the notice received from the fiscal body; and

(2) subject to subsection (b), determine whether to:

(A) deny the petition;

(B) waive the delinquent tax liability, subject to section 8(g) of this chapter; or

(C) reduce the delinquent tax liability by a specified amount, subject to section 8(g) of this chapter.

The department may reduce the delinquent tax liability in an amount that differs from the amount of reduction recommended by the board or the fiscal body.

(b) The department's determination to waive or reduce the delinquent tax liability under subsection (a) is subject to the limitation in section 8(f)(2) of this chapter.

Sec. 8. (a) The department shall give notice of its determination under section 7 of this chapter and the right to seek an appeal of the determination by mail to:

(1) the petitioner;

(2) the owner, if different from the petitioner;

(3) all persons that have, as of the date the petition was filed under section 2 of this chapter, a substantial property interest of public record in the brownfield;

(4) the assessor of the township in which the brownfield is located;

(5) the board;

(6) the fiscal body; and

(7) the county auditor.

(b) A person aggrieved by a determination of the department under section 7 of this chapter may obtain an additional review by the department and a public hearing by filing a petition for review with the county auditor of the county in which the brownfield is located not more than thirty (30) days after the department gives notice of the determination under subsection (a). The county auditor shall transmit the petition to the department not more than ten (10) days after the petition is filed.

(c) On receipt by the department of a petition for review, the department shall set a date, time, and place for a hearing. At least ten (10) days before the date fixed for the hearing, the department shall give notice by mail of the date, time, and place fixed for the hearing to:

(1) the person that filed the appeal;

(2) the petitioner;

(3) the owner, if different from the petitioner;

(4) all persons that have, as of the date the petition is filed, a substantial interest of public record in the brownfield;

(5) the assessor of the township in which the brownfield is located;

(6) the board;

(7) the fiscal body; and

(8) the county auditor.

(d) After the hearing, the department shall give the parties listed in subsection (c) notice by mail of the final determination of the department. The department's final determination under this subsection is subject to the limitations in subsections (f)(2) and (g).

(e) The petitioner under section 2 of this chapter shall provide to the county auditor reasonable proof of ownership of the brownfield:

(1) if a petition is not filed under subsection (b), at least thirty (30) days but not more than one hundred twenty (120) days after notice is given under subsection (a); or

(2) after notice is given under subsection (d) but not more than ninety (90) days after notice is given under subsection (d).

(f) The county auditor:

(1) shall, subject to subsection (g), reduce or remove the delinquent tax liability on the tax duplicate in the amount stated in:

(A) if a petition is not filed under subsection (b), the determination of the department under section 7 of this chapter; or

(B) the final determination of the department under this section;

not more than thirty (30) days after receipt of the proof of ownership required in subsection (e); and

(2) may not reduce or remove any delinquent tax liability on the tax duplicate if the petitioner under section 2 of this chapter fails to provide proof of ownership as required in subsection (e).

(g) A reduction or removal of delinquent tax liability under subsection (f) applies until the county auditor makes a

determination under this subsection. After the date referred to in section 2(6) of this chapter, the county auditor shall determine if the petitioner successfully completed the plan described in section 2(5) of this chapter by that date. If the county auditor determines that the petitioner completed the plan by that date, the reduction or removal of delinquent tax liability under subsection (f) becomes permanent. If the county auditor determines that the petitioner did not complete the plan by that date, the county auditor shall restore to the tax duplicate the delinquent taxes reduced or removed under subsection (f), along with interest in the amount that would have applied if the delinquent taxes had not been reduced or removed.

Sec. 9. As provided in IC 6-1.5-5-1, a petitioner under section 2 of this chapter may initiate an appeal of the department's final determination under section 8 of this chapter by filing a petition with the county assessor not more than forty-five (45) days after the department gives the petitioner notice of the final determination.

SECTION 2. IC 6-1.5-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The Indiana board shall conduct impartial review of all appeals of final determinations of the department of local government finance made under the following:

(1) IC 6-1.1-8.

(2) IC 6-1.1-14-11.

(3) IC 6-1.1-16.

(4) IC 6-1.1-26-2.

(5) IC 6-1.1-45-6.

(b) Each notice of final determination issued by the department of local government finance under a statute listed in subsection (a) must give the taxpayer notice of:

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

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

(c) Except as provided in subsection (e), in order to obtain a review by the Indiana board under this section, the taxpayer must file a petition for review with the appropriate county assessor not later than forty-five (45) days after the notice of the department of local government finance's action is given to the taxpayer.

(d) The county assessor shall transmit a petition for review under subsection (c) to the Indiana board not later than ten (10) days after the petition is filed.

(e) In order to obtain a review by the Indiana board of an appeal of a final determination of the department of local government finance under IC 6-1.1-8-30, the public utility company must follow the procedures in IC 6-1.1-8-30.

SECTION 3. IC 6-3.1-23-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 4. As used in this chapter, "state tax liability" means a taxpayer's total tax liability ~~incurred under:~~

~~(1) IC 6-2.5 (the state gross retail and use tax);~~

~~(2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);~~

~~(3) IC 6-5.5 (the financial institutions tax); and~~

~~(4) IC 27-1-18-2 (the insurance premiums tax);~~

for a listed tax (as defined in IC 6-8.1-1-1), as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

SECTION 4. IC 6-3.1-23-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 5. (a) A taxpayer is entitled to a credit equal to the amount determined under section 6 of this chapter against the taxpayer's state tax liability for a taxable year if the following requirements are satisfied:

(1) The taxpayer does the following:

(A) Makes a qualified investment in that taxable year.

~~(B) Makes a good faith attempt to recover the costs of the environmental damages from the liable parties.~~

~~(C)~~ **(B)** Submits ~~a plan to the legislative body that:~~ **the following to the Indiana development finance authority:**

(i) ~~describes~~ **A description of** the taxpayer's proposed redevelopment of the property.

(ii) ~~indicates~~ The sources and amounts of money to be used for the remediation and proposed redevelopment of the property. ~~and~~

(iii) ~~estimates~~ **An estimate of** the value of the remediation and proposed redevelopment.

(iv) A description documenting any good faith attempts to recover the costs of the environmental damages from liable parties.

(v) Proof of appropriate zoning for the intended reuse.

(vi) A letter supporting the proposed project and redevelopment from the legislative body.

(vii) The documentation described in subsection (b).

~~(D) Certifies to the legislative body that the taxpayer:~~

~~(i) has never had an ownership interest in an entity that contributed; and~~

~~(ii) has not contributed;~~

~~to contamination (as defined in IC 13-11-2-43) that is the subject of the voluntary remediation, as determined under the written standards adopted by the department of environmental management and the Indiana development finance authority.~~

~~(2) The legislative body, after holding a public hearing of which notice was given under IC 5-3-1, adopts a resolution:~~

~~(A) determining that:~~

~~(i) the estimate of the value of the remediation and proposed redevelopment included in the plan under subdivision (1)(C)(iii) is reasonable for projects of that nature; and~~

~~(ii) the plan submitted under subdivision (1)(C) is in the best interest of the community;~~

~~(B) determining that the taxpayer:~~

~~(i) has never had an ownership interest in an entity that contributed; and~~

~~(ii) has not contributed;~~

~~to contamination (as defined in IC 13-11-2-43) that is the subject of the voluntary remediation, as determined under the written standards adopted by the department of environmental management and the Indiana development finance authority; and~~

~~(C) approving the credit.~~

~~(3)~~ **(2)** The department determines under section 15 of this chapter that the taxpayer's return claiming the credit is filed with the department before the maximum amount of credits allowed under this chapter is met.

~~(b) In determining whether the redevelopment is in the best interest of the community, the legislative body must consider, among other things, whether the proposed development promotes:~~

~~(1) the development of housing;~~

~~(2) the development of green space;~~

~~(3) the development of high technology businesses; or~~

~~(4) the creation or retention of high paying jobs.~~

(b) The documentation referred to in subsection (a)(1)(B)(vii) consists of information reflecting that the taxpayer:

(1) has never had an ownership interest in an entity that caused or contributed to; and

(2) has not caused or contributed to;

the release or threatened release of a hazardous substance, a contaminant, petroleum, or a petroleum product that is the subject of the remediation.

(c) The Indiana development finance authority shall:

(1) determine whether the taxpayer meets the requirements of subsection (a)(1); and

(2) if the taxpayer meets the requirements of subsection (a)(1), certify to the taxpayer that the taxpayer is eligible for the credit allowed under this chapter.

SECTION 5. IC 6-3.1-23-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 6. The amount of the credit allowed under this chapter **with respect to each brownfield site** is equal to the lesser of:

(1) ~~one~~ **two** hundred thousand dollars ~~($100,000);~~ **($200,000);** or

(2) **the sum of:**

(A) ~~ten~~ **one hundred** percent ~~(10%)~~ **(100%)** multiplied by the **first one hundred thousand dollars ($100,000) of** qualified investment made by the taxpayer during the taxable

year; **plus**

(B) fifty percent (50%) multiplied by the amount of the qualified investment made by the taxpayer during the taxable year that exceeds one hundred thousand dollars ($100,000).

SECTION 6. IC 6-3.1-23-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 12. (a) To be entitled to a credit under this chapter, a taxpayer must request the department of environmental management and the Indiana development finance authority to determine if costs incurred in a voluntary remediation involving a brownfield are qualified investments.

(b) The request under subsection (a) must be made before the costs are incurred.

(c) Upon receipt of a request under subsection (a), the department of environmental management and the Indiana development finance authority shall:

(1) examine the costs; ~~under the standards adopted by the department of environmental management;~~ and

(2) certify any costs that the department and the authority determine to be a qualified investment.

(d) Upon completion of a voluntary remediation for which costs have been certified as a qualified investment under subsection (c), the taxpayer:

(1) shall notify the department of environmental management; and

(2) shall request from the department of environmental management:

(A) with respect to voluntary remediation conducted under IC 13-25-5, the certificate of completion issued by the commissioner under IC 13-25-5-16 for the voluntary remediation work plan under which the costs certified under subsection (c)(2) were incurred; or

(B) with respect to voluntary remediation not conducted under IC 13-25-5, a certification of the costs incurred for the voluntary remediation that are consistent with the costs certified under subsection (c)(2).

SECTION 7. IC 6-3.1-23-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 13. (a) To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department of state revenue.

(b) The taxpayer shall submit the following to the department of state revenue:

(1) The certification of the qualified investment by the department of environmental management and the Indiana development finance authority under section 12(c) of this chapter.

(2) Either:

(A) an official copy of the certification referred to in section 12(d)(2)(A) of this chapter; or

(B) the certification issued by the department of environmental management in response to a request under section 12(d)(2)(B) of this chapter.

(3) Proof of payment of the certified qualified investment.

~~(4) A copy of the legislative body's resolution adopted under section 5(a)(2) of this chapter.~~

(4) The certification received by the taxpayer under section 5(c) of this chapter.

(5) Information that the department determines is necessary for the calculation of the credit provided by this chapter.

SECTION 8. IC 6-3.1-23-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 15. (a) The amount of tax credits allowed under this chapter may not exceed ~~one~~ **two** million dollars ~~($1,000,000)~~ **($2,000,000)** in a state fiscal year unless the Indiana development finance authority determines under subsection (e) that money is available for additional tax credits in a particular state fiscal year. However, if the maximum amount of tax credits allowed under this subsection exceeds the amount available in the subaccount of the environmental remediation revolving loan fund (IC 13-19-5), the maximum amount of tax credits allowed under this subsection is reduced to the amount available.

(b) The department shall record the time of filing of each return claiming a credit under section 13 of this chapter and shall, except as provided in subsection (c), grant the credit to the taxpayer, if the taxpayer otherwise qualifies for a tax credit under this chapter, in the chronological order in which the return is filed in the state fiscal year.

(c) If the total credits approved under this section equal the maximum amount allowable in a state fiscal year, a return claiming the credit filed later in that same fiscal year may not be approved. However, if an applicant for whom a credit has been approved fails to file the information required by section 13 of this chapter, an amount equal to the credit previously allowed or set aside for the applicant may be allowed to the next eligible applicant or applicants until the total amount has been allowed. In addition, the department may, if the applicant so requests, approve a credit application, in whole or in part, with respect to the next succeeding state fiscal year.

(d) The department of state revenue shall report the total credits granted under this chapter for each state fiscal year to the Indiana development finance authority. The Indiana development finance authority shall transfer to the state general fund an amount equal to the total credits granted from the subaccount of the environmental remediation revolving loan fund (IC 13-19-5).

(e) At the end of each state fiscal year, the Indiana development finance authority may determine whether money is available in the ~~subaccount of the~~ environmental remediation revolving loan fund (IC 13-19-5) to provide tax credits in excess of the amount set forth in subsection (a) in the subsequent state fiscal year.

(f) Before ~~December 31~~ **June 30** of each year, the Indiana development finance authority may assess the demand for tax credits under this chapter and determine whether the need for other brownfield activities is greater than the need for tax credits. If the Indiana development finance authority determines that the need for other brownfield activities is greater than the need for tax credits, the authority may set aside up to three-fourths (3/4) of the amount of allowable tax credits for the subsequent state fiscal year and use it for other brownfield projects.

(g) Except as provided in subsection (h), the Indiana development finance authority may use money set aside under subsection (f) for any permissible purpose.

(h) Money specifically appropriated for tax credits may not be set aside for another use.

SECTION 9. IC 6-3.1-23-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 16. A tax credit may not be allowed under this chapter for a taxable year that begins after December 31, ~~2005.~~ **2007.** However, this section does not affect the ability of a taxpayer to carry forward the excess of a tax credit claimed for a taxable year that begins before January 1, ~~2006,~~ **2008,** under section 11 of this chapter.

SECTION 10. IC 13-11-2-150 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 150. (a) "Owner", for purposes of IC 13-23 (except as provided in ~~subsection~~ **subsections** (b) **and (c)**) means:

(1) for an underground storage tank that:

(A) was:

~~(A)~~ **(i)** in use on November 8, 1984; or

~~(B)~~ **(ii)** brought into use after November 8, 1984;

for the storage, use, or dispensing of regulated substances, a person who owns the underground storage tank; or

~~(2) for an underground storage tank that~~ **(B)** is:

~~(A)~~ **(i)** in use before November 8, 1984; but

~~(B)~~ **(ii)** no longer in use on November 8, 1984;

a person who owned the tank immediately before the discontinuation of the tank's use; **or**

(2) a person who conveyed ownership or control of the underground storage tank to a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government because of:

(A) bankruptcy;

(B) foreclosure;

(C) tax delinquency, including a conveyance under IC 6-1.1-24 or IC 6-1.1-25;

(D) abandonment;

(E) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(F) receivership;

(G) other circumstances in which a political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or

(H) any other means to conduct remedial actions on a brownfield;

if the person was a person described in subdivision (1) immediately before the person conveyed ownership or control of the underground storage tank.

(b) "Owner", for purposes of IC 13-23-13, does not include a person who:

(1) does not participate in the management of an underground storage tank;

(2) is otherwise not engaged in the:

(A) production;

(B) refining; and

(C) marketing;

of regulated substances; and

(3) holds indicia of ownership primarily to protect the owner's security interest in the tank.

(c) "Owner", for purposes of IC 13-23, does not include a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government that acquired ownership or control of an underground storage tank because of:

(1) bankruptcy;

(2) foreclosure;

(3) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;

(4) abandonment;

(5) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(6) receivership;

(7) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign;

(8) transfer from another political subdivision or unit of federal or state government; or

(9) any other means to conduct remedial actions on a brownfield;

unless the political subdivision or unit of federal or state government causes or contributes to the release or threatened release of a substance, in which case the political subdivision or unit of federal or state government is subject to IC 13-23 in the same manner and to the same extent as a nongovernmental entity under IC 13-23.

SECTION 11. IC 13-11-2-151 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 151. (a) "Owner or operator", for purposes of IC 13-24-1, means the following:

(1) For a petroleum facility, a person who owns or operates the facility.

(2) For a **petroleum** facility where title or control has been conveyed because of:

(A) bankruptcy;

(B) foreclosure;

(C) tax delinquency, **including a conveyance under IC 6-1.1-24 or IC 6-1.1-25;**

(D) abandonment; ~~or~~

(E) **the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;**

(F) receivership;

(G) other circumstances in which a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government involuntarily acquired title or control because of the political subdivision's or unit's function as sovereign; or

(H) ~~a similar~~ **any other** means **to conduct remedial actions on a brownfield;**

to a **political subdivision or** unit of **federal or** state ~~or local~~ government, a person who owned, operated, or otherwise controlled the **petroleum** facility immediately before title or control was conveyed.

(b) Subject to subsection (c), the term does not include a **political subdivision or** unit of federal **or** state ~~or local~~ government that acquired ownership or control ~~involuntarily~~ **of the facility** through:

(1) bankruptcy;

(2) foreclosure;

~~(2)~~ **(3)** tax delinquency, **including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;**

~~(3)~~ **(4)** abandonment; ~~or~~

(5) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(6) receivership;

~~(4)~~ **(7)** other circumstances in which the **political subdivision or unit of federal or state** government ~~unit~~ involuntarily acquired title because of the **political subdivision's or** unit's function as sovereign;

(8) transfer from another political subdivision or unit of federal or state government; or

(9) any other means to conduct remedial actions on a brownfield.

(c) The term includes a **political subdivision or** unit of federal **or** state ~~or local~~ government that causes or contributes to the release or threatened release of a substance, **in which case** the **political subdivision or** unit of federal **or** state ~~or local~~ government is subject to IC 13-24-1:

(1) in the same manner; and

(2) to the same extent;

as a nongovernmental entity under IC 13-24-1.

(d) The term does not include a person who:

(1) does not participate in the management of a petroleum facility;

(2) is otherwise not engaged in the:

(A) production;

(B) refining; and

(C) marketing;

of petroleum; and

(3) holds evidence of ownership in a petroleum facility, primarily to protect the owner's security interest in the petroleum facility.

SECTION 12. IC 13-11-2-245 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 245. (a) "Vehicle", for purposes of IC 13-17-5, refers to a vehicle required to be registered with the bureau of motor vehicles and required to have brakes. The term does not include the following:

(1) Farm tractors.

(2) Implements of husbandry.

(3) Farm tractors used in transportation.

(4) Mobile homes (house trailers).

(5) Trailers weighing not more than three thousand (3,000) pounds.

(6) Antique motor vehicles.

(b) "Vehicle", for purposes of IC 13-18-12, means a device used to transport a tank.

(c) "Vehicle", for purposes of IC 13-20-4, refers to a municipal waste collection and transportation vehicle.

(d) "Vehicle", for purposes of IC 13-20-13-7, means a motor vehicle, **a farm tractor (as defined in IC 9-13-2-56(a) or IC 9-13-2-56(b)), an implement of husbandry (as defined in IC 9-13-2-77), a semitrailer (as defined in IC 9-13-2-164(a) or IC 9-13-2-164(b)),** and types of equipment, machinery, implements, or other devices used in transportation, manufacturing, agriculture, construction, or mining. The term does not include ~~the following:~~

~~(1)~~ a lawn and garden tractor that is propelled by a motor of not more than twenty (20) horsepower.

~~(2) A semitrailer.~~

(e) "Vehicle", for purposes of IC 13-20-14, has the meaning set forth in IC 9-13-2-196.

SECTION 13. IC 13-25-4-8, AS AMENDED BY P.L.25-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) Except as provided in subsection (b), (c), or (d), a person that is liable under Section 107(a)

of CERCLA (42 U.S.C. 9607(a)) for:

(1) the costs of removal or remedial action incurred by the commissioner consistent with the national contingency plan;

(2) the costs of any health assessment or health effects study carried out by or on behalf of the commissioner under Section 104(i) of CERCLA (42 U.S.C. 9604(i)); or

(3) damages for:

(A) injury to;

(B) destruction of; or

(C) loss of;

natural resources of Indiana;

is liable, in the same manner and to the same extent, to the state under this section.

(b) The exceptions provided by Sections 107(b), 107(q), and 107(r) of CERCLA (42 U.S.C. 9607(b)) to liability otherwise imposed by Section 107(a) of CERCLA (42 U.S.C. 9607(a)) are equally applicable to any liability otherwise imposed under subsection (a).

(c) Notwithstanding any liability imposed by the environmental management laws, a lender, a secured or unsecured creditor, or a fiduciary is not liable under the environmental management laws, in connection with the release or threatened release of a hazardous substance from a facility unless the lender, the fiduciary, or creditor has participated in the management of the hazardous substance at the facility.

(d) Notwithstanding any liability imposed by the environmental management laws, the liability of a fiduciary for a release or threatened release of a hazardous substance from a facility that is held by the fiduciary in its fiduciary capacity may be satisfied only from the assets held by the fiduciary in the same estate or trust as the facility that gives rise to the liability.

(e) **Except as provided in subsection (g),** a political subdivision (as defined in IC 36-1-2-13) **or unit of federal or state government** is not liable to the state under this section for costs or damages associated with the presence of a hazardous substance on, in, or at a property in which the political subdivision **or unit of federal or state government** acquired an interest in the property **because of:**

(1) ~~under IC 6-1.1-24 or IC 6-1.1-25,~~ bankruptcy; ~~abandonment, or other circumstances in which the political subdivision involuntarily acquired an interest in the property; or~~

~~(2) to conduct remedial actions on a brownfield,~~

~~after the hazardous substance was disposed of or placed on, in, or at the property.~~

(2) foreclosure;

(3) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;

(4) abandonment;

(5) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(6) receivership;

(7) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired an interest in the property because of the political subdivision's or unit's function as sovereign;

(8) transfer from another political subdivision or unit of federal or state government; or

(9) any other means to conduct remedial actions on a brownfield.

(f) If a transfer of an interest in property as described in subsection (e) occurs, a person who owned, operated, or otherwise controlled the property immediately before the political subdivision or unit of federal or state government acquired the interest in the property remains liable under this section:

(1) in the same manner; and

(2) to the same extent;

as the person was liable immediately before the person's interest in the property was acquired by the political subdivision or unit of federal or state government.

(g) Notwithstanding subsection (e), a political subdivision or unit of federal or state government that causes or contributes to the release or threatened release of a hazardous substance on, in, or at a property remains subject to this section:

(1) in the same manner; and

(2) to the same extent;

as a nongovernmental entity under this section.

SECTION 14. IC 34-13-3-3, AS AMENDED BY HEA 1288-2005, SECTION 218, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. A governmental entity or an employee acting within the scope of the employee's employment is not liable if a loss results from the following:

(1) The natural condition of unimproved property.

(2) The condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable.

(3) The temporary condition of a public thoroughfare or extreme sport area that results from weather.

(4) The condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area.

(5) The design, construction, control, operation, or normal condition of an extreme sport area, if all entrances to the extreme sport area are marked with:

(A) a set of rules governing the use of the extreme sport area;

(B) a warning concerning the hazards and dangers associated with the use of the extreme sport area; and

(C) a statement that the extreme sport area may be used only by persons operating extreme sport equipment.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain extreme sports areas in a reasonably safe condition.

(6) The initiation of a judicial or an administrative proceeding.

(7) The performance of a discretionary function; however, the provision of medical or optical care as provided in IC 34-6-2-38 shall be considered as a ministerial act.

(8) The adoption and enforcement of or failure to adopt or enforce a law (including rules and regulations), unless the act of enforcement constitutes false arrest or false imprisonment.

(9) An act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid.

(10) The act or omission of anyone other than the governmental entity or the governmental entity's employee.

(11) The issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law.

(12) Failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety.

(13) Entry upon any property where the entry is expressly or impliedly authorized by law.

(14) Misrepresentation if unintentional.

(15) Theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission.

(16) Injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter.

(17) Injury to the person or property of a person under supervision of a governmental entity and who is:

(A) on probation; or

(B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, a pretrial conditional release program under IC 35-33-8, or a community corrections program under IC 11-12.

(18) Design of a highway (as defined in IC 9-13-2-73) if the claimed loss occurs at least twenty (20) years after the public highway was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a responsible governmental entity from the continuing duty to provide and

maintain public highways in a reasonably safe condition.

(19) Development, adoption, implementation, operation, maintenance, or use of an enhanced emergency communication system.

(20) Injury to a student or a student's property by an employee of a school corporation if the employee is acting reasonably under a discipline policy adopted under IC 20-33-8-7(b).

(21) An error resulting from or caused by a failure to recognize the year 1999, 2000, or a subsequent year, including an incorrect date or incorrect mechanical or electronic interpretation of a date, that is produced, calculated, or generated by:

(A) a computer;

(B) an information system; or

(C) equipment using microchips;

that is owned or operated by a governmental entity. However, this subdivision does not apply to acts or omissions amounting to gross negligence, willful or wanton misconduct, or intentional misconduct. For purposes of this subdivision, evidence of gross negligence may be established by a party by showing failure of a governmental entity to undertake an effort to review, analyze, remediate, and test its electronic information systems or by showing failure of a governmental entity to abate, upon notice, an electronic information system error that caused damage or loss. However, this subdivision expires June 30, 2003.

(22) An act or omission performed in good faith under the apparent authority of a court order described in IC 35-46-1-15.1 that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been liable had the court order been valid.

(23) An act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield (as defined in IC 13-11-2-19.3) unless:

(A) the loss is a result of reckless conduct; or

(B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.

SECTION 15. [EFFECTIVE UPON PASSAGE] **(a) The environmental quality service council shall:**

(1) investigate methods to increase research, development, production, and use of alternative fuels, including:

(A) biofuels such as biodiesel, ethanol, and other agricultural based alternatives to petroleum based fuels;

(B) clean coal technology;

(C) wind and solar power;

(D) waste tires; and

(E) other sources of renewable energy;

(2) give priority consideration to review of energy projects and policies that will provide maximum economic and environmental benefits to Indiana;

(3) include recommendations on the matters considered under this SECTION in the council's 2005 final report to the general assembly; and

(4) provide the council's 2005 final report to:

(A) the commissioner of agriculture; and

(B) the Indiana economic development corporation.

(b) This SECTION expires January 1, 2006.

SECTION 16. [EFFECTIVE UPON PASSAGE] **(a) IC 6-3.1-23-4, IC 6-3.1-23-5, IC 6-3.1-23-6, IC 6-3.1-23-12, IC 6-3.1-23-13, IC 6-3.1-23-15, and IC 6-3.1-23-16, all as amended by this act, apply to reportable periods beginning after December 31, 2004.**

(b) The department of state revenue shall implement this act to allow the application of the statutes referred to in subsection (a), all as amended by this act, to reportable periods beginning after December 31, 2004.

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

(Reference is to EHB 1033 as printed March 22, 2005.)

HEIM	GARD
HOY	LANANE
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 30–1; filed April 27, 2005, at 3:20 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 30 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Page 6, delete lines 19 through 42.

Delete pages 7 through 10.

(Reference is to ESB 30 as reprinted March 30, 2005.)

ALTING	McCLAIN
ANTICH-CARR	C. BROWN
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 420–1; filed April 27, 2005, at 4:10 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 420 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 12-17.2-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The division shall perform the following duties:

(1) Administer the licensing and monitoring of child care centers or child care homes in accordance with this article.

(2) Ensure that a national criminal history background check of the applicant is completed through the state police department under ~~IC 5-2-5-15~~ **IC 10-13-3-39** before issuing a license.

(3) Ensure that a criminal history background check of a child care ministry applicant for registration is completed before registering the child care ministry.

(4) Provide for the issuance, denial, suspension, and revocation of licenses.

(5) Cooperate with governing bodies of child care centers and child care homes and their staffs to improve standards of child care.

(6) Prepare at least biannually a directory of licensees with a description of the program capacity and type of children served that will be distributed to the legislature, licensees, and other interested parties as a public document.

(7) Deposit all license application fees collected under section 2 of this chapter in the child care fund.

(8) Require each child care center or child care home to record proof of a child's date of birth before accepting the child. A child's date of birth may be proven by the child's original birth certificate or other reliable proof of the child's date of birth, including a duly attested transcript of a birth certificate.

(9) Provide ~~not later than January 1, 2004,~~ an Internet site through which members of the public may obtain the following information:

(A) Information concerning violations of this article by a licensed child care provider, including:

(i) the identity of the child care provider;

(ii) the date of the violation; and

(iii) action taken by the division in response to the violation.

(B) Current status of a child care provider's license.

(C) Other relevant information.

The Internet site may not contain the address of a child care home. However, the site may include the county and ZIP code in which a child care home is located.

(10) Provide or approve training concerning safe sleeping practices for children to:

(A) a provider who operates a child care program in the

provider's home as described in IC 12-17.2-3.5-5(b); and

(B) a child care home licensed under IC 12-17.2-5;

including practices to reduce the risk of sudden infant death syndrome.

SECTION 2. IC 12-17.2-3.5-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.5. **(a)** A provider shall ensure that a child in the provider's care is continually supervised by a caregiver.

(b) A provider who operates a child care program in the provider's home (including a child care home licensed under IC 12-17.2-5) and who receives a voucher payment under this chapter shall complete the training course provided or approved by the division under IC 12-17.2-2-1(10) concerning safe sleeping practices.

SECTION 3. IC 12-17.2-5-6.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.3. (a) To qualify for a license to operate a class I child care home under this chapter, a person must do the following:

(1) Provide documentation to the division that the licensee has received a high school diploma or a high school equivalency certificate as described in IC 12-14-5-2.

(2) Provide documentation to the division that the licensee:

(A) has completed;

(B) is enrolled in; or

(C) agrees to complete within the next three (3) years;

a child development associate credential program or a similar program approved by the division.

(3) Complete the training course taught or approved by the division concerning safe sleeping practices for a child within the person's care as described in IC 12-17.2-2-1(10).

The division may grant a waiver or variance of the requirement under subdivision (2).

(b) A class I child care home may serve a school age child during a break in the school year that exceeds four (4) weeks if the following conditions are met:

(1) The school age child:

(A) was in the home part time during the four (4) months preceding the break; or

(B) has a sibling attending the child care home.

(2) The child care home meets the following requirements:

(A) Provides at least thirty-five (35) square feet for each child.

(B) Maintains the child to staff ratio required under rules adopted by the division for each age group of children in attendance.

(C) Provides age appropriate toys, games, equipment, and activities for each age group of children enrolled.

(D) If the licensee does not reside in the child care home, the child care home has:

(i) at least two (2) exits that comply with the exit requirements for an E-3 building occupancy classification under the Indiana building code adopted by the fire prevention and building safety commission; **and**

(ii) an illuminated exit sign over each required exit ~~and~~ **or** ~~(iii)~~ emergency lighting for each required exit.

(3) The licensee for the child care home has maintained a class I child care home license for at least twelve (12) children:

(A) for at least one (1) year; and

(B) without any citations for noncompliance.

SECTION 4. IC 12-17.2-5-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.5. (a) To qualify for a license to operate a class II child care home under this chapter, a person must do the following:

(1) Provide all child care services on the first story of the child care home unless the class II child care home meets the exceptions to the first story requirements contained in the Indiana building code adopted by the fire prevention and building safety commission in effect at the time the class II child care home provider applies for licensure.

(2) Provide a smoke detection system that is:

(A) hard wired to the building's electrical system; and

(B) wired in a manner that activates all of the detector devices in the building when one (1) detector device is activated.

(3) Provide a fire extinguisher in each room that is used to provide child care services.

(4) Meet:

(A) the exit requirements for an E-3 building occupancy classification under the Indiana building code adopted by the fire prevention and building safety commission, **except for any illumination requirements,** in effect at the time the class II child care home provider **initially** applies for licensure; **and**

(B) the illumination requirements established in section 6.3(b)(2)(D) of this chapter.

(5) Provide a minimum of thirty-five (35) square feet for each child.

(6) Conduct fire drills required under article 37 of the Indiana fire prevention code adopted by the fire prevention and building safety commission in effect at the time the class II child care home provider applies for licensure.

(7) Apply for a license before July 1, 1996, or after June 30, 2001.

(8) Comply with rules adopted by the division of family and children for class II child care homes.

(9) Complete the training course taught or approved by the division concerning safe sleeping practices for a child within the person's care as described in IC 12-17.2-2-1(10).

(b) To qualify for a license to operate a class II child care home under this chapter, a person, before applying for the license, must have:

(1) a class I child care home license; or

(2) at least one (1) year of experience as a caregiver in a child care home or child care center.

SECTION 5. [EFFECTIVE UPON PASSAGE] **470 IAC 3-18-1(23) is void. The publisher of the Indiana Administrative Code and the Indiana Register shall remove this provision from the Indiana Administrative Code.**

SECTION 6. **An emergency is declared for this act**.

(Reference is to ESB 420 as printed March 18, 2005.)

C. LAWSON	BUDAK
CRAYCRAFT	SUMMERS
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1765–1; filed April 27, 2005, at 4:14 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1765 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 14-8-2-49.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 49.2. "Compact", for purposes of IC 14-24-4.5, has the meaning set forth in IC 14-24-4.5-2(8).**

SECTION 2. IC 14-8-2-86.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 86.5. "Executive committee", for purposes of IC 14-24-4.5, has the meaning set forth in IC 14-24-4.5-2(7).**

SECTION 3. IC 14-8-2-107 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 107. "Fund" has the following meaning:

(1) For purposes of IC 14-9-5, the meaning set forth in IC 14-9-5-1.

(2) For purposes of IC 14-9-8-21, the meaning set forth in IC 14-9-8-21.

(3) For purposes of IC 14-9-8-21.5, the meaning set forth in IC 14-9-8-21.5.

(4) For purposes of IC 14-9-9, the meaning set forth in

IC 14-9-9-3.

(5) For purposes of IC 14-12-1, the meaning set forth in IC 14-12-1-1.

(6) For purposes of IC 14-12-2, the meaning set forth in IC 14-12-2-2.

(7) For purposes of IC 14-12-3, the meaning set forth in IC 14-12-3-2.

(8) For purposes of IC 14-13-1, the meaning set forth in IC 14-13-1-2.

(9) For purposes of IC 14-13-2, the meaning set forth in IC 14-13-2-3.

(10) For purposes of IC 14-16-1, the meaning set forth in IC 14-16-1-30.

(11) For purposes of IC 14-19-8, the meaning set forth in IC 14-19-8-1.

(12) For purposes of IC 14-20-1, the meaning set forth in IC 14-20-1-3.

(13) For purposes of IC 14-20-11, the meaning set forth in IC 14-20-11-2.

(14) For purposes of IC 14-22-3, the meaning set forth in IC 14-22-3-1.

(15) For purposes of IC 14-22-4, the meaning set forth in IC 14-22-4-1.

(16) For purposes of IC 14-22-5, the meaning set forth in IC 14-22-5-1.

(17) For purposes of IC 14-22-8, the meaning set forth in IC 14-22-8-1.

(18) For purposes of IC 14-22-34, the meaning set forth in IC 14-22-34-2.

(19) For purposes of IC 14-23-3, the meaning set forth in IC 14-23-3-1.

(20) For purposes of ~~IC 14-23-8,~~ **IC 14-24-4.5,** the meaning set forth in ~~IC 14-23-8-1.~~ **IC 14-24-4.5-2(5).**

(21) For purposes of IC 14-25-2-4, the meaning set forth in IC 14-25-2-4.

(22) For purposes of IC 14-25-10, the meaning set forth in IC 14-25-10-1.

(23) For purposes of IC 14-25-11-19, the meaning set forth in IC 14-25-11-19.

(24) For purposes of IC 14-25.5, the meaning set forth in IC 14-25.5-1-3.

(25) For purposes of IC 14-28-5, the meaning set forth in IC 14-28-5-2.

(26) For purposes of IC 14-31-2, the meaning set forth in IC 14-31-2-5.

(27) For purposes of IC 14-25-12, the meaning set forth in IC 14-25-12-1.

(28) For purposes of IC 14-33-14, the meaning set forth in IC 14-33-14-3.

(29) For purposes of IC 14-33-21, the meaning set forth in IC 14-33-21-1.

(30) For purposes of IC 14-34-6-15, the meaning set forth in IC 14-34-6-15.

(31) For purposes of IC 14-34-14, the meaning set forth in IC 14-34-14-1.

(32) For purposes of IC 14-37-10, the meaning set forth in IC 14-37-10-1.

SECTION 4. IC 14-8-2-117 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 117. "Governing board" **has the following meaning:**

(1) For purposes of IC 14-24-4.5, the meaning set forth in IC 14-24-4.5-2(6).

(2) For purposes of IC 14-28-5, ~~has~~ the meaning set forth in IC 14-28-5-3.

SECTION 5. IC 14-8-2-169.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 169.5. "Motorized cart", for purposes of IC 14-19-1-1, has the meaning set forth in IC 14-19-1-0.5.**

SECTION 6. IC 14-8-2-185 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 185. **(a)** "Off-road vehicle", for purposes of IC 14-16-1 ~~has the meaning set forth in IC 14-16-1-3.~~ **and IC 14-19-1-0.5, means a motor driven vehicle capable of cross-country travel:**

(1) without benefit of a road; and

(2) on or immediately over land, water, snow, ice, marsh, swampland, or other natural terrain.

(b) The term includes the following:

(1) A multi-wheel drive or low pressure tire vehicle.

(2) An amphibious machine.

(3) A ground effect air cushion vehicle.

(4) Other means of transportation deriving motive power from a source other than muscle or wind.

(c) The term does not include the following:

(1) A farm vehicle being used for farming.

(2) A vehicle used for military or law enforcement purposes.

(3) A construction, mining, or other industrial related vehicle used in performance of the vehicle's common function.

(4) A snowmobile (as defined by section 261 of this chapter).

(5) A registered aircraft.

(6) Any other vehicle properly registered by the bureau of motor vehicles.

(7) Any watercraft that is registered under Indiana statutes.

(8) A golf cart vehicle.

SECTION 7. IC 14-8-2-203 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 203. "Pest or pathogen" **has the following meaning:**

(1) Except as provided in IC 14-24-4.5, for purposes of IC 14-24, means: ~~an:~~

~~(1)~~ **(A) an** arthropod;

~~(2)~~ **(B)** a nematode;

~~(3)~~ **(C)** a microorganism;

~~(4)~~ **(D)** a fungus;

~~(5)~~ **(E)** a parasitic plant;

~~(6)~~ **(F)** a mollusk;

~~(7)~~ **(G) a** plant disease; or

~~(8)~~ **(H)** an exotic weed;

that may be injurious to nursery stock, agricultural crops, other vegetation, or bees.

(2) For purposes of IC 14-24-4.5, the meaning set forth in IC 14-24-4.5-2(4).

SECTION 8. IC 14-8-2-239.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 239.5. "Requesting state", for purposes of IC 14-24-4.5, has the meaning set forth in IC 14-24-4.5-2(2).**

SECTION 9. IC 14-8-2-242.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 242.5. "Responding state", for purposes of IC 14-24-4.5, has the meaning set forth in IC 14-24-4.5-2(3).**

SECTION 10. IC 14-8-2-265 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 265. "State" **has the following meaning:**

(1) For purposes of IC 14-24-4.5, the meaning set forth in IC 14-24-4.5-2(1).

(2) For purposes of IC 14-28-1, IC 14-28-3, and IC 14-32, means the following:

~~(1)~~ **(A)** The Indiana state government.

~~(2)~~ **(B)** An agency, a subdivision, an officer, a board, a bureau, a commission, a department, a division, or an instrumentality of the state.

SECTION 11. IC 14-16-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. As used in this chapter, "operate" means to:

(1) ride in or on; and

(2) be in actual physical control of the operation of;

~~an off-road~~ **a** vehicle.

SECTION 12. IC 14-16-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) Except as otherwise provided, the following may not be operated on public property unless registered:

(1) An off-road vehicle.

(2) A snowmobile.

(b) Except as provided under subsection (c), ~~an off-road~~ **a** vehicle

that is purchased after December 31, 2003, must be registered under this chapter.

(c) Registration is not required for the following vehicles:

(1) A vehicle that is exclusively operated in a special event of limited duration that is conducted according to a prearranged schedule under a permit from the governmental unit having jurisdiction.

(2) A vehicle being operated by a nonresident of Indiana as authorized under section 19 of this chapter.

(3) A vehicle being operated for purposes of testing or demonstration with temporary placement of numbers as set forth in section 16 of this chapter.

(4) A vehicle the operator of which has in the operator's possession a bill of sale from a dealer or private individual that includes the following:

(A) The purchaser's name and address.

(B) A date of purchase that is not more than thirty-one (31) days preceding the date that the operator is required to show the bill of sale.

(C) The make, model, and vehicle number of the vehicle provided by the manufacturer as required by section 13 of this chapter.

SECTION 13. IC 14-16-1-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. (a) Except as provided in subsection (b), a person who violates this chapter commits a Class C infraction.

(b) A person who violates ~~section 18, 23(1), 23(2),~~ **section 17, 23(a)(1), 23(a)(2),** or 24 of this chapter commits a Class B misdemeanor.

SECTION 14. IC 14-19-1-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. (a) "Motorized cart" means a conveyance that is:**

(1) motor driven, either by gas or electricity;

(2) used to carry passengers or equipment; and

(3) smaller than the types of motor vehicles required to be registered by the bureau of motor vehicles such as a:

(A) passenger motor vehicle (as defined in IC 9-13-2-123);

(B) recreational vehicle (as defined in IC 9-13-2-150); or

(C) truck (as defined in IC 9-13-2-188).

A motorized cart may be characterized as a golf cart, utility cart, or similar form of motor vehicle.

(b) The term does not include:

(1) an electric personal assistive mobility device (as defined in IC 9-13-2-49.3);

(2) a motorcycle (as defined in IC 9-13-2-108);

(3) a motor scooter (as defined in IC 9-13-2-104);

(4) a motorized bicycle (as defined in IC 9-13-2-109); or

(5) an off-road vehicle.

SECTION 15. IC 14-19-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The department shall do the following:

(1) Have the custody of and maintain the parks, preserves, forests, reservoirs, and memorials owned by the state.

(2) Adopt the necessary rules under IC 4-22-2 to secure enforcement of this title, **which must include provisions for the use of motorized carts during the hours specified in IC 9-21-7-2(a)(1) at state parks and recreation areas by an individual who is the holder of a driver's license and who:**

(A) is at least sixty-five (65) years of age; or

(B) has a disability as defined by the federal Social Security Administration guidelines (42 U.S.C. 416).

(3) Prepare, print, post, or distribute printed matter relating to the state parks and preserves.

(4) Subject to the approval of the governor, purchase land for parks or preserves and scenic and historic places. For the purpose of acquiring land for parks or preserves and scenic and historic places, the commission may exercise the power of eminent domain in the manner provided in IC 14-17-3.

(5) Accept in the name of the state by gift or devise the fee or other estate in land or scenic or historic places.

(6) Employ, with the approval of the authorities having control of a state penal institution, the convicts committed to a penal institution for the purpose of producing or planting trees, clearing, improving, repairing, draining, or developing land purchased or acquired by the state for parks or preserves or as scenic or historic places.

(7) Have the custody of all abstracts of title, papers, contracts, or related memoranda except original deeds to the state, for land purchased or received for parks or preserves or for scenic or historic purposes under this section.

(8) Cooperate with:

(A) the department of environmental management;

(B) other state agencies; and

(C) local units of government;

to protect the water and land of Indiana from pollution.

(9) Have general charge of the navigable water of Indiana.

SECTION 16. IC 14-22-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A person may not hunt or take a migratory waterfowl within Indiana without having a migratory waterfowl stamp issued by the department. The stamp must be in the possession of each person hunting or taking a migratory waterfowl. ~~However, the stamp need not be affixed to the hunting license.~~ The licensee shall validate the stamp with the signature, in ink, of the licensee ~~written across the face of the stamp~~ **on the hunting license on which the electronically generated form of the stamp is attached.**

(b) The department shall determine the form of the migratory waterfowl stamp **and may create and sell commemorative migratory waterfowl stamps.**

(c) The department may furnish the **commemorative** migratory waterfowl stamps **or the electronically generated form of the stamps** to ~~each~~ **a** clerk of the circuit court ~~and~~ **or** the clerk's designated depositories for issuance or sale in the same manner as hunting licenses are issued or sold under IC 14-22-11.

SECTION 17. IC 14-22-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. A stamp shall be issued to each hunting license applicant or holder upon ~~written~~ request ~~on forms furnished by the department~~ and the payment of a fee of six dollars and seventy-five cents ($6.75). Each stamp expires on ~~the last day of February~~ **March 31** of the year following issuance.

SECTION 18. IC 14-22-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) A person may not hunt or take a game bird within Indiana without having a game bird habitat restoration stamp issued by the department. The stamp must be in the possession of each person hunting or taking a game bird. The licensee shall validate the stamp with the signature of the licensee ~~written across the face of the stamp~~ **on the hunting license on which the electronically generated form of the stamp is attached.**

(b) The department shall do the following:

(1) Determine the form of the stamp **and may create and sell commemorative game bird habitat restoration stamps.**

(2) Furnish the **commemorative** stamps **or the electronically generated form of the stamps** to ~~each~~ **a** clerk of the circuit court ~~and~~ **or** the clerk's designated depositories for issuance or sale in the same manner as hunting licenses are issued or sold under IC 14-22-11.

SECTION 19. IC 14-22-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. ~~A~~ **An electronically generated** stamp shall be issued to each hunting license applicant or holder upon ~~written~~ request ~~on forms furnished by the department~~ and the payment of a fee of six dollars and seventy-five cents ($6.75). Each stamp expires on ~~the last day of February~~ **March 31** of the year following issuance.

SECTION 20. IC 14-22-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) An applicant for a hunting, trapping, or fishing license must provide the applicant's Social Security number in ~~the space provided on the application for~~ **order to obtain** the license. Social Security numbers acquired under this subsection shall be kept confidential and used only to carry out the purposes of the Title IV-D program.

(b) The director and agents appointed by the director as authorized representatives of the department shall issue hunting, trapping, and fishing licenses.

(c) The clerk of the circuit court in each county may issue hunting, trapping, and fishing licenses.

(d) Each hunting, trapping, or fishing license must be in a form prescribed by the director. ~~and shall be countersigned by the clerk or agent issuing the license.~~ The director ~~shall~~ **may** furnish the clerks and agents with all necessary ~~blank forms.~~ **equipment needed to issue a license.**

(e) All licenses, stamps, or permits purchased electronically are valid only with the original signature of the licensee on the form prescribed by the director. The licensee's signature serves as an affidavit that the license, stamp, or permit information is true and accurate.

~~(e)~~ **(f)** A person who violates the confidentiality requirement of subsection (a) commits a Class A infraction.

SECTION 21. IC 14-22-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Except as provided in IC 14-22-13-9 and IC 14-22-15-3, each yearly hunting or fishing license expires on ~~the last day of February~~ **March 31** of the year following the year in which the license became effective.

(b) A yearly trapping license expires on March 31 of the year following the year in which the license became effective.

SECTION 22. IC 14-22-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) ~~Upon receiving an application,~~ The department may issue a duplicate license to replace a lost license issued to an Indiana resident under sections 1 and 4 of this chapter.

(b) ~~An application for~~ A duplicate license under subsection (a) must meet the following conditions:

~~(1) Be in writing on a form prescribed by the department.~~

~~(2) State that the applicant had been issued a license.~~

~~(3) State that the license was lost.~~

~~(4)~~ **(1)** Be signed by the applicant.

~~(5)~~ **(2)** Be accompanied by a fee ~~equal to one-half (½) the cost of the lost license, rounded to the next highest dollar.~~

~~(6) Be submitted to the division office in Indianapolis.~~

~~(7) State that the applicant is an Indiana resident.~~ **established by the commission.**

SECTION 23. IC 14-22-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) **Before July 1, 2005,** the director may issue to residents of Indiana lifetime licenses to hunt, fish, or trap. Subject to subsection (b), the following license fees shall be charged:

(1) Lifetime basic fishing license, twenty (20) times the fee charged for a resident yearly license to fish. This license replaces the resident yearly license to fish.

(2) Lifetime basic hunting license, twenty (20) times the fee charged for a resident yearly license to hunt. This license replaces the resident yearly license to hunt.

(3) Lifetime comprehensive fishing license, thirty (30) times the fee charged for a resident yearly license to fish. This license replaces the resident yearly license to fish and all other yearly licenses, stamps, or permits to fish for a specific species.

(4) Lifetime comprehensive hunting license, sixty (60) times the fee charged for a resident yearly license to hunt. This license replaces the resident yearly license to hunt and all other yearly licenses, stamps, or permits to hunt for a specific species or by a specific means.

(5) Lifetime comprehensive hunting and fishing license, the fee charged under subdivisions (3) and (4) less ten percent (10%). This license replaces the following:

(A) The resident yearly license to hunt.

(B) All other yearly licenses, stamps, or permits to hunt for a specific species or by a specific means.

(C) The resident yearly license to fish.

(D) All other yearly licenses, stamps, or permits to fish for a specific species.

(6) Lifetime trapping license, twenty (20) times the fee charged for a resident yearly license to trap. This license replaces the resident yearly license to trap.

(b) This subsection applies only to individuals who are at least fifty (50) years of age. The license fees under subsection (a) shall be reduced by the amount determined under STEP THREE of the following formula:

STEP ONE: Subtract forty-nine (49) from the resident applicant's age in years.

STEP TWO: Multiply the difference determined under STEP ONE by two and one-half percent (2.5%).

STEP THREE: Multiply the percentage determined under STEP TWO by the amount of the appropriate fee under subsection (a).

(c) Each lifetime license:

(1) is nontransferable;

(2) expires on the death of the person to whom the license was issued; and

(3) may be suspended or revoked for the same causes and according to the same procedures that a resident yearly license to hunt, fish, or trap, as appropriate, may be suspended or revoked.

(d) No part of a lifetime hunting, fishing, or trapping license is refundable. However, the holder of:

(1) a basic license to hunt or fish may be given credit for the current cost of such a license when purchasing a comprehensive license to hunt or fish or hunt and fish; and

(2) a comprehensive license to hunt or fish may be given credit for the current cost of such a license when purchasing a lifetime comprehensive license to hunt and fish.

(e) All money received under this section shall be deposited in the lifetime hunting, fishing, and trapping license trust fund established by IC 14-22-4.

SECTION 24. IC 14-24-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 4.5. Pest Control Compact

Sec. 1. (a) The pest control compact is enacted and entered into with all other jurisdictions legally joining the compact in the form substantially as follows in this chapter.

(b) The party states find the following:

(1) In the absence of the higher degree of cooperation among the party states possible under this compact, the annual loss of approximately one hundred thirty-seven billion dollars ($137,000,000,000) from the depredations of pests is virtually certain to continue, if not to increase.

(2) Because of the varying climatic, geographic, and economic factors, each state may be affected differently by particular species of pests. However, all states share the inability to protect themselves fully against the pests that present serious dangers.

(3) The migratory character of pest infestations makes it necessary for states to complement each other's activities when faced with conditions of infestation and reinfestation.

(4) While every state is seriously affected by a substantial number of pests, and every state is susceptible to infestation by many species of pests not causing damage to its crops, plant life, and products, the fact that relatively few species of pests present equal danger to, or are of interest to, all states makes the establishment and operation of a fund from which individual states may obtain financial support for pest control programs of benefit to them in other states and to which they may contribute in accordance with their relative interest, the most equitable means of financing cooperative pest eradication and control programs.

Sec. 2. As used in this chapter:

(1) "State" means a state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(2) "Requesting state" means a state that invokes the procedures of the compact to secure the undertaking or intensification of measures to control or eradicate one (1) or more pests within one (1) or more other states.

(3) "Responding state" means a state requested to undertake or intensify the measures referred to in subdivision (2).

(4) "Pest or pathogen" means an invertebrate animal, a pathogen, a parasitic plant, or a similar or an allied organism that can cause disease or damage in any crop, tree, shrub, grass, or other plant of substantial value.

(5) "Fund" means the pest control insurance fund

established by section 3 of this chapter.

(6) "Governing board" means the administrators of the compact representing all the party states when the administrators act as a body under authority vested in the administrators by the compact.

(7) "Executive committee" means the committee established under section 5(e) of this chapter.

(8) "Compact" refers to the pest control compact enacted under section 1(a) of this chapter.

Sec. 3. The pest control insurance fund is established to finance other than normal pest control operations that states may be called upon to engage in under the compact. The fund consists of money appropriated to the fund by the party states and any donations and grants accepted by the fund. All appropriations, except as conditioned by the rights and obligations of party states expressly set forth in the compact, must be unconditional and may not be restricted by the appropriating state to use in the control of a specified pest or pests. Donations and grants may be conditional or unconditional. However, the fund may not accept any donation or grant whose terms are inconsistent with the compact.

Sec. 4. (a) The fund shall be administered by the governing board and executive committee as provided in this chapter. The actions of the governing board and the executive committee under the compact are considered the actions of the fund.

(b) The members of the governing board are entitled to one (1) vote on the board. Action of the governing board is not binding unless taken at a meeting at which a majority of the total number of votes on the governing board is cast in favor of the proposed action. Action of the governing board may be only at a meeting at which a majority of the members is present.

(c) The fund shall have a seal that may be employed as an official symbol and that may be affixed to documents and used as the governing board provides.

(d) The governing board shall elect annually, from among its members, a chairperson, a vice chairperson, a secretary, and a treasurer. The chairperson may not serve consecutive terms. The governing board may appoint an executive director and fix the executive director's duties and compensation, if any. The executive director shall serve at the pleasure of the governing board. The governing board shall provide for the bonding of the officers and employees of the fund as is appropriate.

(e) Notwithstanding the civil service, personnel, or other merit system laws of any of the party states, the executive director, or if there is not an executive director, the chairperson, in accordance with the procedures the bylaws provide, shall appoint, remove, or discharge any personnel as is necessary to perform the functions of the fund and shall fix the duties and compensation of any personnel. The governing board in its bylaws shall provide for the personnel policies and programs of the fund.

(f) The fund may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental agency or from any person, firm, association, or corporation.

(g) The fund may accept for purposes of the fund or functions under this compact donations, grants, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation and may receive, use, and dispose of the same. A donation, gift, or grant accepted by the governing board under this subsection or services borrowed under subsection (f) shall be reported in the annual report of the fund. The annual report must include the nature, amount, and conditions, if any, of the donation, gift, or grant or services borrowed and the identity of the donor or lender.

(h) The governing board shall adopt bylaws for the conduct of the business of the fund and may amend and rescind these bylaws. The fund shall publish the bylaws of the fund in convenient form and shall file a copy of the bylaws and a copy of any amendment to the bylaws with the appropriate agency or officer in each of the party states.

(i) The fund annually shall make to the governor and legislature of each party state a report covering the fund's activities for the preceding year. The fund may make additional reports it considers desirable. The report to the legislature under this subsection must be in an electronic format under IC 5-14-6.

(j) The fund may do other things as are necessary and incidental to the conduct of the fund's affairs under the compact.

Sec. 5. (a) Each party state must have a compact administrator who shall be selected and serve in a manner as the laws of the party state may provide and who shall:

(1) assist in the coordination of activities under the compact in the compact administrator's state; and

(2) represent the compact administrator's state on the governing board of the fund.

(b) If the laws of the United States specifically provide, or if an administrative provision is made within the federal government, the United States may be represented on the governing board by not more than three (3) representatives. A representative of the United States shall be appointed and serve in a manner as provided by federal law, but the representative may not vote on the governing board or the executive committee.

(c) The governing board shall meet at least once each year to determine policies and procedures in the administration of the fund and, consistent with the compact, supervise and give direction to the expenditure of money from the fund. Additional meetings of the governing board shall be held on call of the chairperson, the executive committee, or a majority of the governing board.

(d) When the governing board meets, it shall act upon applications for assistance from the fund and authorize disbursements from the fund. When the governing board is not meeting, the executive committee shall act as agent of the governing board, with full authority to act for the governing board in acting upon the applications for assistance.

(e) The executive committee consists of the chairperson of the governing board and four (4) additional members of the governing board chosen by the governing board so that one (1) member represents each of four (4) geographic groupings of party states. The governing board shall make the geographic groupings. If there is representation of the United States on the governing board, one (1) United States representative may meet with the executive committee. The chairperson of the governing board shall be chairperson of the executive committee. An action of the executive committee is not binding unless taken at a meeting at which at least four (4) members of the executive committee are present and vote in favor of the action. Necessary expenses of each of the five (5) members of the executive committee incurred in attending meetings of the executive committee, when not held at the same time and place as a meeting of the governing board, are charges against the fund.

Sec. 6. (a) Each party state pledges to each other party state that the party state will employ its best efforts to eradicate, or control within the strictest practicable limits, all pests or pathogens. The performance of this responsibility involves the following:

(1) The maintenance of pest control and eradication activities of interstate significance by a party state at a level that would be reasonable for the party state's own protection in the absence of the compact.

(2) The meeting of emergency outbreaks or infestations of interstate significance to not less an extent than would have been done in the absence of the compact.

(b) Whenever a party state is threatened by a pest or pathogen not present within its borders but present within another party state, or whenever a party state is undertaking or engaged in activities for the control or eradication of a pest or pathogen and finds that control or eradication activities are or would be impracticable or substantially more difficult to accomplish because of failure of another party state to cope with infestation or threatened infestation, that state may request the governing board to authorize expenditures from the fund for eradication or control measures to be taken by one (1) or more of the other party states at a level sufficient to prevent, or to reduce to the greatest practicable extent, infestation or reinfestation of the requesting state. Upon the governing board's authorization, the responding state or states shall take or increase any eradication

or control measures warranted. A responding state shall use money available from the fund expeditiously and efficiently to assist in providing the protection requested.

(c) To apply for expenditures from the fund, a requesting state shall submit the following in writing:

(1) A detailed statement of the circumstances that occasion the request to invoke the compact.

(2) Evidence that the pest or pathogen on account of whose eradication or control assistance is requested constitutes a danger to an agricultural or a forest crop, product, tree, shrub, grass, or other plant having a substantial value to the requesting state.

(3) A statement of the extent of the present and projected program of the requesting state and its subdivisions, including full information as to the legal authority for the conduct of the program or programs and the expenditures being made or budgeted for the program or programs, in connection with the eradication, control, or prevention of introduction of the pest or pathogen concerned.

(4) Proof that the expenditures being made or budgeted as detailed in subdivision (3) do not constitute a reduction of the effort for the control or eradication of the pest or pathogen concerned or, if there is a reduction, the reasons why the level of program detailed in subdivision (3) constitutes a normal level of pest control activity.

(5) A declaration as to whether, to the best of its knowledge and belief, the conditions that the requesting state believes require the invoking of the compact in the particular instance can be abated by a program undertaken with the aid of money from the fund in one (1) year or less, or whether the request is for an installment in a program that is likely to continue for a longer period.

(6) Other information the governing board requires consistent with the compact.

(d) The governing board or executive committee shall give due notice of any meeting at which an application for assistance from the fund is to be considered. The notice shall be given to the compact administrator of each party state and to the other officers and agencies as may be designated by the laws of the party states. The requesting state and any other party state are entitled to be represented and present evidence and argument at the meeting.

(e) Upon the submission as required by subsection (c) and any other information that the governing board has or acquires, and upon determining that an expenditure of funds is within the purposes of and justified by the compact, the governing board or executive committee shall authorize support of the program. The governing board or executive committee may meet at any time or place to receive and consider an application. All determinations of the governing board or executive committee, with respect to an application, together with the reasons for the determination shall be recorded and subscribed in a manner that shows and preserves the votes of the individual members of the board or committee.

(f) A requesting state that is dissatisfied with a determination of the executive committee, upon notice in writing given within twenty (20) days of the determination with which it is dissatisfied, is entitled to receive a review of the determination at the next meeting of the governing board. Determinations of the executive committee are reviewable only by the governing board at one (1) of its regular meetings or at a special meeting held in a manner the governing board authorizes.

(g) Responding states required to undertake or increase measures under the compact may receive money from the fund, either at the time or times when the state incurs expenditures because of the measures, or as reimbursement for expenses incurred and chargeable to the fund. The governing board shall adopt and may amend or revise procedures for submission and payment of claims from the fund.

(h) Before authorizing the expenditure of money from the fund under an application of a requesting state, the fund shall ascertain the extent and nature of any timely assistance or participation that is available from the federal government and shall request the appropriate agency or agencies of the federal government for any available assistance and participation.

(i) The fund may negotiate and execute a memorandum of understanding or other appropriate instrument defining the extent and degree of assistance or participation between and among the fund, cooperating federal agencies, states, and any other entities concerned.

Sec. 7. The governing board may establish advisory and technical committees composed of state, local, and federal officials and private persons to advise the governing board concerning any of its functions. An advisory or technical committee or a member or members of the committee may meet with and participate in the governing board's deliberations upon request of the governing board or executive committee. An advisory or a technical committee may furnish information and recommendations concerning any application for assistance from the fund being considered by the governing board or committee, and the governing board or committee may receive and consider the same. However, a participant in a meeting of the governing board or executive committee held under section 6(d) of this chapter is entitled to know the substance of the advisory or technical committee's information and recommendations at the time of the meeting if made before the meeting or as a part of the meeting, or, if made after the meeting, not later than the time at which the governing board or executive committee makes its disposition of the application.

Sec. 8. (a) A party state may make an application for assistance from the fund concerning a pest in a nonparty state. The application shall be considered and disposed of by the governing board or executive committee in the same manner as an application with respect to a pest within a party state, except as provided in this section.

(b) At or in connection with any meeting of the governing board or executive committee held under section 6(d) of this chapter, a nonparty state is entitled to appear, participate, and receive information only to the extent as the governing board or executive committee may provide. A nonparty state is not entitled to review of a determination made by the executive committee.

(c) The governing board or executive committee shall authorize expenditures from the fund to be made in a nonparty state only after determining that the conditions in the nonparty state and the value of the expenditures to the party states as a whole justify the expenditures. The governing board or executive committee may set any conditions it considers appropriate concerning the expenditure of money from the fund in a nonparty state and may enter into an agreement or agreements with nonparty states and other jurisdictions or entities as it considers necessary or appropriate to protect the interests of the fund with respect to expenditures and activities outside party states.

Sec. 9. (a) The fund shall submit to the executive head or designated officer or officers of each party state a budget for the fund for a period as may be required by the laws of that party state for a presentation to the party state's legislature.

(b) Each of the budgets must contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The request for appropriations shall be apportioned among the party states as follows:

(1) One-tenth (0.1) of the total budget in equal shares.

(2) The remainder in proportion to the value of agricultural and forest crops and products, excluding animals and animal products, produced in each party state.

In determining the value of the party states' crops and products, the fund may employ any source of information it believes presents the most equitable and accurate comparisons among the party states. Each of the budgets and requests for appropriations must indicate the source or sources used in obtaining information concerning value of products.

(c) The financial assets of the fund shall be maintained in two (2) accounts to be designated respectively as the "operating account" and the "claims account". The operating account consists only of those assets necessary for the administration of the fund during the ensuing two (2) year period. The claims account must contain all money not included in the operating account and may not exceed the amount reasonably estimated to be sufficient to pay all legitimate claims on the fund for three (3)

years. If the claims account has reached its maximum limit or would reach its maximum limit by the addition of money requested for appropriation by the party states, the governing board shall reduce the budget requests on a pro rata basis in a manner that keeps the claims account within its maximum limit. Any money in the claims account by virtue of conditional donations, grants, or gifts shall be included in calculations made under this subsection only to the extent that the money is available to meet demands arising out of the claims.

(d) The fund shall not pledge the credit of any party state. The fund may meet any of its obligations in whole or in part with money available to it under section 4(g) of this chapter. However, the governing board takes specific action setting aside the money before incurring any obligation to be met in whole or in part. Except where the fund makes use of money available to it under section 4(g) of this chapter, the fund shall not incur any obligation before the allotment of money by the party states adequate to meet the obligation.

(e) The fund shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the fund are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the fund shall be audited yearly by a certified or licensed public accountant and report of the audit must be included in and become part of the annual report of the fund.

(f) The accounts of the fund must be open at any reasonable time for inspection by authorized officers of the party states and by any persons authorized by the fund.

Sec. 10. (a) The compact becomes effective when enacted into law by any five (5) or more states. After the compact becomes effective, the compact becomes effective as to any other state upon the state's enactment of the compact.

(b) A party state may withdraw from the compact by enacting a statute repealing the law enacting the compact, but a withdrawal does not take effect until two (2) years after the executive head of the withdrawing state gives notice in writing of the withdrawal to the executive heads of all other party states. A withdrawal does not affect any liability incurred by or chargeable to a party state before the time of the withdrawal.

Sec. 11. This compact shall be liberally construed to effectuate the purposes of the compact. The provisions of the compact are severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability of the compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of the compact and its applicability to any government, agency, person, or circumstance is not affected thereby. If this compact is held contrary to the constitution of any party state, the compact remains in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

Sec. 12. Consistent with law and within available appropriations, the departments, agencies, and officers of Indiana may cooperate with the fund.

Sec. 13. (a) The commissioner of agriculture or the commissioner's designee shall serve as compact administrator for Indiana. The duties of the compact administrator are considered a regular part of the duties of the commissioner of agriculture.

(b) Copies of bylaws and amendments to the compact adopted under section 4(h) of this chapter must be filed with the compact administrator.

Sec. 14. Within the meaning of sections 6(b) and 8(a) of this chapter, a request or an application for assistance from the fund may be made by the commissioner of agriculture or the commissioner's designee whenever the commissioner or commissioner's designee believes the conditions qualifying Indiana for assistance exist and it would be in the best interest of Indiana to make a request.

Sec. 15. The compact administrator is designated to receive notices under section 6(d) of this chapter.

Sec. 16. The department, agency, or officer expending or becoming liable for an expenditure on account of a control or eradication program undertaken or intensified under the compact shall have credited to the department's, agency's, or officer's account, in the state treasury, the amount or amounts of any payments made to Indiana to defray the cost of the program or any part of the program, or as reimbursement from the program.

Sec. 17. When the compact refers to the executive head, with reference to Indiana, the executive head is the governor.

SECTION 25. IC 14-16-1-3 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 26. IC 14-22-1-3 IS REPEALED [EFFECTIVE JULY 1, 2005].

SECTION 27. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 14-19-1-1(2), as amended by this act, the department of natural resources shall carry out the duties imposed upon it under IC 14-19-1-1(2) under interim written guidelines approved by the director of the department of natural resources.**

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

(1) The date rules are adopted under IC 14-19-1-1(2).

(2) December 31, 2006.

SECTION 28. **An emergency is declared for this act.**

(Reference is to EHB 1765 as reprinted March 29, 2005.)

HOFFMAN	WEATHERWAX
ROBERTSON	LEWIS
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 139–1; filed April 27, 2005, at 4:23 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 139 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 25-1-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. ~~(a) By enactment of this chapter, the general assembly intends that, with the exception of the director, the staff of the Indiana professional licensing agency be comprised initially from among persons employed by the boards to which this chapter applies, and that no increase in the aggregate number of persons so employed be allowed by the state personnel department and the state budget agency except to comply with the provisions of this chapter.~~

~~(b) It is the further intent of the general assembly that~~ The centralization of staff, functions, and services contemplated by this chapter **shall** be done in such a way as to enhance the licensing agency's ability to:

(1) make maximum use of data processing as a means of more efficient operation;

(2) provide more services and carry out functions of superior quality; and

(3) ultimately and significantly reduce the number of staff needed to provide these services and carry out these functions.

SECTION 2. IC 25-1-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) There is established the Indiana professional licensing agency. The licensing agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State boxing commission (IC 25-9-1).

(6) State board of cosmetology examiners (IC 25-8-3-1).

(7) State board of funeral and cemetery service (IC 25-15-9).

(8) State board of registration for professional engineers (IC 25-31-1-3).

(9) Indiana plumbing commission (IC 25-28.5-1-3).
(10) Indiana real estate commission (IC 25-34.1).
(11) Real estate appraiser licensure and certification board (IC 25-34.1-8-1).
(12) Private detectives licensing board (IC 25-30-1-5.1).
(13) State board of registration for land surveyors (IC 25-21.5-2-1).
(14) Manufactured home installer licensing board (IC 25-23.7).
(15) Home inspectors licensing board (IC 25-20.2-3-1).

(b) ~~Except for appeals of denials of license renewals to the executive director authorized by section 5.5 of this chapter,~~ Nothing in this chapter may be construed to give the licensing agency policy making authority, which remains with each board.

SECTION 3. IC 25-1-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The licensing agency shall employ necessary staff, including specialists and professionals, to carry out the administrative duties and functions of the boards, including but not limited to:

(1) notice of board meetings and other communication services;
(2) record keeping of board meetings, proceedings, and actions;
(3) record keeping of all persons or individuals licensed, regulated, or certified by a board;
(4) administration of examinations; and
(5) administration of license or certificate issuance or renewal.

(b) In addition, the licensing agency:

(1) shall prepare a consolidated statement of the budget requests of all the boards in section 3 of this chapter;
(2) may coordinate licensing or certification renewal cycles, examination schedules, or other routine activities to efficiently utilize licensing agency staff, facilities, and transportation resources, and to improve accessibility of board functions to the public; and
(3) may consolidate, where feasible, office space, record keeping, and data processing services.
~~(4) shall, upon written request, furnish at cost to any person a list of the names and addresses of persons holding a license or permit issued by one (1) of the boards listed in section 3 of this chapter.~~

(c) In administering the renewal of licenses or certificates under this chapter, the licensing agency shall issue a sixty (60) day notice of expiration to all holders of a license or certificate. The notice ~~shall be accompanied by appropriate renewal forms.~~ **must inform the holder of a license or certificate of the requirements to:**

(1) renew the license or certificate; and
(2) pay the renewal fee.

(d) If the licensing agency fails to send notice of expiration under subsection (c), the holder of the license or certificate is not subject to a sanction for failure to renew if the holder renews the license or certificate not more than forty-five (45) days after the holder receives the notice from the licensing agency.

(e) The licensing agency may require an applicant for a license or certificate renewal to submit evidence showing that the applicant:

(1) meets the minimum requirements for licensure or certification; and
(2) is not in violation of:
(A) the law regulating the applicant's profession; or
(B) rules adopted by the board regulating the applicant's profession.

(f) The licensing agency may delay renewing a license or certificate for not more than ninety (90) days after the renewal date to permit the board to investigate information received by the licensing agency that the applicant for renewal may have committed an act for which the applicant may be disciplined. If the licensing agency delays renewing a license or certificate, the licensing agency shall notify the applicant that the applicant is being investigated. Except as provided in subsection (g), the board shall do one (1) of the following before the expiration of the ninety (90) day period:

(1) Deny renewal of the license or certificate following a personal appearance by the applicant before the board.
(2) Renew the license or certificate upon satisfaction of all other requirements for renewal.
(3) Renew the license and file a complaint under IC 25-1-7.
(4) Request the office of the attorney general to conduct an investigation under subsection (h) if, following a personal appearance by the applicant before the board, the board has good cause to believe that the applicant engaged in activity described in IC 25-1-11-5.
(5) Upon agreement of the applicant and the board and following a personal appearance by the applicant before the board, renew the license or certificate and place the applicant on probation status under IC 25-1-11-12.

(g) If an applicant fails to appear before the board under subsection (f), the board may take action as provided in subsection (f)(1), (f)(2), or (f)(3).

(h) If the board makes a request under subsection (f)(4), the office of the attorney general shall conduct an investigation. Upon completion of the investigation, the office of the attorney general may file a petition alleging that the applicant has engaged in activity described in IC 25-1-11-5. If the office of the attorney general files a petition, the board shall set the matter for a public hearing. If, after a public hearing, the board finds the applicant violated IC 25-1-11-5, the board may impose sanctions under IC 25-1-11-12. The board may delay renewing a license or certificate beyond ninety (90) days after the renewal date until a final determination is made by the board. The applicant's license or certificate remains valid until the final determination of the board is rendered unless the renewal is:

(1) denied; or
(2) summarily suspended under IC 25-1-11-13.

(i) The license or certificate of the applicant for license renewal remains valid during the ninety (90) day period unless the license or certificate is denied following a personal appearance by the applicant before the board before the end of the ninety (90) day period. If the ninety (90) day period expires without action by the board, the license or certificate shall be automatically renewed at the end of the ninety (90) day period.

(j) Notwithstanding any other law, the licensing agency may stagger license or certificate renewal cycles.

(k) An application for a license or certificate is abandoned without an action by the board if the applicant does not complete the requirements for obtaining the license or certificate not more than one (1) year after the date on which the application was filed. However, the board may, for good cause shown, extend the validity of the application for additional thirty (30) day periods. An application submitted after the abandonment of an application is considered a new application.

SECTION 4. IC 25-1-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The licensing agency shall be administered by an executive director appointed by the governor who shall serve at the will and pleasure of the governor.

(b) The executive director must be qualified by experience and training.

(c) The term "executive director" or "secretary", or any other statutory term for the administrative officer of a board listed in section 3 of this chapter, means the executive director of the licensing agency or ~~his~~ **the executive director's** designee.

(d) The executive director is the chief fiscal officer of the licensing agency and is responsible for hiring of all staff and for procurement of all services and supplies in accordance with IC 5-22. The executive director and the employees of the licensing agency are subject to IC 4-15-1.8 but are not under IC 4-15-2. The executive director may appoint no more than three (3) deputy directors, who must be qualified to work for the boards which are served by the licensing agency.

(e) The executive director shall execute a bond payable to the state, with surety to consist of a surety or guaranty corporation qualified to do business in Indiana, in an amount fixed by the state board of accounts, conditioned upon the faithful performance of duties and the accounting for all money and property that come into the executive director's hands or under the executive director's control. The executive director may likewise cause any employee of the licensing agency to execute a bond if that employee receives, disburses, or in any way handles funds or property of the licensing agency. The costs of any such bonds shall be paid from funds available to the licensing

agency.

(f) The executive director may present to the general assembly legislative recommendations regarding operations of the licensing agency and the boards it serves, including adoption of four (4) year license or certificate renewal cycles wherever feasible.

(g) Upon the request of a board or commission, the executive director may execute orders, subpoenas, continuances, and other legal documents on behalf of the board or commission.

(h) Upon the request of a board or commission, the executive director may provide advice and technical assistance on issues that may be presented to the board or commission.

SECTION 5. IC 25-1-6-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.5. ~~(a)~~ A person who has a license renewal denied by a board listed in section 3 of this chapter may file an appeal of the denial ~~with the executive director of the licensing agency.~~ **in accordance with IC 4-21.5-3.**

~~(b) IC 4-21.5-3-29 and IC 4-21.5-3-30 govern the executive director's review of an appeal filed under subsection (a).~~

SECTION 6. IC 25-1-8-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. (a) As used in this section, "board" includes the entities listed in IC 25-1-6-3.**

(b) Notwithstanding any other law regarding fees for reinstatement or restoration of a delinquent or lapsed license, certificate, or registration, a delinquent or lapsed license, certificate, or registration that was issued by the board may not be reinstated or restored unless the holder of the license, certificate, or registration pays:

(1) the fee established by the board under section 2 of this chapter; and

(2) a reinstatement fee established by the Indiana professional licensing agency.

(c) A license, certificate, or registration may not be reinstated or restored unless the holder of the license, certificate, or registration completes all other requirements for reinstatement or restoration of the license, certificate, or registration that are:

(1) provided for in statute or rule; and

(2) not related to fees.

(d) This section does not apply to a license, certificate, or registration if one (1) of the following applies:

(1) The license, certificate, or registration has been revoked or suspended.

(2) A statute specifically does not allow a license, certificate, or registration to be reinstated or restored.

SECTION 7. IC 25-1-11-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. The board may order a practitioner to submit to a reasonable physical or mental examination, **at the practitioner's expense,** if the practitioner's physical or mental capacity to practice safely and competently is at issue in a disciplinary proceeding.

SECTION 8. IC 25-1-11-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. A practitioner who has been subjected to disciplinary sanctions may be required by a board to pay the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. These costs are limited to costs for the following:

(1) Court reporters.
(2) Transcripts.
(3) Certification of documents.
(4) Photo duplication.
(5) Witness attendance and mileage fees.
(6) Postage.
(7) Expert witnesses.
(8) Depositions.
(9) Notarizations.

(10) Administrative law judges.

SECTION 9. IC 25-1-11-19 IS ADDED TO THE CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 19. (a) The board may refuse to issue a license or may issue a probationary license to an applicant for licensure if:**

(1) the applicant has:

(A) been disciplined by a licensing entity of another state or jurisdiction; or

(B) committed an act that would have subjected the applicant to the disciplinary process if the applicant had been licensed in Indiana when the act occurred; and

(2) the violation for which the applicant was or could have been disciplined has a bearing on the applicant's ability to competently perform or practice the profession in Indiana.

(b) Whenever the board issues a probationary license, the board may require a licensee to do any of the following:

(1) Report regularly to the board upon the matters that are the basis of the discipline of the other state or jurisdiction.

(2) Limit practice to the areas prescribed by the board.

(3) Continue or renew professional education requirements.

(4) Engage in community restitution or service without compensation for the number of hours specified by the board.

(5) Perform or refrain from performing an act that the board considers appropriate to the public interest or to the rehabilitation or treatment of the applicant.

(c) The board shall remove any limitations placed on a probationary license under this section if the board finds after a public hearing that the deficiency that required disciplinary action has been remedied.

SECTION 10. IC 25-1-11-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 20. The board may require an applicant for licensure to appear before the board before issuing a license.**

SECTION 11. 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~~ **considers** 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~~ **considered** 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 12. 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 registered architects and registered landscape architects investigative fund established by section 32 of this chapter to hire investigators and other employees to enforce the provisions of this article and to investigate and prosecute violations of this article.**

SECTION 13. IC 25-4-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. **(a)** ~~Any~~ **A** person desiring to engage or continue in the practice of architecture ~~in this state,~~ shall:

(1) apply to the board for a certificate of registration; ~~authorizing such person so to do,~~ and

(2) ~~shall~~ submit evidence to the board that ~~he~~ **the person** is qualified to engage or continue in the practice of architecture; in compliance with the requirements of this chapter.

(b) The application for a certificate of registration shall be:

(1) made on a form ~~which shall be~~ prescribed and furnished by the board;

(2) ~~shall be~~ verified; and

(3) ~~shall be~~ accompanied by ~~the prescribed fee.~~ **a fee established by the board under IC 25-1-8-2.**

SECTION 14. IC 25-4-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) Every registered architect who continues in active practice shall, biennially, on or before ~~November 2,~~ **the date established by the licensing agency under IC 25-1-6-4,** renew the registered architect's certificate of registration and pay the required renewal fee. ~~Every license or certificate of registration that has not been renewed during the month of November in any year expires on December 1 in that year.~~ A registered architect whose certificate of registration has expired may have the certificate restored only upon payment of the required ~~restoration~~ fee **under IC 25-1-8-7.**

(b) Subject to subsection (c), any architect registered or licensed in this state who has failed to renew the architect's certificate of registration for a period of not more than five (5) years may have the certificate renewed at any time within a period of five (5) years after the registration expired upon:

(1) making application to the board for renewal of the registration; 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 applicant's registration during the period that the applicant's registration lapsed.~~ **required under IC 25-1-8-7.**

(c) If any registered architect desires to retire from the practice of architecture in Indiana, the architect may submit to the board the architect's verified statement of intention to withdraw from practice. The statement shall be entered upon the records of the board. During the period of the architect's retirement, the architect is not liable for any renewal or restoration fees. If any retired architect desires to return to the practice of architecture in Indiana within a period of five (5) years from the date that the architect files a statement under this subsection, the retired architect must:

(1) file with the board a verified statement indicating the architect's desire to return to the practice of architecture; and

(2) pay

~~(A)~~ a renewal fee equal to the fee set by the board to renew an unexpired registration under this chapter. ~~if the retired architect's registration is renewed for one (1) year or more in a biennial renewal cycle established under subsection (a); or~~

~~(B) a renewal fee equal to one-half (½) the fee set by the board to renew an unexpired registration under this chapter, if the retired architect's registration is renewed for less than one (1) year in a biennial renewal cycle established under subsection (a).~~

SECTION 15. IC 25-4-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. **(a)** The fee to be paid by an applicant for an examination to determine ~~his~~ **the applicant's** fitness to receive a certificate of registration as a registered architect shall be ~~twenty-five dollars ($25.00).~~ **established by the board under IC 25-1-8-2.**

(b) The fee to be paid by an applicant for a certificate of registration as a registered architect shall be ~~twenty-five dollars ($25.00).~~ **established by the board under IC 25-1-8-2.**

(c) The fee to be paid for the restoration of an expired certificate of registration as a registered architect shall be ~~one dollar ($1.00) after the certificate has been in default for one (1) month, and an additional one dollar ($1.00) for each succeeding month or fraction thereof of such default but not exceeding a maximum restoration fee of ten dollars ($10.00).~~ ~~Such~~ **established under IC 25-1-8-7. The** restoration fee shall be in addition to all unpaid renewal fees.

(d) The fee to be paid upon renewal of a certificate of registration shall be ~~fifteen dollars ($15.00).~~ **established by the board under IC 25-1-8-2.**

(e) The fee to be paid by an applicant for a certificate of registration who is an architect registered or licensed under the laws of another state or territory of the United States, or of a foreign country or province, shall be ~~twenty-five dollars ($25.00).~~ **established by the board under IC 25-1-8-2.**

(f) In addition to the registration fees established under this section, the board shall establish a fee of not more than twenty dollars ($20) to be paid at the time of registration and renewal of registration 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 16. 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 Indiana professional 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 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 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 17. IC 25-4-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) To qualify for registration as a landscape architect, an applicant must:

(1) submit evidence that the applicant is an individual who is at

least eighteen (18) years of age;

(2) submit evidence that the applicant has:

(A) graduated from an accredited curriculum of landscape architecture presented by a college or school approved by the board; or

(B) attained before January 1, 2003, at least eight (8) years of actual practical experience in landscape architectural work of a grade and character satisfactory to the board;

(3) submit evidence that the applicant has paid the examination fee and the ~~license~~ **application** fee set by the board;

(4) provide an affidavit that indicates that the applicant does not have a conviction for:

(A) an act that would constitute a ground for disciplinary action under IC 25-1-11; or

(B) a felony that has a direct bearing on ~~his~~ **the applicant's** ability to practice competently;

(5) pass the examination required by the board under section 4 of this chapter after meeting the requirements in subdivisions (1) through (4); and

(6) submit evidence that the applicant has at least three (3) years of diversified, actual, and practical experience in landscape architectural work of a grade and character satisfactory to the board.

(b) The board shall issue a certificate of registration under this chapter to an applicant who meets the requirements in this section.

SECTION 18. 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 25-4-1-16(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.

SECTION 19. IC 25-6.1-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Every individual, before acting as an auctioneer, must obtain a license from the commission.

(b) An applicant for a license must:

(1) be at least eighteen (18) years of age;

(2) have completed at least eighty (80) actual hours of auction instruction from a course provider approved by the commission;

(3) not have a conviction for:

(A) an act which 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.

(c) Auction instruction required under subsection (b) must provide the applicant with knowledge of all of the following:

(1) The value of real estate and of various goods commonly sold at an auction.

(2) Bid calling.

(3) Sale preparation, sale advertising, and sale summary.

(4) Mathematics.

(5) The provisions of this article and the commission's rules.

(6) Any other subject matter approved by the commission.

(d) An individual seeking an initial license as an auctioneer under this article shall file with the commission a completed application on the form prescribed by the commission. When filing an ~~initial~~ application for an auctioneer license, each individual shall

~~(1)~~ pay a nonrefundable examination fee ~~of thirty-five dollars ($35)~~ **established by the commission under IC 25-1-8-2.** ~~and~~

~~(2) pay a surcharge under IC 25-6.1-8 for deposit in the auctioneer recovery fund.~~

(e) When ~~filing an application~~ **applying** for a renewal of an auctioneer license, each individual shall do the following:

(1) ~~File with the commission a completed application on the form prescribed~~ **Apply in a manner required** by the commission, including certification by the applicant that the applicant has complied with the requirements of IC 25-6.1-9-8, unless the commission has granted the applicant a waiver under IC 25-6.1-9-9.

(2) Pay the license fee prescribed by section 5 of this chapter.

(f) Upon the receipt of a completed application for an initial or a renewal license, the commission shall examine the application and verify the information contained therein.

(g) An applicant who is seeking an initial license must pass an examination ~~prepared and administered~~ **approved** by the commission **that covers subjects and topics of knowledge required to practice as an auctioneer.** The commission shall hold examinations as the commission may prescribe. ~~The examination for an auctioneer's license shall include questions on the applicant's:~~

~~(1) ability to read and write;~~

~~(2) knowledge of the value of real estate and of various goods commonly sold at an auction;~~

~~(3) knowledge of calling;~~

~~(4) knowledge of sale preparation, sale advertising, and sale summary;~~

~~(5) knowledge of mathematics; and~~

~~(6) knowledge of the provisions of this article and the commission's rules.~~

(h) The commission shall issue an auctioneer's license, in such form as it may prescribe, to each individual who meets all of the requirements for licensing and pays the appropriate fees.

(i) Auctioneer licenses shall be issued for a term of four (4) years. A license expires at midnight ~~February 28, 2004,~~ **on the date established by the licensing agency under IC 25-1-6-4** and every fourth year thereafter, unless renewed before that date. If the license has expired, it may be reinstated not more than one (1) year after the date it expired upon the payment of the renewal fee plus the ~~sum of twenty-five dollars ($25)~~ **reinstatement fee established under IC 25-1-8-7** and submission of proof that the applicant has complied with the continuing education requirement. If the license has expired for a period of more than one (1) year, the person must file an application and take the required examination. However, an applicant for ~~restoration~~ **reinstatement** of an expired license is not required to complete the initial eighty (80) hour education requirement under this section in order to ~~restore~~ **reinstate** the expired license. The holder of an expired license shall cease to display the original wall certificate at the holder's place of business and shall return the wall certificate to the commission upon notification by the commission of the expiration of the holder's license.

(j) The commission may waive the requirement that a nonresident applicant pass an examination and that the nonresident submit written statements by two (2) individuals, if the nonresident applicant:

(1) is licensed to act as an auctioneer in the state of the applicant's domicile;

(2) submits with the application a duly certified letter of certification issued by the licensing board of the applicant's domiciliary state;

(3) is a resident of a state whose licensing requirements are substantially equal to the requirements of Indiana;

(4) is a resident of a state that grants the same privileges to the licensees of Indiana; and

(5) includes with the application an irrevocable consent that actions may be commenced against the applicant. The consent shall stipulate that service of process or pleadings on the commission shall be taken and held in all courts as valid and binding as if service of process had been made upon the applicant personally within this state. If any process or pleading mentioned in this subsection is served upon the commission, it shall be by duplicate copies. One (1) of the duplicate copies shall be filed in the office of the commission and one (1) shall be immediately forwarded by the commission by registered or certified mail to the applicant against whom the process or pleadings are directed.

(k) The commission may enter into a reciprocal agreement with another state concerning nonresident applicants.

(l) The commission may, for good cause shown, upon the receipt of an application for a license, issue a temporary permit for such

reasonable period of time, not to exceed one (1) year, as the commission deems appropriate. A temporary permit has the same effect as a license and entitles and subjects the permittee to the same rights and obligations as if the individual had obtained a license.

(m) An applicant for a temporary permit must do the following:

(1) File an examination application.

(2) Pass the examination at one (1) of the next two (2) regularly scheduled examinations.

(n) An individual who does not pass the examination required under subsection (m) may not be issued a temporary permit.

SECTION 20. IC 25-6.1-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. ~~(a)~~ At the time of obtaining a license under this chapter, the licensee shall pay:

(1) the license fee ~~prescribed by this section~~ **established by the commission under IC 25-1-8-2; and**

(2) a surcharge under IC 25-6.1-8 for deposit in the auctioneer recovery fund.

~~(b) The fee for the license issued to any person, auction company, or auction house during each licensing period is seventy dollars ($70).~~

~~(c) The commission may adopt rules that provide for the payment of a proportionate amount of the licensing fee if a license will be issued for less than the full term of the license.~~

SECTION 21. IC 25-6.1-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The commission may charge the fee established under IC 25-1-8-2 as the cost of providing duplicate licenses to replace lost or destroyed licenses.

(b) The commission may charge ~~five dollars ($5) as the~~ **a fee established under IC 25-1-8-2 for the** cost of ~~certified copies of licenses, which may include certified copies of a type and size which can be easily carried on the person of the licensee.~~ **verifying a license to another state.**

SECTION 22. IC 25-6.1-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. A licensee who is initially licensed in the ~~second~~ **fourth** year of a renewal period is exempt from the continuing education requirement under this chapter for that renewal period.

SECTION 23. IC 25-7-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) If the board determines that:

(1) a person possesses a valid license from another jurisdiction to perform acts that require a license under this article; and

(2) the jurisdiction issuing the license imposes substantially equivalent requirements on applicants for the license as are imposed on applicants for an Indiana license;

the board may issue a license to perform those acts in Indiana to the person upon payment of the fee ~~required under 816 IAC 1-3-1.~~ **established by the board under IC 25-1-8-2.**

(b) This subsection applies only to applications for a barber license under IC 25-7-10. If the jurisdiction issuing the license does not impose substantially equivalent requirements as required under subsection (a)(2), the board may approve a combination of education hours plus actual licensed practice in the other jurisdiction when issuing a license to a person from that jurisdiction. One (1) year of licensed practice is equal to one hundred (100) hours of education to an applicant who has completed a minimum of one thousand (1,000) hours of education.

SECTION 24. IC 25-7-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. An expired barber license may be ~~restored~~ **reinstated** by payment of the ~~restoration fee plus all unpaid~~ **reinstatement and** renewal fees **required under IC 25-1-8-2 and IC 25-1-8-7** within five (5) years of the expiration date of the license. After five (5) years from the date that a barber license expires under this section, the person whose license has expired may ~~restore~~ **reinstate** the license only by:

(1) applying for ~~restoration~~ **reinstatement** of the license;

(2) paying the ~~fee~~ **fees** set forth under IC 25-7-11 **and IC 25-1-8-7;** and

(3) taking the same examination required under IC 25-7-10 for an applicant for a license to practice as a registered barber.

SECTION 25. IC 25-7-6-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) If a person does not receive a satisfactory grade on the examination described in section 14(3) of this chapter, the board may deny the petition to ~~restore~~ **reinstate** the license.

(b) The board may ~~restore~~ **reinstate** a license held by a person described in subsection (a) if the person complies with rules adopted by the board to permit further examination of the person for license ~~restoration.~~ **reinstatement.**

SECTION 26. IC 25-7-10-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. The board may not:

(1) renew or ~~restore~~ **reinstate** a work permit; or

(2) grant a person more than one (1) work permit;

issued under section 7 of this chapter.

SECTION 27. IC 25-7-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The board shall ~~charge a fee of three hundred dollars ($300) for an application to issue or renew a barber school license.~~ **adopt rules under IC 4-22-2 to establish fees for the application, issuance, and renewal of barber school licenses under IC 25-1-8-2.**

(b) In addition to the fee charged under subsection (a), the board shall charge a fee for ~~restoring~~ **reinstating** a barber school license **under IC 25-1-8-7.**

~~(c) The fee charged under subsection (b) shall be determined by the date that the applicant applies for the restoration of the license as follows:~~

~~Number of days following expiration of license~~	~~Fee~~
~~0-30~~	~~$0~~
~~31-180~~	~~$150~~
~~181-191~~	~~$200~~

~~(d) The fee charged under subsection (b) shall be accompanied by all unpaid renewal fees.~~

~~(c)~~ **(c)** A barber school license may not be ~~restored~~ **reinstated** if at least one ~~hundred ninety-two (192) days have~~ **(1) year has** passed since the license expired. However, the barber school may obtain a new license by:

(1) making application;

(2) meeting the requirements for licensure; and

(3) paying a fee ~~of four hundred dollars ($400).~~ **established by the board under IC 25-1-8-2.**

SECTION 28. IC 25-7-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~(a)~~ The board shall ~~charge a fee of forty dollars ($40) to issue or renew an instructor license.~~

~~(b) To restore an expired barber instructor license, the board shall charge a fee of seventy-five dollars ($75) plus all unpaid renewal fees.~~

~~(c) The board shall charge a fee of fifty dollars ($50) for providing an examination to an applicant for a barber instructor license.~~ **adopt rules under IC 4-22-2 to establish fees related to an instructor's license under IC 25-1-8-2.**

SECTION 29. IC 25-7-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The board shall ~~charge a fee of forty dollars ($40) for issuing or renewing a barber shop license.~~

~~(b) The board shall charge a fee for restoring a barber shop license that shall be determined by the date that the applicant applies for the restoration of the license as follows:~~

~~Number of days following expiration of license~~	~~Fee~~
~~0-30~~	~~$ 10~~
~~31-180~~	~~$ 50~~
~~181-191~~	~~$100~~

~~(c) The fee charged under subsection (b) shall be accompanied by all unpaid renewal fees.~~ **adopt rules under IC 4-22-2 to establish fees related to barber shop licenses under IC 25-1-8-2.**

~~(d)~~ **(b)** A barber shop license may not be ~~restored~~ **reinstated** if at least one ~~hundred ninety-two (192) days have~~ **(1) year has** passed since the license expired. However, the barber shop may obtain a new license by:

(1) making application;

(2) meeting the requirements for licensure; and

(3) paying ~~a fee of one hundred forty dollars ($140).~~ **the fees established under IC 25-1-8-2.**

SECTION 30. IC 25-7-11-5 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The board shall ~~charge a fee of at least thirty dollars ($30) and not more than fifty dollars ($50)~~ **establish fees under IC 25-1-8-2** for providing an examination to an applicant for a barber license.

(b) The board shall ~~charge a fee of forty dollars ($40)~~ **establish fees under IC 25-1-8-2** for issuing or renewing a barber license.

(c) The board shall charge a fee ~~for restoring~~ **established under IC 25-1-8-7 for reinstating** a barber license. ~~that shall be determined by the date that the applicant applies for the restoration of the license as follows:~~

~~Number of days following expiration of license~~	~~Fee~~
~~0-30~~	~~$ 10~~
~~31-181~~	~~$ 50~~
~~182-5 years~~	~~$100~~

~~(d) The fee charged under subsection (c) shall be accompanied by all unpaid renewal fees.~~

SECTION 31. IC 25-7-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The board shall ~~charge~~ **establish** a fee ~~of ten dollars ($10)~~ **under IC 25-1-8-2** for issuing a duplicate license.

SECTION 32. IC 25-7-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The board may under IC 4-21.5:

(1) refuse to issue, renew, or ~~restore~~ **reinstate** a license issued under this article; or

(2) suspend or revoke a license issued under this article;

if the board determines that the applicant or license holder has not complied with IC 25-1-11.

SECTION 33. IC 25-8-4-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. Except as provided in IC 25-8-9-11, the board may, upon application, ~~restore~~ **reinstate** a license under this chapter that has expired if the person holding the license:

(1) pays ~~any unpaid~~ renewal fees ~~to~~ **established by** the board **under IC 25-1-8-2;**

(2) pays the license ~~restoration~~ **reinstatement** fee ~~set forth in IC 25-8-13;~~ **established under IC 25-1-8-7;**

(3) complies with all requirements imposed by this article on an applicant for an initial license to perform the acts authorized by the license being ~~restored~~ **reinstated,** other than receiving a satisfactory grade (as defined in section 9 of this chapter) on an examination prescribed by the board; and

(4) fulfills the continuing education requirements under IC 25-8-15.

SECTION 34. IC 25-8-4-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) Except as provided in subsection (b), the board may not ~~restore~~ **reinstate** a license issued under this article if the person holding the license does not petition for license renewal within three (3) years after the expiration of the license, unless that person complies with section 23 of this chapter.

(b) The board may not ~~restore:~~ **reinstate:**

(1) a cosmetology salon license issued under IC 25-8-5;

(2) an electrology salon license issued under IC 25-8-7.2;

(3) an esthetician salon license issued under IC 25-8-12.6;

(4) a manicurist salon license issued under IC 25-8-7.1; or

(5) a cosmetology school license issued under IC 25-8-7;

unless the license holder submits an application for ~~restoration~~ **reinstatement** of the license within six (6) months after the date the license expired.

SECTION 35. IC 25-8-4-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. The board may ~~restore~~ **reinstate** a license issued under this article held by a person described in section 22(a) of this chapter if the applicant:

(1) receives a satisfactory grade (as defined in section 9 of this chapter) on an examination prescribed by the board;

(2) pays the examination fee set forth in IC 25-8-13;

(3) pays the ~~restoration~~ **reinstatement** fee ~~set forth in IC 25-8-13;~~ **established under IC 25-1-8-7;** and

(4) complies with all requirements imposed by this article on an applicant for an initial license to perform the acts authorized by the license being ~~restored.~~ **reinstated.**

SECTION 36. IC 25-8-4-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. If a person does not receive a satisfactory grade on the examination described in section 23 of this chapter, the board may not ~~restore~~ **reinstate** that person's license until the person has:

(1) successfully completed the cosmetology school program required for an applicant for a license issued under this article to perform the acts authorized by the license being ~~restored;~~ **reinstated;**

(2) received a satisfactory grade (as defined in section 9 of this chapter) on an examination prescribed by the board;

(3) paid the examination fee set forth in IC 25-8-13;

(4) paid the license fee set forth in IC 25-8-13; and

(5) complied with all requirements imposed by this article on an applicant for an initial license to perform the acts authorized by the license being ~~restored.~~ **reinstated.**

SECTION 37. IC 25-8-4-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25. If a person does not receive a satisfactory grade on the examination described in section 24(2) of this chapter, the board may deny the petition to ~~restore~~ **reinstate** the license.

SECTION 38. IC 25-8-4-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. The board may ~~restore~~ **reinstate** a license held by a person described in section 25 of this chapter if that person complies with any rules adopted by the board to permit further examination of that person for license ~~restoration.~~ **reinstatement.**

SECTION 39. IC 25-8-4-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. If a person holding a license described in section 22(b) of this chapter does not comply with the ~~restoration~~ **reinstatement** application filing requirements set forth in that section, that person may:

(1) file an application for a new license to operate:

(A) a cosmetology salon;

(B) an electrology salon;

(C) an esthetic salon;

(D) a manicurist salon; or

(E) a cosmetology school;

under this article; and

(2) pay the ~~restoration~~ **reinstatement** fee set forth in:

(A) IC 25-8-13-3; or

(B) IC 25-8-13-5(b).

SECTION 40. IC 25-8-9-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. The board may not renew or ~~restore~~ **reinstate** a license issued under section 7 of this chapter.

SECTION 41. IC 25-8-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The board shall charge a fee ~~of four hundred dollars ($400)~~ **established by the board under IC 25-1-8-2** for an application to issue or renew a cosmetology school license.

(b) The board shall charge a fee **established under IC 25-1-8-7** for ~~restoring~~ **reinstating** a cosmetology school license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following Expiration of License~~	~~Fee~~
~~1- 30~~	~~$200~~
~~31- 180~~	~~300~~
~~More than 180~~	~~400~~

SECTION 42. IC 25-8-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing:

(1) a cosmetology instructor license;

(2) an esthetics instructor license; or

(3) an electrology instructor license.

(b) The board shall charge a fee **established under IC 25-1-8-7** for ~~restoring~~ **reinstating** an instructor license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the~~

~~applicant applies for the restoration of the license as follows:~~

~~Days Following~~
~~Expiration of License Fee~~
~~1- 30 $ 20~~
~~31- 180 30~~
~~More than 180 40~~

SECTION 43. IC 25-8-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing:

(1) a cosmetology salon license;
(2) an electrology salon license;
(3) an esthetic salon license; or
(4) a manicurist salon license.

(b) The board shall charge a fee **established under IC 25-1-8-7** for ~~restoring.~~ **reinstating:**

(1) a cosmetology salon license;
(2) an electrology salon license;
(3) an esthetic salon license; or
(4) a manicurist salon license.

~~(c) The fee charged under subsection (b) shall be determined by the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following~~
~~Expiration of License Fee~~
~~0 - 30 $ 10~~
~~31 - 180 50~~
~~181 - 191 100~~

SECTION 44. IC 25-8-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The board shall charge a fee ~~of twenty-five dollars ($25)~~ **established by the board under IC 25-1-8-2** for providing an examination to an applicant for a master cosmetologist license.

(b) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing a master cosmetologist license.

(c) The board shall charge a fee **established under IC 25-1-8-7** for ~~restoring~~ **reinstating** a master cosmetologist license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following~~
~~Expiration of License Fee~~
~~1- 30 $ 20~~
~~31- 180 30~~
~~More than 180 40~~

SECTION 45. IC 25-8-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The board shall charge a fee ~~of twenty dollars ($20)~~ **established by the board under IC 25-1-8-2** for providing an examination to an applicant for a cosmetologist license.

(b) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing a cosmetologist license.

(c) The board shall charge a fee **established under IC 25-1-8-7** for ~~restoring~~ **reinstating** a cosmetologist license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following~~
~~Expiration of License Fee~~
~~1- 30 $ 20~~
~~31- 180 30~~
~~More than 180 40~~

(d) The board shall charge a fee ~~of one hundred dollars ($100)~~ **established by the board under IC 25-1-8-2** for issuing an Indiana cosmetologist license to a person who holds a license from another jurisdiction that meets the requirements set forth in IC 25-8-4-2.

SECTION 46. IC 25-8-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The board shall charge a fee ~~of twenty-five dollars ($25)~~ **established by the board under IC 25-1-8-2** for providing an examination to an applicant for an electrologist license.

(b) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing an electrologist license.

(c) The board shall charge a fee **established under IC 25-1-8-7** for ~~restoring~~ **reinstating** an electrologist license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following~~
~~Expiration of License Fee~~
~~1- 30 $ 20~~
~~31- 180 30~~
~~More than 180 40~~

(d) The board shall charge a fee ~~of one hundred dollars ($100)~~ **established by the board under IC 25-1-8-2** for issuing a license to a person who holds an electrologist license from another jurisdiction that meets the requirements under IC 25-8-4-2.

SECTION 47. IC 25-8-13-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The board shall charge a fee ~~of ten dollars ($10)~~ **established by the board under IC 25-1-8-2** for providing an examination to an applicant for a manicurist license.

(b) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing a manicurist license.

(c) The board shall charge a fee **required under IC 25-1-8-7** for ~~restoring~~ **reinstating** a manicurist license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following~~
~~Expiration of License Fee~~
~~1- 30 $ 20~~
~~31- 180 30~~
~~More than 180 40~~

(d) The board shall charge a fee ~~of one hundred dollars ($100)~~ **established by the board under IC 25-1-8-2** for issuing a license to a person who holds a manicurist license from another jurisdiction that meets the requirements under IC 25-8-4-2.

SECTION 48. IC 25-8-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) The board shall charge a fee ~~of twenty dollars ($20)~~ **established by the board under IC 25-1-8-2** for providing an examination to an applicant for a shampoo operator license.

(b) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing a shampoo operator license.

(c) The board shall charge a fee **established under IC 25-1-8-7** for ~~restoring~~ **reinstating** a shampoo operator license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following~~
~~Expiration of License Fee~~
~~1- 30 $ 20~~
~~31- 180 30~~
~~More than 180 40~~

SECTION 49. IC 25-8-13-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) The board shall charge a fee ~~of twenty-five dollars ($25)~~ **established by the board under IC 25-1-8-2** for providing an examination to an applicant for an esthetician license.

(b) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing an esthetician license.

(c) The board shall charge a fee **established under IC 25-1-8-7** for ~~restoring~~ **reinstating** an esthetician license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following~~
~~Expiration of License Fee~~

~~1- 30 $ 20~~
~~31- 180 30~~
~~More than 180 40~~

(d) The board shall charge a fee ~~of one hundred dollars ($100)~~ **established by the board under IC 25-1-8-2** for issuing a license to a person who holds an esthetician license from another jurisdiction that meets the requirements under IC 25-8-4-2.

SECTION 50. IC 25-8-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The board may under IC 4-21.5 refuse to issue, renew, or ~~restore~~ **reinstate** a license issued under this article if it determines that the applicant or license holder has not complied with IC 25-1-11.

SECTION 51. IC 25-8-15.4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. To obtain a license to operate a tanning facility, a person must do the following:

(1) Submit an application to the board on a form prescribed by the board.

(2) Pay a fee ~~of two hundred dollars ($200).~~ **established by the board under IC 25-1-8-2.**

SECTION 52. IC 25-8-16-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. If an inactive cosmetology professional intends to apply for ~~restoration~~ **reinstatement** of the professional's license, the cosmetology professional shall notify the board of that intent. The board may ~~restore~~ **reinstate** the cosmetology professional's license upon notification and receipt of:

(1) an application; and

(2) evidence of completion during the preceding four (4) years of at least sixteen (16) hours of continuing education in a continuing education course approved by the board under IC 25-8-15.

SECTION 53. IC 25-9-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. (a) The commission shall, upon application to the Indiana professional licensing agency, grant licenses to competent referees and judges whose qualifications may be tested by the commission, and the commission may revoke any such license granted to any referee or judge upon such cause as the commission may deem sufficient. Such license must be renewed biennially. No person shall be permitted to act as referee or judge in Indiana unless holding such license.

(b) The application for license as referee, or renewal thereof, shall be accompanied by a fee ~~which shall not be less than twenty-five dollars ($25).~~ **established by the commission under IC 25-1-8-2.**

(c) The commission shall appoint from among such licensed officials, all officials for all contests held under this chapter.

SECTION 54. IC 25-15-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The board shall ~~restore~~ **reinstate** the expired license of an individual who:

(1) was licensed as a funeral director or embalmer;

(2) applies for ~~restoration~~ **reinstatement** of the funeral director license or embalmer license within two (2) years or four (4) years of the date that the license expired as set by the board;

(3) pays a fee ~~that is equal to:~~

~~(A) the fee set by the board for renewal of a funeral director license or embalmer license; or~~

~~(B) the fee set by the board for renewal of a funeral director license or embalmer license multiplied by the product of two (2) times the number of six (6) month periods that have elapsed from the date that the license expired;~~

~~whichever is greater;~~ **established under IC 25-1-8-7;** and

(4) meets the continuing education requirements set by the board.

SECTION 55. IC 25-15-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The board shall require a funeral director to obtain ten (10) hours of continuing education credit in any two (2) year period in order to renew or ~~restore~~ **reinstate** a license under this chapter. The board shall require that continuing education credit be earned in board approved courses or programs on one (1) or more of the following subjects:

(1) Embalming and restorative arts.

(2) Prevention of the spread of infectious disease and compliance with mandatory public health requirements.

(3) Federal and state laws and rules regulating the embalming and funeral professions.

(4) Funeral home management.

(5) Religion.

(6) Natural science.

(7) Grief counseling and the psychological effect of death on survivors.

(b) Continuing education hours earned as a prerequisite to the issuance or maintenance of a professional license other than a funeral director license may not be counted in determining compliance with this section.

SECTION 56. IC 25-15-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The board may ~~restore~~ **reinstate** the license of:

(1) a person that has allowed a funeral home license to expire only if the person reapplies for a funeral home license, pays ~~an additional~~ **a** fee ~~set by the board,~~ **established under IC 25-1-8-7,** and otherwise meets the requirements in IC 25-15-4-1;

(2) an individual whose funeral director intern license has expired only if the individual reapplies for a funeral director intern license, takes another examination, if required by the board, pays ~~an additional~~ **a** fee ~~set by the board,~~ **established under IC 25-1-8-7,** and otherwise meets the requirements in IC 25-15-4-2; or

(3) an individual whose funeral director license has expired after the time set in section 4 of this chapter has run only if the individual reapplies for a funeral director license, takes another examination, pays ~~an additional~~ **a** fee ~~set by the board,~~ **established under IC 25-1-8-7,** and otherwise meets the requirements in IC 25-15-4-3(b).

The board may not ~~restore~~ **reinstate** an embalmer license or a funeral director license for a person qualified only under IC 25-15-4-3(d) after the time set under section 4 of this chapter has expired.

SECTION 57. IC 25-15-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) A funeral director who holds an inactive funeral director license under IC 25-15-4-6 is exempt from continuing education requirements of section 5 of this chapter.

(b) An individual may reactivate an inactive funeral director's license by completing all hours of continuing education required of licensed funeral directors for each year that the license has been classified as inactive. If an individual's license has been inactive for four (4) or more years, the board shall require the individual to pass an examination under IC 25-15-4 before ~~restoring~~ **reinstating** the individual's license to active status.

(c) An individual who resumes the practice of funeral service or the provision of funeral services to the public under an inactive funeral director license (as described in IC 25-15-4-6) violates this article and the board shall revoke the individual's inactive license.

SECTION 58. IC 25-15-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The board's appointed members may serve only two (2) terms on the board, including prior service either as a member of the state board of funeral service or the state board of embalmers and funeral directors. **A member of the board may serve until the member's successor is appointed and qualified under this chapter.**

SECTION 59. IC 25-20.2-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. A license for a home inspector issued under this article expires ~~two (2) years after the date of issuance.~~ **on a date established by the licensing agency under IC 25-1-6-4 and shall be renewed biennially upon payment of the required renewal fees.**

SECTION 60. IC 25-20.2-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The board shall adopt rules concerning the continuing education required for the renewal of a license under this chapter.

(b) The rules must do the following:

(1) Establish procedures for approving organizations that provide continuing education.

~~(2) Establish a fee for each hour of continuing education that is required after a license is issued or renewed.~~

~~(3)~~ **(2)** Prescribe the content, duration, and organization of continuing education courses that contribute to the general

competence of home inspectors.

SECTION 61. 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 62. 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) to be paid at the time of registration and renewal of registration 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.

SECTION 63. IC 25-21.5-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The board shall determine the amount of registration fees for a land surveyor and certification fees for a land surveyor in training. ~~Except as provided under IC 25-21.5-8-7, the registration and renewal fee for a land surveyor may be not more than fifty dollars ($50) per year.~~

SECTION 64. IC 25-21.5-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. **Except as provided in IC 25-21.5-3-4(b),** the board shall ~~determine the renewal fee and delinquent fee~~ **establish fees under IC 25-1-8.**

SECTION 65. IC 25-21.5-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The board may adopt rules requiring a land surveyor to obtain continuing education for renewal of a certificate under this chapter.

(b) If the board adopts rules under this section, the rules must do the following:

~~(1) Establish a fee of two dollars ($2) for each hour of continuing education required after the certificate of registration was issued or renewed.~~

~~(2) Require that continuing education fees be paid when the land surveyor's certificate of registration is renewed.~~

~~(3)~~ **(1)** Establish procedures for approving an organization that provides continuing education.

~~(4)~~ **(2)** Require an organization that provides an approved continuing education program to supply the following information to the board not more than thirty (30) days after the course is presented:

(A) An alphabetical list of all land surveyors who attended the course.

(B) A certified statement of the hours to be credited to each land surveyor.

(c) If the board adopts rules under this section, the board may adopt rules to do the following:

(1) Allow private organizations to implement the continuing education requirement.

(2) Establish an inactive certificate of registration. If the board adopts rules establishing an inactive certificate, the board must adopt rules that:

(A) do not require the holder of an inactive certificate to obtain continuing education;

(B) prohibit the holder of an inactive certificate from practicing land surveying;

(C) establish requirements for reactivation of an inactive certificate; and

(D) do not require the holder of an inactive certificate to pay the registration and renewal fees required under IC 25-21.5-7-5.

SECTION 66. 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 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 67. 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 by 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 68. IC 25-23.7-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The board shall adopt rules concerning the continuing education required for the renewal of a license under this chapter.

(b) The rules must do the following:

(1) Establish procedures for approving organizations that provide continuing education.

~~(2) Establish a fee for each hour of continuing education required after a license is issued or renewed.~~

~~(3)~~ **(2)** Prescribe the content, duration, and organization of continuing education courses that contribute to the general competence of installers.

SECTION 69. 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 section 32(2), 32(6), or 32(7) of this chapter.** 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 section 32(2), 32(6), or 32(7) of this chapter,** 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.

SECTION 70. IC 25-28.5-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) Every license or certificate of registration issued under ~~the provisions of~~ this chapter ~~shall expire two (2) years subsequent to the date of its issuance~~ **expires on a date established by the licensing agency under IC 25-1-6-4** and shall be renewed biennially thereafter upon payment of the required renewal fees.

(b) Applications for renewal shall be filed with the commission ~~on a~~ **in the** form **and manner** provided ~~therefore, no later than thirty (30) days prior to the expiration date of the licensee's or registrant's current license or certificate of registration~~ **by the commission.** The application shall be accompanied by the required renewal fee. The commission, upon the receipt of the application for renewal and the required renewal fee, shall issue to the renewal applicant a license or certificate of registration in the category said applicant has previously held. **Unless a license is renewed, a license issued by the commission expires on the date specified by the licensing agency under IC 25-1-6-4.**

SECTION 71. IC 25-28.5-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. The fees to be charged by and paid to the commission by licensees for all licenses and license renewals ~~thereof~~ shall be established by the commission under ~~IC 25-1-8-2.~~ **IC 25-1-8.**

SECTION 72. IC 25-28.5-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. (a) All fees collected by the commission shall be deposited with the treasurer of state to be deposited by ~~him~~ **the treasurer** in the **state** general fund. ~~of the state.~~

(b) All expenses of the commission shall be paid from the **state** general fund upon appropriation being made therefor in the manner provided by law for the making of such appropriations.

SECTION 73. IC 25-28.5-2-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.1. (a) At the time of initial licensure under this article, each licensee shall pay the ~~following fee~~ **fees established by the commission under IC 25-1-8-2 for the following:**

(1) ~~Seventy-five dollars ($75) for~~ A plumbing contractor.

(2) ~~Thirty dollars ($30) for~~ A journeyman plumber.

(b) Fees collected under subsection (a) shall be placed in the plumbers recovery fund.

(c) The fee assessed under this section is in addition to any other fee under this article.

SECTION 74. IC 25-30-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) An application for license as a private detective must be on a form prescribed by the board accompanied by the license fee ~~as provided by this chapter.~~ **established by the board under IC 25-1-8.**

(b) The application shall be verified and shall include the following:

(1) The full name and business address of the applicant.

(2) The name under which the applicant intends to do business as a private detective.

(3) If the applicant is a person other than an individual, the full name and residence address of each of its members, partners, officers, and directors, and its managers.

(4) Other information, evidence, statements, or documents required by the board.

SECTION 75. IC 25-30-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) **Unless a license is renewed,** a license and the identification cards of the licensee's employees issued under this chapter expire ~~two (2) years from the date of issuance of the license.~~ **on a date specified by the licensing agency under IC 25-1-6-4 and expire biennially after the initial expiration date. An applicant for renewal shall pay the renewal fee established by the board under IC 25-1-8-2 on or before the renewal date specified by the licensing agency.**

(b) If the holder of a license does not renew the license by the date specified by the licensing agency, the license expires and becomes invalid without any action taken by the board.

~~(b)~~ **(c)** A licensee desiring a renewal license must:

(1) file an application for renewal at least thirty (30) days before the expiration of the licensee's license on a form as prescribed by the board; and

(2) meet the license renewal requirements determined by the board.

~~(c)~~ **(d)** A license may be reinstated within thirty (30) days after the expiration of the license if the applicant does the following:

(1) Files an application for renewal with the board.

(2) Meets the license requirements determined by the board.

(3) Pays ~~the license and delinquent fees.~~ **a fee established under IC 25-1-8-7.**

~~(d)~~ **(e)** Employee identification cards issued under this chapter expire at the same time as the license referred to in subsection (a).

SECTION 76. IC 25-30-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) The board shall charge and the licensing agency shall collect the ~~following private detective license~~ fees **established by the board under IC 25-1-8.**

~~(1) For issuance or renewal of a private detective license, a fee of one hundred fifty dollars ($150).~~

~~(2) For identification cards for unlicensed employees issued under section 10(d) of this chapter, a fee of:~~

~~(A) ten dollars ($10); or~~

~~(B) five dollars ($5) if application for the identification card is made in the second year of the licensee's license.~~

~~(3) For reinstatement of a license referred to in section 16(c) of this chapter, a delinquent fee of seventy-five dollars ($75).~~

(b) All fees collected under this chapter shall go into the general fund and shall be accounted for by the licensing agency.

~~(c) A license fee shall not be refunded unless a showing is made of ineligibility to receive the license by failure to meet the requirements of this chapter, or by a showing of mistake, inadvertence, or error in the collection of the fee.~~

SECTION 77. 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 78. 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) to be paid at the time of registration and renewal of registration 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.

SECTION 79. IC 25-31-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) The examination required of all applicants for registration as a professional engineer shall be a written examination which shall be divided into the following two (2) parts, each of eight (8) hours duration:

(1) Engineering fundamentals.

(2) Principles and practice of engineering.

The board may adopt rules under IC 4-22-2 establishing additional examination requirements.

(b) The engineering fundamentals portion of the examination shall be designed to test the applicant's knowledge of mathematics and the physical and engineering sciences. The standards of proficiency required shall approximate that attained by graduation in an approved four (4) year engineering curriculum.

(c) The principles and practice of **the** engineering portion of the examination shall be designed primarily to test the applicant's understanding of, and judgment and ability to apply correctly, the principles of:

(1) mathematics;

(2) the physical sciences;

(3) the engineering sciences; and

(4) engineering design analysis and synthesis;

to the practice of professional engineering. A part of the examination may be designed to test the applicant's knowledge and understanding of the ethical, economic, and legal principles relating to the practices of professional engineering.

(d) An applicant for registration as a professional engineer who holds an engineering intern certificate issued in Indiana or in any other state or territory having equivalent standards may be exempted from the engineering fundamentals portion of the examination.

(e) An applicant must successfully pass the engineering fundamentals portion of the examination before taking the principles and practice portion of the examination.

(f) Examinations shall be held at times and places as determined by the board at least two (2) times each year. Examinations for certification as an engineering intern may be held separately from the examinations for registration as a professional engineer.

(g) An applicant for registration as a professional engineer who is presently registered in another state or territory may be assigned a written examination as the board deems necessary to meet the requirements of this chapter.

(h) An applicant for registration as a professional engineer who fails in the first examination may request to be readmitted for a second examination at either of the next two (2) regularly scheduled examinations. Upon application and at the discretion of the board, an applicant who misses:

(1) the originally scheduled examination; or

(2) the next two (2) regularly scheduled examinations;

may be given permission to appear for another regularly scheduled examination. The amount of fee to be paid for each examination shall be determined by the board under IC 25-1-8-2.

(i) If an applicant who has failed ~~two (2)~~ **three (3)** or more examinations reapplies and submits evidence of acquiring additional knowledge for the examination, the board may give the applicant approval to take subsequent examinations.

SECTION 80. IC 25-31-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) The board shall issue a certificate of registration, upon the payment of the fee prescribed ~~in this chapter,~~ **by the board under IC 25-1-8-2,** to any applicant who, in the opinion of the board, has satisfactorily met all requirements of this chapter. In the case of a professional engineer, the certificate shall authorize the practice of "professional engineering". The certificate of registration shall:

(1) show the full name of the registrant;

(2) bear a serial number and date; and

(3) be signed by ~~each member under the seal~~ **a designee** of the board.

The issuance of any certificate of registration by the board under this chapter is evidence that the individual named on the certificate is entitled to all the rights and privileges of a registered professional engineer from the date on the certificate until it expires or is revoked.

(b) The board shall issue a certificate of enrollment upon the payment of the certificate fee prescribed ~~in this chapter~~ **by the board under IC 25-1-8-2** to any applicant who, in the opinion of the board, has satisfactorily met all of the requirements of this chapter. In the case of an engineering intern, the certificate shall state that the applicant has successfully passed the examination in engineering fundamentals and has been enrolled as an engineering intern. The certificate of enrollment shall:

(1) show the full name of the enrollee;

(2) bear a serial number and date; and

(3) be signed by the director of the licensing agency.

The issuance of a certificate of enrollment by the board is evidence that the individual named on the certificate is entitled to all the rights and privileges of an engineering intern while the certificate remains unrevoked or until it expires.

SECTION 81. IC 25-31-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. ~~(a) The biennial period for which renewals are to be made shall extend from the first day of August of an even-numbered year to the last day of July of the next even-numbered year.~~

~~(b) A new registrant whose certificate bears a date during the first twelve (12) months of a biennial renewal period is required to pay one-half (½) of the biennial renewal fee in addition to and at the time of the payment of the certificate fee to validate the certificate for the last twelve (12) months of the biennial renewal period.~~

~~(c) All certificates of registration expire on the last day of July in each even-numbered year and are invalid from that date, unless renewed. The secretary of the board shall send a renewal bill notice by mail to every person registered and in good standing and to those holding invalid certificates who are delinquent not more than two (2) years. The notice must comply with the provisions of IC 25-1-2-6(c) and include the amount of the renewal fee and delinquent fee, if any, to validate the certificate for the succeeding biennial period. The renewal fee and delinquent fee shall be determined by the board under IC 25-1-8-2.~~

(a) Unless a certificate is renewed, a certificate issued under this chapter expires on a date specified by the licensing agency under IC 25-1-6-4 and expires biennially after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the board and pay the renewal fee established by the board under IC 25-1-8-2 on or before the renewal date specified by the licensing agency.

(b) If the holder of a certificate does not renew the license by the date specified by the licensing agency, the certificate expires and becomes invalid without the board taking any action.

~~(d)~~ **(c)** The failure on the part of a registrant to renew a certificate does not deprive the registrant of the right of renewal until the registrant's certificate has remained invalid during two (2) biennial renewal periods if the registrant pays the appropriate delinquent and renewal fees. After two (2) successive biennial renewal periods have elapsed renewal shall be denied.

SECTION 82. IC 25-31-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. The board may, upon application and payment of a fee established by the board in the board's rules, issue a certificate of registration as a professional engineer to an individual who holds a valid certificate of registration as a professional engineer, issued to the applicant by the proper authority of any state or territory or possession of the United States if the requirements for registration of professional engineers that the certificate of registration was issued under do not conflict with the provisions of this chapter. In determining the qualifications of an applicant, the board may accept the verified professional record of the applicant that is certified by the National Council of Examiners for Engineers and Surveyors. **However, an applicant meets the experience requirement under section 12 of this chapter if the applicant:**

(1) has at least three (3) years of engineering work experience after the applicant graduates from an approved engineering curriculum but before the applicant

successfully passes an examination required under section 14 of this chapter; and

(2) has been registered or licensed as a professional engineer in another state for at least ten (10) years.

SECTION 83. 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 provisions of this article and to investigate and prosecute violations of this article.

SECTION 84. 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 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.

SECTION 85. IC 25-34.1-3-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.1. (a) To obtain a salesperson license, an individual must:

(1) be at least eighteen (18) years of age before applying for a license and must not have a conviction for:

(A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11;

(B) a crime that has a direct bearing on the individual's ability to practice competently; or

(C) a crime that indicates the individual has the propensity to endanger the public;

(2) have successfully completed courses in the principles, practices, and law of real estate, totaling eight (8) semester credit hours, or their equivalent, as a student at an accredited college or university or have successfully completed an approved salesperson course as provided in IC 25-34.1-5-5(a);

(3) apply for a license by submitting the application fee prescribed by the commission and an application containing the name, address, and age of the applicant, the name under which the applicant intends to conduct business, the principal broker's address where the business is to be conducted, proof of compliance with subdivision (2), and any other information the commission requires;

(4) pass a written examination prepared and administered by the commission or its duly appointed agent; and

(5) submit not more than one hundred twenty (120) days after passing the written examination under subdivision (4):

(A) the license fee ~~of twenty-five dollars ($25);~~ **established by the commission under IC 25-1-8-2;** and

(B) a sworn certification of a principal broker that the principal broker intends to associate with the applicant and maintain that association until notice of termination of the association is given to the commission.

(b) Upon the applicant's compliance with the requirements of subsection (a), the commission shall:

(1) issue a wall certificate in the name of the salesperson to the principal broker who certified the applicant's association with the principal broker; and

(2) issue to the salesperson a pocket identification card which certifies that the salesperson is licensed and indicates the expiration date of the license and the name of the principal broker.

(c) Notice of passing the commission examination serves as a temporary permit to act as a salesperson as soon as the applicant sends, by registered or certified mail with return receipt requested, the license fee and certification as prescribed in subsection (a)(5)(A) and (a)(5)(B). The temporary permit expires the earliest of the following:

(1) The date the license is issued.

(2) The date the applicant's association with the certifying principal broker is terminated.

The temporary permit may not be renewed, extended, reissued, or otherwise effective for any association other than with the initial certifying principal broker.

(d) A salesperson shall:

(1) act under the auspices of the principal broker responsible for that salesperson's conduct under this article;

(2) be associated with only one (1) principal broker;

(3) maintain evidence of licensure in the office, branch office, or sales outlet of the principal broker;

(4) advertise only in the name of the principal broker, with the principal broker's name in letters of advertising larger than that of the salesperson's name; and

(5) not maintain any real estate office apart from that office provided by the principal broker.

(e) Upon termination of a salesperson's association with a principal broker, the salesperson's license shall be returned to the commission within five (5) business days. The commission shall reissue the license to any principal broker whose certification, as prescribed in subsection (a)(5)(B), is filed with the commission, and the commission shall issue a new identification card to the salesperson reflecting that change.

(f) **Unless a license is renewed,** a salesperson license expires ~~at midnight, December 31, of the next odd-numbered year following the year in which the license is issued or last renewed, unless the licensee renews the license prior to expiration by payment of a biennial license fee of twenty-five dollars ($25). An expired license may be reinstated within one hundred twenty (120) days after expiration, by payment of all unpaid license fees together with twenty dollars ($20). If the license is renewed within eighteen (18) months, but more than one hundred twenty (120) days, after expiration, the licensee must pay a late fee of one hundred dollars ($100) plus any unpaid license fees.~~ **on a date specified by the licensing agency under IC 25-1-6-4 and expires biennially after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the board and pay the renewal fee established by the board under IC 25-1-8-2 on or before the renewal date specified by the licensing agency. If the holder of a license does not renew the license by the date specified by the licensing agency, the license expires and becomes invalid without the board taking any action.** If a salesperson fails to reinstate a license within eighteen (18) months after expiration, a license may not be issued unless that salesperson again complies with the requirements of subsection (a)(3), (a)(4), and (a)(5).

(g) A salesperson license may be issued to an individual who is not yet associated with a principal broker but who otherwise meets the requirements of subsection (a). A license issued under this subsection shall be held by the commission in an unassigned status until the date the individual submits the certification of a principal broker required by subsection (a)(5). If the individual does not submit the application for licensure within one hundred twenty (120) days after passing the

commission examination, the commission shall void the application and may not issue a license to that applicant unless the applicant again complies with the requirements of subsection (a)(4) through (a)(5).

(h) If an individual holding a salesperson license is not associated with a principal broker for two (2) successive renewal periods, the commission shall notify the individual in writing that the individual's license will become void if the individual does not associate with a principal broker within thirty (30) days from the date the notification is mailed. A void license may not be renewed.

SECTION 86. IC 25-34.1-3-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.1. (a) To obtain a broker license, an individual must:

(1) be at least eighteen (18) years of age before applying for a license and must not have a conviction for:

(A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11;

(B) a crime that has a direct bearing on the individual's ability to practice competently; or

(C) a crime that indicates the individual has the propensity to endanger the public;

(2) have satisfied section 3.1(a)(2) of this chapter and have had continuous active experience for one (1) year immediately preceding the application as a licensed salesperson in Indiana. However, this one (1) year experience requirement may be waived by the commission upon a finding of equivalent experience;

(3) have successfully completed an approved broker course of study as prescribed in IC 25-34.1-5-5(b);

(4) apply for a license by submitting the application fee prescribed by the commission and an application specifying the name, address, and age of the applicant, the name under which the applicant intends to conduct business, the address where the business is to be conducted, proof of compliance with subdivisions (2) and (3), and any other information the commission requires;

(5) pass a written examination prepared and administered by the commission or its duly appointed agent; and

(6) within one hundred twenty (120) days after passing the commission examination, submit the license fee ~~of fifty dollars ($50).~~ **established by the commission under IC 25-1-8-2.** If an individual applicant fails to file a timely license fee, the commission shall void the application and may not issue a license to that applicant unless that applicant again complies with the requirements of subdivisions (4) and (5) and this subdivision.

(b) To obtain a broker license, a partnership must:

(1) have as partners only individuals who are licensed brokers;

(2) have at least one (1) partner who:

(A) is a resident of Indiana; or

(B) is a principal broker under IC 25-34.1-4-3(b);

(3) cause each employee of the partnership who acts as a broker or salesperson to be licensed; and

(4) submit the license fee ~~of fifty dollars ($50)~~ **established by the commission under IC 25-1-8-2** and an application setting forth the name and residence address of each partner and the information prescribed in subsection (a)(4).

(c) To obtain a broker license, a corporation must:

(1) have a licensed broker:

(A) residing in Indiana who is either an officer of the corporation or, if no officer resides in Indiana, the highest ranking corporate employee in Indiana with authority to bind the corporation in real estate transactions; or

(B) who is a principal broker under IC 25-34.1-4-3(b);

(2) cause each employee of the corporation who acts as a broker or salesperson to be licensed; and

(3) submit the license fee ~~of fifty dollars ($50),~~ **established by the commission under IC 25-1-8-2,** an application setting forth the name and residence address of each officer and the information prescribed in subsection (a)(4), a copy of the certificate of incorporation, and a certificate of good standing of the corporation issued by the secretary of state. ~~of Indiana.~~

(d) To obtain a broker license, a limited liability company must:

(1) if a member-managed limited liability company:

(A) have as members only individuals who are licensed brokers; and

(B) have at least one (1) member who is:

(i) a resident of Indiana; or

(ii) a principal broker under IC 25-34.1-4-3(b);

(2) if a manager-managed limited liability company, have a licensed broker:

(A) residing in Indiana who is either a manager of the company or, if no manager resides in Indiana, the highest ranking company officer or employee in Indiana with authority to bind the company in real estate transactions; or

(B) who is a principal broker under IC 25-34.1-4-3(b);

(3) cause each employee of the limited liability company who acts as a broker or salesperson to be licensed; and

(4) submit the license fee ~~of fifty dollars ($50)~~ **established by the commission under IC 25-1-8-2** and an application setting forth the information prescribed in subsection (a)(4), together with:

(A) if a member-managed company, the name and residence address of each member; or

(B) if a manager-managed company, the name and residence address of each manager, or of each officer if the company has officers.

(e) Licenses granted to partnerships, corporations, and limited liability companies are issued, expire, are renewed, and are effective on the same terms as licenses granted to individual brokers, except as provided in subsection (h), and except that expiration or revocation of the license of:

(1) any partner in a partnership or all individuals in a corporation satisfying subsection (c)(1); or

(2) a member in a member-managed limited liability company or all individuals in a manager-managed limited liability company satisfying subsection (d)(2);

terminates the license of that partnership, corporation, or limited liability company.

(f) Upon the applicant's compliance with the requirements of subsection (a), (b), or (c), the commission shall issue the applicant a broker license and an identification card which certifies the issuance of the license and indicates the expiration date of the license. The license shall be displayed at the broker's place of business.

(g) Notice of passing the commission examination serves as a temporary permit for an individual applicant to act as a broker as soon as the applicant sends, by registered or certified mail with return receipt requested, a timely license fee as prescribed in subsection (a)(6). The temporary permit expires the earlier of one hundred twenty (120) days after the date of the notice of passing the examination or the date a license is issued.

(h) **Unless the license is renewed,** a broker license expires, for individuals, ~~at midnight, December 31 and, for corporations, partnerships, and limited liability companies at midnight, June 30 of the next even-numbered year following the year in which the license is issued or last renewed, unless the licensee renews the license prior to expiration by payment of a biennial license fee of fifty dollars ($50). An expired license may be reinstated within one hundred twenty (120) days after expiration by payment of all unpaid license fees together with twenty dollars ($20). If the license is renewed within eighteen (18) months, but more than one hundred twenty (120) days, after expiration, the licensee must pay a late fee of one hundred dollars ($100) plus any unpaid license fees.~~ **on a date specified by the licensing agency under IC 25-1-6-4 and expires biennially after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the board and pay the renewal fee established by the commission under IC 25-1-8-2 on or before the renewal date specified by the licensing agency. If the holder of a license does not renew the license by the date specified by the licensing agency, the license expires and becomes invalid without the board taking any action.** If a broker fails to reinstate a license within eighteen (18) months after expiration, a license may not be issued unless the broker again complies with the requirements of subsection (a)(4), (a)(5), and (a)(6).

(i) A partnership, corporation, or limited liability company may not be a broker-salesperson except as authorized in IC 23-1.5. An

individual broker who associates as a broker-salesperson with a principal broker shall immediately notify the commission of the name and business address of the principal broker and of any changes of principal broker that may occur. The commission shall then change the address of the broker-salesperson on its records to that of the principal broker.

SECTION 87. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 25-1-2-9; IC 25-1-11-9.5; IC 25-21.5-8-3.

SECTION 88. [EFFECTIVE JULY 1, 2005] **(a) This SECTION applies to the entities listed in IC 25-1-6-3, as amended by this act.**

(b) Notwithstanding the requirement under this act that an entity described in subsection (a) must adopt fees, a fee charged by an entity on June 30, 2005, continues in effect until the fee is changed by a rule adopted by the entity. An entity described in subsection (a) must adopt a rule described in this SECTION before January 1, 2006.

(c) This SECTION expires July 1, 2006.

SECTION 89. [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 90. [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 91. [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

(Reference is to ESB 139 as reprinted April 1, 2005.)

MEEKS	ALDERMAN
CRAYCRAFT	C. BROWN
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

Engrossed House Bill 1098–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 22 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1098–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 22 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1098–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 585: yeas 87, nays 0. Report adopted.

Representative Stilwell was excused.

Engrossed House Bill 1182–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1182–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1182–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 586: yeas 85, nays 0. Report adopted.

Engrossed House Bill 1314–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 20 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1314–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 20 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1314–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 587: yeas 82, nays 1. Report adopted.

Engrossed House Bill 1329–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 23 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1329–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 23 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1329–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 588: yeas 84, nays 0. Report adopted.

HOUSE MOTION

Mr. Speaker: I move pursuant to House Rule 161 to amend the title of Engrossed House Bill 1329 to read as follows:

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

BECKER

Motion prevailed.

Representative Oxley was excused.

Engrossed House Bill 1794–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 21 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1794–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 21 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1794–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 589: yeas 77, nays 8. Report adopted.

Representative VanHaaften, who had been excused, was present.

Engrossed Senate Bill 100–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 3 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 100–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 3 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 100–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 590: yeas 54, nays 32. Report adopted.

Representatives Koch and Oxley, who had been excused, were present.

Engrossed Senate Bill 206–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 3 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 206–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 3 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 206–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 591: yeas 89, nays 0. Report adopted.

Engrossed Senate Bill 282–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 21 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed

Senate Bill 282–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 21 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 282–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 592: yeas 67, nays 24. Report adopted.

Engrossed Senate Bill 322–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 21 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 322–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 21 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 322–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 593: yeas 91, nays 0. Report adopted.

Representatives Crooks and Oxley were excused.

Engrossed Senate Bill 615–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 22 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 615–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 22 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 615–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 594: yeas 88, nays 0. Report adopted.

Representative Stilwell, who had been excused, was present.

Engrossed House Bill 1057–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 6 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1057–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 6 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1057–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 595: yeas 77, nays 15. Report adopted.

MOTIONS TO CONCUR IN SENATE AMENDMENTS

HOUSE MOTION

Mr. Speaker: I move that the House reconsider its actions whereby it dissented from the Senate amendments to Engrossed House Bill 1611 and that the House now concur in the Senate amendments to said bill.

NOE

Roll Call 596: yeas 87, nays 6. Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that the House reconsider its actions whereby it dissented from the Senate amendments to Engrossed House Bill 1315 and that the House now concur in the Senate amendments to said bill.

GOODIN

Roll Call 597: yeas 62, nays 27. Motion prevailed.

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 86

Representative Koch introduced House Concurrent Resolution 86:

A CONCURRENT RESOLUTION in support of the United States remaining a leader in Space Exploration and Development.

Whereas, Since its inception in 1958, the National Aeronautics and Space Administration (NASA) has accomplished many significant scientific and technological goals and advanced humankind's knowledge of the Earth and the universe;

Whereas, NASA has improved the quality and extended the lives of citizens not only within the United States, but throughout the world, by the development of technologies including, but not limited

to, image processing in CAT Scanners and MRI Machines, kidney dialysis, programmable heart pacemakers, fetal heart monitors, and surgical probes to treat brain tumors;

Whereas, NASA employs more than 18,000 civil service employees and awarded over $13 billion in contracts in fiscal year 2004 with both the private sector and academia in support of NASA programs;

Whereas, NASA supports space-related activities in all 50 states through its Space Grant Consortia, Explorer Schools, Educator Resource Center Networks, and EPSCoR program;

Whereas, The desire to explore is part of America's character, and history has shown that space exploration benefits all humankind through new technologies for everyday application, new jobs across the entire economic enterprise, economic contributions through new markets and commercial products, education and inspiration, United States leadership, increased security, and legacy for future generations;

Whereas, A Space Exploration Vision has recently been articulated to affirm the United States' commitment to human and robotic space exploration and to give NASA a new focus and clear objectives, including long-term human and robotic programs to explore the solar system, and a return to the moon that will ultimately enable future exploration of Mars and other destinations;

Whereas, The Space Exploration Vision has the potential to drive innovations, development, and advancement in the aerospace and other high technology industries in Indiana and in benefit of our constituents; and

Whereas, Funding for NASA both directly and indirectly benefits Indiana, our constituents and the aerospace industry nationally: Therefore,

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

SECTION 1. That the members of the Indiana House of Representatives, the Senate concurring, honor the National Aeronautics and Space Administration (NASA), and recognize its efforts and advancements in aerospace.

SECTION 2. That the Indiana House of Representatives, the Senate concurring, supports the United States remaining a leader in Space Exploration and Development.

SECTION 3. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to NASA.

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

House Resolution 92

Representative Denbo introduced House Resolution 92:

A HOUSE RESOLUTION recognizing the Mitchell Presbyterian Church.

Whereas, A church is much more than simply a building;

Whereas, A church is the center of the community; a place where people can come together in times of joy and times of sorrow;

Whereas, On January 24, 1855, Reverend John M. Bishop and Reverend John A. Tiffany, serving with the American Home Missionary Society, met with ten people in the log schoolhouse at Woodville;

Whereas, This meeting led to the formation of the Mitchell Presbyterian Church;

Whereas, The Mitchell Presbyterian Church has always been involved in the activities of the communities. The building housed the town clock for many years until the steeple had to be removed;

Whereas, In times of disaster, the congregation of the Mitchell Presbyterian Church was always ready and willing to step in to help those in need. For example, when the First Baptist Church building burned in 1901, the Baptists met with the Presbyterians until their church could be rebuilt, and the church annex was used as a hospital for refugees of the 1937 flood;

Whereas, In January 1993, a fire destroyed the historic brick Mitchell Presbyterian Church building;

Whereas, After painful deliberation, the congregation decided to move from the church's original location to its present site; and

Whereas, Although the church has struggled through some difficult times, the congregation has survived and continues to bear witness to the community and its citizens: Therefore,

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

SECTION 1. That the Indiana General Assembly recognizes the many contributions the Mitchell Presbyterian Church and its congregation have given to the community since the church's establishment in 1855 and thanks the congregation for its loving dedication to the welfare of the community and its citizens.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the congregation of the Mitchell Presbyterian Church.

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

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed House Bill 1822 because it conflicts with HEA 1003-2005 without properly recognizing the existence of HEA 1003-2005, has had Engrossed House Bill 1822 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1822 be corrected as follows:

Page 2, line 23, after "IC 4-22-2-28" insert ", AS AMENDED BY HEA 1003-2005, SECTION 20,".

Page 2, line 24, delete "Before July 1,".

Page 2, line 25, delete "2005, the" and insert "~~The~~".

Page 2, line 25, strike "Indiana Economic Development".

Page 2, line 25, delete "council may review and" and insert "~~corporation may review and~~".

Page 2, strike lines 26 through 27.

Page 2, line 28, delete "After June 30, 2005, the" and insert "**The**".

Page 2, line 42, delete "council or the" and insert "corporation".

Page 3, line 1, delete "Indiana Economic Development Corporation".

Page 3, line 1, delete "council's" and insert "corporation's".

Page 3, line 2, delete "or the corporation's".

(Reference is to EHB 1822 as printed April 1, 2005.)

WHETSTONE, Chair
PELATH, R.M.M.
AUSTIN, Author

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 54 because it conflicts with HEA 1022-2005 without properly recognizing the existence of HEA 1022-2005, has had Engrossed Senate Bill 54 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 54 be corrected as follows:

Page 1, line 4, delete "IC 34-30-21," and insert "**IC 34-30-22,**".

Page 1, line 14, delete "IC 34-30-21," and insert "**IC 34-30-22,**".

Page 2, line 30, delete "IC 34-30-21" and insert "IC 34-30-22".

Page 2, line 33, delete "21." and insert "**22.**".

(Reference is to ESB 54 as printed March 23, 2005.)

WHETSTONE, Chair
PELATH, R.M.M.
FOLEY, Sponsor

Report adopted.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
EHB 1501–1; filed April 27, 2005, at 5:04 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1501 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-2-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, and unless the context clearly denotes otherwise:

(1) "Agency" means an authority, a board, a branch, a bureau, a commission, a committee, a council, a department, a division, an office, a service, or other instrumentality of the executive, including the administrative, department of state government. The term includes a body corporate and politic set up as an instrumentality of the state ~~that chooses to be under the jurisdiction of the state ethics commission.~~ **and a private, nonprofit, government related corporation.** The term does not include any of the following:

(A) The judicial department of state government.

(B) The legislative department of state government.

(C) A state educational institution (as defined in IC 20-12-0.5-1).

(D) A political subdivision.

~~(E) A private nonprofit government related corporation.~~

(2) "Appointing authority" means the chief administrative officer of an agency. The term does not include a state officer.

(3) "Assist" means to:

(A) help;

(B) aid;

(C) advise; or

(D) furnish information to;

a person. The term includes an offer to do any of the actions in clauses (A) through (D).

(4) "Business relationship" means dealings of a person with an agency seeking, obtaining, establishing, maintaining, or implementing:

(A) a pecuniary interest in a contract or purchase with the agency; or

(B) a license or permit requiring the exercise of judgment or discretion by the agency.

(5) "Commission" refers to the state ethics commission created under section 2 of this chapter.

(6) "Compensation" means any money, thing of value, or financial benefit conferred on, or received by, any person in return for services rendered, or for services to be rendered, whether by that person or another.

(7) "Employee" means an individual, other than a state officer, who is employed by an agency on a full-time, a part-time, a temporary, an intermittent, or an hourly basis. The term includes an individual who contracts with an agency for personal services. ~~for more than thirty (30) hours a week for more than twenty-six (26) weeks during any one (1) year period.~~

(8) "Employer" means any person from whom a state officer or employee or the officer's or employee's spouse received compensation. For purposes of this chapter, a customer or client of a self-employed individual in a sole proprietorship or a professional practice is not considered to be an employer.

(9) "Financial interest" means an interest:

(A) in a purchase, sale, lease, contract, option, or other transaction between an agency and any person; or

(B) involving property or services.

The term includes an interest arising from employment or prospective employment for which negotiations have begun. The term does not include an interest of a state officer or employee in the common stock of a corporation unless the combined holdings in the corporation of the state officer or the employee, that individual's spouse, and that individual's unemancipated children are more than one percent (1%) of the outstanding shares of the common stock of the corporation. The term does not include an interest that is not greater than the interest of the general public or any state officer or any state employee.

(10) "Information of a confidential nature" means information:

(A) obtained by reason of the position or office held; and

(B) which:

(i) a public agency is prohibited from disclosing under IC 5-14-3-4(a);

(ii) a public agency has the discretion not to disclose under IC 5-14-3-4(b) and that the agency has not disclosed; or

(iii) ~~the information~~ is not in a public record, but if it were, would be confidential.

(11) "Person" means any individual, proprietorship, partnership, unincorporated association, trust, business trust, group, limited liability company, or corporation, whether or not operated for profit, or a governmental agency or political subdivision.

(12) "Political subdivision" means a county, city, town, township, school district, municipal corporation, special taxing district, or other local instrumentality. The term includes an officer of a political subdivision.

(13) "Property" has the meaning set forth in IC 35-41-1-23.

(14) "Represent" means to do any of the following on behalf of a person:

(A) Attend an agency proceeding.

(B) Write a letter.

(C) Communicate with an employee of an agency.

(15) "Special state appointee" means a person who is:

(A) not a state officer or employee; and

(B) elected or appointed to an authority, a board, a commission, a committee, a council, a task force, or other body designated by any name that:

(i) is authorized by statute or executive order; and

(ii) functions in a policy or an advisory role in the executive (including the administrative) department of state government, including a separate body corporate and politic.

(16) "State officer" means any of the following:

(A) The governor.

(B) The lieutenant governor.

(C) The secretary of state.

(D) The auditor of state.

(E) The treasurer of state.

(F) The attorney general.

(G) The superintendent of public instruction.

(17) The masculine gender includes the masculine and feminine.

(18) The singular form of any noun includes the plural wherever appropriate.

SECTION 2. IC 4-2-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) There is created a state ethics commission.

(b) The commission is composed of five (5) members appointed by the governor.

(c) No more than three (3) commission members shall be of the same political party. A person who:

(1) holds an elected or appointed office of the state;

(2) is employed by the state; or

(3) is registered as a lobbyist under IC 2-7-2-1;

may not be a member of the commission. The governor shall designate one (1) member of the commission as the ~~chairman.~~ **chairperson.** Each appointment to the commission is for a period of four (4) years. A vacancy shall be filled by the governor for the unexpired term.

(d) The ~~governor and state budget agency~~ **inspector general** shall provide ~~such~~ rooms and staff assistance ~~as the commission may require.~~ **for the commission.**

SECTION 3. IC 4-2-6-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. The commission has jurisdiction over the following persons:

(1) A current or former state officer.

(2) A current or former employee.
(3) A person who has or had a business relationship with an agency.
(4) A **current or former** special state appointee.

SECTION 4. IC 4-2-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The commission may do any of the following:

(1) Upon a vote of four (4) members, ~~or upon the written request of the governor, initiate and conduct an investigation.~~ **refer any matter within the inspector general's authority to the inspector general for investigation.**

(2) Receive and hear any complaint ~~which~~ **filed with the commission by the inspector general that** alleges a violation of this chapter, a rule adopted under this chapter, or any other statute or rule establishing standards of official conduct of state officers, employees, **an executive branch lobbyist (as defined in IC 4-2-7-1),** or special state appointees.

(3) Obtain information and, upon a vote of four (4) members, compel the attendance and testimony of witnesses and the production of pertinent books and papers by a subpoena enforceable by the circuit or superior court of the county where the subpoena is to be issued.

(4) Recommend legislation to the general assembly relating to the conduct and ethics of state officers, employees, and special state appointees, including whether additional specific state officers or employees should be required to file a financial disclosure statement under section 8 of this chapter.

(5) Adopt rules under IC 4-22-2 to implement this chapter.

(6) Prescribe and provide forms for statements required to be filed under this chapter.

(7) Accept and file information:
(A) voluntarily supplied; and
(B) that exceeds the requirements of this chapter.

(8) Inspect financial disclosure forms.

(9) Notify persons who fail to file forms required under this chapter.

(10) Develop a filing, a coding, and an indexing system required by this chapter and IC 35-44-1-3(f).

(11) Conduct research.

(12) Prepare interpretive and educational materials and programs.

(b) The commission shall do the following:

(1) Act as an advisory body by issuing advisory opinions to interpret this chapter, the commission's rules, or any other statute or rule establishing standards of official conduct upon:
(A) request of:
(i) a state officer or a former state officer;
(ii) an employee or a former employee;
(iii) a person who has or had a business relationship with an agency; or
(iv) a special state appointee **or former special state appointee;** or
(B) motion of the commission.

(2) Conduct its proceedings in the following manner:
(A) When a complaint is filed with the commission, the commission may:
(i) reject, without further proceedings, a complaint that the commission considers frivolous or inconsequential;
(ii) reject, without further proceedings, a complaint that the commission is satisfied has been dealt with appropriately by an agency;
(iii) upon the vote of four (4) members, determine that the complaint does not allege facts sufficient to constitute a violation of this chapter or the code of ethics and dismiss the complaint; or
(iv) forward a copy of the complaint to the attorney general, the prosecuting attorney of the county in which the alleged violation occurred, the state board of accounts, a state officer, the appointing authority, or other appropriate person for action, and stay the commission's proceedings pending the other action.
(B) If a complaint is not disposed of under clause (A), a copy of the complaint shall be sent to the person alleged to have committed the violation.
(C) If the complaint is not disposed of under clause (A), ~~or when the commission initiates an investigation on its own motion or upon request of the governor,~~ the commission ~~shall~~ **may** promptly ~~investigate~~ **refer** the alleged violation **for additional investigation by the inspector general.** If ~~after the preliminary investigation,~~ the commission finds by a majority vote that probable cause exists to support an alleged violation, it shall convene a public hearing on the matter within sixty (60) days after making the determination. The respondent shall be notified within fifteen (15) days of the commission's determination. **Except as provided in this section,** the commission's evidence relating to an investigation is confidential. ~~until the earlier of:~~
~~(i) the time the respondent is notified of the hearing; or~~
~~(ii) the time the respondent elects to have the records divulged.~~
(D) A complaint filed with the commission is open for public inspection after the commission finds that probable cause exists. However, a complaint filed by the inspector general that contains confidential information under IC 4-2-7-8 may be redacted to exclude the confidential information. Every hearing and other proceeding in which evidence is received by the commission is open to the public. Investigative reports by the inspector general that are not filed with the commission may be kept confidential.
(E) A:
(i) complaint that is filed with; or
(ii) proceeding that is held by;
the commission before the commission has found probable cause is confidential unless the target of the investigation elects to have information disclosed, or the commission elects to respond to public statements by the person who filed the complaint.
~~However,~~ **(F)** The commission may acknowledge:
(i) the existence and scope of an investigation **before the finding of probable cause;** or
(ii) that the commission did not find probable cause to support an alleged violation.
~~(D)~~ **(G)** If a hearing is to be held, the respondent may examine and make copies of all evidence in the commission's possession relating to the charges. At the hearing, the charged party shall be afforded appropriate due process protection consistent with IC 4-21.5, including the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross-examine opposing witnesses.
~~(E)~~ **(H)** After the hearing, the commission shall state its findings of fact. If the commission, based on competent and substantial evidence, finds by a majority vote that the respondent has violated this chapter, a rule adopted under this chapter, or any other statute or rule establishing standards of official conduct of state officers, employees, or special state appointees, it shall state its findings in writing in a report, which shall be supported and signed by a majority of the commission members and shall be made public. ~~The report may make a recommendation for the sanctions to be imposed by the appointing authority or state officer for the violation, including:~~
~~(i) a letter of counseling;~~
~~(ii) a reprimand;~~
~~(iii) a suspension with or without pay; or~~
~~(iv) the dismissal of an employee.~~
~~(F)~~ **(I)** If the commission, based on competent and substantial evidence, finds by a majority vote a violation of this chapter, a rule adopted under this chapter, or any other statute or rule establishing standards of official conduct of state officers, employees, or special state appointees, the commission may also take any of the actions provided in section 12 of this chapter.
~~(G)~~ **(J)** The report required under clause ~~(E)~~ **(H)** shall be presented to:

(i) the respondent;
(ii) the appointing authority or state officer of the employee, former employee, or special state appointee; and
(iii) the governor.

~~(II)~~ **(K)** The commission may also forward the report to any of the following:
(i) The prosecuting attorney of each county in which the violation occurred.
(ii) The state board of accounts.
(iii) The state personnel director.
(iv) The attorney general.
(v) A state officer.
(vi) The appointing authority.
(vii) Any other appropriate person.

~~(I)~~ **(L)** If the commission finds the respondent has not violated a code or statutory provision, it shall dismiss the charges.

(3) **Review all conflict of interest disclosures received by the commission under IC 35-44-1-3,** maintain an index of ~~conflict of interest~~ **those** disclosures, ~~received by the commission under IC 35-44-1-3.~~ **and issue advisory opinions and screening procedures as set forth in section 9 of this chapter.**

(c) Notwithstanding IC 5-14-3-4(b)(8)(C), the records of the commission concerning the case of a respondent that are not confidential under ~~subsection (b)(2)(C)~~ **IC 5-14-3-4(b)(2)(C)** shall be available for inspection and copying in accordance with IC 5-14-3.

SECTION 5. IC 4-2-6-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. (a) A current state officer, employee, or special state appointee shall not knowingly:**

(1) accept other employment involving compensation of substantial value if the responsibilities of that employment are inherently incompatible with the responsibilities of public office or require the individual's recusal from matters so central or critical to the performance of the individual's official duties that the individual's ability to perform those duties would be materially impaired;

(2) accept employment or engage in business or professional activity that would require the individual to disclose confidential information that was gained in the course of state employment; or

(3) use or attempt to use the individual's official position to secure unwarranted privileges or exemptions that are:

(A) of substantial value; and

(B) not properly available to similarly situated individuals.

(b) A written advisory opinion issued by the inspector general or the individual's supervisor granting approval of outside employment is conclusive proof that an individual is not in violation of subsection (a)(1) or (a)(2).

SECTION 6. IC 4-2-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The following persons shall file a written financial disclosure statement:

(1) The governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, and state superintendent of public instruction.
(2) Any candidate for one (1) of the offices in subdivision (1) who is not the holder of one (1) of those offices.
(3) Any person who is the appointing authority of an agency.
(4) The director of each division of the department of administration.
(5) Any purchasing agent within the procurement division of the department of administration.
(6) An employee required to do so by rule adopted by the commission.

(b) The statement shall be filed with the commission as follows:
(1) Not later than February 1 of every year, in the case of the state officers and employees enumerated in subsection (a).
(2) If the individual has not previously filed under subdivision (1) during the present calendar year and is filing as a candidate for a state office listed in subsection (a)(1), before filing a declaration of candidacy under IC 3-8-2 or IC 3-8-4-11, petition of nomination under IC 3-8-6, or declaration of intent to be a write-in candidate under IC 3-8-2-2.5, or before a certificate of nomination is filed under IC 3-8-7-8, in the case of a candidate for one (1) of the state offices (unless the statement has already been filed when required under IC 3-8-4-11).
(3) Not later than sixty (60) days after employment or taking office, unless the previous employment or office required the filing of a statement under this section.
(4) Not later than thirty (30) days after leaving employment or office, unless the subsequent employment or office requires the filing of a statement under this section.

The statement must be made under affirmation.

(c) The statement shall set forth the following information for the preceding calendar year or, in the case of a state officer or employee who leaves office or employment, the period since a previous statement was filed:

(1) The name and address of any person known:
(A) to have a business relationship with the agency of the state officer or employee or the office sought by the candidate; and
(B) from whom the state officer, candidate, or the employee, or that individual's spouse or unemancipated children received a gift or gifts having a total fair market value in excess of one hundred dollars ($100).
(2) The location of all real property in which the state officer, candidate, or the employee or that individual's spouse or unemancipated children has an equitable or legal interest either amounting to five thousand dollars ($5,000) or more or comprising ten percent (10%) of the state officer's, candidate's, or the employee's net worth or the net worth of that individual's spouse or unemancipated children. An individual's primary personal residence need not be listed, unless it also serves as income property.
(3) The names and the nature of the business of the employers of the state officer, candidate, or the employee and that individual's spouse.
(4) The following information about any sole proprietorship owned or professional practice operated by the state officer, candidate, or the employee or that individual's spouse:
(A) The name of the sole proprietorship or professional practice.
(B) The nature of the business.
(C) Whether any clients are known to have had a business relationship with the agency of the state officer or employee or the office sought by the candidate.
(D) The name of any client or customer from whom the state officer, candidate, employee, or that individual's spouse received more than thirty-three percent (33%) of the state officer's, candidate's, employee's, or that individual's spouse's nonstate income in a year.
(5) The name of any partnership of which the state officer, candidate, or the employee or that individual's spouse is a member and the nature of the partnership's business.
(6) The name of any corporation (other than a church) of which the state officer, candidate, or the employee or that individual's spouse is an officer or a director and the nature of the corporation's business.
(7) The name of any corporation in which the state officer, candidate, or the employee or that individual's spouse or unemancipated children own stock or stock options having a fair market value in excess of ten thousand dollars ($10,000). **However, if the stock is held in a blind trust, the name of the administrator of the trust must be disclosed on the statement instead of the name of the corporation.** A time or demand deposit in a financial institution or insurance policy need not be listed.
(8) The name and address of the most recent former employer.
(9) Additional information that the person making the disclosure chooses to include.

Any such state officer, candidate, or employee may file an amended statement upon discovery of additional information required to be reported.

(d) A person who:

(1) fails to file a statement required by rule or this section in a timely manner; or

(2) files a deficient statement;

upon a majority vote of the commission, is subject to a civil penalty at a rate of not more than ten dollars ($10) for each day the statement remains delinquent or deficient. The maximum penalty under this subsection is one thousand dollars ($1,000).

(e) A person who intentionally or knowingly files a false statement commits a Class A infraction.

SECTION 7. IC 4-2-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. **(a)** A state officer, ~~or~~ **an** employee, **or a special state appointee** may not participate in any decision or vote ~~of any kind in which the state officer or the employee, or that individual's spouse or unemancipated children has a financial interest.~~ **if the state officer, employee, or special state appointee has knowledge that any of the following has a financial interest in the outcome of the matter:**

(1) The state officer, employee, or special state appointee.

(2) A member of the immediate family of the state officer, employee, or special state appointee.

(3) A business organization in which the state officer, employee, or special state appointee is serving as an officer, a director, a trustee, a partner, or an employee.

(4) Any person or organization with whom the state officer, employee, or special state appointee is negotiating or has an arrangement concerning prospective employment.

(b) A state officer, an employee, or a special state appointee who identifies a potential conflict of interest shall notify the person's appointing authority and seek an advisory opinion from the commission by filing a written description detailing the nature and circumstances of the particular matter and making full disclosure of any related financial interest in the matter. The commission shall:

(1) with the approval of the appointing authority, assign the particular matter to another person and implement all necessary procedures to screen the state officer, employee, or special state appointee seeking an advisory opinion from involvement in the matter; or

(2) make a written determination that the interest is not so substantial that the commission considers it likely to affect the integrity of the services that the state expects from the state officer, employee, or special state appointee.

(c) A written determination under subsection (b)(2) constitutes conclusive proof that it is not a violation for the state officer, employee, or special state appointee who sought an advisory opinion under this section to participate in the particular matter. A written determination under subsection (b)(2) shall be filed with the appointing authority.

SECTION 8. IC 4-2-6-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10.5. (a) Subject to subsection (b), a state officer, an employee, or a special state appointee may not knowingly have a financial interest in a contract made by an agency.**

(b) The prohibition in subsection (a) does not apply to:

(1) a state officer, an employee, or a special state appointee who does not participate in or have official responsibility for any of the activities of the contracting agency, if:

(A) the contract is made after public notice or, where applicable, through competitive bidding;

(B) the state officer, employee, or special state appointee files with the commission a statement making full disclosure of all related financial interests in the contract;

(C) the contract can be performed without compromising the performance of the official duties and responsibilities of the state officer, employee, or special state appointee; and

(D) in the case of a contract for professional services, the appointing authority of the contracting agency makes and files a written certification with the commission that no other state officer, employee, or special state appointee of that agency is available to perform those services as part of the regular duties of the state officer, employee, or special state appointee; or

(2) a state officer, an employee, or a special state appointee who, acting in good faith, learns of an actual or prospective violation of the prohibition in subsection (a), if, not later than thirty (30) days after learning of the actual or prospective violation, the state officer, employee, or special state appointee:

(A) makes a full written disclosure of any financial interests to the contracting agency and the commission; and

(B) terminates or disposes of the financial interest.

SECTION 9. IC 4-2-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. ~~(a) This section applies only:~~

~~(1) to a former state officer or former employee; and~~

~~(2) during the period that is twelve (12) months after the date the former state officer or former employee had responsibility for the particular matter.~~

~~(b) As used in this section, "legislative matter" has the meaning set forth in IC 2-2.1-3-1.~~

~~(c)~~ **(a)** As used in this section, "particular matter" means:

(1) an application;

(2) a business transaction;

(3) a claim;

(4) a contract;

(5) a determination;

(6) an enforcement proceeding;

(7) an investigation;

(8) a judicial proceeding;

(9) a lawsuit;

(10) a license;

(11) an economic development project; or

(12) a public works project.

The term does not include the proposal or consideration of a legislative matter or the proposal, consideration, adoption, or implementation of a rule or an administrative policy or practice of general application.

~~(d) A former state officer or former employee may not represent or assist a person regarding a particular matter involving a specific party or parties:~~

~~(1) that was under consideration by the agency that was served by the state officer or employee; and~~

~~(2) in which the officer or employee participated personally and substantially through:~~

~~(A) a decision;~~

~~(B) an approval;~~

~~(C) a disapproval;~~

~~(D) a recommendation;~~

~~(E) giving advice;~~

~~(F) an investigation; or~~

~~(G) the substantial exercise of administrative discretion.~~

~~(e) An appointing authority or state officer of the agency that was served by the former state officer or former employee may waive application of this section if the appointing authority or state officer determines that representation or assistance of a former state officer or former employee is not adverse to the public interest. A waiver under this subsection must be in writing and must be filed with the commission.~~

~~(f) This section does not prohibit an agency from contracting with a former state officer or employee to act on a matter on behalf of the agency.~~

(b) This subsection applies only to a person who served as a state officer, employee, or special state employee after January 10, 2005. A former state officer, employee, or special state appointee may not accept employment or receive compensation:

(1) as a lobbyist (as defined in IC 4-2-7-1);

(2) from an employer if the former state officer, employee, or special state appointee was:

(A) engaged in the negotiation or the administration of one (1) or more contracts with that employer on behalf of the state or an agency; and

(B) in a position to make a discretionary decision affecting the:

(i) outcome of the negotiation; or

(ii) nature of the administration; or

(3) from an employer if the former state officer, employee, or special state appointee made a regulatory or licensing decision that directly applied to the employer or to a parent or subsidiary of the employer;

before the elapse of at least three hundred sixty-five (365) days after the date on which the former state officer, employee, or special state appointee ceases to be a state officer, employee, or special state appointee.

(c) A former state officer, employee, or special state appointee may not represent or assist a person in a particular matter involving the state if the former state officer, employee, or special state appointee personally and substantially participated in the matter as a state officer, employee, or special state appointee, even if the former state officer, employee, or special state appointee receives no compensation for the representation or assistance.

(d) A former state officer, employee, or special state appointee may not accept employment or compensation from an employer if the circumstances surrounding the employment or compensation would lead a reasonable person to believe that:

(1) employment; or

(2) compensation;

is given or had been offered for the purpose of influencing the former state officer, employee, or special state appointee in the performance of his or her duties or responsibilities while a state officer, an employee, or a special state appointee.

(e) A written advisory opinion issued by the inspector general certifying that:

(1) employment of;

(2) representation by; or

(3) assistance from;

the former state officer, employee, or special state appointee does not violate this section is conclusive proof that a former state officer, employee, or special state appointee is not in violation of this section.

SECTION 10. IC 4-2-6-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11.5. (a) This section applies only to a person appointed after January 10, 2005.**

(b) As used in this section, "advisory body" means a board, a commission, a committee, an authority, or a task force of the executive department that is authorized only to make nonbinding recommendations.

(c) Except as provided in subsection (d), a lobbyist (as defined in IC 4-2-7-1) may not serve as a member of a board, a commission, a committee, an authority, or a task force of the executive department.

(d) A lobbyist (as defined in IC 4-2-7-1) may serve as a member of an advisory body.

SECTION 11. IC 4-2-6-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. If the commission finds a violation of this chapter, a rule adopted under this chapter, or any other statute or rule governing official conduct of state officers, employees, or special state appointees in a proceeding under section 4 of this chapter, the commission may take any of the following actions:

(1) Impose a civil penalty upon a respondent not to exceed ~~the greater of:~~

~~(A)~~ three (3) times the value of any benefit received from the violation. ~~or~~

~~(B) ten thousand dollars ($10,000).~~

(2) Cancel a contract.

(3) Bar a person from entering into a contract with any agency for a period specified by the commission. ~~The period specified by the commission may not exceed two (2) years from the date the action of the commission is effective.~~

(4) Order restitution or disgorgement.

(5) Reprimand, suspend, or terminate an employee or a special state appointee.

(6) Reprimand or recommend the impeachment of a state officer.

(7) Bar a person from future state employment as an employee or future appointment as a special state appointee.

SECTION 12. IC 4-2-6-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) ~~Subject to~~ **Except as provided in** subsection (b), a state officer, ~~or~~ **an** employee, **or a special state appointee** shall not retaliate or threaten to retaliate against an employee or a former employee because the employee or former employee did any of the following:

(1) Filed a complaint with the commission **or the inspector general.**

(2) Provided information to the commission **or the inspector general.**

(3) Testified at a commission proceeding.

(b) ~~Notwithstanding subsection (a),~~ A state officer, ~~or~~ an employee, **or a special state appointee** may take appropriate action against an employee who took any of the actions listed in subsection (a) if the employee:

(1) did not act in good faith; or

(2) knowingly or recklessly provided false information or testimony to the commission.

(c) A person who violates this section is subject to action under section 12 of this chapter.

(d) A person who knowingly or intentionally violates this section commits a Class A misdemeanor. In addition to any criminal penalty imposed under IC 35-50-3, a person who commits a misdemeanor under this section is subject to action under section 12 of this chapter.

SECTION 13. IC 4-2-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. **(a)** A person may not do any of the following:

(1) Knowingly or intentionally induce or attempt to induce, by threat, coercion, suggestion, or false statement, a witness or informant in a commission proceeding or investigation **conducted by the inspector general** to do any of the following:

(A) Withhold or unreasonably delay the production of any testimony, information, document, or thing.

(B) Avoid legal process summoning the person to testify or supply evidence.

(C) Fail to appear at a proceeding or investigation to which the person has been summoned.

(D) Make, present, or use a false record, document, or thing with the intent that the record, document, or thing appear in a commission proceeding or investigation to mislead a commissioner or commission employee.

(2) Alter, damage, or remove a record, document, or thing except as permitted or required by law, with the intent to prevent the record, document, or thing from being produced or used in a commission proceeding or investigation **conducted by the inspector general.**

(3) Make, present, or use a false record, document, or thing with the intent that the record, document, or thing appear in a commission proceeding or investigation to mislead a commissioner or commission employee.

(b) A person who knowingly or intentionally violates subsection (a) commits a Class A misdemeanor.

SECTION 14. IC 4-2-7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 7. The Inspector General

Sec. 1. The following definitions apply throughout this chapter:

(1) "Agency" means an authority, a board, a branch, a commission, a committee, a department, a division, or other instrumentality of the executive, including the administrative, department of state government. The term includes a body corporate and politic established as an instrumentality of the state. The term does not include the following:

(A) The judicial department of state government.

(B) The legislative department of state government.

(C) A political subdivision (as defined in IC 4-2-6-1).

(2) "Business relationship" has the meaning set forth in

IC 4-2-6-1.

(3) "Employee" means an individual who is employed by an agency on a full-time, a part-time, a temporary, an intermittent, or an hourly basis. The term includes an individual who contracts with an agency for personal services.

(4) "Ethics commission" means the state ethics commission created by IC 4-2-6-2.

(5) "Lobbyist" means an individual who seeks to influence decision making of an agency and who is registered as an executive branch lobbyist under rules adopted by the Indiana department of administration.

(6) "Person" has the meaning set forth in IC 4-2-6-1.

(7) "Special state appointee" has the meaning set forth in IC 4-2-6-1.

(8) "State officer" has the meaning set forth in IC 4-2-6-1.

Sec. 2. (a) There is established the office of the inspector general. The office of the inspector general consists of the inspector general, who is the director of the office, and an additional staff of deputy inspectors general, investigators, auditors, and clerical employees appointed by the inspector general as necessary to carry out the duties of the inspector general. The inspector general shall provide rooms and staff assistance for the ethics commission.

(b) The inspector general is responsible for addressing fraud, waste, abuse, and wrongdoing in agencies.

(c) The governor shall appoint the inspector general. The inspector general:

(1) except as provided in subdivision (2), shall be appointed for a term that expires on the earlier of the date that:

(A) the term of the governor who appointed the inspector general expires; or

(B) the governor leaves office;

(2) may only be removed from office by the governor for:

(A) neglect of duty;

(B) misfeasance;

(C) malfeasance; or

(D) nonfeasance;

(3) must be an attorney licensed to practice law in Indiana; and

(4) is entitled to receive compensation set by the governor and approved by the budget agency.

If the governor is reelected, the governor may reappoint the inspector general for an additional term. The inspector general's compensation may not be reduced during the inspector general's continuance in office.

(d) Subject to the approval of the budget agency, the inspector general shall fix the salary of all other employees of the office of the inspector general.

(e) Except for information declared confidential under this chapter, records of the office of the inspector general are subject to public inspection under IC 5-14-3.

(f) IC 5-14-1.5 (the open door law) applies to public meetings of the office of the inspector general.

Sec. 3. The inspector general shall do the following:

(1) Initiate, supervise, and coordinate investigations.

(2) Recommend policies and carry out other activities designed to deter, detect, and eradicate fraud, waste, abuse, mismanagement, and misconduct in state government.

(3) Receive complaints alleging the following:

(A) A violation of the code of ethics.

(B) Bribery (IC 35-44-1-1).

(C) Official misconduct (IC 35-44-1-2).

(D) Conflict of interest (IC 35-44-1-3).

(E) Profiteering from public service (IC 35-44-1-7).

(F) A violation of the executive branch lobbying rules.

(G) A violation of a statute or rule relating to the purchase of goods or services by a current or former employee, state officer, special state appointee, lobbyist, or person who has a business relationship with an agency.

(4) If the inspector general has reasonable cause to believe that a crime has occurred or is occurring, report the suspected crime to:

(A) the governor; and

(B) appropriate state or federal law enforcement agencies and prosecuting authorities having jurisdiction over the matter.

(5) Adopt rules under IC 4-22-2 and section 5 of this chapter to implement a code of ethics.

(6) Ensure that every:

(A) employee;

(B) state officer;

(C) special state appointee; and

(D) person who has a business relationship with an agency;

is properly trained in the code of ethics.

(7) Provide advice to an agency on developing, implementing, and enforcing policies and procedures to prevent or reduce the risk of fraudulent or wrongful acts within the agency.

(8) Recommend legislation to the governor and general assembly to strengthen public integrity laws.

(9) Annually submit a report to the legislative council detailing the inspector general's activities. The report must be in an electronic format under IC 5-14-6.

Sec. 4. To carry out the duties described in section 3 of this chapter, the inspector general has the following powers:

(1) As part of an investigation, the inspector general may:

(A) administer oaths;

(B) examine witnesses under oath;

(C) issue subpoenas and subpoenas duces tecum; and

(D) examine the records, reports, audits, reviews, papers, books, recommendations, contracts, correspondence, or any other documents maintained by an agency.

(2) The inspector general may apply to a circuit or superior court for an order holding an individual in contempt of court if the individual refuses to give sworn testimony under a subpoena issued by the inspector general or otherwise disobeys a subpoena or subpoena duces tecum issued by the inspector general.

(3) The inspector general shall prepare a report summarizing the results of every investigation. The report is confidential in accordance with section 8 of this chapter.

(4) If the attorney general has elected not to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained, the inspector general may file a civil action for the recovery of the funds in accordance with section 6 of this chapter.

(5) The inspector general may prosecute a criminal matter as a special prosecuting attorney or special deputy prosecuting attorney in accordance with:

(A) section 7 of this chapter; or

(B) IC 33-39-2-6.

Sec. 5. (a) The inspector general shall adopt rules under IC 4-22-2 establishing a code of ethics for the conduct of state business. The code of ethics must be consistent with Indiana law.

(b) If the inspector general investigates and determines that there is specific and credible evidence that a current or former employee, a current or former state officer, a current or former special state appointee, or a person who has or had a business relationship with an agency has violated the code of ethics, the inspector general may:

(1) file a complaint with the ethics commission and represent the state in a public proceeding before the ethics commission as prescribed in IC 4-2-6-4; or

(2) file a complaint with the ethics commission and negotiate an agreed settlement for approval by the ethics commission according to its rules.

Sec. 6. (a) This section applies if the inspector general finds evidence of misfeasance, malfeasance, nonfeasance, misappropriation, fraud, or other misconduct that has resulted in a financial loss to the state or in an unlawful benefit to an individual in the conduct of state business.

(b) If the inspector general finds evidence described in subsection (a), the inspector general shall certify a report of the matter to the attorney general and provide the attorney general with any relevant documents, transcripts, or written statements.

Not later than one hundred eighty (180) days after receipt of the report from the inspector general, the attorney general shall do one (1) of the following:

(1) File a civil action (including an action upon a state officer's official bond) to secure for the state the recovery of funds misappropriated, diverted, missing, or unlawfully gained. Upon request of the attorney general, the inspector general shall assist the attorney general in the investigation, preparation, and prosecution of the civil action.

(2) Inform the inspector general that the attorney general does not intend to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained. If the attorney general elects not to file a civil action, the attorney general shall return to the inspector general all documents and files initially provided by the inspector general.

(3) Inform the inspector general that the attorney general is diligently investigating the matter and after further investigation may file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained. However, if more than three hundred sixty-five (365) days have passed since the inspector general certified the report to the attorney general, the attorney general loses the authority to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained and shall return to the inspector general all documents and files initially provided by the inspector general.

(c) If the inspector general has found evidence described in subsection (a) and reported to the attorney general under subsection (b) and:

(1) the attorney general has elected under subsection (b)(2) not to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained; or

(2) under subsection (b)(3) more than three hundred sixty-five (365) days have passed since the inspector general certified the report to the attorney general under subsection (b) and the attorney general has not filed a civil action;

the inspector general may file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained.

(d) If the inspector general has found evidence described in subsection (a), the inspector general may institute forfeiture proceedings under IC 34-24-2 in a court having jurisdiction in a county where property derived from or realized through the misappropriation, diversion, disappearance, or unlawful gain of state funds may be located, unless a prosecuting attorney has already instituted forfeiture proceedings against that property.

Sec. 7. (a) If the inspector general discovers evidence of criminal activity, the inspector general shall certify to the appropriate prosecuting attorney the following information:

(1) The identity of any person who may be involved in the criminal activity.

(2) The criminal statute that the inspector general believes has been violated.

In addition, the inspector general shall provide the prosecuting attorney with any relevant documents, transcripts, or written statements. If the prosecuting attorney decides to prosecute the crime described in the information certified to the prosecuting attorney, or any other related crimes, the inspector general shall cooperate with the prosecuting attorney in the investigation and prosecution of the case. Upon request of the prosecuting attorney, the inspector general may participate on behalf of the state in any resulting criminal trial.

(b) If:

(1) the prosecuting attorney to whom the inspector general issues a certification under subsection (a):

(A) is disqualified from investigating or bringing a criminal prosecution in the matter addressed in the certification;

(B) does not file an information or seek an indictment not later than one hundred eighty (180) days after the date on which the inspector general certified the information to the prosecuting attorney; or

(C) refers the case back to the inspector general; and

(2) the inspector general finds that there may be probable cause to believe that a person identified in a certification under subsection (a)(1) has violated a criminal statute identified in a certification under subsection (a)(2);

the inspector general may request that the governor recommend the inspector general be appointed as a special prosecuting attorney under subsection (h) so that the inspector general may prosecute the matter addressed in the certification.

(c) The governor may recommend the inspector general be appointed as a special prosecuting attorney if:

(1) one (1) of the conditions set forth in subsection (b)(1) relating to the prosecuting attorney is met; and

(2) the governor finds that the appointment of the inspector general as a special prosecuting attorney is in the best interests of justice.

(d) If the governor has recommended the appointment of the inspector general as a special prosecuting attorney, the inspector general shall file a notice with the chief judge of the court of appeals, stating:

(1) that the governor has recommended that the inspector general be appointed as a special prosecutor;

(2) the name of the county in which the crime that the inspector general intends to prosecute is alleged to have been committed; and

(3) that the inspector general requests the chief judge to assign a court of appeals judge to determine whether the inspector general should be appointed as a special prosecuting attorney.

Upon receipt of the notice, the chief judge of the court of appeals shall randomly select a judge of the court of appeals to determine whether the inspector general should be appointed as a special prosecuting attorney. The chief judge shall exclude from the random selection a judge who resided in the county in which the crime is alleged to have been committed at the time the judge was appointed to the court of appeals.

(e) The inspector general shall file a verified petition for appointment as a special prosecuting attorney with the court of appeals judge assigned under subsection (d). In the verified petition, the inspector general shall set forth why the inspector general should be appointed as a special prosecutor. The inspector general may support the verified petition by including relevant documents, transcripts, or written statements in support of the inspector general's position. The inspector general shall serve a copy of the verified petition, along with any supporting evidence, on the prosecuting attorney to whom the case was originally certified under subsection (a).

(f) The prosecuting attorney shall file a verified petition in support of or opposition to the inspector general's verified petition for appointment as a special prosecuting attorney not later than fifteen (15) days after receipt of the inspector general's verified petition for appointment as a special prosecuting attorney.

(g) Upon a showing of particularized need, the court of appeals judge may order the verified petitions filed by the inspector general and the prosecuting attorney to be confidential.

(h) After considering the verified petitions, the court of appeals judge may appoint the inspector general or a prosecuting attorney, other than the prosecuting attorney to whom the case was certified under this section, as a special prosecuting attorney if the judge finds that:

(1) one (1) of the conditions set forth in subsection (b)(1) is met; and

(2) appointment of a special prosecuting attorney is in the best interests of justice.

In making its determination under this subsection, the court of appeals judge shall consider only the arguments and evidence contained in the verified petitions.

(i) Except as provided in subsection (k), a special prosecuting attorney appointed under this section has the same powers as the prosecuting attorney of the county. However, the court of appeals judge shall:

(1) limit the scope of the special prosecuting attorney's duties as a special prosecuting attorney to include only the investigation or prosecution of a particular case or

particular grand jury investigation, including any matter that reasonably results from the investigation, prosecution, or grand jury investigation; and

(2) establish for a time certain the length of the special prosecuting attorney's term.

If the special prosecuting attorney's investigation or prosecution acquires a broader scope or requires additional time to complete, the court of appeals judge may at any time increase the scope of the special prosecuting attorney's duties or establish a longer term for the special prosecuting attorney.

(j) An inspector general or prosecuting attorney appointed to serve as a special prosecuting attorney may appoint one (1) or more deputies who are licensed to practice law in Indiana to serve as a special deputy prosecuting attorney. A special deputy prosecuting attorney is subject to the same statutory restrictions and other restrictions imposed on the special prosecuting attorney by the court of appeals, but otherwise has the same powers as a deputy prosecuting attorney.

(k) An inspector general or prosecuting attorney appointed to serve as a special prosecuting attorney under this section may bring a criminal charge only after obtaining an indictment from a grand jury. An inspector general or prosecuting attorney appointed under this section to serve as a special prosecuting attorney may not bring a criminal charge by filing an information.

(l) The inspector general or a deputy inspector general who is licensed to practice law in Indiana may serve as a special deputy prosecuting attorney under IC 33-39-2-6.

(m) If the court of appeals appoints a prosecuting attorney to serve as a special prosecuting attorney under this section, the inspector general shall reimburse the prosecuting attorney for the reasonable expenses of investigating and prosecuting the case.

Sec. 8. (a) The identity of any individual who discloses in good faith to the inspector general information alleging a violation of a state or federal statute, rule, regulation, or ordinance is confidential and may not be disclosed to anyone other than the governor, the staff of the office of the inspector general, or an authority to whom the investigation is subsequently referred or certified, unless:

(1) the inspector general makes a written determination that it is in the public interest to disclose the individual's identity; or

(2) the individual consents in writing to disclosure of the individual's identity.

(b) The investigative records of the inspector general may be kept confidential in whole or in part.

(c) This subsection does not apply to a person who is a party to an action brought by the inspector general. Information received by the inspector general is not required to be produced in the course of discovery unless ordered by a court after a showing of:

(1) particularized need; and

(2) proof that the information requested cannot be obtained from any other source.

(d) Except as provided in subsection (e), a person who knowingly or intentionally discloses:

(1) confidential information or records; or

(2) the identity of a person whose identity is confidential under subsection (a);

commits unlawful disclosure of confidential information, a Class A misdemeanor.

(e) A person may disclose confidential information or records or the identity of a person whose identity is confidential under subsection (a) if the governor authorizes the disclosure of this information in the public interest.

SECTION 15. IC 4-6-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The attorney general shall have charge of and direct the prosecution of all civil actions that are brought in the name of the state of Indiana or any state agency.

(b) In no instance under this section shall the state or a state agency be required to file a bond.

(c) This section does not affect the authority of prosecuting attorneys to prosecute civil actions.

(d) This section does not affect the authority of the inspector general to prosecute a civil action under IC 4-2-7-6 for the recovery of funds misappropriated, diverted, missing, or unlawfully gained.

SECTION 16. IC 4-13-1-4.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.2. In consultation with the inspector general and the state ethics commission, the department shall, subject to this chapter, adopt rules under IC 4-22-2 requiring a person who lobbies the executive branch to register as an executive branch lobbyist.**

SECTION 17. IC 4-15-2-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 33. An appointing authority, ~~or his~~ **the appointing authority's** designee, **or the ethics commission** may, for disciplinary purposes, suspend without pay a regular employee ~~in his division of the service~~ for ~~such~~ **a** length of time as ~~he considers~~ **the appointing authority, the appointing authority's designee, or the ethics commission considers** appropriate, not exceeding thirty (30) days in any twelve (12) month period. With the approval of the director a regular employee may be suspended for a longer period pending the administrative investigation or trial of any charges against ~~him.~~ **the employee.** If the outcome of the charges or trial of any charges is favorable to the employee, the appointing authority shall reimburse the employee any lost wages and benefits for the suspension period less any wages the employee might have earned during the suspension period from other employment.

SECTION 18. IC 4-15-2-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 34. An appointing authority, ~~or his~~ **the appointing authority's** designee, **or the ethics commission** may dismiss for cause any regular employee. ~~in his division of the service.~~ No dismissal of a regular employee shall take effect, unless, at least thirty (30) days before the effective date of the dismissal, the appointing authority, ~~or his~~ **the appointing authority's** designee, **or the ethics commission** gives to the employee a written statement of the reasons for the dismissal and files a copy of the statement with the director. During the thirty (30) day notice period the employee shall be suspended without pay pending dismissal. The employee shall have an opportunity to file with the appointing authority **or the ethics commission** a written statement regarding the proposed dismissal, a copy of which shall be filed with the director. A regular employee who is dismissed shall have the right to appeal under section 35 **or 35.5** of this chapter.

SECTION 19. IC 4-15-2-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 35. **(a) This section does not apply to an employee who has been suspended or terminated by the ethics commission.**

(b) Any regular employee may file a complaint if ~~his~~ **the employee's** status of employment is involuntarily changed or if ~~he~~ **the employee** deems conditions of employment to be unsatisfactory. However, the complaint procedure shall be initiated as soon as possible after the occurrence of the act or condition complained of and in no event shall be initiated more than thirty (30) calendar days after the employee is notified of a change in ~~his~~ **the** status of employment or after an unsatisfactory condition of employment is created. Failure to initiate the complaint procedure within ~~such~~ **this** time period shall render the complaint procedure unavailable to the employee. The following complaint procedure shall be followed:

Step I: The complaint procedure shall be initiated by a discussion of the complaint by the employee and ~~his~~ **the employee's** immediate supervisor and, if a mutually satisfactory settlement has not been made within two (2) consecutive working days, ~~such~~ **the** complaint may be referred to Step II.

Step II: The complaint shall be reduced to writing and presented to the intermediate supervisor. If a mutually satisfactory settlement has not been reached within four (4) consecutive working days, such complaint may then be referred to the appointing authority.

Step III: The appointing authority or ~~his designated representative~~ **the appointing authority's designee** shall hold ~~such hearings~~ **a hearing, if necessary,** and conduct ~~such investigations as he deems~~ **whatever investigation the appointing authority or the appointing authority's designee considers** necessary to render a decision. ~~and shall make such~~ **The appointing authority or the appointing authority's designee must render a** decision in writing ~~within~~ **not**

later than ten (10) ~~consecutive working~~ **business** days **from the date of the hearing, if applicable, or close of the investigation, whichever occurs later.**

~~Should~~ **If** the appointing authority or ~~his designated representative~~ **the appointing authority's designee does** not find in favor of the employee, the complaint may be submitted within fifteen (15) calendar days to the state personnel director. The director or ~~his~~ **the director's** designee shall review the complaint and render a decision ~~within~~ **not later than** fifteen (15) calendar days **after the director or the director's designee receives the complaint.** If the decision is not agreeable to the employee, an appeal may be submitted by the employee in writing to the commission ~~no~~ **not** later than fifteen (15) calendar days from the date the employee has been given notice of the action taken by the personnel director or ~~his~~ **the director's** designee. After submission of the appeal, the commission shall, prior to rendering its decision, grant the appealing employee and the appointing authority a public hearing, with the right to be represented and to present evidence. With respect to all appeals, the commission shall render its decision within thirty (30) days after the date of the hearing on the appeal. If the commission finds that the action against the employee was taken on the basis of politics, religion, sex, age, race, or because of membership in an employee organization, the employee shall be reinstated ~~to his position~~ without loss of pay. In all other cases the appointing authority shall follow the recommendation of the commission, which may include reinstatement and payment of salary or wages lost by the employee, which may be mitigated by any wages the employee earned from other employment during a dismissed or suspended period.

If the recommendation of the commission is not agreeable to the employee, the employee, within fifteen (15) calendar days from receipt of the commission recommendation, may elect to submit the complaint to arbitration. The cost of arbitration shall be shared equally by the employee and the state of Indiana. The commissioner of labor shall prepare a list of three (3) impartial individuals trained in labor relations, and from this list each party shall strike one (1) name. The remaining arbitrator shall consider the issues which were presented to the commission and shall afford the parties a public hearing with the right to be represented and to present evidence. The arbitrator's findings and recommendations shall be binding on both parties and shall immediately be instituted by the commission.

SECTION 20. IC 4-15-2-35.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 35.5. (a) This section applies only to an employee who has been suspended or terminated by the ethics commission.**

(b) An employee who has been suspended or terminated by the ethics commission may request that the ethics commission reconsider its decision by filing a written petition for reconsideration with the ethics commission not later than fifteen (15) days after the date on which the employee was suspended or terminated. The employee must include in the petition for reconsideration a concise statement of the reasons that the employee believes that the termination or suspension was erroneous.

(c) After receipt of the petition for reconsideration, the ethics commission shall set the matter for hearing. At the hearing, the employee is entitled to the due process protections of IC 4-21.5, including the right to:

(1) be represented by counsel;

(2) present relevant evidence; and

(3) cross-examine opposing witnesses.

(d) The ethics commission shall rule on the petition for reconsideration not later than thirty (30) days from the date of the hearing. The ethics commission may:

(1) affirm its decision to suspend or terminate the employee;

(2) modify its decision to suspend or terminate the employee by:

(A) reducing the term of suspension; or

(B) vacating its order for termination and imposing a term of suspension; or

(3) vacate its order to suspend or terminate the employee.

(e) If the ethics commission vacates its order to suspend or terminate the employee under subsection (d)(3), the ethics commission may order the payment of all or part of the wages lost by the employee during the period of suspension or termination.

(f) Unless the ethics commission orders otherwise, the pendency of a petition for reinstatement does not stay the order for termination or suspension.

(g) An employee who has filed a petition for reconsideration may not file a second or subsequent petition for reconsideration.

(h) If the ruling by the ethics commission on the employee's petition for reconsideration is not agreeable to the employee, the employee may submit an appeal in writing to the commission not later than fifteen (15) calendar days after the date of the ruling by the ethics commission on the petition for reconsideration. After submission of the appeal, the commission shall, before rendering its decision, grant the appealing employee and the ethics commission a public hearing, with the right to be represented and to present evidence. With respect to all appeals, the commission shall render its decision within thirty (30) days after the date of the hearing on the appeal. If the commission finds that the action against the employee was taken on the basis of politics, religion, sex, age, race, or because of membership in an employee organization, the employee shall be reinstated without loss of pay. In all other cases the ethics commission shall follow the recommendation of the commission, which may include reinstatement and payment of salary or wages lost by the employee, which may be mitigated by any wages the employee earned from other employment during a period when the employee was dismissed or suspended.

(i) If the recommendation of the commission under subsection (h) is not agreeable to the employee, not later than fifteen (15) calendar days after receipt of commission's recommendation, the employee may elect to submit the complaint to arbitration. The cost of arbitration shall be shared equally by the employee and the state of Indiana. The commissioner of labor shall prepare a list of three (3) impartial individuals trained in labor relations, and from this list each party shall strike one (1) name. The remaining arbitrator shall consider the issues that were presented to the commission and shall afford the parties a public hearing with the right to be represented and to present evidence. The arbitrator's findings and recommendations shall be binding on both parties and shall immediately be instituted by the commission.

SECTION 21. IC 4-15-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Any employee may report in writing the existence of:

(1) a violation of a federal law or regulation;

(2) a violation of a state law or rule;

(3) a violation of an ordinance of a political subdivision (as defined in IC 36-1-2-13); or

(4) the misuse of public resources;

~~first to a supervisor or appointing authority, unless the supervisor or appointing authority is the person whom the employee believes is committing the violation or misuse of public resources. In that case, the employee may report the violation or misuse of public resources in writing to either the supervisor or appointing authority or to the state ethics commission and any official or agency entitled to receive a report from the state ethics commission under IC 4-2-6-4(b)(2)(G) or IC 4-2-6-4(b)(2)(H). If a good faith effort is not made to correct the problem within a reasonable time, the employee may submit a written report of the incident to any person, agency, or organization.~~ **to a supervisor or to the inspector general.**

(b) For having made a report under subsection (a), the employee making the report may not:

(1) be dismissed from employment;

(2) have salary increases or employment related benefits withheld;

(3) be transferred or reassigned;

(4) be denied a promotion the employee otherwise would have received; or

(5) be demoted.

(c) Notwithstanding subsections (a) and (b), an employee must make a reasonable attempt to ascertain the correctness of any information to be furnished and may be subject to disciplinary actions

for knowingly furnishing false information, including suspension or dismissal, as determined by the employee's appointing authority, ~~or~~ the appointing authority's designee, **or the ethics commission.** However, any state employee disciplined under this subsection is entitled to process an appeal of the disciplinary action under the procedure as set forth in IC 4-15-2-34 ~~and IC 4-15-2-35~~ **through IC 4-15-2-35.5.**

(d) An employer who **knowingly or intentionally** violates this section commits a Class A ~~infraction.~~ **misdemeanor.**

SECTION 22. IC 4-21.5-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) To qualify for review of a personnel action to which IC 4-15-2 applies, a person must comply with IC 4-15-2-35 **or IC 4-15-2-35.5.** To qualify for review of any other order described in section 4, 5, or 6 of this chapter, a person must petition for review in a writing that does the following:

(1) States facts demonstrating that:

(A) the petitioner is a person to whom the order is specifically directed;

(B) the petitioner is aggrieved or adversely affected by the order; or

(C) the petitioner is entitled to review under any law.

(2) Includes, with respect to determinations of notice of program reimbursement and audit findings described in section 6(a)(3) and 6(a)(4) of this chapter, a statement of issues that includes:

(A) the specific findings, action, or determination of the office of Medicaid policy and planning or of a contractor of the office of Medicaid policy and planning from which the provider is appealing;

(B) the reason the provider believes that the finding, action, or determination of the office of Medicaid policy and planning or of a contractor of the office of Medicaid policy and planning was in error; and

(C) with respect to each finding, action, or determination of the office of Medicaid policy and planning or of a contractor of the office of Medicaid policy and planning, the statutes or rules that support the provider's contentions of error.

Not more than thirty (30) days after filing a petition for review under this section, and upon a finding of good cause by the administrative law judge, a person may amend the statement of issues contained in a petition for review to add one (1) or more additional issues.

(3) Is filed:

(A) if an order described in section 4, 5, 6(a)(1), or 6(a)(2) of this chapter, with the ultimate authority for the agency issuing the order within fifteen (15) days after the person is given notice of the order or any longer period set by statute; or

(B) if a determination described in section 6(a)(3) or 6(a)(4) of this chapter, with the office of Medicaid policy and planning not more than one hundred eighty (180) days after the hospital is provided notice of the determination.

The issuance of an amended notice of program reimbursement by the office of Medicaid policy and planning does not extend the time within which a hospital must file a petition for review from the original notice of program reimbursement under clause (B), except for matters that are the subject of the amended notice of program reimbursement.

If the petition for review is denied, the petition shall be treated as a petition for intervention in any review initiated under subsection (d).

(b) If an agency denies a petition for review under subsection (a) and the petitioner is not allowed to intervene as a party in a proceeding resulting from the grant of the petition for review of another person, the agency shall serve a written notice on the petitioner that includes the following:

(1) A statement that the petition for review is denied.

(2) A brief explanation of the available procedures and the time limit for seeking administrative review of the denial under subsection (c).

(c) An agency shall assign an administrative law judge to conduct a preliminary hearing on the issue of whether a person is qualified under subsection (a) to obtain review of an order when a person requests reconsideration of the denial of review in a writing that:

(1) states facts demonstrating that the person filed a petition for review of an order described in section 4, 5, or 6 of this chapter;

(2) states facts demonstrating that the person was denied review without an evidentiary hearing; and

(3) is filed with the ultimate authority for the agency denying the review within fifteen (15) days after the notice required by subsection (b) was served on the petitioner.

Notice of the preliminary hearing shall be given to the parties, each person who has a pending petition for intervention in the proceeding, and any other person described by section 5(d) of this chapter. The resulting order must be served on the persons to whom notice of the preliminary hearing must be given and include a statement of the facts and law on which it is based.

(d) If a petition for review is granted, the petitioner becomes a party to the proceeding and the agency shall assign the matter to an administrative law judge or certify the matter to another agency for the assignment of an administrative law judge (if a statute transfers responsibility for a hearing on the matter to another agency). The agency granting the administrative review or the agency to which the matter is transferred may conduct informal proceedings to settle the matter to the extent allowed by law.

SECTION 23. IC 5-11-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 5.5. False Claims and Whistleblower Protection

Sec. 1. The following definitions apply throughout this chapter:

(1) "Claim" means a request or demand for money or property that is made to a contractor, grantee, or other recipient if the state:

(A) provides any part of the money or property that is requested or demanded; or

(B) will reimburse the contractor, grantee, or other recipient for any part of the money or property that is requested or demanded.

(2) "Documentary material" means:

(A) the original or a copy of a book, record, report, memorandum, paper, communication, tabulation, chart, or other document;

(B) a data compilation stored in or accessible through computer or other information retrieval systems, together with instructions and all other materials necessary to use or interpret the data compilations; and

(C) a product of discovery.

(3) "Investigation" means an inquiry conducted by an investigator to ascertain whether a person is or has been engaged in a violation of this chapter.

(4) "Person" includes a natural person, a corporation, a firm, an association, an organization, a partnership, a limited liability company, a business, or a trust.

(5) "Product of discovery" means the original or duplicate of:

(A) a deposition;

(B) an interrogatory;

(C) a document;

(D) a thing;

(E) a result of the inspection of land or other property; or

(F) an examination or admission;

that is obtained by any method of discovery in a judicial or an administrative proceeding of an adversarial nature. The term includes a digest, an analysis, a selection, a compilation, a derivation, an index, or another method of accessing an item listed in this subdivision.

(6) "State" means Indiana or any agency of state government. The term does not include a political subdivision.

Sec. 2. (a) This section does not apply to a claim, record, or statement concerning income tax (IC 6-3).

(b) A person who knowingly or intentionally:

(1) presents a false claim to the state for payment or approval;

(2) makes or uses a false record or statement to obtain

payment or approval of a false claim from the state;

(3) with intent to defraud the state, delivers less money or property to the state than the amount recorded on the certificate or receipt the person receives from the state;

(4) with intent to defraud the state, authorizes issuance of a receipt without knowing that the information on the receipt is true;

(5) receives public property as a pledge of an obligation on a debt from an employee who is not lawfully authorized to sell or pledge the property;

(6) makes or uses a false record or statement to avoid an obligation to pay or transmit property to the state;

(7) conspires with another person to perform an act described in subdivisions (1) through (6); or

(8) causes or induces another person to perform an act described in subdivisions (1) through (6);

is, except as provided in subsection (c), liable to the state for a civil penalty of at least five thousand dollars ($5,000) and for up to three (3) times the amount of damages sustained by the state. In addition, a person who violates this section is liable to the state for the costs of a civil action brought to recover a penalty or damages.

(c) If the factfinder determines that the person who violated this section:

(1) furnished state officials with all information known to the person about the violation not later than thirty (30) days after the date on which the person obtained the information;

(2) fully cooperated with the investigation of the violation; and

(3) did not have knowledge of the existence of an investigation, a criminal prosecution, a civil action, or an administrative action concerning the violation at the time the person provided information to state officials;

the person is liable for a penalty of not less than two (2) times the amount of damages that the state sustained because of the violation. A person who violates this section is also liable to the state for the costs of a civil action brought to recover a penalty or damages.

Sec. 3. (a) The:

(1) attorney general; and

(2) inspector general;

have concurrent jurisdiction to investigate a violation of section 2 of this chapter.

(b) If the attorney general discovers a violation of section 2 of this chapter, the attorney general may bring a civil action under this chapter against a person who may be liable for the violation.

(c) If the inspector general discovers a violation of section 2 of this chapter, the inspector general shall certify this finding to the attorney general. The attorney general may bring a civil action under this chapter against a person who may be liable for the violation.

(d) If the attorney general or the inspector general is served by a person who has filed a civil action under section 4 of this chapter, the attorney general has the authority to intervene in that action as set forth in section 4 of this chapter.

(e) If the attorney general:

(1) is disqualified from investigating a possible violation of section 2 of this chapter;

(2) is disqualified from bringing a civil action concerning a possible violation of section 2 of this chapter;

(3) is disqualified from intervening in a civil action brought under section 4 of this chapter concerning a possible violation of section 2 of this chapter;

(4) elects not to bring a civil action concerning a possible violation of section 2 of this chapter; or

(5) elects not to intervene under section 4 of this chapter;

the attorney general shall certify the attorney general's disqualification or election to the inspector general.

(f) If the attorney general has certified the attorney general's disqualification or election not to bring a civil action or intervene in a case under subsection (e), the inspector general has authority to:

(1) bring a civil action concerning a possible violation of section 2 of this chapter; or

(2) intervene in a case under section 4 of this chapter.

(g) The attorney general shall certify to the inspector general the attorney general's disqualification or election under subsection (e) in a timely fashion, and in any event not later than:

(1) sixty (60) days after being served, if the attorney general has been served by a person who has filed a civil action under section 4 of this chapter; or

(2) one hundred eighty (180) days before the expiration of the statute of limitations, if the attorney general has not been served by a person who has filed a civil action under section 4 of this chapter.

(h) A civil action brought under section 4 of this chapter may be filed in:

(1) a circuit or superior court in Marion county; or

(2) a circuit or superior court in the county in which a defendant or plaintiff resides.

(i) The state is not required to file a bond under this chapter.

Sec. 4. (a) A person may bring a civil action for a violation of section 2 of this chapter on behalf of the person and on behalf of the state. The action:

(1) must be brought in the name of the state; and

(2) may be filed in a circuit or superior court in:

(A) the county in which the person resides;

(B) the county in which a defendant resides; or

(C) Marion County.

(b) Except as provided in section 5 of this chapter, an action brought under this section may be dismissed only if:

(1) the attorney general or the inspector general, if applicable, files a written motion to dismiss explaining why dismissal is appropriate; and

(2) the court issues an order:

(A) granting the motion; and

(B) explaining the court's reasons for granting the motion.

(c) A person who brings an action under this section shall serve:

(1) a copy of the complaint; and

(2) a written disclosure that describes all relevant material evidence and information the person possesses;

on both the attorney general and the inspector general. The person shall file the complaint under seal, and the complaint shall remain under seal for at least one hundred twenty (120) days. The complaint shall not be served on the defendant until the court orders the complaint served on the defendant following the intervention or the election not to intervene of the attorney general or the inspector general. The state may elect to intervene and proceed with the action not later than one hundred twenty (120) days after it receives both the complaint and the written disclosure.

(d) For good cause shown, the attorney general or the inspector general may move the court to extend the time during which the complaint must remain under seal. A motion for extension may be supported by an affidavit or other evidence. The affidavit or other evidence may be submitted in camera.

(e) Before the expiration of the time during which the complaint is sealed, the attorney general or the inspector general may:

(1) intervene in the case and proceed with the action, in which case the attorney general or the inspector general shall conduct the action; or

(2) elect not to proceed with the action, in which case the person who initially filed the complaint may proceed with the action.

(f) The defendant in an action filed under this section is not required to answer the complaint until twenty-one (21) days after the complaint has been unsealed and served on the defendant.

(g) After a person has filed a complaint under this section, no person other than the attorney general or the inspector general may:

(1) intervene; or

(2) bring another action based on the same facts.

(h) If the person who initially filed the complaint:

(1) planned and initiated the violation of section 2 of this

chapter; or

(2) has been convicted of a crime related to the person's violation of section 2 of this chapter;

upon motion of the attorney general or the inspector general, the court shall dismiss the person as a plaintiff.

Sec. 5. (a) If the attorney general or the inspector general intervenes in an action under section 4 of this chapter, the attorney general or the inspector general is responsible for prosecuting the action and is not bound by an act of the person who initially filed the complaint. The attorney general or the inspector general may move for a change of venue to Marion County if the attorney general or the inspector general files a motion for change of venue not later than ten (10) days after the attorney general or the inspector general intervenes. Except as provided in this section, the person who initially filed the complaint may continue as a party to the action.

(b) The attorney general or the inspector general may dismiss the action after:

(1) notifying the person who initially filed the complaint; and

(2) the court has conducted a hearing at which the person who initially filed the complaint was provided the opportunity to be heard on the motion.

(c) The attorney general or the inspector general may settle the action if a court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable in light of the circumstances. Upon a showing of good cause, the court may:

(1) conduct the settlement hearing in camera; or

(2) lift all or part of the seal to facilitate the investigative process or settlement.

The court may consider an objection to the settlement brought by the person who initially filed the complaint, but is not bound by this objection.

(d) Upon a showing by the attorney general, the inspector general, or the defendant that unrestricted participation by the person who initially filed the complaint:

(1) will interfere with the prosecution of the case by the attorney general or the inspector general; or

(2) will involve the presentation of repetitious or irrelevant evidence, or evidence introduced for purposes of harassment;

the court may impose reasonable limitations on the person's participation, including a limit on the number of witnesses that the person may call, a limit to the amount and type of evidence that the person may introduce, a limit to the length of testimony that the person's witness may present, and a limit to the person's cross-examination of a witness.

(e) If the attorney general or the inspector general elects not to intervene in the action, the person who initially filed the complaint has the right to prosecute the action. Upon request, the attorney general or the inspector general shall be served with copies of all documents filed in the action and may obtain a copy of depositions and other transcripts at the state's expense.

(f) If the attorney general and the inspector general have elected not to intervene in an action in accordance with section 4 of this chapter, upon a showing of good cause, a court may permit either the attorney general or the inspector general to intervene at a later time. The attorney general may move to intervene at any time. If the attorney general has not moved to intervene, the inspector general may move to intervene by providing written notice to the attorney general of the inspector general's intent to intervene. If the attorney general does not move to intervene earlier than fifteen (15) days after receipt of the notice of intent to intervene, the inspector general may move to intervene. If the attorney general or the inspector general intervenes under this subsection, the attorney general or the inspector general is responsible for prosecuting the action as if the attorney general or the inspector general had intervened in accordance with section 4 of this chapter.

(g) If the attorney general or inspector general shows that a specific discovery action by the person who initially filed the complaint will interfere with the investigation or prosecution of a civil or criminal matter arising out of the same facts, the court may, following a hearing in camera, stay discovery for not more than sixty (60) days. After the court has granted a sixty (60) day stay, the court may extend the stay, following a hearing in camera, if it determines that the state has pursued the civil or criminal investigation with reasonable diligence and that a specific discovery action by the person who initially filed the complaint will interfere with the state's investigation or prosecution of the civil or criminal matter.

(h) A court may dismiss an action brought under this chapter to permit the attorney general or the inspector general to pursue its claim through an alternative proceeding, including an administrative proceeding or a proceeding brought in another jurisdiction. The person who initially filed the complaint has the same rights in the alternative proceedings as the person would have had in the original proceedings. A finding of fact or conclusion of law made in the alternative proceeding is binding on all parties to an action under this section once the determination made in the alternative proceeding is final under the rules, regulations, statutes, or law governing the alternative proceeding, or if the time for seeking an appeal or review of the determination made in the alternative proceeding has elapsed.

Sec. 6. (a) The person who initially filed the complaint is entitled to the following amounts if the state prevails in the action:

(1) Except as provided in subdivision (2), if the attorney general or the inspector general intervened in the action, the person is entitled to receive at least fifteen percent (15%) and not more than twenty-five percent (25%) of the proceeds of the action or settlement, plus reasonable attorney's fees and an amount to cover the expenses and costs of bringing the action.

(2) If the attorney general or the inspector general intervened in the action and the court finds that the evidence used to prosecute the action consisted primarily of specific information contained in:

(A) a transcript of a criminal, a civil, or an administrative hearing;

(B) a legislative, an administrative, or another public report, hearing, audit, or investigation; or

(C) a news media report;

the person is entitled to receive not more than ten percent (10%) of the proceeds of the action or settlement, plus reasonable attorney's fees and an amount to cover the expenses and costs of bringing the action.

(3) If the attorney general or the inspector general did not intervene in the action, the person is entitled to receive at least twenty-five percent (25%) and not more than thirty percent (30%) of the proceeds of the action or settlement, plus reasonable attorney's fees and an amount to cover the expenses and costs of bringing the action.

(4) If the person who initially filed the complaint:

(A) planned and initiated the violation of section 2 of this chapter; or

(B) has been convicted of a crime related to the person's violation of section 2 of this chapter;

the person is not entitled to an amount under this section.

After conducting a hearing at which the attorney general or the inspector general and the person who initially filed the complaint may be heard, the court shall determine the specific amount to be awarded under this section to the person who initially filed the complaint. The award of reasonable attorney's fees plus an amount to cover the expenses and costs of bringing the action is an additional cost assessed against the defendant and may not be paid from the proceeds of the civil action.

(b) If:

(1) the attorney general or the inspector general did not intervene in the action; and

(2) the defendant prevails;

the court may award the defendant reasonable attorney's fees plus an amount to cover the expenses and costs of defending the action, if the court finds that the action is frivolous.

(c) The state is not liable for the expenses, costs, or attorney's fees of a party to an action brought under this chapter.

Sec. 7. (a) This section does not apply to an action brought by:

(1) the attorney general;

(2) the inspector general;
(3) a prosecuting attorney; or
(4) a state employee in the employee's official capacity.

(b) A court does not have jurisdiction over an action brought under section 4 of this chapter that is based on information discovered by a present or former state employee in the course of the employee's employment, unless:

(1) the employee, acting in good faith, has exhausted existing internal procedures for reporting and recovering the amount owed the state; and
(2) the state has failed to act on the information reported by the employee within a reasonable amount of time.

(c) A court does not have jurisdiction over an action brought under section 4 of this chapter if the action is brought by an incarcerated offender, including an offender incarcerated in another jurisdiction.

(d) A court does not have jurisdiction over an action brought under section 4 of this chapter against the state, a state officer, a judge (as defined in IC 33-23-11-7), a justice, a member of the general assembly, a state employee, or an employee of a political subdivision, if the action is based in information known to the state at the time the action was brought.

(e) A court does not have jurisdiction over an action brought under section 4 of this chapter if the action is based upon an act that is the subject of a civil suit, a criminal prosecution, or an administrative proceeding in which the state is a party.

(f) A court does not have jurisdiction over an action brought under section 4 of this chapter if the action is based upon information contained in:

(1) a transcript of a criminal, a civil, or an administrative hearing;
(2) a legislative, an administrative, or another public report, hearing, audit, or investigation; or
(3) a news media report;

unless the person bringing the action has direct and independent knowledge of the information that is the basis of the action, and the person bringing the action has voluntarily provided this information to the state.

Sec. 8. (a) An employee who has been discharged, demoted, suspended, threatened, harassed, or otherwise discriminated against in the terms and conditions of employment by the employee's employer because the employee:

(1) objected to an act or omission described in section 2 of this chapter; or
(2) initiated, testified, assisted, or participated in an investigation, an action, or a hearing under this chapter;

is entitled to all relief necessary to make the employee whole.

(b) Relief under this section may include:

(1) reinstatement with the same seniority status the employee would have had but for the act described in subsection (a);
(2) two (2) times the amount of back pay owed the employee;
(3) interest on the back pay owed the employee; and
(4) compensation for any special damages sustained as a result of the act described in subsection (a), including costs and expenses of litigation and reasonable attorney's fees.

(c) An employee may bring an action for the relief provided in this section in any court with jurisdiction.

Sec. 9. (a) A subpoena requiring the attendance of a witness at a trial or hearing conducted under this chapter may be served at any place in the state.

(b) A civil action under section 4 of this chapter is barred unless it is commenced:

(1) not later than six (6) years after the date on which the violation is committed; or
(2) not later than three (3) years after the date when facts material to the cause of action are discovered or reasonably should have been discovered by a state officer or employee who is responsible for addressing the false claim. However, an action is barred unless it is commenced not later than ten (10) years after the date on which the violation is committed.

(c) In a civil action brought under this chapter, the state is required to establish:

(1) the essential elements of the offense; and
(2) damages;

by a preponderance of the evidence.

(d) If a defendant has been convicted (including a plea of guilty or nolo contendere) of a crime involving fraud or a false statement, the defendant is estopped from denying the elements of the offense in a civil action brought under section 4 of this chapter that involves the same transaction as the criminal prosecution.

Sec. 10. (a) If the attorney general or the inspector general has reason to believe that a person may be in possession, custody, or control of documentary material or information relevant to an investigation involving a false claim, the attorney general or the inspector general may, before commencing a civil proceeding under this chapter, issue and serve a civil investigative demand requiring the person to do one (1) or more of the following:

(1) Produce the documentary material for inspection and copying.
(2) Answer an interrogatory in writing concerning the documentary material or information.
(3) Give oral testimony concerning the documentary material or information.

(b) If a civil investigative demand is a specific demand for a product of discovery, the official issuing the civil investigative demand shall:

(1) serve a copy of the civil investigative demand on the person from whom the discovery was obtained; and
(2) notify the person to whom the civil investigative demand is issued of the date of service.

Sec. 11. (a) A civil investigative demand issued under this chapter must describe the conduct constituting a violation involving a false claim that is under investigation and the statute or rule that has been violated.

(b) If a civil investigative demand is for the production of documentary material, the civil investigative demand must:

(1) describe each class of documentary material to be produced with sufficient specificity to permit the material to be fairly identified;
(2) prescribe a return date for each class of documentary material that provides a reasonable period of time to assemble and make the material available for inspection and copying; and
(3) identify the official to whom the material must be made available.

(c) If a civil investigative demand is for answers to written interrogatories, the civil investigative demand must:

(1) set forth with specificity the written interrogatories to be answered;
(2) prescribe the date by which answers to the written interrogatories must be submitted; and
(3) identify the official to whom the answers must be submitted.

(d) If a civil investigative demand requires oral testimony, the civil investigative demand must:

(1) prescribe a date, time, and place at which oral testimony will be given;
(2) identify the official who will conduct the examination and the custodian to whom the transcript of the examination will be submitted;
(3) specifically state that attendance and testimony are necessary to the conduct of the investigation;
(4) notify the person receiving the demand that the person has the right to be accompanied by an attorney and any other representative; and
(5) describe the general purpose for which the demand is being issued and the general nature of the testimony, including the primary areas of inquiry.

(e) A civil investigative demand that is a specific demand for a product of discovery may not be returned until at least twenty-one (21) days after a copy of the civil investigative demand has been served on the person from whom the discovery was obtained.

(f) The date prescribed for the giving of oral testimony under

a civil investigative demand issued under this chapter must be a date that is not less than seven (7) days after the date on which the demand is received, unless the official issuing the demand determines that exceptional circumstances are present that require an earlier date.

(g) The official who issues a civil investigative demand may not issue more than one (1) civil investigative demand for oral testimony by the same person, unless:

(1) the person requests otherwise; or

(2) the official who issues a civil investigative demand, after conducting an investigation, notifies the person in writing that an additional civil investigative demand for oral testimony is necessary.

Sec. 12. (a) A civil investigative demand issued under this chapter may not require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if the material, answers, or testimony would be protected from disclosure under the standards applicable:

(1) to a subpoena or subpoena duces tecum issued by a court to aid in a grand jury investigation; or

(2) to a discovery request under the rules of trial procedure;

to the extent that the application of these standards to a civil investigative demand is consistent with the purposes of this chapter.

(b) A civil investigative demand that is a specific demand for a product of discovery supersedes any contrary order, rule, or statutory provision, other than this section, that prevents or restricts disclosure of the product of discovery. Disclosure of a product of discovery under a specific demand does not constitute a waiver of a right or privilege that the person making the disclosure may be otherwise entitled to invoke to object to discovery of trial preparation materials.

Sec. 13. (a) A civil investigative demand issued under this chapter may be served by an investigator or by any other person authorized to serve process.

(b) A civil investigative demand shall be served in accordance with the rules of trial procedure. A court having jurisdiction over a person not located in the state has the same authority to enforce compliance with this chapter as the court has over a person located in the state.

Sec. 14. (a) The production of documentary material in response to a civil investigative demand served under this chapter shall be made in accordance with Trial Rule 34.

(b) Each interrogatory in a civil investigative demand served under this chapter shall be answered in accordance with Trial Rule 33.

(c) The examination of a person under a civil investigative demand for oral testimony served under this chapter shall be conducted in accordance with Trial Rule 30.

Sec. 15. (a) The official who issued the civil investigative demand is the custodian of the documentary material, answers to interrogatories, and transcripts of oral testimony received under this chapter.

(b) An investigator who receives documentary material, answers to interrogatories, or transcripts of oral testimony under this section shall transmit them to the official who issued the civil investigative demand. The official shall take physical possession of the material, answers, or transcripts and is responsible for the use made of them and for the return of documentary material.

(c) The official who issued the civil investigative demand may make copies of documentary material, answers to interrogatories, or transcripts of oral testimony as required for official use by the attorney general, the inspector general, or the state police. The material, answers, or transcripts may be used in connection with the taking of oral testimony under this chapter.

(d) Except as provided in subsection (e), documentary material, answers to interrogatories, or transcripts of oral testimony, while in the possession of the official who issued the civil investigative demand, may not be made available for examination to any person other than:

(1) the attorney general or designated personnel of the attorney general's office;

(2) the inspector general or designated personnel of the inspector general's office; or

(3) an officer of the state police who has been authorized by the official who issued the civil investigative demand.

(e) The restricted availability of documentary material, answers to interrogatories, or transcripts of oral testimony does not apply:

(1) if the person who provided:

(A) the documentary material, answers to interrogatories, or oral testimony; or

(B) a product of discovery that includes documentary material, answers to interrogatories, or oral testimony;

consents to disclosure;

(2) to the general assembly or a committee or subcommittee of the general assembly; or

(3) to a state agency that requires the information to carry out its statutory responsibility.

Documentary material, answers to interrogatories, or transcripts of oral testimony requested by a state agency may be disclosed only under a court order finding that the state agency has a substantial need for the use of the information in carrying out its statutory responsibility.

(f) While in the possession of the official who issued the civil investigative demand, documentary material, answers to interrogatories, or transcripts of oral testimony shall be made available to the person, or to the representative of the person who produced the material, answered the interrogatories, or gave oral testimony. The official who issued the civil investigative demand may impose reasonable conditions upon the examination of use of the documentary material, answers to interrogatories, or transcripts of oral testimony.

(g) The official who issued the civil investigative demand and any attorney employed in the same office as the official who issued the civil investigative demand may use the documentary material, answers to interrogatories, or transcripts of oral testimony in connection with a proceeding before a grand jury, a court, or an agency. Upon the completion of the proceeding, the attorney shall return to the official who issued the civil investigative demand any documentary material, answers to interrogatories, or transcripts of oral testimony that are not under the control of the grand jury, court, or agency.

(h) Upon written request of a person who produced documentary material in response to a civil investigative demand, the official who issued the civil investigative demand shall return any documentary material in the official's possession to the person who produced documentary material, if:

(1) a proceeding before a grand jury, a court, or an agency involving the documentary material has been completed; or

(2) a proceeding before a grand jury, a court, or an agency involving the documentary material has not been commenced within a reasonable time after the completion of the investigation.

The official who issued the civil investigative demand is not required to return documentary material that is in the custody of a grand jury, a court, or an agency.

Sec. 16. (a) A person who has failed to comply with a civil investigative demand is subject to sanctions under Trial Rule 37 to the same extent as a person who has failed to cooperate in discovery.

(b) A person who objects to a civil investigative demand issued under this chapter may seek a protective order in accordance with Trial Rule 26(C).

Sec. 17. Documentary material, answers to written interrogatories, or oral testimony provided in response to a civil investigative demand issued under this chapter are confidential.

Sec. 18. Proceedings under this chapter are governed by the Indiana Rules of Trial Procedure, unless the Indiana Rules of Trial Procedure are inconsistent with this chapter.

SECTION 24. 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.

(8) A contract with a body corporate and politic.

(b) IC 5-22-3-7 applies to any:

(1) contract;

(2) project;

(3) agreement;

(4) employment relationship; or

(5) investment;

described in subsection (a).

SECTION 25. 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 26. IC 5-22-2-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.3. "Affiliate" means a business entity that effectively controls or is controlled by a contractor or is associated with a contractor under common ownership or control, whether by shareholdings or other means, including a subsidiary, parent, or sibling of a contractor.**

SECTION 27. 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 applies to every use of funds by a governmental body. However, this section does not apply to a contract in which one (1) party is a political subdivision, including a body corporate and politic created by or authorized by a political subdivision.**

(b) A prospective contractor may not contract with a governmental body unless the prospective contractor includes the following certifications as terms of the contract with the governmental body:

(1) The contractor and any principals of the contractor certify that:

(A) the contractor, except for de minimis and nonsystematic violations, 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) the contractor 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.

(2) The contractor and any principals of the contractor certify that an affiliate or principal of the contractor and any agent acting on behalf of the contractor or on behalf of an affiliate or principal of the contractor:

(A) except for de minimis and nonsystematic violations, 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.

(c) If a certification in subsection (b) concerning compliance with IC 24-4.7, IC 24-5-12, or IC 24-5-14 is materially false or if the contractor, an affiliate or a principal of the contractor, or an agent acting on behalf of the contractor or an affiliate or a principal of the contractor violates 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, the attorney general may bring a civil action in the circuit or superior court of Marion County to:

(1) void a contract under this section, subject to subsection (d); and

(2) obtain other proper relief.

However, a contractor is not liable under this section if the contractor or an affiliate of the contractor acquires another business entity that violated the terms of IC 24-4.7, IC 24-5-12, or IC 24-5-14 within the preceding three hundred sixty-five (365) days before the date of the acquisition if the acquired business entity ceases violating IC 24-4.7, IC 24-5-12, or IC 24-5-14, even if IC 24-4.7 is preempted by federal law, as of the date of the acquisition.

(d) If:

(1) the attorney general notifies the contractor, department of administration, and budget agency in writing of the intention of the attorney general to void a contract; and

(2) the attorney general does not receive a written objection from the department of administration or budget agency, sent to both the attorney general and the contractor, within thirty (30) days of the notice;

a contract between a contractor and a governmental body is voidable at the election of the attorney general in a civil action brought under subsection (c). If an objection of the department of administration or the budget agency is submitted under subdivision (2), the contract that is the subject of the objection is not voidable at the election of the attorney general unless the objection is rescinded or withdrawn by the department of administration or the budget agency.

(e) If the attorney general establishes in a civil action that a contractor is knowingly, intentionally, or recklessly liable under subsection (c), 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.

SECTION 28. IC 10-11-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "law enforcement agency" means an agency or a department of any level of government whose principal function is the apprehension of criminal offenders. **The term includes the office of the inspector general.**

SECTION 29. IC 10-13-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) As used in this chapter, "law enforcement agency" means an agency or a department of any level of government whose principal function is the apprehension of criminal offenders.

(b) The term includes:

(1) the office of the attorney general; **and**

(2) the office of the inspector general.

SECTION 30. IC 15-1.5-10.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The trustees shall recommend an individual to be employed as executive director of the barn, subject to the approval of the governor. If the governor approves an individual recommended by the trustees, the trustees may employ the individual as executive director. If the governor does not approve an individual recommended by the trustees, the trustees shall submit another recommendation to the governor.

(b) The executive director employed under this section:

(1) is the chief administrative officer of the barn; and

(2) shall implement the policies of the trustees.

(c) The trustees may delegate any of the trustees' powers to the executive director. The trustees may make a delegation under this subsection through a resolution adopted by the trustees.

(d) ~~Notwithstanding IC 4-2-6-5,~~ The compensation for the executive director and other employees of the trustees may be paid in full or in part by the nonprofit entity established under section 10 of this chapter.

SECTION 31. IC 16-41-11-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A person

who believes that this chapter or rules adopted under this chapter have been violated may file a complaint with the state department. A complaint must be in writing unless the violation complained of constitutes an emergency. The state department shall reduce an oral complaint to writing. The state department shall maintain the confidentiality of the person who files the complaint.

(b) The state department shall promptly investigate all complaints received under this section.

(c) The state department shall not disclose the name or identifying characteristics of the person who files a complaint under this section unless:

(1) the person consents in writing to the disclosure; or

(2) the investigation results in an administrative or judicial proceeding and disclosure is ordered by the administrative law judge or the court.

(d) The state department shall give a person who files a complaint under this section the opportunity to withdraw the complaint before disclosure.

(e) An employee must make a reasonable attempt to ascertain the correctness of any information to be furnished and may be subject to disciplinary actions for knowingly furnishing false information, including suspension or dismissal, as determined by the employer **or the ethics commission.** However, an employee disciplined under this subsection is entitled to process an appeal of the disciplinary action under any procedure otherwise available to the employee by employment contract, collective bargaining agreement, or, if the employee is an employee of the state, a rule as set forth in IC 4-15-2-34 ~~and IC 4-15-2-35.~~ **through IC 4-15-2-35.5.**

(f) The employer of an employee who files a complaint in good faith with the state department under this section may not, solely in retaliation for filing the complaint, do any of the following:

(1) Dismiss the employee.

(2) Withhold salary increases or employment related benefits from the employee.

(3) Transfer or reassign the employee.

(4) Deny a promotion that the employee would have received.

(5) Demote the employee.

SECTION 32. 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 agent 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.

SECTION 33. IC 24-5-0.5-4, AS AMENDED BY SEA 509-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) A person relying upon an uncured or incurable deceptive act may bring an action for the damages actually suffered as a consumer as a result of the deceptive act **or five hundred dollars ($500), whichever is greater. The court may increase damages for a willful deceptive act in an amount that does not exceed the greater of:**

(1) three (3) times the actual damages of the consumer suffering the loss; or

(2) one thousand dollars ($1,000).

Except as provided in subsection (j), the court may award reasonable attorney fees to the party that prevails in an action under this subsection. This subsection does not apply to a consumer transaction in real property, **including a claim or action involving a construction defect (as defined in IC 32-27-3-1(5)) brought against a construction professional (as defined in IC 32-27-3-1(4)),** except for purchases of time shares and camping club memberships. **This subsection also does not apply to a violation of IC 24-4.7, IC 24-5-12, or IC 24-5-14.** Actual damages awarded to a person under this section have priority over any civil penalty imposed under this chapter.

(b) Any person who is entitled to bring an action under subsection (a) on the person's own behalf against a supplier for damages for a deceptive act may bring a class action against such supplier on behalf of any class of persons of which that person is a member and which has been damaged by such deceptive act, subject to and under the Indiana Rules of Trial Procedure governing class actions, except as herein expressly provided. **Except as provided in subsection (j),** the court may award reasonable attorney fees to the party that prevails in a class action under this subsection, provided that such fee shall be determined by the amount of time reasonably expended by the attorney and not by the amount of the judgment, although the contingency of the fee may be considered. Any money or other property recovered in a class action under this subsection which cannot, with due diligence, be restored to consumers within one (1) year after the judgment becomes final shall be returned to the party depositing the same. This subsection does not apply to a consumer transaction in real property, except for purchases of time shares and camping club memberships. Actual damages awarded to a class have priority over any civil penalty imposed under this chapter.

(c) The attorney general may bring an action to enjoin a deceptive act. However, the attorney general may seek to enjoin patterns of incurable deceptive acts with respect to consumer transactions in real property. In addition, the court may:

(1) issue an injunction;

(2) order the supplier to make payment of the money unlawfully received from the aggrieved consumers to be held in escrow for distribution to aggrieved consumers; ~~and~~

(3) order the supplier to pay to the state the reasonable costs of the attorney general's investigation and prosecution related to the action; **and**

(4) provide for the appointment of a receiver.

(d) In an action under subsection (a), (b), or (c), the court may void or limit the application of contracts or clauses resulting from deceptive acts and order restitution to be paid to aggrieved consumers.

(e) In any action under subsection (a) or (b), upon the filing of the complaint or on the appearance of any defendant, claimant, or any other party, or at any later time, the trial court, the supreme court, or the court of appeals may require the plaintiff, defendant, claimant, or any other party or parties to give security, or additional security, in such sum as the court shall direct to pay all costs, expenses, and disbursements that shall be awarded against that party or which that party may be directed to pay by any interlocutory order by the final judgment or on appeal.

(f) Any person who violates the terms of an injunction issued under subsection (c) shall forfeit and pay to the state a civil penalty of not more than fifteen thousand dollars ($15,000) per violation. For the purposes of this section, the court issuing an injunction shall retain jurisdiction, the cause shall be continued, and the attorney general acting in the name of the state may petition for recovery of civil penalties. Whenever the court determines that an injunction issued under subsection (c) has been violated, the court shall award reasonable costs to the state.

(g) If a court finds any person has knowingly violated section 3 or 10 of this chapter, the attorney general, in an action pursuant to subsection (c), may recover from the person on behalf of the state a civil penalty of a fine not exceeding five ~~hundred~~ **thousand** dollars ~~($500)~~ **($5,000)** per violation.

(h) An elderly person relying upon an uncured or incurable deceptive act, including an act related to hypnotism, may bring an action to recover treble damages, if appropriate.

(i) An offer to cure is:

(1) not admissible as evidence in a proceeding initiated under this section unless the offer to cure is delivered by a supplier to the consumer or a representative of the consumer before the supplier files the supplier's initial response to a complaint; and

(2) only admissible as evidence in a proceeding initiated under this section to prove that a supplier is not liable for attorney's fees under subsection (j).

If the offer to cure is timely delivered by the supplier, the supplier may submit the offer to cure as evidence to prove in the proceeding in accordance with the Indiana Rules of Trial Procedure that the supplier made an offer to cure.

(j) A supplier may not be held liable for the attorney's fees and court costs of the consumer that are incurred following the timely delivery of an offer to cure as described in subsection (i) unless the actual damages awarded, not including attorney's fees and costs, exceed the value of the offer to cure.

SECTION 34. 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 35. IC 24-8-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. Notice may be delivered by any of the following methods:

(1) Hand.

(2) Mail.

(3) Newspaper.

(4) Other periodical.

(5) Electronic mail or any other form of electronic, digital, or Internet based communication.

SECTION 36. IC 27-2-19-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, "law enforcement agency" means an agency or a department of any level of government whose principal function is the apprehension of criminal offenders. **The term includes the office of the inspector general.**

SECTION 37. IC 33-39-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) This section does not apply to a deputy prosecuting attorney appointed by a prosecuting attorney or **to** a special prosecutor. ~~appointed by a court.~~

(b) To be eligible to hold office as a prosecuting attorney, a person must be a resident of the judicial circuit that the person serves.

SECTION 38. IC 33-39-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Special prosecutors may be appointed ~~only~~ under this section **or in accordance with IC 4-2-7-7.**

(b) A circuit or superior court judge:

(1) shall appoint a special prosecutor if:

(A) any person other than the prosecuting attorney or the prosecuting attorney's deputy files a verified petition requesting the appointment of a special prosecutor; and

(B) the prosecuting attorney agrees that a special prosecutor is needed;

(2) may appoint a special prosecutor if:

(A) a person files a verified petition requesting the appointment of a special prosecutor; and

(B) the court, after:

(i) notice is given to the prosecuting attorney; and

(ii) an evidentiary hearing is conducted at which the prosecuting attorney is given an opportunity to be heard;

finds by clear and convincing evidence that the appointment is necessary to avoid an actual conflict of interest or there is probable cause to believe that the prosecutor has committed a crime;

(3) may appoint a special prosecutor if:

(A) the prosecuting attorney files a petition requesting the court to appoint a special prosecutor; and

(B) the court finds that the appointment is necessary to avoid the appearance of impropriety; and

(4) may appoint a special prosecutor if:

(A) an elected public official, who is a defendant in a criminal proceeding, files a verified petition requesting a special prosecutor within ten (10) days after the date of the initial hearing; and

(B) the court finds that the appointment of a special prosecutor is in the best interests of justice.

(c) Each person appointed to serve as a special prosecutor:

(1) must consent to the appointment; and

(2) must be:

(A) the prosecuting attorney or a deputy prosecuting attorney in a county other than the county in which the person is to serve as special prosecutor; or

(B) except as provided in subsection (d), a senior prosecuting attorney.

(d) A senior prosecuting attorney may be appointed in the county in which the senior prosecuting attorney previously served if the court finds that an appointment under this subsection would not create the appearance of impropriety.

(e) A person appointed to serve as a special prosecutor has the same powers as the prosecuting attorney of the county. However, the appointing judge shall limit scope of the special prosecutor's duties to include only the investigation or prosecution of a particular case or particular grand jury investigation.

(f) The court shall establish the length of the special prosecutor's term. If the target of an investigation by the special prosecutor is a public servant (as defined in IC 35-41-1-24), the court shall order the special prosecutor to file a report of the investigation with the court at the conclusion of the investigation. The report is a public record.

(g) If the special prosecutor is not regularly employed as a full-time prosecuting attorney or full-time deputy prosecuting attorney, the compensation for the special prosecutor's services:

(1) shall be paid to the special prosecutor from the unappropriated funds of the appointing county; and

(2) may not exceed:

(A) a per diem equal to the regular salary of a full-time prosecuting attorney of the appointing circuit; and

(B) travel expenses and reasonable accommodation expenses actually incurred.

(h) If the special prosecutor is regularly employed as a full-time prosecuting attorney or deputy prosecuting attorney, the compensation for the special prosecutor's services:

(1) shall be paid out of the appointing county's unappropriated funds to the treasurer of the county in which the special prosecutor regularly serves; and

(2) must include a per diem equal to the regular salary of a full-time prosecuting attorney of the appointing circuit, travel expenses, and reasonable accommodation expenses actually incurred.

(i) The combination of:

(1) the compensation paid to a senior prosecuting attorney under this chapter; and

(2) retirement benefits that the person appointed as a senior prosecuting attorney is receiving or entitled to receive;

may not exceed the minimum compensation to which a full-time prosecuting attorney is entitled under IC 33-39-6-5.

(j) A senior prosecuting attorney appointed under this chapter may not be compensated as senior prosecuting attorney for more than one hundred (100) calendar days in total during a calendar year.

SECTION 39. IC 33-39-2-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. A prosecuting attorney may appoint the inspector general or a deputy inspector general who is licensed to practice law in Indiana as a special deputy prosecuting attorney to assist in any criminal proceeding involving public misconduct.**

SECTION 40. IC 34-24-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The prosecuting attorney in a county in which any of the property is located may bring an action for the forfeiture of any property:

(1) used in the course of;

(2) intended for use in the course of;

(3) derived from; or

(4) realized through;

conduct in violation of IC 35-45-6-2.

(b) The inspector general may bring an action for forfeiture in accordance with IC 4-2-7-6 in a county where property that is:

(1) derived from; or

(2) realized through;

misfeasance, malfeasance, nonfeasance, misappropriation, fraud, or other misconduct that has resulted in a financial loss to the

state is located.

~~(b)~~ **(c)** An action for forfeiture may be brought in any circuit or superior court in a county in which any of the property is located.

~~(c)~~ **(d)** Upon a showing by a preponderance of the evidence that: ~~the~~

(1) property ~~in question~~ **described in subsection (a)** was used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of IC 35-45-6-2; **or**

(2) property described in subsection (b) was derived from or realized through conduct described in subsection (b);

the court shall, subject to the right, title, or interest of record of any other party in the property determined under section 4 of this chapter, ~~(1)~~ order the property forfeited to the state and ~~(2)~~ specify the manner of disposition of the property, including the manner of disposition if the property is not transferable for value.

~~(d)~~ **(e)** The court shall order forfeitures and dispositions under this section:

(1) with due provision for the rights of innocent persons; and

(2) as provided under section 4 of this chapter.

SECTION 41. IC 34-24-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. When an action is filed under section 2 of this chapter, the prosecuting attorney **or the inspector general** may move for an order to have property subject to forfeiture seized by a law enforcement agency. The judge shall issue such an order upon a showing of probable cause to believe that:

(1) a violation of IC 35-45-6-2, ~~involving the property in question~~ **in the case of property described in section 2(a) of this chapter; or**

(2) conduct described in section 2(b) of this chapter, in case of property described in section 2(b) of this chapter;

has occurred.

SECTION 42. IC 34-24-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Property subject to forfeiture under this chapter shall be seized by a law enforcement officer upon court order. Seizure may be made without a court order only if:

(1) the seizure is incident to a lawful arrest or search, or to an inspection under an administrative inspection warrant; or

(2) the property subject to seizure has been the subject of a prior judgment in favor of the state in a forfeiture proceeding under this chapter (or IC 34-4-30.5 before its repeal).

(b) When property is seized under subsection (a), pending forfeiture and final disposition, the law enforcement officer making the seizure may:

(1) place the property under seal;

(2) remove the property to a place designated by the court; or

(3) require another agency authorized by law to take custody of the property and remove it to an appropriate location.

(c) Property seized under subsection (a) (or IC 34-4-30.5-4(a) before its repeal) is not subject to replevin, but is considered to be in the custody of the law enforcement officer making the seizure, subject only to order of the court. However, if a seizure of property is made in accordance with subsection (a), the prosecuting attorney **or the inspector general** shall bring an action for forfeiture under section 2 of this chapter within:

(1) thirty (30) days after receiving notice from any person claiming a right, title, or interest in the property; or

(2) one hundred eighty (180) days after the property is seized;

whichever occurs first.

(d) If an action under subsection (c) is not filed within thirty (30) days after receiving notice from any person claiming a right, title, or interest in the property, the claimant:

(1) is entitled to file a complaint seeking:

(A) replevin;

(B) foreclosure; or

(C) other appropriate remedy; and

(2) shall immediately obtain a hearing on the complaint as provided in subsection (f).

If an action is not filed within one hundred eighty (180) days after the date of the seizure, and the property has not been previously released to an innocent person under section 5 of this chapter (or IC 34-4-30.5-4.5 before its repeal), the law enforcement agency whose officer made the seizure shall return the property to its owner.

(e) If property is seized under subsection (a) (or IC 34-4-30.5-4(a) before its repeal) and the property is a vehicle or real property, the prosecuting attorney **or the inspector general** shall serve, within thirty (30) days after the date the property is seized and as provided by the Indiana Rules of Trial Procedure, notice of seizure upon each person whose right, title, or interest is of record in the bureau of motor vehicles, in the county recorder's office, or other office authorized to receive or record vehicle or real property ownership interests.

(f) The person whose right, title, or interest is of record may at any time file a complaint seeking:

(1) replevin;

(2) foreclosure; or

(3) another appropriate remedy;

to which the state may answer in forfeiture within the appropriate statutory period. The court shall promptly set the matter for a hearing, and in the case of replevin or foreclosure, the court shall set the hearing as provided by the applicable statutory provisions.

SECTION 43. IC 34-24-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) If a person holding a valid lien, mortgage, security interest, or interest under a conditional sales contract did not know the property was the object of corrupt business influence **or conduct described in section 2(b) of this chapter,** the court shall determine whether the secured interest is equal to or in excess of the appraised value of the property.

(b) Appraised value is to be determined as of the date of judgment on a wholesale basis by:

(1) agreement between the secured party and the prosecuting attorney; or

(2) the inheritance tax appraiser for the county in which the action is brought.

(c) If the amount due to the secured party is equal to or greater than the appraised value of the property, the court shall order the property released to the secured party.

(d) If the amount due the secured party is less than the appraised value of the property, the holder of the interest may pay into the court an amount equal to the owner's equity, which shall be the difference between the appraised value and the amount of the lien, mortgage, security interest, or interest under a conditional sales contract. Upon payment, the state or unit, or both, shall relinquish all claims to the property.

SECTION 44. IC 34-24-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) An aggrieved person may, in addition to proceeding under section 4 of this chapter, bring an action for injunctive relief from corrupt business influence in a circuit or superior court in the county of the aggrieved person's residence, or in a county where any of the affected property or the affected enterprise is located. If the court finds, through a preponderance of the evidence, that the aggrieved person is suffering from corrupt business influence, the court shall make an appropriate order for injunctive relief. This order must be made in accordance with the principles that govern the granting of injunctive relief from threatened loss or damage in other civil cases, except that a showing of special or irreparable damage to the aggrieved person is not required. The court may order injunctive relief only after the execution of a bond by the aggrieved person for an injunction improvidently granted, in an amount established by the court. In addition, the court may order a temporary restraining order or a preliminary injunction, but only after a showing of immediate danger of significant loss or damage to the aggrieved person.

(b) An aggrieved person may bring an action against a person who has violated IC 35-45-6-2 in a circuit or superior court in the county of the aggrieved person's residence, or in a county where any of the affected property or the affected enterprise is located, for damages suffered as a result of corrupt business influence. Upon a showing by a preponderance of the evidence that the aggrieved person has been damaged by corrupt business influence, the court shall order the person causing the damage through a violation of IC 35-45-6-2 to pay to the aggrieved person:

(1) an amount equal to three (3) times ~~his~~ **the person's** actual damages;

(2) the costs of the action;

(3) a reasonable attorney's fee; and

(4) any punitive damages awarded by the court and allowable under law.

(c) The defendant and the aggrieved person are entitled to a trial by jury in an action brought under this section (or IC 34-4-30.5-5 before its repeal).

(d) In addition to any rights provided under section 4 of this chapter, an aggrieved person has a right or claim to forfeited property or to the proceeds derived from forfeited property superior to any right or claim the state has in the same property or proceeds.

(e) If the state is an aggrieved person, the attorney general ~~has~~ **and the inspector general have** concurrent jurisdiction with the prosecuting attorney to bring an action under this section.

SECTION 45. IC 34-24-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A prosecuting attorney **or the inspector general** may retain an attorney to bring an action under this chapter.

(b) An attorney retained under this section is not required to be a deputy prosecuting attorney but must be admitted to the practice of law in Indiana.

SECTION 46. IC 35-41-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) "Law enforcement officer" means:

(1) a police officer, sheriff, constable, marshal, ~~or~~ prosecuting attorney, **special prosecuting attorney, special deputy prosecuting attorney, or the inspector general;**

(2) a deputy of any of those persons;

(3) an investigator for a prosecuting attorney **or for the inspector general;**

(4) a conservation officer; or

(5) an enforcement officer of the alcohol and tobacco commission.

(b) "Federal enforcement officer" means any of the following:

(1) A Federal Bureau of Investigation special agent.

(2) A United States Marshals Service marshal or deputy.

(3) A United States Secret Service special agent.

(4) A United States Fish and Wildlife Service special agent.

(5) A United States Drug Enforcement Agency agent.

(6) A Bureau of Alcohol, Tobacco, and Firearms agent.

(7) A United States Forest Service law enforcement officer.

(8) A United States Department of Defense police officer or criminal investigator.

(9) A United States Customs Service agent.

(10) A United States Postal Service investigator.

(11) A National Park Service law enforcement commissioned ranger.

(12) United States Department of Agriculture, Office of Inspector General special agent.

(13) A United States Immigration and Naturalization Service special agent.

(14) An individual who is:

(A) an employee of a federal agency; and

(B) authorized to make arrests and carry a firearm in the performance of the individual's official duties.

SECTION 47. IC 35-44-1-1, AS AMENDED BY SEA 15-2005, SEC. 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A person who:

(1) confers, offers, or agrees to confer on a public servant, either before or after the public servant becomes appointed, elected, or qualified, any property except property the public servant is authorized by law to accept, with intent to control the performance of an act related to the employment or function of the public servant **or because of any official act performed or to be performed by the public servant, former public servant, or person selected to be a public servant;**

(2) being a public servant, solicits, accepts, or agrees to accept, either before or after the person becomes appointed, elected, or qualified, any property, except property the person is authorized by law to accept, with intent to control the performance of an act related to the person's employment or function as a public servant;

(3) confers, offers, or agrees to confer on a person any property, except property the person is authorized by law to accept, with intent to cause that person to control the performance of an act related to the employment or function of a public servant;

(4) solicits, accepts, or agrees to accept any property, except property the person is authorized by law to accept, with intent to control the performance of an act related to the employment or function of a public servant;

(5) confers, offers, or agrees to confer any property on a person participating or officiating in, or connected with, an athletic contest, sporting event, or exhibition, with intent that the person will fail to use the person's best efforts in connection with that contest, event, or exhibition;

(6) being a person participating or officiating in, or connected with, an athletic contest, sporting event, or exhibition, solicits, accepts, or agrees to accept any property with intent that the person will fail to use the person's best efforts in connection with that contest, event, or exhibition;

(7) being a witness or informant in an official proceeding or investigation, solicits, accepts, or agrees to accept any property, with intent to:

(A) withhold any testimony, information, document, or thing;

(B) avoid legal process summoning the person to testify or supply evidence; or

(C) absent the person from the proceeding or investigation to which the person has been legally summoned;

(8) confers, offers, or agrees to confer any property on a witness or informant in an official proceeding or investigation, with intent that the witness or informant:

(A) withhold any testimony, information, document, or thing;

(B) avoid legal process summoning the witness or informant to testify or supply evidence; or

(C) absent the person from any proceeding or investigation to which the witness or informant has been legally summoned; or

(9) confers or offers or agrees to confer any property on an individual for:

(A) casting a ballot or refraining from casting a ballot; or

(B) voting for a political party, for a candidate, or for or against a public question;

in an election described in IC 3-5-1-2 or at a convention of a political party authorized under IC 3;

commits bribery, a Class C felony.

(b) It is no defense that the person whom the accused person sought to control was not qualified to act in the desired way.

SECTION 48. IC 35-44-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A public servant who:

(1) knowingly or intentionally performs an act that ~~he~~ **the public servant** is forbidden by law to perform;

(2) performs an act ~~he~~ **the public servant** is not authorized by law to perform, with intent to obtain any property for himself **or herself;**

(3) knowingly or intentionally solicits, accepts, or agrees to accept from ~~his~~ **an** appointee or employee any property other than what ~~he~~ **the public servant** is authorized by law to accept as a condition of continued employment;

(4) knowingly or intentionally acquires or divests himself **or herself** of a pecuniary interest in any property, transaction, or enterprise or aids another person to do so based on information obtained by virtue of ~~his~~ **the public servant's** office that official action that has not been made public is contemplated;

(5) knowingly or intentionally fails to deliver public records and property in ~~his~~ **the public servant's** custody to ~~his~~ **the public servant's** successor in office when that successor qualifies; or

(6) knowingly or intentionally violates IC 36-6-4-17(b);

commits official misconduct, a ~~Class A misdemeanor.~~ **Class D felony.**

SECTION 49. IC 35-44-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) As used in this section, "pecuniary interest" has the meaning set forth in section 3(g) of this chapter.

(b) A person who knowingly or intentionally:

(1) obtains a pecuniary interest in a contract or purchase with an agency within one (1) year after separation from employment or

other service with the agency; and

(2) is not a public servant for the agency but who as a public servant approved, negotiated, or prepared on behalf of the agency the terms or specifications of:

(A) the contract; or

(B) the purchase;

commits profiteering from public service, a ~~Class A infraction.~~ **Class D felony.**

(c) This section does not apply to negotiations or other activities related to an economic development grant, loan, or loan guarantee.

(d) This section does not apply if the person receives less than two hundred fifty dollars ($250) of the profits from the contract or purchase.

(e) It is a defense to a prosecution under this section that:

(1) the person was screened from any participation in the contract or purchase;

(2) the person has not received a part of the profits of the contract or purchase; and

(3) notice was promptly given to the agency of the person's interest in the contract or purchase.

SECTION 50. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 4-2-6-3; IC 4-2-6-5.

SECTION 51. [EFFECTIVE UPON PASSAGE] **(a) IC 4-2-6-13, IC 4-2-6-14, IC 4-15-10-4, IC 35-44-1-2, and IC 35-44-1-7, all as amended by this act, apply only to crimes committed after passage of this act.**

(b) IC 35-44-1-1, as amended by this act, applies only crimes committed after June 30, 2005.

SECTION 52. [EFFECTIVE UPON PASSAGE] **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 5-22-3-7, as added by this act, apply only to a contract entered into or renewed after the effective date of this act.**

SECTION 53. **An emergency is declared for this act.**

(Reference is to EHB 1501 as printed March 25, 2005.)

YOUNT	SERVER
VAN HAAFTEN	LANANE
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 9:40 p.m. with the Speaker in the Chair.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report 1 on Engrossed House Bills 1063, 1159, and 1200.

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 accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1822.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Acts 67, 89, 217, 224, 295, 304, 329, 363, 378, and 433 for signature of the Speaker of 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 adopted the Conference Committee Report 1 on Engrossed Senate Bill 127.

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 pursuant to Rule 81(c) of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has made the following change in conferees appointments to Engrossed Senate Bill 327:

Conferees: Weatherwax replacing Kenley

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 concurred in the House amendments to Engrossed Senate Bill 598.

MARY C. MENDEL
Principal Secretary of the Senate

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
ESB 574–1; filed April 27, 2005, at 6:25 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 574 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-9-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The revenue received by the county treasurer under this chapter shall be allocated to the Lake County convention and visitor bureau, Indiana University-Northwest, Purdue University-Calumet, municipal public safety departments, municipal physical and economic development divisions, and the cities and towns in the county as provided in this section. Subsections (b) through (g) do not apply to the distribution of revenue received under section 1 of this chapter from hotels, motels, inns, tourist camps, tourist cabins, and other lodgings or accommodations built or refurbished after June 30, 1993, that are located in the largest city of the county.

(b) The Lake County convention and visitor bureau shall establish a convention, tourism, and visitor promotion fund **(referred to in this chapter as the "promotion fund").** The county treasurer shall transfer to the Lake County convention and visitor bureau for deposit in ~~this~~ **the promotion** fund thirty-five percent (35%) of the first one million two hundred thousand dollars ($1,200,000) of revenue received **from the tax imposed** under this chapter in each year. **The promotion fund consists of:**

(1) money in the promotion fund on June 30, 2005;

(2) revenue deposited in the promotion fund under this subsection after June 30, 2005; and

(3) investment income earned on the promotion fund's assets.

Money in ~~this~~ **the promotion** fund may be expended only to promote and encourage conventions, trade shows, special events, recreation, and visitors within the county. Money may be paid from the **promotion** fund by claim in the same manner as municipalities may pay claims under IC 5-11-10-1.6.

(c) This subsection applies to the first one million two hundred thousand dollars ($1,200,000) of revenue received **from the tax imposed** under this chapter in each year. During each year, the county treasurer shall transfer to Indiana University-Northwest forty-four and thirty-three hundredths percent (44.33%) of the revenue received under this chapter for that year to be used as follows:

(1) Seventy-five percent (75%) of the revenue received under this subsection may be used only for the university's medical education programs.

(2) Twenty-five percent (25%) of the revenue received under this subsection may be used only for the university's allied health education programs.

The amount for each year shall be transferred in four (4) approximately equal quarterly installments.

(d) This subsection applies to the first one million two hundred thousand dollars ($1,200,000) of revenue received **from the tax imposed** under this chapter in each year. During each year, the county treasurer shall allocate among the cities and towns throughout the county nine percent (9%) of the revenue received under this chapter for that year. The amount of each city's or town's allocation is as follows:

(1) Ten percent (10%) of the revenue covered by this subsection shall be transferred to cities having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).

(2) Ten percent (10%) of the revenue covered by this subsection shall be transferred to cities having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(3) Ten percent (10%) of the revenue covered by this subsection shall be transferred to cities having a population of more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800).

(4) Five percent (5%) of the revenue covered by this subsection shall be transferred to each town and each city not receiving a transfer under subdivisions (1) through (3).

The money transferred under this subsection may be used only for economic development projects. The county treasurer shall make the transfers on or before December 1 of each year.

(e) This subsection applies to the first one million two hundred thousand dollars ($1,200,000) of revenue received **from the tax imposed** under this chapter in each year. During each year, the county treasurer shall transfer to Purdue University-Calumet nine percent (9%) of the revenue received under this chapter for that year. The money received by Purdue University-Calumet may be used by the university only for nursing education programs.

(f) This subsection applies to the first one million two hundred thousand dollars ($1,200,000) of revenue received **from the tax imposed** under this chapter in each year. During each year, the county treasurer shall transfer two and sixty-seven hundredths percent (2.67%) of the revenue received under this chapter for that year to the following cities:

(1) Fifty percent (50%) of the revenue covered by this subsection shall be transferred to cities having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).

(2) Fifty percent (50%) of the revenue covered by this subsection shall be transferred to cities having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

Money transferred under this subsection may be used only for convention facilities located within the city. In addition, the money may be used only for facility marketing, sales, and public relations programs. Money transferred under this subsection may not be used for salaries, facility operating costs, or capital expenditures related to the convention facilities. The county treasurer shall make the transfers on or before December 1 of each year.

(g) This subsection applies to the revenue received **from the tax imposed** under this chapter in each year that exceeds one million two hundred thousand dollars ($1,200,000). During each year, the county treasurer shall distribute money in the **promotion** fund as follows:

(1) Eighty-five percent (85%) of the revenue covered by this subsection shall be deposited in the convention, tourism, and visitor promotion fund. The money deposited in the fund under this subdivision may be used only for the purposes for which other money in the fund may be used.

(2) Five percent (5%) of the revenue covered by this subsection shall be transferred to Purdue University-Calumet. The money received by Purdue University-Calumet under this subdivision may be used by the university only for nursing education programs.

(3) Five percent (5%) of the revenue covered by this subsection shall be transferred to Indiana University-Northwest. The money received by Indiana University-Northwest under this subdivision may be used only for the university's medical education programs.

(4) Five percent (5%) of the revenue covered by this subsection shall be transferred to Indiana University-Northwest. The money received by Indiana University-Northwest under this subdivision may be used only for the university's allied health education programs.

(h) The county treasurer may estimate the amount that will be received under this chapter for the year to determine the amount to be transferred under this section.

(i) This subsection applies only to the distribution of revenue received **from the tax imposed** under section 1 of this chapter from hotels, motels, inns, tourist camps, tourist cabins, and other lodgings or accommodations built or refurbished after June 30, 1993, that are located in the largest city of the county. During each year, the county treasurer shall transfer:

(1) seventy-five percent (75%) of the revenues under this subsection to the department of public safety; and

(2) twenty-five percent (25%) of the revenues under this subsection to the division of physical and economic development;

of the largest city of the county.

(j) The Lake County convention and visitor bureau shall assist the county treasurer, as needed, with the calculation of the amounts that must be deposited and transferred under this section.

SECTION 2. IC 6-9-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) For purposes of this section, the size of a political subdivision is based on the population determined in the last federal decennial census.

(b) A convention and visitor bureau having fifteen (15) members is created to promote the development and growth of the convention, tourism, and visitor industry in the county.

(c) The executives (as defined by IC 36-1-2-5) of the eight (8) largest municipalities (as defined by IC 36-1-2-11) in the county shall each appoint one (1) member to the bureau. The legislative body (as defined in IC 36-1-2-9) of the two (2) largest municipalities in the county shall each appoint one (1) member to the bureau.

(d) The county council shall appoint two (2) members to the bureau. One (1) of the appointees must be a resident of the largest township in the county, and one (1) of the appointees must be a resident of the second largest township in the county.

(e) The county commissioners shall appoint two (2) members to the bureau. Each appointee must be a resident of the fifth, sixth, seventh, eighth, ninth, tenth, or eleventh largest township in the county. These appointees must be residents of different townships.

(f) The lieutenant governor shall appoint one (1) member to the bureau.

(g) One (1) of the appointees under subsection (d) and one (1) of the appointees under subsection (e) must be members of the political party that received the highest number of votes in the county in the last preceding election for the office of secretary of state. One (1) of the appointees under subsection (d) and one (1) of the appointees under subsection (e) must be members of the political party that received the second highest number of votes in the county in the election for that office. No appointee under this section may hold an elected or appointed political office while he serves on the bureau.

(h) In making appointments under this section, the appointing authority shall give sole consideration to individuals who shall be knowledgeable and interested in at least one (1) of the following businesses in the county:

(1) Hotel.
(2) Motel.
(3) Restaurant.
(4) Travel.
(5) Transportation.
(6) Convention.
(7) Trade show.

(i) All terms of office of bureau members begin on July 1. ~~Initial~~

~~appointments of the county council are for one (1) year terms, initial appointments of the county commissioners are for two (2) year terms, initial appointments of the municipal executives and legislative bodies are for three (3) year terms, with all subsequent appointments for three (3) year terms. All appointments of the lieutenant governor are for three (3) year terms.~~ **Members of the bureau serve terms of three (3) years.** A member whose term expires may be reappointed to serve another term. If a vacancy occurs, the appointing authority shall appoint a qualified person to serve for the remainder of the term. If an appointment is not made before July 16 or a vacancy is not filled within thirty (30) days, the member appointed by the lieutenant governor under subsection (f) shall appoint a qualified person.

(j) A member of the bureau may be removed for cause by ~~his~~ **the member's** appointing authority.

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

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

(m) The bureau shall meet after July 1 each year for the purpose of organization. The bureau shall elect a chairman from its members. The bureau shall also elect from its members a vice chairman, a secretary, and a treasurer. The members serving in those offices shall perform the duties pertaining to the offices. The first officers chosen shall serve until their successors are elected and qualified. A majority of the bureau constitutes a quorum, and the concurrence of a majority of those present is necessary to authorize any action.

(n) If the county and one (1) or more adjoining counties desire to establish a joint bureau, the counties shall enter into an agreement under IC 36-1-7. In the absence of such an agreement, the bureau may not expend funds to promote activities in any other county.

SECTION 3. IC 6-9-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The bureau may:

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

(2) sue and be sued;

(3) enter into contracts and agreements;

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

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

(6) after its approval of a proposal, transfer money from the **promotion** fund ~~established under section 2 of this chapter~~ **or from the alternate revenue fund** to any Indiana ~~not-for-profit~~ **nonprofit** corporation to promote and encourage conventions, trade shows, visitors, or special events in the county;

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

(8) enter into leases under IC 36-1-10 for the construction, acquisition, and equipping of a visitor center; and

(9) exercise the power of eminent domain to acquire property to promote and encourage conventions, trade shows, special events, recreation, and visitors within the county.

(b) All expenses of the bureau shall be paid from the **promotion** fund. ~~established under section 2 of this chapter.~~ **Before September 1 of each year,** the bureau shall ~~annually~~ prepare a budget **for expenditures from the promotion fund during the following year,** taking into consideration the recommendations made by a corporation qualified under subsection (a)(6). ~~and submit it to the county council for its review and approval. After its approval of the budget, the county council shall make an appropriation from the fund in accordance with that budget.~~

(c) All money ~~coming into possession of the bureau~~ **in the promotion fund** shall be deposited, held, secured, invested, and paid in accordance with statutes relating to the handling of public funds. The handling and expenditure of money ~~coming into possession of the bureau~~ **in the promotion fund** is subject to audit and supervision by the state board of accounts.

SECTION 4. IC 6-9-2-4.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 4.3. (a) The Lake County convention and visitor bureau shall establish a convention, tourism, and visitor promotion alternate revenue fund (referred to in this chapter as the "alternate revenue fund"). The bureau may deposit in the alternate revenue fund all money received by the bureau after June 30, 2005, that is not required to be deposited in the promotion fund under section 2 of this chapter, including appropriations, gifts, grants, membership dues, and contributions from any public or private source.**

(b) The bureau may, without appropriation by the county council, expend money from the alternate revenue fund to promote and encourage conventions, trade shows, visitors, special events, sporting events, and exhibitions in the county. Money may be paid from the alternate revenue fund by claim in the same manner as municipalities may pay claims under IC 5-11-10-1.6.

(c) All money in the alternate revenue fund shall be deposited, held, secured, invested, and paid in accordance with statutes relating to the handling of public funds. The handling and expenditure of money in the alternate revenue fund is subject to audit and supervision by the state board of accounts.

(d) Money derived from the taxes imposed under IC 4-33-12 and IC 4-33-13 may not be transferred to the alternate revenue fund.

SECTION 5. IC 6-9-2-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. The bureau may enter into an agreement under which amounts deposited in, or to be deposited in, the ~~convention, tourism, and visitor~~ promotion fund ~~under section 2 of this chapter~~ **or the alternate revenue fund, or both,** are pledged to payment of obligations, including leases entered into under IC 36-1-10, issued to finance the construction, acquisition, and equipping of a visitor center to promote and encourage conventions, trade shows, special events, recreation, and visitors within the county.

SECTION 6. IC 6-9-2-4.9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.9. With respect to:

(1) bonds, leases, or other obligations to which the bureau has pledged revenues under this chapter; and

(2) bonds issued by a lessor that are payable from lease rentals;

the general assembly covenants with the bureau and the purchasers or owners of the bonds or other obligations described in this section that this chapter will not be repealed or amended in any manner that will adversely affect the collection of the tax imposed under this chapter or the money deposited in the ~~convention, tourism, and visitor~~ promotion fund **or the alternate revenue fund** as long as the principal of or interest on any bonds, or the lease rentals due under any lease, are unpaid.

SECTION 7. IC 6-9-2-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10. Employees of the convention and visitor bureau created by section 3 of this chapter may participate in the group health insurance, disability insurance, and life insurance programs established:**

(1) by the county government of the county described in section 1 of this chapter; and

(2) for the employees of the convention and visitor bureau.

SECTION 8. IC 6-9-2.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2005]: Sec. 7. (a) The county treasurer shall establish a convention and visitor promotion fund.

(b) The county treasurer shall deposit ~~the following~~ in the convention and visitor promotion fund

~~(1) Before January 1, 2000:~~

~~(A) All of the money received under section 6 of this chapter, if the rate set under section 6 of this chapter is not greater than two percent (2%).~~

~~(B) The amount of money received under section 6 of this chapter that is generated by a two percent (2%) rate, if the rate set under section 6 of this chapter is at least two percent (2%).~~

~~(2) After December 31, 1999, and before January 1, 2003, the amount of money received under section 6 of this chapter that is generated by a two percent (2%) rate.~~

~~(3) After December 31, 2002,~~ the amount of money received under section 6 of this chapter that is generated by a two and one-half percent (2.5%) rate.

(c) Money in this fund shall be expended only as provided in this chapter.

(d) The commission may transfer money in the convention and visitor promotion fund to any Indiana nonprofit corporation for the purpose of promotion and encouragement in the county of conventions, trade shows, visitors, or special events. The commission may transfer money under this section only after approving the transfer. Transfers shall be made quarterly or less frequently under this section.

SECTION 9. IC 6-9-2.5-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.5. (a) The county treasurer shall establish a tourism capital improvement fund.

(b) The county treasurer shall deposit money in the tourism capital improvement fund as follows:

(1) Before January 1, 2000, if the rate set under section 6 of this chapter is greater than two percent (2%), the county treasurer shall deposit in the tourism capital improvement fund an amount equal to the money received under section 6 of this chapter minus the amount generated by a two percent (2%) rate.

(2) After December 31, 1999, and before January 1, 2003, the county treasurer shall deposit in the tourism capital improvement fund the amount of money received under section 6 of this chapter that is generated by a one percent (1%) rate.

(3) After December 31, 2002, and before January 1, ~~2006,~~ **2010,** the county treasurer shall deposit in the tourism capital improvement fund the amount of money received under section 6 of this chapter that is generated by a one and one-half percent (1.5%) rate.

(4) After December 31, ~~2005,~~ **2009,** the county treasurer shall deposit in the tourism capital improvement fund the amount of money received under section 6 of this chapter that is generated by a ~~three~~ **two** and one-half percent ~~(3.5%)~~ **(2.5%)** rate.

(c) The commission may transfer money in the tourism capital improvement fund to:

(1) the county government, a city government, or a separate body corporate and politic in a county described in section 1 of this chapter; or

(2) any Indiana nonprofit corporation;

for the purpose of making capital improvements in the county that promote conventions, tourism, or recreation. The commission may transfer money under this section only after approving the transfer. Transfers shall be made quarterly or less frequently under this section.

SECTION 10. IC 6-9-2.5-7.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.7. (a) The county treasurer shall establish a convention center operating fund.

(b) **Before January 1, 2010,** the county treasurer shall deposit in the convention center operating fund the amount of money received under section 6 of this chapter that is generated by a two percent (2%) rate. Money in the fund must be expended for the operating expenses of a convention center.

~~(c) This section expires January 1, 2006.~~

(c) After December 31, 2009, the county treasurer shall deposit in the convention center operating fund the amount of money received under section 6 of this chapter that is generated by a one percent (1%) rate. Money in the fund must be expended for the operating expenses of a convention center with the unused balance transferred on January 1 of each year to the tourism capital improvement fund.

SECTION 11. [EFFECTIVE UPON PASSAGE] **Actions taken before the effective date of this act that would have been valid under IC 6-9-2-10, as added by this act, are legalized and validated.**

SECTION 12. **An emergency is declared for this act.**

(Reference is to ESB 574 as reprinted April 7, 2005.)

SERVER	BECKER
L. LUTZ	AVERY
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 602–1; filed April 27, 2005, at 6:33 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 602 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 36-10-11-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 33. (a) The fiscal body of the lessee shall adopt an ordinance creating a board of five (5) members to be known as the "Civic Center Board of Managers". The board of managers shall supervise, manage, operate, and maintain a building and its programs.

(b) A person appointed to the board of managers must be at least twenty-one (21) years of age and a resident of the lessee governmental entity for at least five (5) years. If the lessee is a city, three (3) of the managers shall be appointed by the city executive, and two (2) of the managers shall be appointed by the city legislative body. If the lessee is not a city, all five (5) managers shall be appointed by the fiscal body of the lessee. An officer or employee of a political subdivision may not serve as a manager. The managers serve for terms of three (3) years.

(c) Notwithstanding subsection (b), if the lessee is a city, initial terms of the managers appointed by the executive are as follows:

(1) One (1) manager for a term of one (1) year.

(2) One (1) manager for a term of two (2) years.

(3) One (1) manager for a term of three (3) years.

The initial term of one (1) of the managers appointed by the legislative body is two (2) years, and the other is three (3) years.

(d) Notwithstanding subsection (b), if the lessee is not a city, initial terms of the managers are as follows:

(1) One (1) manager for a term of one (1) year.

(2) Two (2) managers for terms of two (2) years.

(3) Two (2) managers for terms of three (3) years.

(e) A manager may be removed for cause by the appointing authority. Vacancies shall be filled by the appointing authority, and any person appointed to fill a vacancy serves for the remainder of the vacated term. The managers ~~may not~~ **shall** receive salaries ~~but~~ **and** shall be reimbursed for any expenses necessarily incurred in the performance of their duties. **The fiscal body of the city shall by ordinance determine the amount of the salaries to be paid to the managers.**

(f) The board of managers shall annually elect officers to serve during the calendar year. The board of managers may adopt resolutions and bylaws governing its operations and procedure and may hold meetings as often as necessary to transact business and to perform its duties. A majority of the managers constitutes a quorum.

(Reference is to ESB 602 as printed April 1, 2005.)

RIEGSECKER	AYRES
ROGERS	V. SMITH
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1306–1; filed April 27, 2005, at 9:15 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1306 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete the title and insert the following:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 12-7-2-34.2 IS ADDED TO THE INDIANA

CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 34.2. "Commissioner", for purposes of IC 12-12-8, has the meaning set forth in IC 12-12-8-1.5.**

SECTION 2. IC 12-7-2-44 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 44. "Council" means the following:

(1) For purposes of IC 12-9-4, the meaning set forth in IC 12-9-4-1.

(2) For purposes of IC 12-12-8, the meaning set forth in IC 12-12-8-2.5.

~~(2)~~ **(3)** For purposes of IC 12-13-4, the meaning set forth in IC 12-13-4-1.

~~(3)~~ **(4)** For purposes of IC 12-15-41 and IC 12-15-42, the Medicaid work incentives council established by IC 12-15-42-1.

~~(4)~~ **(5)** For purposes of IC 12-17-15, the meaning set forth in IC 12-17-15-2.

~~(5)~~ **(6)** For purposes of IC 12-18-3 and IC 12-18-4, the domestic violence prevention and treatment council established by IC 12-18-3-1.

~~(6)~~ **(7)** For purposes of IC 12-21-4, the meaning set forth in IC 12-21-4-1.

~~(7)~~ **(8)** For purposes of IC 12-28-5, the meaning set forth in IC 12-28-5-1.

SECTION 3. IC 12-7-2-82.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 82.7. "Federal act", for purposes of IC 12-12-8, has the meaning set forth in IC 12-12-8-3.2.**

SECTION 4. IC 12-7-2-117.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 117.3. (a) "Individual with a disability", for purposes of IC 12-12-8, has the meaning set forth in IC 12-12-8-3.4.**

(b) "Individual with a significant disability", for purposes of IC 12-12-8, has the meaning set forth in IC 12-12-8-3.6.

SECTION 5. IC 12-12-8-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1.5. As used in this chapter, "commissioner" means the commissioner of the Rehabilitation Services Administration in the United States Department of Education.**

SECTION 6. IC 12-12-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this chapter, "consumer control" means, with respect to a center for independent living or an eligible agency, that:

(1) the center or eligible agency vests power and authority in individuals with disabilities, including individuals who are or have been recipients of independent living services; **and**

(2) at least fifty-one percent (51%) of the center's board and staff are individuals with disabilities.

SECTION 7. IC 12-12-8-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2.5. As used in this chapter, "council" means the statewide independent living council established by section 6 of this chapter.**

SECTION 8. IC 12-12-8-3.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.2. As used in this chapter, "federal act" refers to the Federal Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) and amendments to that statute.**

SECTION 9. IC 12-12-8-3.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.4. As used in this chapter, "individual with a disability" means an individual who:**

(1) has a physical or mental impairment that substantially limits a major life activity;

(2) has a record of an impairment described in subdivision (1); or

(3) is regarded as having an impairment described in subdivision (1).

SECTION 10. IC 12-12-8-3.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.6. As used in this chapter, "individual with a significant disability" means an individual who has a significant physical or mental impairment that substantially limits the individual's ability to:**

(1) function independently in the family or community; or

(2) obtain, maintain, or advance in employment.

SECTION 11. IC 12-12-8-3.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.8. As used in this chapter, "state plan" means the materials jointly developed and submitted by the council and the division to the commissioner containing the state's proposals for the following:**

(1) The provision of statewide independent living services.

(2) The development and support of a statewide network of centers for independent living.

(3) Working relationships among:

(A) programs providing independent living services and independent living centers; and

(B) the vocational rehabilitation program administered by the division under the federal act and other programs providing services for individuals with disabilities.

SECTION 12. IC 12-12-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. **(a) Any provision of this chapter that violates a federal law or federal regulation is void.**

(b) To be eligible to receive state funds, a center for independent living must meet the requirements for federal funding for a center for independent living under:

(1) 29 U.S.C. 796; and

(2) 34 CFR Parts 364 through 366;

that are in effect January 1, 1995.

SECTION 13. IC 12-12-8-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5. The division is designated as the state unit under Title VII of the federal act and has the following responsibilities:**

(1) To receive, account for, and disburse funds received by the state under the federal act based on the state plan.

(2) To provide administrative support services to centers for independent living programs.

(3) To keep records and take actions with respect to the records as required by the commissioner.

(4) To submit additional information or provide assurances with respect to the independent living programs as required by the commissioner.

SECTION 14. IC 12-12-8-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 6. (a) There is established a statewide independent living council. The council is not a part of a state agency.**

(b) The council consists of at least twenty (20) members appointed by the governor, including the following:

(1) Each director of a center for independent living located in Indiana.

(2) Nonvoting members from state agencies that provide services for individuals with disabilities.

(3) Other members, who may include the following:

(A) Representatives of centers for independent living.

(B) Parents and guardians of individuals with disabilities.

(C) Advocates for individuals with disabilities.

(D) Representatives from private business.

(E) Representative of organizations that provide services for individuals with disabilities.

(F) Other appropriate individuals.

(c) The members appointed under subsection (b) must:

(1) provide statewide representation;

(2) represent a broad range of individuals with disabilities from diverse backgrounds;

(3) be knowledgeable about centers for independent living and independent living services; and

(4) include a majority of members who:

(A) are individuals with significant disabilities; and

(B) are not employed by a state agency or a center for

independent living.

SECTION 15. IC 12-12-8-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. (a) Each member of the council who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state polices and procedures established by the Indiana department of administration and approved by the budget agency.**

(b) Each member of the council who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

SECTION 16. IC 12-12-8-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 8. (a) A member appointed to the council by the governor serves a term of three (3) years, beginning on July 1 after appointment. However, a member appointed to fill a vacancy on the council serves for the remainder of the unexpired term.**

(b) A member appointed to the council by the governor may not serve more than two (2) consecutive terms.

SECTION 17. IC 12-12-8-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9. If a vacancy occurs among the voting members of the council, the original appointing authority shall appoint a qualified individual to serve for the unexpired term of the vacating member.**

SECTION 18. IC 12-12-8-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 10. (a) The council has the powers and duties specified in this chapter.**

(b) The council may do the following:

(1) Jointly develop and sign the state plan in conjunction with the designated state unit.

(2) Monitor, review, and evaluate the implementation of the state plan.

(3) Coordinate activities with the state rehabilitation council and other councils that address the needs of specific disability issues.

(4) Submit periodic reports to the funding sources and provide access to the records that are necessary to verify contents of the reports.

(5) Do other things necessary and proper to implement this chapter.

(c) The council shall ensure that all meetings of the council are open to the public and in accessible formats with sufficient advance public notice.

SECTION 19. IC 12-12-8-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 11. The division shall prepare the state plan that must be submitted to the commissioner.**

SECTION 20. IC 12-12-8-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 12. The division may award grants to any eligible center for independent living with funds that the division receives under Title VII, Part B of the federal act.**

SECTION 21. IC 12-12-8-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 13. The council and the division shall jointly appoint a peer review committee to make recommendations for grants to new organizations eligible to be centers for independent living.**

SECTION 22. IC 12-12-8-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 14. A center for independent living is eligible to receive money under this chapter as long as the center complies with the standards and assurances required under Section 725 of the federal act. A center that receives only state or federal funds under Title VII, Part B of the federal act is subject to review by the division. A center that receives federal funds under Title VII, Part C of the federal act is subject to review by the federal government. A finding of noncompliance must be supported by a written report from the peer review committee appointed under section 13 of this chapter.**

SECTION 23. IC 12-12-8-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 15. A center for independent living that receives money under this chapter shall comply with the standards and assurances required under the state plan and Section 725 of the federal act. The center for independent living shall provide the required assurances to the division.**

SECTION 24. IC 12-12-8-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 16. (a) If:**

(1) there is no center for independent living serving a region of Indiana or a region of Indiana is underserved; and

(2) the state receives an increase in its federal allotment that is sufficient to support an additional center for independent living in Indiana;

the division may award a grant to an eligible agency for a new center for independent living in the unserved or underserved region. A grant awarded under this section must be consistent with the provisions of the state plan establishing a statewide network of centers for independent living.

(b) The council shall rank eligible agencies applying for a grant under this section using the standards and assurances required under Section 725 of the federal act. The council shall consider the ability of the applicant to operate a center for independent living and shall select an applicant using the following criteria:

(1) Evidence of the need for a center for independent living in the applicant's region of Indiana that is consistent with the state plan.

(2) The past performance of the applicant in providing services comparable to independent living services.

(3) The applicant's plan for complying with, or demonstrated compliance with, the standards and assurances set forth in Section 725 of the federal act.

(4) The quality of the applicant's key personnel and the involvement of individuals with significant disabilities.

SECTION 25. IC 12-12-8-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 17. (a) The division shall periodically review each new center for independent living that receives:**

(1) money under Title VII, Part B of the federal act; or

(2) a grant under this chapter;

to determine whether the center is in compliance with the standards and assurances set forth in Section 725 of the federal act.

(b) If the division determines that a center reviewed under subsection (a) is not in compliance with the standards and assurances set forth in Section 725 of the federal act, the division shall immediately notify the center of the division's determination of noncompliance. A center may appeal the determination by requesting a hearing from the office of the secretary not later than thirty (30) days after receiving notice from the division.

(c) Except as provided in subsection (d), the division shall terminate all funds to a center determined to be in noncompliance under this section not later than ninety (90) days after the date of:

(1) the division's notification of noncompliance; or

(2) a final decision by the office of the secretary in the case of a center that appeals the division's determination under subsection (b).

(d) The division may not terminate the funds of a center for independent living that is determined to be noncompliant with the standards and assurances set forth in Section 725 of the federal act if:

(1) the center submits to the division a plan for achieving compliance within ninety (90) days; and

(2) the division approves the plan.

A plan required under this subsection must be submitted not later than thirty (30) days after the center receives a notice of noncompliance from the division under subsection (b).

SECTION 26. IC 25-22.5-11 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 11. Physician Referral to Certain Health Care Entities

Sec. 1. (a) As used in this chapter, "financial interest" means an ownership or investment interest through equity, debt, or other means. The term includes an ownership or investment interest in an entity that holds:

(1) directly; or

(2) through a subsidiary;

an ownership or investment interest in a health care entity.

(b) The term does not include the following:

(1) Ownership of investment securities (including shares or bonds, debentures, notes, or other debt instruments) that may be purchased on terms generally available to the public and that are:

(A) securities:

(i) listed on the New York Stock Exchange, the American Stock Exchange, any regional exchange in which quotations are published on a daily basis, or foreign securities listed on a recognized foreign, national, or regional exchange in which quotations are published on a daily basis; or

(ii) traded under the National Association of Securities Dealers, Inc. Automated Quotations System; and

(B) in a corporation that had, at the end of the corporation's most recent fiscal year, or on average during the previous three (3) fiscal years, stockholder equity exceeding seventy-five million dollars ($75,000,000).

(2) Ownership of shares in a regulated investment company as defined in section 851(a) of the Internal Revenue Code of 1986, if such company had, at the end of the company's most recent fiscal year, or on average during the previous three (3) fiscal years, total assets exceeding seventy-five million dollars ($75,000,000).

Sec. 2. As used in this chapter, "health care entity" means an organization or a business that provides diagnostic, medical, or surgical services, dental treatment, or rehabilitative care.

Sec. 3. (a) Except as provided in subsection (b), a physician must do the following before referring an individual to a health care entity in which the physician has a financial interest:

(1) Disclose in writing to the individual that the physician has a financial interest in the health care entity.

(2) Inform the individual in writing that the individual may choose to be referred to another health care entity.

The individual shall acknowledge receipt of the notice required under this section by signing the notice. The physician shall keep a copy of the signed notice.

(b) Subsection (a) does not apply if a delay in treatment caused by compliance with the requirements of subsection (a) would reasonably be expected by the referring physician to result in serious:

(1) jeopardy to the individual's health;

(2) impairment to the individual's bodily functions; or

(3) dysfunction of a bodily organ or part of the individual.

Sec. 4. Compliance with this chapter is a condition of licensure under this article.

Sec. 5. This chapter is not intended to conflict with 42 U.S.C. 1395nn or 42 U.S.C. 1396b(s).

(Reference is to EHB 1306 as reprinted March 29, 2005.)

BECKER	SERVER
C. BROWN	SIMPSON
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 8–1; filed April 27, 2005, at 9:18 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 8 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 34-6-2-44.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 44.7. "Family law arbitrator", for purposes of IC 34-57-5, means:**

(1) an attorney certified as a family law specialist in Indiana by an independent certifying organization that is approved and monitored under Rule 30 of the Rules for Admission to the Bar;

(2) a private judge qualified under Rule 1.3 of the Indiana Supreme Court Rules for Alternative Dispute Resolution;

(3) an individual who is a former magistrate or commissioner of an Indiana court of record; or

(4) an attorney who is a registered domestic relations mediator under Rule 2.5(B) of the Indiana Supreme Court Rules for Alternative Dispute Resolution.

SECTION 2. IC 34-57-5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 5. Family Law Arbitration

Sec. 1. (a) This chapter is applicable only to the family law matters described in section 2 of this chapter and does not apply to any other type of arbitration. An appellate court opinion interpreting or construing this chapter has precedential value only for family law arbitrations and does not apply to any other type of arbitration.

(b) This chapter is applicable only to an action in which each party is:

(1) represented by an attorney; or

(2) pro se.

This chapter does not apply if one (1) party is represented by an attorney and the other party is pro se.

Sec. 2. (a) In an action:

(1) for the dissolution of a marriage;

(2) to establish:

(A) child support;

(B) custody; or

(C) parenting time; or

(3) to modify:

(A) a decree;

(B) a judgment; or

(C) an order;

entered under IC 31;

both parties may agree in writing to submit to arbitration by a family law arbitrator.

(b) If the parties file an agreement with a court to submit to arbitration, the parties shall:

(1) identify an individual to serve as a family law arbitrator; or

(2) indicate to the court that they have not selected a family law arbitrator.

(c) Each court shall maintain a list of attorneys who are:

(1) qualified; and

(2) willing to be appointed by the court;

to serve as family law arbitrators.

(d) If the parties indicate that they have not selected a family law arbitrator under subsection (b)(2), the court shall designate three (3) attorneys from the court's list of attorneys under subsection (c). The party initiating the action shall strike one (1) attorney, the other party shall strike one (1) attorney, and the remaining attorney is the family law arbitrator for the parties.

(e) In a dissolution of marriage case, the written agreement to submit to arbitration must state that both parties confer jurisdiction on the family law arbitrator to dissolve the marriage and to determine:

(1) child support, if there is a child of both parties to the marriage;

(2) custody, if there is a child of both parties to the

marriage;

(3) parenting time, if there is a child of both parties to the marriage; or

(4) any other matter over which a trial court would have jurisdiction concerning family law.

Sec. 3. Unless both parties agree in writing to repudiate the agreement, an agreement to submit to arbitration by a family law arbitrator under this chapter is:

(1) valid;

(2) irrevocable; and

(3) enforceable;

until the judgment is entered in the matter in which arbitration has taken place.

Sec. 4. For arbitration to take place under this chapter, at least one (1) of the parties must have been:

(1) a resident of Indiana; or

(2) stationed at a United States military installation in Indiana;

for at least six (6) months immediately preceding the filing of the petition or cause of action.

Sec. 5. (a) A family law arbitrator shall comply with the:

(1) child support; and

(2) parenting time;

guidelines adopted by the Indiana supreme court in family law arbitration if there is a child of both parties to the marriage.

(b) Before assuming the duties of a family law arbitrator, a family law arbitrator must take an oath to:

(1) faithfully perform the duties of the family law arbitrator; and

(2) support and defend to the best of the family law arbitrator's ability the constitution and laws of Indiana and the United States.

(c) The family law arbitrator shall sign a written copy of the oath described in subsection (b) and submit the signed copy to the court.

Sec. 6. (a) A record of the proceeding in family law arbitration may be requested by either party if written notice is given to the family law arbitrator not more than fifteen (15) days after the family law arbitrator has been selected.

(b) Written notice under subsection (a) must specify the requested manner of recording and preserving the transcript.

(c) The family law arbitrator may select a person to record any proceedings and to administer oaths.

Sec. 7. (a) Except as provided in subsection (b), the family law arbitrator shall make written findings of fact and conclusions of law not later than thirty (30) days after the hearing.

(b) If both parties consent, the period for the family law arbitrator to make written findings of fact and conclusions of law may be extended to ninety (90) days after the hearing.

(c) The family law arbitrator shall send a copy of the written findings of fact and conclusions of law to:

(1) all parties participating in the arbitration; and

(2) the court.

(d) After the court has received a copy of the findings of fact and conclusions of law, the court shall enter:

(1) judgment; and

(2) an order for an entry on the docket regarding the judgment.

Sec. 8. (a) In a dissolution of marriage case, the family law arbitrator shall:

(1) divide the property of the parties, regardless of whether the property was:

(A) owned by either party before the marriage;

(B) acquired by either party in his or her own right:

(i) after the marriage; and

(ii) before final separation of the parties; or

(C) acquired by their joint efforts; and

(2) divide the property in a just and reasonable manner by:

(A) division of the property in kind;

(B) setting the property or parts of the property over to one (1) of the parties and requiring either party to pay an amount, either in gross or in installments, that is just and proper;

(C) ordering the sale of the property under the conditions the family law arbitrator prescribes and dividing the proceeds of the sale; or

(D) ordering the distribution of benefits described in IC 31-9-2-98(b)(2) or IC 31-9-2-98(b)(3) that are payable after the dissolution of marriage, by setting aside to either of the parties a percentage of those payments either by assignment or in kind at the time of receipt.

(b) The division of marital property under this section must comply with IC 31-15-7-5.

Sec. 9. In a dissolution of marriage case, at least sixty (60) days after the petition or cause of action is filed, the family law arbitrator may enter a summary dissolution decree without holding a hearing if verified pleadings have been filed with the family law arbitrator, signed by both parties, containing:

(1) a written waiver of hearing; and

(2) either:

(A) a statement that there are no contested issues in the action; or

(B) a written agreement made in accordance with IC 31-15-2-7 that settles any contested issues between the parties.

Sec. 10. A family law arbitrator may modify an award after making written findings of fact and conclusions of law if:

(1) a party makes a fraudulent misrepresentation during the arbitration;

(2) the family law arbitrator is ordered to modify the award on remand; or

(3) both parties consent to the modification.

Sec. 11. An appeal may be taken after the entry of judgment under section 7(d) of this chapter as may be taken after a judgment in a civil action.

Sec. 12. (a) Except as provided in subsection (b), fees for the family law arbitrator shall be shared equally by both parties unless otherwise agreed in writing.

(b) The family law arbitrator may order a party to pay:

(1) a reasonable amount for the cost to the other party of:

(A) maintaining; or

(B) defending;

any proceeding under this chapter; and

(2) attorney's fees, including:

(A) amounts for legal services provided; and

(B) costs incurred:

(i) before the commencement of the proceedings; or

(ii) after entry of judgment.

(c) Fees for the family law arbitrator shall be paid not later than thirty (30) days after the court enters judgment.

Sec. 13. The Indiana Supreme Court Rules for Alternative Dispute Resolution apply to family law arbitration in all matters not covered by this chapter.

(Reference is to ESB 8 as reprinted April 8, 2005.)

FORD	DUNCAN
BRODEN	VAN HAAFTEN
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 327–1; filed April 27, 2005, at 9:20 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 327 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-1.1-1-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. "Base rate" means the statewide agricultural land base rate value per acre used to determine the true tax value of agricultural land under:**

(1) the real property assessment guidelines of the department of local government finance; or

(2) rules or guidelines of the department of local government finance that succeed the guidelines referred to in subdivision (1).

SECTION 2. IC 6-1.1-3-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 23. (a) For purposes of this section:

(1) "adjusted cost" refers to the adjusted cost established in 50 IAC 4.2-4-4 (as in effect on January 1, 2003);

(2) "depreciable personal property" has the meaning set forth in 50 IAC 4.2-4-1 (as in effect on January 1, 2003);

(3) "integrated steel mill" means a person that produces steel by processing iron ore and other raw materials in a blast furnace **in Indiana;**

(4) "oil refinery/petrochemical company" means a person that produces a variety of petroleum products by processing an annual average of at least one hundred thousand (100,000) barrels of crude oil per day;

(5) "permanently retired depreciable personal property" has the meaning set forth in 50 IAC 4.2-4-3 (as in effect on January 1, 2003);

(6) "pool" refers to a pool established in 50 IAC 4.2-4-5(a) (as in effect on January 1, 2003);

(7) "special integrated steel mill or oil refinery/petrochemical equipment" means depreciable personal property, other than special tools and permanently retired depreciable personal property:

(A) that:

(i) is owned, leased, or used by an integrated steel mill or an entity that is at least fifty percent (50%) owned by an affiliate of an integrated steel mill; and

(ii) falls within Asset Class 33.4 as set forth in IRS Rev. Proc. 87-56, 1987-2, C.B. 647; or

(B) that:

(i) is owned, leased, or used as an integrated part of an oil refinery/petrochemical company or its affiliate; and

(ii) falls within Asset Class 13.3 or 28.0 as set forth in IRS Rev. Proc. 87-56, 1987-2, C.B. 647;

(8) "special tools" has the meaning set forth in 50 IAC 4.2-6-2 (as in effect on January 1, 2003); and

(9) "year of acquisition" refers to the year of acquisition determined under 50 IAC 4.2-4-6 (as in effect on January 1, 2003).

(b) Notwithstanding 50 IAC 4.2-4-4, 50 IAC 4.2-4-6, and 50 IAC 4.2-4-7, a taxpayer may elect to calculate the true tax value of the taxpayer's special integrated steel mill or oil refinery/petrochemical equipment by multiplying the adjusted cost of that equipment by the percentage set forth in the following table:

Year of Acquisition	Percentage
1	40%
2	56%
3	42%
4	32%
5	24%
6	18%
7	15%
8 and older	10%

(c) The department of local government finance shall designate the table under subsection (b) as "Pool No. 5" on the business personal property tax return.

(d) The percentage factors in the table under subsection (b) automatically reflect all adjustments for depreciation and obsolescence, including abnormal obsolescence, for special integrated steel mill or oil refinery/petrochemical equipment. The equipment is entitled to all exemptions, credits, and deductions for which it qualifies.

(e) The minimum valuation limitations under 50 IAC 4.2-4-9 do not apply to special integrated steel mill or oil refinery/petrochemical equipment valued under this section. The value of the equipment is not included in the calculation of that minimum valuation limitation for the taxpayer's other assessable depreciable personal property in the taxing district.

(f) An election to value special integrated steel mill or oil refinery/petrochemical equipment under this section:

(1) must be made by reporting the equipment under this section on a business personal property tax return;

(2) applies to all of the taxpayer's special integrated steel mill or oil refinery/petrochemical equipment located in the state (whether owned or leased, or used as an integrated part of the equipment); and

(3) is binding on the taxpayer for the assessment date for which the election is made.

The department of local government finance shall prescribe the forms to make the election beginning with the March 1, 2003, assessment date. Any special integrated steel mill or oil refinery/petrochemical equipment acquired by a taxpayer that has made an election under this section is valued under this section.

(g) If fifty percent (50%) or more of the adjusted cost of a taxpayer's property that would, notwithstanding this section, be reported in a pool other than Pool No. 5 is attributable to special integrated steel mill or oil refinery/petrochemical equipment, the taxpayer may elect to calculate the true tax value of all of that property as special integrated steel mill or oil refinery/petrochemical equipment. The true tax value of property for which an election is made under this subsection is calculated under subsections (b) through (f).

SECTION 3. IC 6-1.1-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A general reassessment, involving a physical inspection of all real property in Indiana, shall begin July 1, 2000, and be the basis for taxes payable in 2003.

(b) A general reassessment, involving a physical inspection of all real property in Indiana, shall begin July 1, ~~2007,~~ **2009,** and each ~~fourth~~ **fifth** year thereafter. Each reassessment under this subsection:

(1) shall be completed on or before March 1, of the ~~immediately following odd-numbered~~ year **that succeeds by two (2) years the year in which the general reassessment begins;** and

(2) shall be the basis for taxes payable in the year following the year in which the general assessment is to be completed.

(c) In order to ensure that assessing officials and members of each county property tax assessment board of appeals are prepared for a general reassessment of real property, the department of local government finance shall give adequate advance notice of the general reassessment to the county and township taxing officials of each county.

SECTION 4. IC 6-1.1-4-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. (a) The department of local government finance shall adopt rules establishing a system for annually adjusting the assessed value of real property to account for changes in value in those years since a general reassessment of property last took effect.

(b) **Subject to subsection (e),** the system must be applied to adjust assessed values beginning with the ~~2005~~ **2006** assessment date and each year thereafter that is not a year in which a reassessment becomes effective.

(c) The ~~system must have~~ **rules adopted under subsection (a) must include** the following characteristics **in the system:**

(1) Promote uniform and equal assessment of real property within and across classifications.

~~(2) Apply all objectively verifiable factors used in mass valuation techniques that are reasonably expected to affect the value of real property in Indiana.~~

~~(3) Prescribe as many adjustment percentages and whatever categories of percentages the department of local government finance finds necessary to achieve objectively verifiable updated just valuations of real property. An adjustment percentage for a particular classification may be positive or negative.~~

(2) Require that assessing officials:

(A) reevaluate the factors that affect value;

(B) express the interactions of those factors mathematically;

(C) use mass appraisal techniques to estimate updated property values within statistical measures of accuracy; and

(D) provide notice to taxpayers of an assessment increase that results from the application of annual adjustments.

~~(4)~~ **(3)** Prescribe procedures ~~including computer software programs,~~ that permit the application of the adjustment percentages in an efficient manner by assessing officials.

(d) The department of local government finance must review and certify each annual adjustment determined under this section.

(e) In making the annual determination of the base rate to satisfy the requirement for an annual adjustment under subsection (a), the department of local government finance shall determine the base rate using the methodology reflected in Table 2-18 of Book 1, Chapter 2 of the department of local government finance's Real Property Assessment Guidelines (as in effect on January 1, 2005), except that the department shall adjust the methodology to use a six (6) year rolling average instead of a four (4) year rolling average.

SECTION 5. IC 6-1.1-4-4.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.7. (a) For purposes of this section, "assessor" means:**

(1) a township assessor; or

(2) a county assessor who assumes the responsibility for verifying sales under 50 IAC 21-3-2(b).

(b) The department of local government finance shall provide training to assessors and county auditors with respect to the verification of sales disclosure forms under 50 IAC 21-3-2.

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

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

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

(d) The following are members of the commission:

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

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

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

(4) One (1) county resident who:

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

(B) is appointed by:

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

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

(5) Four (4) individuals who:

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

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

(i) Agricultural.

(ii) Commercial.

(iii) Industrial.

(iv) Residential.

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

(6) One (1) individual who:

(A) represents financial institutions in the county; and

(B) is appointed by:

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

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

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

(f) The commission shall determine the values of all classes of commercial, industrial, and residential land (including farm homesites) in the county using guidelines determined by the department of local government finance. Not later than November 1 of the year preceding the year in which a general reassessment begins, the commission determining the values of land shall submit the values, all data supporting the values, and all information required under rules of the department of local government finance relating to the determination of land values to the county property tax assessment board of appeals and the department of local government finance. Not later than January 1 of the year in which a general reassessment begins, the county property tax assessment board of appeals shall hold a public hearing in the county concerning those values. The property tax assessment board of appeals shall give notice of the hearing in accordance with IC 5-3-1 and shall hold the hearing after March 31 of the year preceding the year in which the general reassessment begins and before January 1 of the year in which the general reassessment under IC 6-1.1-4-4 begins.

(g) The county property tax assessment board of appeals shall review the values, data, and information submitted under subsection (f) and may make any modifications it considers necessary to provide uniformity and equality. The county property tax assessment board of appeals shall coordinate the valuation of property adjacent to the boundaries of the county with the county property tax assessment boards of appeals of the adjacent counties using the procedures adopted by rule under IC 4-22-2 by the department of local government finance. If the commission fails to submit land values under subsection (f) to the county property tax assessment board of appeals before January 1 of the year the general reassessment under IC 6-1.1-4-4 begins, the county property tax assessment board of appeals shall determine the values.

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

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

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

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

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

township assessor and the county assessor has one (1) vote. The county assessor shall give written notice to:

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

(2) each township assessor in the county;

of the abolishment of the commission under this subsection.

SECTION 7. IC 6-1.1-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) For purposes of making a general reassessment of real property **or annual adjustments under section 4.5 of this chapter,** any township assessor and any county assessor may employ:

(1) deputies;

(2) employees; and

(3) technical advisors who are:

(A) qualified to determine real property values;

(B) professional appraisers certified under 50 IAC 15;

~~The assessor may employ a technical advisor~~ **and**

(C) employed either on a full-time or a part-time basis, **subject to sections 18.5 and 19.5 of this chapter.**

(b) The county council of each county shall appropriate the funds necessary for the employment of deputies, employees, or technical advisors employed under subsection (a) of this section.

SECTION 8. IC 6-1.1-4-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) Subject to the approval of the department of local government finance and the requirements of section ~~18(a)~~ **18.5** of this chapter, a:

(1) township assessor; or

(2) group consisting of the county assessor and the township assessors in a county;

may employ professional appraisers as technical advisors. **A decision by one (1) or more assessors referred to in subdivisions (1) and (2) to not employ a professional appraiser as a technical advisor in a general reassessment is subject to approval by the department of local government finance.**

(b) After notice to the county assessor and all township assessors in the county, a majority of the assessors authorized to vote under this subsection may vote to:

(1) employ a professional appraiser to act as a technical advisor in the county during a general reassessment period;

(2) appoint an assessor or a group of assessors to:

(A) enter into and administer the contract with a professional appraiser employed under this section; and

(B) oversee the work of a professional appraiser employed under this section.

Each township assessor and the county assessor has one (1) vote. A decision by a majority of the persons authorized to vote is binding on the county assessor and all township assessors in the county. Subject to the limitations ~~contained~~ in section ~~18(a)~~ **18.5** of this chapter, the assessor or assessors appointed under subdivision (2) may contract with a professional appraiser employed under this section to supply technical advice during a general reassessment period for all townships in the county. A proportionate part of the appropriation to all townships for assessing purposes shall be used to pay for the technical advice.

(c) As used in this chapter, "professional appraiser" means an individual or firm that is certified under IC 6-1.1-31.7.

SECTION 9. IC 6-1.1-4-27.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27.5. (a) The auditor of each county shall establish a property reassessment fund. The county treasurer shall deposit all collections resulting from the property taxes that the county ~~is required to levy under this section in~~ **levies for** the county's property reassessment fund.

(b) With respect to the general reassessment of real property that is to commence on July 1, 2009, the county council of each county shall, for property taxes due in 2006, 2007, 2008, and 2009, levy in each year against all the taxable property in the county an amount equal to one-fourth (1/4) of the remainder of:

(1) the estimated costs referred to in section 28.5(a) of this chapter; minus

(2) the amount levied under this section by the county council for property taxes due in 2004 and 2005.

~~(b)~~ **(c)** With respect to a general reassessment of real property that is to commence on July 1, ~~2007,~~ **2014,** and each ~~fourth~~ **fifth** year thereafter, the county council of each county shall, for property taxes due in the year that the general reassessment is to commence and the ~~three~~ ~~(3)~~ **four (4)** years preceding that year, levy against all the taxable property in the county an amount equal to ~~one-fourth (1/4)~~ **one-fifth (1/5)** of the estimated ~~cost~~ **costs** of the general reassessment **under section 28.5 of this chapter.**

~~(c)~~ **(d)** The department of local government finance shall give to each county council notice, before January 1 in a year, of the tax levies required by this section for that year.

~~(d)~~ **(e)** The department of local government finance may raise or lower the property tax levy under this section for a year if the department determines it is appropriate because the estimated cost of:

(1) a general reassessment; ~~including a general reassessment to be completed for the March 1, 2002, assessment date,~~ **or**

(2) making annual adjustments under section 4.5 of this chapter;

has changed.

~~(e) If the county council determines that there is insufficient money in the county's reassessment fund to pay all expenses (as permitted under sections 28.5 and 32 of this chapter) relating to the general reassessment of real property commencing July 1, 2000, the county may, for the purpose of paying expenses (as permitted under sections 28.5 and 32 of this chapter) relating to the general reassessment commencing July 1, 2000, use money deposited in the fund from the tax levy under this section for 2000 or a later year.~~

(f) The county assessor or township assessor may petition the county fiscal body to increase the levy under subsection (b) or (c) to pay for the costs of:

(1) a general reassessment;

(2) verification under 50 IAC 21-3-2 of sales disclosure forms forwarded to the county assessor under IC 6-1.1-5.5-3; or

(3) processing annual adjustments under section 4.5 of this chapter.

The assessor must document the needs and reasons for the increased funding.

(g) If the county fiscal body denies a petition under subsection (f), the assessor may appeal to the department of local government finance. The department of local government finance shall:

(1) hear the appeal; and

(2) determine whether the additional levy is necessary.

SECTION 10. IC 6-1.1-4-28.5, AS AMENDED BY SEA 308-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28.5. (a) Money assigned to a property reassessment fund under section 27.5 of this chapter may be used only to pay the costs of:

(1) the general reassessment of real property, including the computerization of assessment records;

(2) payments to county assessors, members of property tax assessment boards of appeals, or assessing officials under IC 6-1.1-35.2;

(3) the development or updating of detailed soil survey data by the United States Department of Agriculture or its successor agency;

(4) the updating of plat books; ~~and~~

(5) payments for the salary of permanent staff or for the contractual services of temporary staff who are necessary to assist county assessors, members of a county property tax assessment board of appeals, and assessing officials;

(6) making annual adjustments under section 4.5 of this chapter; and

(7) the verification under 50 IAC 21-3-2 of sales disclosure forms forwarded to the county assessor under IC 6-1.1-5.5-3.

(b) All counties shall use modern, detailed soil maps in the general reassessment of agricultural land.

(c) The county treasurer of each county shall, in accordance with IC 5-13-9, invest any money accumulated in the property reassessment fund. ~~until the money is needed to pay general reassessment expenses.~~ Any interest received from investment of the money shall be paid into the property reassessment fund.

~~(d) An appropriation under this section must be approved by the~~

~~fiscal body of the county after the review and recommendation of the county assessor. However, in a county with an elected township assessor in every township, the county assessor does not review an appropriation under this section, and only the fiscal body must approve an appropriation under this section.~~

SECTION 11. IC 6-1.1-4-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31. (a) The department of local government finance shall periodically check the conduct of:

(1) a general reassessment of property;

(2) work required to be performed by local officials under 50 IAC 21; and

(3) other property assessment activities in the county, as determined by the department.

The department of local government finance may inform township assessors, county assessors, and the presidents of county councils in writing if its check reveals that the general reassessment ~~is~~ **or other property assessment activities are** not being properly conducted, **work required to be performed by local officials under 50 IAC 21 is not being properly conducted,** or ~~if~~ property assessments ~~under the general reassessment~~ are not being properly made.

(b) The failure of the department of local government finance to inform local officials under subsection (a) shall not be construed as an indication by the department that:

(1) the general reassessment ~~is~~ **or other property assessment activities are** being properly conducted;

(2) work required to be performed by local officials under 50 IAC 21 is being properly conducted; or ~~that~~

(3) property assessments ~~under the general reassessment~~ are being properly made.

(c) If the department of local government finance:

(1) determines under subsection (a) that a general reassessment or other assessment activities for a general reassessment year or any other year are not being properly conducted; and

(2) informs:

(A) the township assessor of each affected township;

(B) the county assessor; and

(C) the president of the county council;

in writing under subsection (a);

the department may order a state conducted assessment or reassessment under section 31.5 of this chapter to begin not less than sixty (60) days after the date of the notice under subdivision (2). If the department determines during the period between the date of the notice under subdivision (2) and the proposed date for beginning the state conducted assessment or reassessment that the general reassessment or other assessment activities for the general reassessment are being properly conducted, the department may rescind the order.

(d) If the department of local government finance:

(1) determines under subsection (a) that work required to be performed by local officials under 50 IAC 21 is not being properly conducted; and

(2) informs:

(A) the township assessor of each affected township;

(B) the county assessor; and

(C) the president of the county council;

in writing under subsection (a);

the department may conduct the work or contract to have the work conducted to begin not less than sixty (60) days after the date of the notice under subdivision (2). If the department determines during the period between the date of the notice under subdivision (2) and the proposed date for beginning the work or having the work conducted that work required to be performed by local officials under 50 IAC 21 is being properly conducted, the department may rescind the order.

(e) If the department of local government finance contracts to have work conducted under subsection (d), the department shall forward the bill for the services to the county and the county shall pay the bill under the same procedures that apply to county payments of bills for assessment or reassessment services under section 31.5 of this chapter.

SECTION 12. IC 6-1.1-4-31.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 31.5. (a) As used in this section, "assessment official" means any of the following:**

(1) A county assessor.

(2) A township assessor.

(3) A township trustee-assessor.

(b) As used in this section, "department" refers to the department of local government finance.

(c) If the department makes a determination and informs local officials under section 31(c) of this chapter, the department may order a state conducted assessment or reassessment in the county subject to the time limitation in that subsection.

(d) If the department orders a state conducted assessment or reassessment in a county, the department shall assume the duties of the county's assessment officials. Notwithstanding sections 15 and 17 of this chapter, an assessment official in a county subject to an order issued under this section may not assess property or have property assessed for the assessment or general reassessment. Until the state conducted assessment or reassessment is completed under this section, the assessment or reassessment duties of an assessment official in the county are limited to providing the department or a contractor of the department the support and information requested by the department or the contractor.

(e) Before assuming the duties of a county's assessment officials, the department shall transmit a copy of the department's order requiring a state conducted assessment or reassessment to the county's assessment officials, the county fiscal body, the county auditor, and the county treasurer. Notice of the department's actions must be published one (1) time in a newspaper of general circulation published in the county. The department is not required to conduct a public hearing before taking action under this section.

(f) Township and county officials in a county subject to an order issued under this section shall, at the request of the department or the department's contractor, make available and provide access to all:

(1) data;

(2) records;

(3) maps;

(4) parcel record cards;

(5) forms;

(6) computer software systems;

(7) computer hardware systems; and

(8) other information;

related to the assessment or reassessment of real property in the county. The information described in this subsection must be provided at no cost to the department or the contractor of the department. A failure to provide information requested under this subsection constitutes a failure to perform a duty related to an assessment or a general reassessment and is subject to IC 6-1.1-37-2.

(g) The department may enter into a contract with a professional appraising firm to conduct an assessment or reassessment under this section. If a county or a township located in the county entered into a contract with a professional appraising firm to conduct the county's assessment or reassessment before the department orders a state conducted assessment or reassessment in the county under this section, the contract:

(1) is as valid as if it had been entered into by the department; and

(2) shall be treated as the contract of the department.

(h) After receiving the report of assessed values from the appraisal firm acting under a contract described in subsection (g), the department shall give notice to the taxpayer and the county assessor, by mail, of the amount of the assessment or reassessment. The notice of assessment or reassessment:

(1) is subject to appeal by the taxpayer under section 31.7 of this chapter; and

(2) must include a statement of the taxpayer's rights under section 31.7 of this chapter.

(i) The department shall forward a bill for services provided under a contract described in subsection (g) to the auditor of the

county in which the state conducted reassessment occurs. The county shall pay the bill under the procedures prescribed by subsection (j).

(j) A county subject to an order issued under this section shall pay the cost of a contract described in subsection (g), without appropriation, from the county property reassessment fund. A contractor may periodically submit bills for partial payment of work performed under the contract. Notwithstanding any other law, a contractor is entitled to payment under this subsection for work performed under a contract if the contractor:

(1) submits to the department a fully itemized, certified bill in the form required by IC 5-11-10-1 for the costs of the work performed under the contract;

(2) obtains from the department:

(A) approval of the form and amount of the bill; and

(B) a certification that the billed goods and services have been received and comply with the contract; and

(3) files with the county auditor:

(A) a duplicate copy of the bill submitted to the department;

(B) proof of the department's approval of the form and amount of the bill; and

(C) the department's certification that the billed goods and services have been received and comply with the contract.

The department's approval and certification of a bill under subdivision (2) shall be treated as conclusively resolving the merits of a contractor's claim. Upon receipt of the documentation described in subdivision (3), the county auditor shall immediately certify that the bill is true and correct without further audit, publish the claim as required by IC 36-2-6-3, and submit the claim to the county executive. The county executive shall allow the claim, in full, as approved by the department, without further examination of the merits of the claim in a regular or special session that is held not less than three (3) days and not more than seven (7) days after the completion of the publication requirements under IC 36-2-6-3. Upon allowance of the claim by the county executive, the county auditor shall immediately issue a warrant or check for the full amount of the claim approved by the department. Compliance with this subsection constitutes compliance with IC 5-11-6-1, IC 5-11-10, and IC 36-2-6. The determination and payment of a claim in compliance with this subsection is not subject to remonstrance and appeal. IC 36-2-6-4(f) and IC 36-2-6-9 do not apply to a claim submitted under this subsection. IC 5-11-10-1.6(d) applies to a fiscal officer who pays a claim in compliance with this subsection.

(k) Notwithstanding IC 4-13-2, a period of seven (7) days is permitted for each of the following to review and act under IC 4-13-2 on a contract of the department entered into under this section:

(1) The commissioner of the Indiana department of administration.

(2) The director of the budget agency.

(3) The attorney general.

(l) If money in the county's property reassessment fund is insufficient to pay for an assessment or reassessment conducted under this section, the department may increase the tax rate and tax levy of the county's property reassessment fund to pay the cost and expenses related to the assessment or reassessment.

(m) The department or the contractor of the department shall use the land values determined under section 13.6 of this chapter for a county subject to an order issued under this section to the extent that the department or the contractor finds that the land values reflect the true tax value of land, as determined under this article and the rules of the department. If the department or the contractor finds that the land values determined for the county under section 13.6 of this chapter do not reflect the true tax value of land, the department or the contractor shall determine land values for the county that reflect the true tax value of land, as determined under this article and the rules of the department. Land values determined under this subsection shall be used to the same extent as if the land values had been determined under section 13.6 of this chapter. The department or the contractor of the department shall notify the county's assessment officials of the land values determined under this subsection.

(n) A contractor of the department may notify the department if:

(1) a county auditor fails to:

(A) certify the contractor's bill;

(B) publish the contractor's claim;

(C) submit the contractor's claim to the county executive; or

(D) issue a warrant or check for payment of the contractor's bill;

as required by subsection (j) at the county auditor's first legal opportunity to do so;

(2) a county executive fails to allow the contractor's claim as legally required by subsection (j) at the county executive's first legal opportunity to do so; or

(3) a person or an entity authorized to act on behalf of the county takes or fails to take an action, including failure to request an appropriation, and that action or failure to act delays or halts progress under this section for payment of the contractor's bill.

(o) The department, upon receiving notice under subsection (n) from a contractor of the department, shall:

(1) verify the accuracy of the contractor's assertion in the notice that:

(A) a failure occurred as described in subsection (n)(1) or (n)(2); or

(B) a person or an entity acted or failed to act as described in subsection (n)(3); and

(2) provide to the treasurer of state the department's approval under subsection (j)(2)(A) of the contractor's bill with respect to which the contractor gave notice under subsection (n).

(p) Upon receipt of the department's approval of a contractor's bill under subsection (o), the treasurer of state shall pay the contractor the amount of the bill approved by the department from money in the possession of the state that would otherwise be available for distribution to the county, including distributions from the property tax replacement fund or distribution of admissions taxes or wagering taxes.

(q) The treasurer of state shall withhold from the money that would be distributed under IC 4-33-12-6, IC 4-33-13-5, IC 6-1.1-21-4(b), or any other law to a county described in a notice provided under subsection (n) the amount of a payment made by the treasurer of state to the contractor of the department under subsection (p). Money shall be withheld first from the money payable to the county under IC 6-1.1-21-4(b) and then from all other sources payable to the county.

(r) Compliance with subsections (n) through (q) constitutes compliance with IC 5-11-10.

(s) IC 5-11-10-1.6(d) applies to the treasurer of state with respect to the payment made in compliance with subsections (n) through (q). This subsection and subsections (n) through (q) must be interpreted liberally so that the state shall, to the extent legally valid, ensure that the contractual obligations of a county subject to this section are paid. Nothing in this section shall be construed to create a debt of the state.

(t) The provisions of this section are severable as provided in IC 1-1-1-8(b).

SECTION 13. IC 6-1.1-4-31.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 31.6. (a) Subject to the other requirements of this section, the department of local government finance may:**

(1) negotiate an addendum to a contract referred to in section 31.5(g) of this chapter that is treated as a contract of the department; or

(2) include provisions in a contract entered into by the department under section 31.5(g) of this chapter;

to require the contractor of the department to represent the department in appeals initiated under section 31.7 of this chapter and to afford to taxpayers an opportunity to attend an informal hearing.

(b) The purpose of the informal hearing referred to in subsection (a) is to:

(1) discuss the specifics of the taxpayer's assessment or reassessment;
(2) review the taxpayer's property record card;
(3) explain to the taxpayer how the assessment or reassessment was determined;
(4) provide to the taxpayer information about the statutes, rules, and guidelines that govern the determination of the assessment or reassessment;
(5) note and consider objections of the taxpayer;
(6) consider all errors alleged by the taxpayer; and
(7) otherwise educate the taxpayer about:
(A) the taxpayer's assessment or reassessment;
(B) the assessment or reassessment process; and
(C) the assessment or reassessment appeal process under section 31.7 of this chapter.

(c) Following an informal hearing referred to in subsection (b), the contractor shall:
(1) make a recommendation to the department of local government finance as to whether a change in the reassessment is warranted; and
(2) if recommending a change under subdivision (1), provide to the department a statement of:
(A) how the changed assessment or reassessment was determined; and
(B) the amount of the changed assessment or reassessment.

(d) To preserve the right to appeal under section 31.7 of this chapter, a taxpayer must initiate the informal hearing process by notifying the department of local government finance or its designee of the taxpayer's intent to participate in an informal hearing referred to in subsection (b) not later than forty-five (45) days after the department of local government finance gives notice under section 31.5(h) of this chapter to taxpayers of the amount of the reassessment.

(e) The informal hearings referred to in subsection (b) must be conducted:
(1) in the county where the property is located; and
(2) in a manner determined by the department of local government finance.

(f) The department of local government finance shall:
(1) consider the recommendation of the contractor under subsection (c); and
(2) if the department accepts a recommendation that a change in the assessment or reassessment is warranted, accept or modify the recommended amount of the changed assessment or reassessment.

(g) The department of local government finance shall send a notice of the result of each informal hearing to:
(1) the taxpayer;
(2) the county auditor;
(3) the county assessor; and
(4) the township assessor of the township in which the property is located.

(h) A notice under subsection (g) must:
(1) state whether the assessment or reassessment was changed as a result of the informal hearing; and
(2) if the assessment or reassessment was changed as a result of the informal hearing:
(A) indicate the amount of the changed assessment or reassessment; and
(B) provide information on the taxpayer's right to appeal under section 31.7 of this chapter.

(i) If the department of local government finance does not send a notice under subsection (g) not later than two hundred seventy (270) days after the date the department gives notice of the amount of the assessment or reassessment under section 31.5(h) of this chapter:
(1) the department may not change the amount of the assessment or reassessment under the informal hearing process described in this section; and
(2) the taxpayer may appeal the assessment or reassessment under section 31.7 of this chapter.

(j) The department of local government finance may adopt rules to establish procedures for informal hearings under this section.

(k) Payment for an addendum to a contract under subsection (a)(1) is made in the same manner as payment for the contract under section 31.5(i) of this chapter.

SECTION 14. IC 6-1.1-4-31.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 31.7. (a) As used in this section, "special master" refers to a person designated by the Indiana board under subsection (e).**

(b) The notice of assessment or reassessment under section 31.5(h) of this chapter is subject to appeal by the taxpayer to the Indiana board. The procedures and time limitations that apply to an appeal to the Indiana board of a determination of the department of local government finance do not apply to an appeal under this subsection. The Indiana board may establish applicable procedures and time limitations under subsection (l).

(c) In order to appeal under subsection (b), the taxpayer must:
(1) participate in the informal hearing process under section 31.6 of this chapter;
(2) except as provided in section 31.6(i) of this chapter, receive a notice under section 31.6(g) of this chapter; and
(3) file a petition for review with the appropriate county assessor not later than thirty (30) days after:
(A) the date of the notice to the taxpayer under section 31.6(g) of this chapter; or
(B) the date after which the department may not change the amount of the assessment or reassessment under the informal hearing process described in section 31.6 of this chapter.

(d) The Indiana board may develop a form for petitions under subsection (c) that outlines:
(1) the appeal process;
(2) the burden of proof; and
(3) evidence necessary to warrant a change to an assessment or reassessment.

(e) The Indiana board may contract with, appoint, or otherwise designate the following to serve as special masters to conduct evidentiary hearings and prepare reports required under subsection (g):
(1) Independent, licensed appraisers.
(2) Attorneys.
(3) Certified level two Indiana assessor-appraisers (including administrative law judges employed by the Indiana board).
(4) Other qualified individuals.

(f) Each contract entered into under subsection (e) must specify the appointee's compensation and entitlement to reimbursement for expenses. The compensation and reimbursement for expenses are paid from the county property reassessment fund.

(g) With respect to each petition for review filed under subsection (c), the special masters shall:
(1) set a hearing date;
(2) give notice of the hearing at least thirty (30) days before the hearing date, by mail, to:
(A) the taxpayer;
(B) the department of local government finance;
(C) the township assessor; and
(D) the county assessor;
(3) conduct a hearing and hear all evidence submitted under this section; and
(4) make evidentiary findings and file a report with the Indiana board.

(h) At the hearing under subsection (g):
(1) the taxpayer shall present:
(A) the taxpayer's evidence that the assessment or reassessment is incorrect;
(B) the method by which the taxpayer contends the assessment or reassessment should be correctly determined; and
(C) comparable sales, appraisals, or other pertinent information concerning valuation as required by the Indiana board; and
(2) the department of local government finance shall present

its evidence that the assessment or reassessment is correct.

(i) The Indiana board may dismiss a petition for review filed under subsection (c) if the evidence and other information required under subsection (h)(1) is not provided at the hearing under subsection (g).

(j) The township assessor and the county assessor may attend and participate in the hearing under subsection (g).

(k) The Indiana board may:

(1) consider the report of the special masters under subsection (g)(4);

(2) make a final determination based on the findings of the special masters without:

(A) conducting a hearing; or

(B) any further proceedings; and

(3) incorporate the findings of the special masters into the board's findings in resolution of the appeal.

(l) The Indiana board may adopt rules under IC 4-22-2-37.1 to:

(1) establish procedures to expedite:

(A) the conduct of hearings under subsection (g); and

(B) the issuance of determinations of appeals under subsection (k); and

(2) establish deadlines:

(A) for conducting hearings under subsection (g); and

(B) for issuing determinations of appeals under subsection (k).

(m) A determination by the Indiana board of an appeal under subsection (k) is subject to appeal to the tax court under IC 6-1.1-15.

SECTION 15. IC 6-1.1-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) Except as provided in subsection (b), before an owner of real property demolishes, structurally modifies, or improves it at a cost of more than five hundred dollars ($500) for materials or labor, or both, the owner or the owner's agent shall file with **the area plan commission or** the county assessor in the county where the property is located an assessment registration notice on a form prescribed by the department of local government finance.

(b) If the owner of the real property, or the person performing the work for the owner, is required to obtain a permit from an agency or official of the state or a political subdivision for the demolition, structural modification, or improvement, the owner or the person performing the work for the owner is not required to file an assessment registration notice.

(c) Each state or local government official or agency shall, before the tenth day of each month, deliver a copy of each permit described in subsection (b) to the assessor of the county in which the real property to be improved is situated. **Each area plan commission shall, before the tenth day of each month, deliver a copy of each assessment registration notice described in subsection (a) to the assessor of the county where the property is located.**

(d) Before the last day of each month, the county assessor shall distribute a copy of each assessment registration notice filed under subsection (a) or permit received under subsection (b) to the assessor of the township in which the real property to be demolished, modified, or improved is situated.

(e) A fee of five dollars ($5) shall be charged by **the area plan commission or** the county assessor for the filing of the assessment registration notice. All fees collected ~~by the county assessor.~~ **under this subsection** shall be deposited in the county property reassessment fund.

(f) A township or county assessor shall immediately notify the county treasurer if the assessor discovers property that has been improved or structurally modified at a cost of more than five hundred dollars ($500) and the owner of the property has failed to obtain the required building permit or to file an assessment registration notice.

(g) Any person who fails to:

(1) file the registration notice required by subsection (a); or

(2) obtain a building permit described in subsection (b);

before demolishing, structurally modifying, or improving real property is subject to a civil penalty of one hundred dollars ($100). The county treasurer shall include the penalty on the person's property tax statement and collect it in the same manner as delinquent personal property taxes under IC 6-1.1-23. However, if a person files a late registration notice, the person shall pay the fee, if any, and the penalty to **the area plan commission or** the county assessor at the time the person files the late registration notice.

SECTION 16. IC 6-1.1-5.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. **(a) For purposes of this section, "party" includes:**

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

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

from property taxes under IC 6-1.1-10.

~~(a)~~ **(b)** Before filing a conveyance document with the county auditor under IC 6-1.1-5-4, all the parties to the conveyance must complete and sign a sales disclosure form as prescribed by the department of local government finance under section 5 of this chapter. All the parties may sign one (1) form, or if all the parties do not agree on the information to be included on the completed form, each party may sign and file a separate form.

~~(b)~~ **(c)** Except as provided in subsection ~~(c),~~ **(d),** the auditor shall forward each sales disclosure form to the county assessor. The county assessor shall retain the forms for five (5) years. The county assessor shall forward the sales disclosure form data to the department of local government finance and the legislative services agency:

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

(2) after December 31, 2004, in an electronic format specified jointly by the department of local government finance and the legislative services agency.

The county assessor shall forward a copy of the sales disclosure forms to the township assessors in the county. The forms may be used by the county assessing officials, the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6, and any other authorized purpose.

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

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

(2) after December 31, 2004, in an electronic format specified jointly by the department of local government finance and the legislative services agency.

The forms may be used by the county assessing officials, the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6, and any other authorized purpose.

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

SECTION 17. IC 6-1.1-5.5-4.7, AS AMENDED BY P.L.1-2004, SECTION 10, AND AS AMENDED BY P.L.23-2004, SECTION 11, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.7. (a) The assessment training **and administration** fund is established for the purpose of receiving fees deposited under section 4 of this chapter. Money in *the* fund may be used by:

(1) the department of local government finance to cover expenses incurred in the development and administration of programs for the training of assessment officials and employees of the department, including the examination and certification program required by IC 6-1.1-35.5; ~~The fund shall be administered by the treasurer of state.~~ **or**

(2) the Indiana board to:

(A) conduct appeal activities; or

(B) pay for appeal services.

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

~~(c)~~ **(b)** The treasurer of state shall invest the money in the fund not

currently needed to meet the obligations of the fund in the same manner as other public money may be invested. ~~Interest that accrues from these investments shall be deposited into the fund.~~

~~(d)~~ **(c)** Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 18. IC 6-1.1-5.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The department of local government finance shall prescribe a sales disclosure form for use under this chapter. The form prescribed by the department of local government finance must include at least the following information:

(1) The key number of the parcel (as defined in IC 6-1.1-1-8.5).

(2) Whether the entire parcel is being conveyed.

(3) The address of the property.

(4) The date of the execution of the form.

(5) The date the property was transferred.

(6) Whether the transfer includes an interest in land or improvements, or both.

(7) Whether the transfer includes personal property.

(8) An estimate of any personal property included in the transfer.

(9) The name, ~~and~~ address, **and telephone number** of:

(A) each transferor and transferee; **and**

(B) the person that prepared the form.

(10) The mailing address to which the property tax bills or other official correspondence should be sent.

(11) The ownership interest transferred.

(12) The classification of the property (as residential, commercial, industrial, agricultural, vacant land, or other).

(13) The total price actually paid or required to be paid in exchange for the conveyance, whether in terms of money, property, a service, an agreement, or other consideration, but excluding tax payments and payments for legal and other services that are incidental to the conveyance.

(14) The terms of seller provided financing, such as interest rate, points, type of loan, amount of loan, and amortization period, and whether the borrower is personally liable for repayment of the loan.

(15) Any family or business relationship existing between the transferor and the transferee.

(16) Other information as required by the department of local government finance to carry out this chapter.

If a form under this section includes the telephone number or the Social Security number of a party, the telephone number or the Social Security number is confidential.

SECTION 19. IC 6-1.1-17-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) If the county board of tax adjustment determines that the maximum aggregate tax rate permitted within a political subdivision under IC 6-1.1-18 is inadequate, the county board shall, subject to the limitations prescribed in IC 6-1.1-19-2, file its written recommendations in duplicate with the county auditor. The board shall include with its recommendations:

(1) an analysis of the aggregate tax rate within the political subdivision;

(2) a recommended breakdown of the aggregate tax rate among the political subdivisions whose tax rates compose the aggregate tax rate within the political subdivision; and

(3) any other information which the county board considers relevant to the matter.

(b) The county auditor shall forward one (1) copy of the county board's recommendations to the department of local government finance and shall retain the other copy in the county auditor's office. The department of local government finance shall, in the manner prescribed in section 16 of this chapter, review the budgets **by fund,** tax rates, and tax levies of the political subdivisions described in subsection (a)(2).

SECTION 20. IC 6-1.1-17-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) ~~Except as provided in subsection (b),~~ Ten (10) or more taxpayers **or one (1) taxpayer that owns property that represents at least ten percent (10%) of the taxable assessed valuation in the political subdivision** may initiate an appeal from the county board of tax adjustment's action on a political subdivision's budget by filing a statement of their objections with the county auditor. The statement must be filed not later than ten (10) days after the publication of the notice required by section 12 of this chapter. The statement shall specifically identify the provisions of the budget and tax levy to which the taxpayers object. The county auditor shall forward the statement, with the budget, to the department of local government finance.

~~(b) This subsection applies to provisions of the budget and tax levy of a political subdivision:~~

~~(1) against which an objection petition was filed under section 5(b) of this chapter; and~~

~~(2) that were not changed by the fiscal body of the political subdivision after hearing the objections.~~

~~A group of ten (10) or more taxpayers may not initiate an appeal under subsection (a) against provisions of the budget and tax levy if less than seventy-five percent (75%) of the objecting taxpayers with respect to the objection petition filed under section 5(b) of this chapter were objecting taxpayers with respect to the objection statement filed under subsection (a) against those provisions.~~

(b) The department of local government finance shall:

(1) subject to subsection (c), give notice to the first ten (10) taxpayers whose names appear on the petition, or to the taxpayer that owns property that represents at least ten percent (10%) of the taxable assessed valuation in the political subdivision in the case of an appeal initiated by that taxpayer, of the date, time, and location of the hearing on the objection statement filed under subsection (a);

(2) conduct a hearing on the objection; and

(3) after the hearing:

(A) consider the testimony and evidence submitted at the hearing; and

(B) mail the department's:

(i) written determination; and

(ii) written statement of findings;

to the first ten (10) taxpayers whose names appear on the petition, or to the taxpayer that owns property that represents at least ten percent (10%) of the taxable assessed valuation in the political subdivision in the case of an appeal initiated by that taxpayer.

The department of local government finance may hold the hearing in conjunction with the hearing required under IC 6-1.1-17-16.

(c) The department of local government finance shall provide written notice to:

(1) the first ten (10) taxpayers whose names appear on the petition; or

(2) the taxpayer that owns property that represents at least ten percent (10%) of the taxable assessed valuation in the political subdivision, in the case of an appeal initiated by that taxpayer;

at least five (5) days before the date of the hearing.

SECTION 21. IC 6-1.1-17-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) Subject to the limitations and requirements prescribed in this section, the department of local government finance may revise, reduce, or increase a political subdivision's budget **by fund,** tax rate, or tax levy which the department reviews under section 8 or 10 of this chapter.

(b) Subject to the limitations and requirements prescribed in this section, the department of local government finance may review, revise, reduce, or increase the budget **by fund,** tax rate, or tax levy of any of the political subdivisions whose tax rates compose the aggregate tax rate within a political subdivision whose budget, tax rate, or tax levy is the subject of an appeal initiated under this chapter.

(c) Except as provided in ~~subsection~~ **subsections** (j) **and (k),** before the department of local government finance reviews, revises, reduces, or increases a political subdivision's budget **by fund,** tax rate, or tax levy under this section, the department must hold a public hearing on the budget, tax rate, and tax levy. The department of local government finance shall hold the hearing in the county in which the political subdivision is located. The department of local government finance may consider the budgets **by fund,** tax rates, and tax levies of several political subdivisions at the same public hearing. At least five

(5) days before the date fixed for a public hearing, the department of local government finance shall give notice of the time and place of the hearing and of the budgets **by fund,** levies, and tax rates to be considered at the hearing. The department of local government finance shall publish the notice in two (2) newspapers of general circulation published in the county. However, if only one (1) newspaper of general circulation is published in the county, the department of local government finance shall publish the notice in that newspaper.

(d) Except as provided in subsection (i), IC 6-1.1-19, or IC 6-1.1-18.5, the department of local government finance may not increase a political subdivision's budget **by fund,** tax rate, or tax levy to an amount which exceeds the amount originally fixed by the political subdivision. The department of local government finance shall give the political subdivision written notification specifying any revision, reduction, or increase the department proposes in a political subdivision's tax levy or tax rate. The political subdivision has one (1) week from the date the political subdivision receives the notice to provide a written response to the department of local government finance's Indianapolis office specifying how to make the required reductions in the amount budgeted ~~for each office or department.~~ **by fund.** The department of local government finance shall make reductions as specified in the political subdivision's response if the response is provided as required by this subsection and sufficiently specifies all necessary reductions. The department of local government finance may make a revision, a reduction, or an increase in a political subdivision's budget only ~~in the total amounts budgeted for each office or department within each of the major budget classifications prescribed by the state board of accounts.~~ **by fund.**

(e) The department of local government finance may not approve a levy for lease payments by a city, town, county, library, or school corporation if the lease payments are payable to a building corporation for use by the building corporation for debt service on bonds and if:

(1) no bonds of the building corporation are outstanding; or

(2) the building corporation has enough legally available funds on hand to redeem all outstanding bonds payable from the particular lease rental levy requested.

(f) The department of local government finance shall certify its action to:

(1) the county auditor; ~~and~~

(2) the political subdivision if the department acts pursuant to an appeal initiated by the political subdivision;

(3) the first ten (10) taxpayers whose names appear on a petition filed under section 13 of this chapter; and

(4) a taxpayer that owns property that represents at least ten percent (10%) of the taxable assessed valuation in the political subdivision.

(g) The following may petition for judicial review of the final determination of the department of local government finance under subsection (f):

(1) If the department acts under an appeal initiated by a political subdivision, the political subdivision.

(2) If the department acts under an appeal initiated by taxpayers under section 13 of this chapter, a taxpayer who signed the petition under that section.

(3) If the department acts under an appeal initiated by the county auditor under section 14 of this chapter, the county auditor.

(4) A taxpayer that owns property that represents at least ten percent (10%) of the taxable assessed valuation in the political subdivision.

The petition must be filed in the tax court not more than forty-five (45) days after the department certifies its action under subsection (f).

(h) The department of local government finance is expressly directed to complete the duties assigned to it under this section not later than February 15th of each year for taxes to be collected during that year.

(i) Subject to the provisions of all applicable statutes, the department of local government finance may increase a political subdivision's tax levy to an amount that exceeds the amount originally fixed by the political subdivision if the increase is:

(1) requested in writing by the officers of the political subdivision;

(2) either:

(A) based on information first obtained by the political subdivision after the public hearing under section 3 of this chapter; or

(B) results from an inadvertent mathematical error made in determining the levy; and

(3) published by the political subdivision according to a notice provided by the department.

(j) The department of local government finance shall annually review the budget **by fund** of each school corporation not later than April 1. The department of local government finance shall give the school corporation written notification specifying any revision, reduction, or increase the department proposes in the school corporation's budget **by fund.** A public hearing is not required in connection with this review of the budget.

(k) The department of local government finance may hold a hearing under subsection (c) only if the notice required in IC 6-1.1-17-12 is published at least ten (10) days before the date of the hearing.

SECTION 22. IC 6-1.1-21-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Each year the department shall allocate from the property tax replacement fund an amount equal to the sum of:

(1) each county's total eligible property tax replacement amount for that year; plus

(2) the total amount of homestead tax credits that are provided under IC 6-1.1-20.9 and allowed by each county for that year; plus

(3) an amount for each county that has one (1) or more taxing districts that contain all or part of an economic development district that meets the requirements of section 5.5 of this chapter. This amount is the sum of the amounts determined under the following STEPS for all taxing districts in the county that contain all or part of an economic development district:

STEP ONE: Determine that part of the sum of the amounts under section 2(g)(1)(A) and 2(g)(2) of this chapter that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the subdivision (1) amount that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

(b) Except as provided in subsection (e), between March 1 and August 31 of each year, the department shall distribute to each county treasurer from the property tax replacement fund one-half (1/2) of the estimated distribution for that year for the county. Between September 1 and December 15 of that year, the department shall distribute to each county treasurer from the property tax replacement fund the remaining one-half (1/2) of each estimated distribution for that year. The amount of the distribution for each of these periods shall be according to a schedule determined by the property tax replacement fund board under section 10 of this chapter. The estimated distribution for each county may be adjusted from time to time by the department to reflect any changes in the total county tax levy upon which the estimated distribution is based.

(c) On or before December 31 of each year or as soon thereafter as possible, the department shall make a final determination of the amount which should be distributed from the property tax replacement fund to each county for that calendar year. This determination shall be known as the final determination of distribution. The department shall distribute to the county treasurer or receive back from the county treasurer any deficit or excess, as the case may be, between the sum of the distributions made for that calendar year based on the estimated distribution and the final determination of distribution. The final determination of distribution shall be based on the auditor's abstract filed with the auditor of state, adjusted for postabstract adjustments included in the December settlement sheet for the year, and such additional information as the department may require.

(d) All distributions provided for in this section shall be made on warrants issued by the auditor of state drawn on the treasurer of state. If the amounts allocated by the department from the property tax replacement fund exceed in the aggregate the balance of money in the fund, then the amount of the deficiency shall be transferred from the state general fund to the property tax replacement fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the payment of that amount. However, any amount transferred under this section from the general fund to the property tax replacement fund shall, as soon as funds are available in the property tax replacement fund, be retransferred from the property tax replacement fund to the state general fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the replacement of that amount.

(e) Except as provided in subsection ~~(i)~~ **(g) and subject to subsection (h),** the department shall not distribute under subsection (b) and section 10 of this chapter **a percentage, determined by the department, of** the money ~~attributable to the county's property reassessment fund~~ **that would otherwise be distributed to the county under subsection (b) and section 10 of this chapter** if:

(1) by the date the distribution is scheduled to be made, the county auditor has not sent a certified statement required to be sent by that date under IC 6-1.1-17-1 to the department of local government finance;

(2) by the deadline under IC 36-2-9-20, the county auditor has not transmitted data as required under that section; ~~or~~

(3) the county assessor has not forwarded to the department of local government finance the duplicate copies of all approved exemption applications required to be forwarded by that date under IC 6-1.1-11-8(a);

(4) the county assessor has not forwarded to the department of local government finance in a timely manner sales disclosure forms under IC 6-1.1-5.5-3(b);

(5) local assessing officials have not provided information to the department of local government finance in a timely manner under IC 4-10-13-5(b);

(6) the county auditor has not paid a bill for services under IC 6-1.1-4-31.5 to the department of local government finance in a timely manner;

(7) the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor has not transmitted to the department of local government finance by October 1 of the year in which the distribution is scheduled to be made the data for all townships in the county required to be transmitted under IC 6-1.1-4-25(b);

(8) the county has not established a parcel index numbering system under 50 IAC 12-15-1 in a timely manner; or

(9) a township or county official has not provided other information to the department of local government finance in a timely manner as required by the department.

~~(f) Except as provided in subsection (i) if the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor has not transmitted to the department of local government finance by October 1 of the year in which the distribution is scheduled to be made the data for all townships in the county required to be transmitted under IC 6-1.1-4-25(b), the state board or the department shall not distribute under subsection (b) and section 10 of this chapter a part of the money attributable to the county's property reassessment fund. The portion not distributed is the amount that bears the same proportion to the total potential distribution as the number of townships in the county for which data was not transmitted by October 1 as described in this section bears to the total number of townships in the county.~~

~~(g)~~ **(f) Except as provided in subsection (i),** money not distributed for the reasons stated in subsection ~~(e)(1) and (e)(2)~~ **(e)** shall be distributed to the county when

~~(1) the county auditor sends to~~ the department of local government finance ~~the certified statement required to be sent under IC 6-1.1-17-1; and~~

~~(2) the county assessor forwards to the department of local government finance the approved exemption applications required to be forwarded under IC 6-1.1-11-8(a),~~ ~~with respect to which the failure to send or forward resulted in the withholding of the distribution under subsection (e).~~

~~(h) Money not distributed under subsection (f) shall be distributed to the county when the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor transmits to the department of local government finance the data required to be transmitted under IC 6-1.1-4-25(b) with respect to which the failure to transmit resulted in the withholding of the distribution under subsection (f).~~ **determines that the failure to:**

(1) provide information; or

(2) pay a bill for services;

has been corrected.

~~(i)~~ **(g)** The restrictions on distributions under ~~subsections~~ **subsection** (e) ~~and (f)~~ do not apply if the department of local government finance determines that

~~(1)~~ the failure ~~of:~~

~~(A) a county auditor to send a certified statement; or~~

~~(B) a county assessor to forward copies of all approved exemption applications;~~

~~as described in subsection (e);~~ ~~or~~

~~(2) the failure of an official to transmit data as described in subsection (f);~~

to:

(1) provide information; or

(2) pay a bill for services;

in a timely manner is justified by unusual circumstances.

(h) The department shall give the county auditor at least thirty (30) days notice in writing before withholding a distribution under subsection (e).

(i) Money not distributed for the reason stated in subsection (e)(6) may be deposited in the fund established by IC 6-1.1-5.5-4.7(a). Money deposited under this subsection is not subject to distribution under subsection (f).

SECTION 23. IC 6-1.1-21.8-4, AS AMENDED BY HEA 1288-2005, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The board shall determine the terms of a loan made under this chapter. However, the interest charged on the loan may not exceed the percent of increase in the United States Department of Labor Consumer Price Index for Urban Wage Earners and Clerical Workers during the most recent twelve (12) month period for which data is available as of the date that the unit applies for a loan under this chapter. In the case of a qualified taxing unit that is not a school corporation or a public library (as defined in IC 36-12-1-5), a loan must be repaid not later than ten (10) years after the date on which the loan was made. In the case of a qualified taxing unit that is a school corporation or a public library (as defined in IC 36-12-1-5), a loan must be repaid not later than eleven (11) years after the date on which the loan was made. A school corporation or a public library (as defined in IC 36-12-1-5) is not required to begin making payments to repay a loan until after June 30, 2004. The total amount of all the loans made under this chapter may not exceed twenty-eight million dollars ($28,000,000). The board may disburse the proceeds of a loan in installments. However, not more than one-third (1/3) of the total amount to be loaned under this chapter may be disbursed at any particular time without the review of the budget committee and the approval of the budget agency.

(b) A loan made under this chapter shall be repaid only from:

(1) property tax revenues of the qualified taxing unit that are subject to the levy limitations imposed by IC 6-1.1-18.5 or IC 6-1.1-19; ~~or~~

(2) in the case of a school corporation, the school corporation's debt service fund; or

~~(2)~~ **(3)** any other source of revenues (other than property taxes) that is legally available to the qualified taxing unit.

The payment of any installment of principal constitutes a first charge against the property tax revenues described in subdivision (1) that are collected by the qualified taxing unit during the calendar year the installment is due and payable.

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

(d) Whenever the board receives a payment on a loan made under this chapter, the board shall deposit the amount paid in the

counter-cyclical revenue and economic stabilization fund.

(e) This section does not prohibit a qualified taxing unit from repaying a loan made under this chapter before the date specified in subsection (a) if a taxpayer described in section 3 of this chapter resumes paying property taxes to the qualified taxing unit.

(f) Interest accrues on a loan made under this chapter until the date the board receives notice from the county auditor that the county has adopted at least one (1) of the following:

(1) The county adjusted gross income tax under IC 6-3.5-1.1.

(2) The county option income tax under IC 6-3.5-6.

(3) The county economic development income tax under IC 6-3.5-7.

Notwithstanding subsection (a), interest may not be charged on a loan made under this chapter if a tax described in this subsection is adopted before a qualified taxing unit applies for the loan.

SECTION 24. IC 6-1.1-28-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Each county shall have a county property tax assessment board of appeals composed of individuals who are at least eighteen (18) years of age and knowledgeable in the valuation of property. In addition to the county assessor, only one (1) other individual who is an officer or employee of a county or township may serve on the board of appeals in the county in which the individual is an officer or employee. **Subject to subsections (d) and (e),** the fiscal body of the county shall appoint two (2) individuals to the board. At least one (1) of the members appointed by the county fiscal body must be a certified level two assessor-appraiser. **Subject to subsections (d) and (e),** the board of commissioners of the county shall appoint two (2) freehold members so that not more than three (3) of the five (5) members may be of the same political party and so that at least three (3) of the five (5) members are residents of the county. At least one (1) of the members appointed by the board of county commissioners must be a certified level two assessor-appraiser. ~~However,~~ If the county assessor is a certified level two assessor-appraiser, the board of county commissioners may waive the requirement in this subsection that one (1) of the freehold members appointed by the board of county commissioners must be a certified level two assessor-appraiser. A person appointed to a property tax assessment board of appeals may serve on the property tax assessment board of appeals of another county at the same time. The members of the board shall elect a president. The employees of the county assessor shall provide administrative support to the property tax assessment board of appeals. The county assessor is a voting member of the property tax assessment board of appeals. The county assessor shall serve as secretary of the board. The secretary shall keep full and accurate minutes of the proceedings of the board. A majority of the board that includes at least one (1) certified level two assessor-appraiser constitutes a quorum for the transaction of business. Any question properly before the board may be decided by the agreement of a majority of the whole board.

(b) The county assessor, county fiscal body, and board of county commissioners may agree to waive the requirement in subsection (a) that not more than three (3) of the five (5) members of the county property tax assessment board of appeals may be of the same political party if it is necessary to waive the requirement due to the absence of certified level two Indiana assessor-appraisers:

(1) who are willing to serve on the board; and

(2) whose political party membership status would satisfy the requirement in subsection (c)(1).

(c) If the board of county commissioners is not able to identify at least two (2) prospective freehold members of the county property tax assessment board of appeals who are:

(1) residents of the county;

(2) certified level two Indiana assessor-appraisers; and

(3) willing to serve on the county property tax assessment board of appeals;

it is not necessary that at least three (3) of the five (5) members of the county property tax assessment board of appeals be residents of the county.

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

(1) is one (1) year; and

(2) begins January 1.

(e) If:

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

(2) the member is not reappointed; and

(3) a successor is not appointed;

the term of the member continues until a successor is appointed.

SECTION 25. IC 6-1.1-31.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) **Subject to section 3.5(e) of this chapter,** the department shall adopt rules under IC 4-22-2 to prescribe computer specification standards and for the certification of:

~~(1) computer operating systems;~~

~~(2)~~ **(1)** computer software;

~~(3)~~ **(2)** software providers;

~~(4)~~ **(3)** computer service providers; and

~~(5)~~ **(4)** computer equipment providers.

(b) The rules of the department shall provide for:

(1) the effective and efficient administration of assessment laws;

(2) the prompt updating of assessment data;

(3) the administration of information contained in the sales disclosure form, as required under IC 6-1.1-5.5; and

(4) other information necessary to carry out the administration of the property tax assessment laws.

(c) After December 31, 1998, **subject to section 3.5(e) of this chapter,** a county may contract only for computer software and with software providers, computer service providers, and equipment providers that are certified by the department under the rules described in subsection (a).

(d) The initial rules under this section must be adopted under IC 4-22-2 before January 1, 1998.

SECTION 26. IC 6-1.1-31.5-3.5, AS AMENDED BY HEA 1137-2005, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.5. (a) **Until the system described in subsection (e) is implemented,** each county shall maintain a state certified computer system that has the capacity to:

(1) process and maintain assessment records;

(2) process and maintain standardized property tax forms;

(3) process and maintain standardized property assessment notices;

(4) maintain complete and accurate assessment records for the county; and

(5) process and compute complete and accurate assessments in accordance with Indiana law.

The county assessor with the recommendation of the township assessors shall select the computer system used by township assessors and the county assessor in the county except in a county with an elected township assessor in every township. In a county with an elected township assessor in every township, the elected township assessors shall select a computer system based on a majority vote of the township assessors in the county.

(b) All information on ~~the~~ **a** computer system **referred to in subsection (a)** shall be readily accessible to:

(1) township assessors;

(2) the county assessor;

(3) the department of local government finance; and

(4) members of the county property tax assessment board of appeals.

(c) The certified system **referred to in subsection (a)** used by the counties must be:

(1) compatible with the data export and transmission requirements in a standard format prescribed by the office of technology established by IC 4-13.1-2-1 and approved by the legislative services agency; ~~The certified system must be~~ **and**

(2) maintained in a manner that ensures prompt and accurate transfer of data to the department of local government finance and the legislative services agency.

(d) All standardized property forms and notices on the certified computer system **referred to in subsection (a)** shall be maintained by the township assessor and the county assessor in an accessible location and in a format that is easily understandable for use by persons of the county.

(e) The department shall adopt rules before July 1, 2006, for the establishment of:

(1) a uniform and common property tax management system among all counties that:

(A) includes a combined mass appraisal and county auditor system integrated with a county treasurer system; and

(B) replaces the computer system referred to in subsection (a); and

(2) a schedule for implementation of the system referred to in subdivision (1) structured to result in the implementation of the system in all counties with respect to an assessment date:

(A) determined by the department; and

(B) specified in the rule.

(f) The department shall appoint an advisory committee to assist the department in the formulation of the rules referred to in subsection (e). The department shall determine the number of members of the committee. The committee:

(1) must include at least:

(A) one (1) township assessor;

(B) one (1) county assessor;

(C) one (1) county auditor; and

(D) one (1) county treasurer; and

(2) shall meet at times and locations determined by the department.

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

(h) Each member of the committee appointed under subsection (f) who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(i) The department shall report to the budget committee in writing the department's estimate of the cost of implementation of the system referred to in subsection (e).

SECTION 27. IC 6-1.1-31.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The department may revoke a certification issued under section 2 of this chapter for at least three (3) years if it determines:

(1) that information given by an applicant was false; or

(2) the product, provider, or service certified does not meet the minimum requirements of the department.

(b) If a certification is revoked, any Indiana contract that the provider has is void and the contractor may not receive any additional funds under the contract.

(c) An individual at least eighteen (18) years of age who resides in Indiana and any corporation that satisfies the requirements of this chapter and the rules of the department may be certified as:

(1) a software ~~or computer operating system~~ provider;

(2) a service provider; or

(3) a computer equipment provider.

(d) A person may not sell, buy, trade, exchange, option, lease, or rent ~~computer operating systems,~~ software, computer equipment, or service to a county under this chapter without a certification from the department.

(e) A contract for computer software, computer equipment, a computer operating program or computer system service providers under this chapter must contain a provision specifying that the contract is void if the provider's certification is revoked.

(f) The department may not limit the number of systems or providers certified by this chapter so long as the system or provider meets the specifications or standards of the department.

SECTION 28. IC 6-1.1-31.7-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. (a) Subject to subsection (b), an individual or a firm that is:**

(1) an appraiser; or

(2) a technical advisor under IC 6-1.1-4;

in a county may not serve as a tax representative of any taxpayer with respect to property subject to property taxes in the county before the county property tax assessment board of appeals of that county or the Indiana board of tax review.

(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.

SECTION 29. IC 20-14-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. **Notwithstanding IC 6-1.1-17,** the department of local government finance may approve appropriations from the capital projects fund only if the appropriations conform to a plan that has been adopted and approved in compliance with this chapter.

SECTION 30. IC 21-2-15-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. **Notwithstanding IC 6-1.1-17,** the department of local government finance may approve appropriations from the capital projects fund only if they conform to a plan that has been adopted in compliance with this chapter.

SECTION 31. P.L.245-2003, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 37. (a) Notwithstanding IC 6-1.1-5.5-4(a), a person filing a sales disclosure form under IC 6-1.1-5.5 with respect to a sale of real property that occurs:

(1) after December 31, 2003; and

(2) before January 1, ~~2006,~~ **2012;**

shall pay a fee of ten dollars ($10) to the county auditor.

(b) Notwithstanding IC 6-1.1-5.5-4(b) and IC 6-1.1-5.5-12(d), fifty percent (50%) of the revenue collected under:

(1) subsection (a); and

(2) IC 6-1.1-5.5-12;

for the period referred to in subsection (a) shall be deposited in the county sales disclosure fund established under IC 6-1.1-5.5-4.5. Ten percent (10%) of the revenue **collected before July 1, 2005,** shall be transferred to the treasurer of state for deposit in the assessment training **and administration** fund established under IC 6-1.1-5.5-4.7. Forty percent (40%) of the revenue **collected before July 1, 2005,** shall be transferred to the treasurer of state for deposit in the state general fund. **Fifty percent (50%) of the revenue collected after June 30, 2005, shall be transferred to the assessment training and administration fund established under IC 6-1.1-5.5-4.7.**

(c) The department of local government finance may provide training of assessment officials and employees of the department through the Indiana chapter of the International Association of Assessing Officers on various dates and at various locations in Indiana.

(d) This SECTION expires January 1, ~~2007.~~ **2012.**

SECTION 32. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding subsection (b) or the amendments to IC 6-1.1-4-4.5 by this act, county assessors, township assessors, and township trustee assessors shall:**

(1) verify sales disclosure forms forwarded to the county assessor under IC 6-1.1-5.5-3; and

(2) proceed with other duties under 50 IAC 21;

so that the completion of those actions is accomplished on a schedule that is as close as possible to the schedules for completion of those actions under 50 IAC 21 that applied before the amendment of IC 6-1.1-4-4.5 by this act.

(b) Notwithstanding 50 IAC 21-3-2(b), the department of local government finance shall notify each county assessor of a deadline for:

(1) the determination of annual adjustments in the county under 50 IAC 21-3-2 for the 2006 assessment date; and

(2) the submission of the annual adjustments to the department for review and certification under

IC 6-1.1-4-4.5, as amended by this act.

(c) This SECTION expires January 1, 2008.

SECTION 33. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 6-1.1-1 apply throughout this SECTION.

(b) As used in this SECTION, "taxpayer" means a nonprofit corporation that is an owner of land and improvements:

(1) that were granted an exemption under IC 6-1.1-10 from property taxes first due and payable in 2001;

(2) that were owned by a sorority and used by the sorority to carry out its purposes during the period relevant to the determination of exemption from property taxes under IC 6-1.1-10-16 or IC 6-1.1-10-24 for the assessment dates in 2002 and 2003;

(3) for which a property tax liability was imposed for property taxes first due and payable in 2003 and 2004 that in total exceeded sixty thousand dollars ($60,000); and

(4) that would have qualified for an exemption under IC 6-1.1-10-16 or IC 6-1.1-10-24 from property taxes first due and payable in 2003 and 2004 if the owner had complied with the filing requirements for the exemption in a timely manner.

(c) The land and improvements described in subsection (b) are exempt from property taxes first due and payable in 2003 and 2004, notwithstanding that the taxpayer failed to make a timely application for the exemption for those years.

(d) The taxpayer may file claims with the county auditor for a refund for the amounts paid toward property taxes on the land and improvements described in subsection (b) that were billed to the taxpayer for property taxes first due and payable in 2003 and 2004. The claim must be filed as set forth in IC 6-1.1-26-1(1) through IC 6-1.1-26-1(3). The claims must present sufficient facts for the county auditor to determine:

(1) whether the claimant meets the qualifications described in subsection (b); and

(2) the amount that should be refunded to the taxpayer.

(e) Upon receiving a claim filed under this SECTION, the county auditor shall determine whether the claim is correct. If the county auditor determines that the claim is correct, the county auditor shall submit the claim under IC 6-1.1-26-3 to the county board of commissioners for review. The only grounds for disallowing the claim under IC 6-1.1-26-4 are that the claimant is not a person that meets the qualifications described in subsection (b) or that the amount claimed is not the amount due to the taxpayer. If the claim is allowed, the county auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount due the claimant under this SECTION. The amount of the refund must equal the amount of the claim allowed. Notwithstanding IC 6-1.1-26-5, no interest is payable on the refund.

(f) This SECTION expires December 31, 2008.

SECTION 34. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "assessment date" has the meaning set forth in IC 6-1.1-1-2.

(b) Notwithstanding IC 6-1.1-4-4.5, as amended by this act:

(1) for the property tax assessment of agricultural land for the assessment date in 2005 and 2006, the statewide agricultural land base rate value of eight hundred eighty dollars ($880) per acre is substituted for the statewide agricultural land base rate value of one thousand fifty dollars ($1,050) per acre in the real property assessment guidelines of the department of local government finance that apply for those assessment dates; and

(2) IC 6-1.1-4-4.5(e), as added by this act, does not apply with respect to the property tax assessment of agricultural land for the assessment date in 2006.

(c) This SECTION expires January 1, 2008.

SECTION 35. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 6-1.1-1 apply throughout this SECTION.

(b) As used in this SECTION, "taxpayer" means a nonprofit corporation that is an owner of land and improvements:

(1) that were:

(A) owned and occupied by the taxpayer during the period preceding the assessment date in 1999 and continuing through the date that this SECTION is effective; and

(B) used to prepare and create a soccer facility to provide youths with the opportunity to play supervised and organized soccer against other youths;

(2) for which the property tax liability imposed for property taxes first due and payable in 2000, 2001, 2002, 2003, and 2004 exceeded thirty-three thousand dollars ($33,000), in total, which has been paid by the taxpayer;

(3) that would have qualified for an exemption under IC 6-1.1-10 from property taxes first due and payable in 2000, 2001, 2002, 2003, and 2004 if the taxpayer had complied with the filing requirements for the exemption in a timely manner; and

(4) that have been granted an exemption under IC 6-1.1-10 from property taxes first due and payable in 2005.

(c) Land and improvements described in subsection (b) are exempt under IC 6-1.1-10-16 from property taxes first due and payable in 2003 and 2004, notwithstanding that the taxpayer failed to make a timely application for the exemption for those years.

(d) The taxpayer may file claims with the county auditor for a refund for the amounts paid toward property taxes on land and improvements described in subsection (b) that were billed to the taxpayer for property taxes first due and payable in 2003 and 2004. The claims must be filed as set forth in IC 6-1.1-26-1(1) through IC 6-1.1-26-1(3). The claims must present sufficient facts for the county auditor to determine whether the claimant is a person that meets the qualifications described in subsection (b) and the amount that should be refunded to the taxpayer.

(e) Upon receiving a claim filed under this SECTION, the county auditor shall determine whether the claim is correct. If the county auditor determines that the claim is correct, the county auditor shall submit the claim under IC 6-1.1-26-4 to the county board of commissioners for review. The only grounds for disallowing the claim under IC 6-1.1-26-4 are that the claimant is not a person that meets the qualifications described in subsection (b) or that the amount claimed is not the amount due to the taxpayer. If the claim is allowed, the county auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount due the claimant under this SECTION. The amount of the refund must equal the amount of the claim allowed. Notwithstanding IC 6-1.1-26-5, no interest is payable on the refund.

(f) This SECTION expires December 31, 2007.

SECTION 36. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 6-1.1-1 apply throughout this SECTION.

(b) A religious institution may file an application under IC 6-1.1-11 before May 11, 2005, for exemption of one (1) or more parcels of real property for property taxes first due and payable in 2001 and 2002 if:

(1) the religious institution did not file an application under IC 6-1.1-11 for exemption of the real property with respect to property taxes first due and payable in 2001 or 2002;

(2) the religious institution acquired the real property after December 31, 1998; and

(3) the real property was exempt from property taxes for property taxes first due and payable in 2000.

(c) If a religious institution files an exemption application under subsection (b):

(1) the exemption application is subject to review and action by:

(A) the county property tax assessment board of appeals; and

(B) the department of local government finance; and

(2) the exemption determination made under subdivision (1) is subject to appeal;

in the same manner that would have applied if an application for exemption had been timely filed in 2000 and 2001.

(d) If an exemption application filed under subsection (b) is approved, the religious institution may file a claim under IC 6-1.1-26-1 with the county auditor for a refund for any payment of property taxes first due and payable in 2001 and for any payment of property taxes first due and payable in 2002, including any paid interest and penalties, with respect to the

exempt property.

(e) Upon receiving a claim for a refund filed under subsection (d), the county auditor shall determine whether the claim is correct. If the county auditor determines that the claim is correct, the auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount of the refund due the claimant. Interest is not payable on the refund.

(f) If an exemption application filed under subsection (b) is approved, the county treasurer shall forgive the interest and penalties charged to the religious institution for the exempt property in 2001 and 2002 to the extent of the approved exemptions.

(g) This SECTION expires January 1, 2006.

SECTION 37. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 6-1.1-1 apply throughout this SECTION.

(b) A religious institution may file an application under IC 6-1.1-11 before August 1, 2005, for exemption of one (1) or more parcels of real property for property taxes first due and payable in 2004 and 2005 if:

(1) the religious institution did not file an application under IC 6-1.1-11 for exemption of the real property with respect to property taxes first due and payable in 2004 or 2005;

(2) the religious institution acquired the real property after December 31, 1999, for charitable or religious purposes;

(3) it is determined that the real property is exempt or would have been exempt from property taxes for property taxes first due and payable after December 31, 1999; and

(4) the religious institution:

(A) has occupied the real property for the years described in subdivision (1); and

(B) has used the real property for its religious or charitable purposes in the years described in subdivision (1).

(c) If a religious institution files an exemption application under subsection (b):

(1) the exemption application is subject to review and action by:

(A) the county property tax assessment board of appeals; and

(B) the department of local government finance; and

(2) the exemption determination made under subdivision (1) is subject to appeal;

in the same manner that would have applied if an application for exemption had been timely filed in 2003 and 2004.

(d) The religious institution may file a claim under IC 6-1.1-26-1 with the county auditor for a refund for any payment of property taxes first due and payable in 2004 and 2005, including any paid interest and penalties, with respect to the exempt property if:

(1) an exemption application filed under subsection (b) is approved; and

(2) the religious institution has paid any property taxes in 2004 and 2005 attributable to the exempt property.

(e) Upon receiving a claim for a refund filed under subsection (d), the county auditor shall determine whether the claim is correct. If the county auditor determines that the claim is correct, the auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount of the refund due the claimant. Interest is not payable on the refund.

(f) If:

(1) the religious institution incurred property tax liabilities in any combination of 2004 or 2005 because of the failure to properly apply for a property tax exemption for the religious institution's real property described in subsection (a); and

(2) an exemption application filed under subsection (b) is approved;

the county treasurer of the county in which the real property is located shall forgive the property taxes, penalties, and interest charged to the religious institution for the exempt property in any combination of 2004 or 2005.

(g) This SECTION expires January 1, 2006.

SECTION 38. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 6-1.1-1 apply throughout this SECTION.

(b) For purposes of this SECTION, "eligible entity" means a nonprofit entity established for the purpose of retaining and preserving land and water for their natural characteristics.

(c) An eligible entity may file an application under IC 6-1.1-11 before August 1, 2005, for exemption of one (1) or more parcels of real property for property taxes first due and payable in 2001 and 2002 if:

(1) the eligible entity filed an application under any statute for exemption of the real property with respect to property taxes first due and payable in 2001 and 2002; and

(2) it is determined that the real property would have been eligible for exemption from property taxes for property taxes first due and payable in 2001 and 2002 if IC 6-1.1-10-16(c)(3) had been in effect for those years.

(d) If an eligible entity files an exemption application under subsection (c):

(1) the exemption application is subject to review and action by:

(A) the county property tax assessment board of appeals; and

(B) the department of local government finance; and

(2) the exemption determination made under subdivision (1) is subject to appeal;

in the same manner that applies to other exemption applications.

(e) The eligible entity may file a claim under IC 6-1.1-26-1 with the county auditor for a refund for any payment of property taxes first due and payable in 2001 and 2002, including any paid interest and penalties, with respect to the exempt property if:

(1) an exemption application filed under subsection (c) is approved; and

(2) the eligible entity has paid any property taxes in 2001 and 2002 attributable to the exempt property.

(f) Upon receiving a claim for a refund filed under subsection (e), the county auditor shall determine whether the claim is correct. If the county auditor determines that the claim is correct, the auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount of the refund due the claimant. Interest is not payable on the refund.

(g) This SECTION expires January 1, 2006.

SECTION 39. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 6-1.1-12.1 apply throughout this SECTION.

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

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

(1) the property owner; or

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

may appeal the amount of the deduction allowed in calculating the tax statement under IC 6-1.5-5.

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

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

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

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

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

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

(1) for an assessment date in 2003 or 2004 must be initiated not later than the later of:

(A) July 14, 2005; or

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

(2) for an assessment date in 2005 must be initiated not later than forty-five (45) days after the issuance of the tax statement.

(g) The county auditor shall:

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

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

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

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

SECTION 40. [EFFECTIVE JULY 1, 2005] **(a) The term of a member of the county property tax assessment board of appeals as of the effective date of this act expires December 31, 2005.**

(b) This SECTION expires January 1, 2006.

SECTION 41. [EFFECTIVE JULY 1, 2005] **IC 6-1.1-5.5-3, IC 6-1.1-5.5-4, and IC 6-1.1-5.5-5, all as amended by this act, apply only to sales disclosure forms for conveyances after June 30, 2005.**

SECTION 42. **An emergency is declared for this act.**

(Reference is to ESB 327 as reprinted March 29, 2005.)

WEATHERWAX	ESPICH
HUME	GRUBB
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 66–1; filed April 27, 2005, at 9:37 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 66 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 12-15-11.5-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 30, 2004 (RETROACTIVE)]: **Sec. 3.1. (a) The office or the office's managed care contractor may not provide incentives or mandates to the primary medical provider to direct individuals described in section 2 of this chapter to contracted hospitals other than a hospital in a city where the patient resides.**

(b) The prohibition in subsection (a) includes methodologies that operate to lessen a primary medical provider's payment due to the provider's referral of an individual described in section 2 of this chapter to the hospital in the city where the individual resides.

(c) If a hospital's reimbursement for nonemergency services that are provided to an individual described in section 2 of this chapter is established by:

(1) statute; or

(2) an agreement between the hospital and the individual's managed care contractor;

the hospital may not decline to provide nonemergency services to the individual on the basis that the individual is enrolled in the Medicaid risk based program.

(d) A hospital that provides services to individuals described in section 2 of this chapter shall comply with eligibility verification and medical management programs negotiated under the hospital's most recent contract or agreement with the office's managed care contractor.

(e) Notwithstanding subsection (a), this section does not prohibit the office or the office's managed care contractor from directing individuals described in section 2 of this chapter to a hospital other than a hospital in a city where the patient resides if both of the following conditions exist:

(1) The patient is directed to a hospital other than a hospital in a city where the patient resides for the purpose of receiving medically necessary services.

(2) The type of medically necessary services to be received by the patient cannot be obtained in a hospital in a city where the patient resides.

(f) Actions taken after December 31, 2004, and before April 1, 2006, in accordance with this section are hereby declared legal and valid, as if IC 12-15-11.5-3 had not expired.

(g) This section expires April 1, 2006.

SECTION 2. IC 12-15-11.5-4.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 30, 2004 (RETROACTIVE)]: **Sec. 4.2. (a) A hospital that:**

(1) does not have a contract in effect with the office's managed care contractor; but

(2) previously contracted or entered into an agreement with the office's managed care contractor for the provision of services under the office's managed care program;

shall be reimbursed for services provided to individuals described in section 2 of this chapter at rates equivalent to the rates negotiated under the hospital's most recent contract or agreement with the office's managed care contractor, as adjusted for inflation by the inflation adjustment factor described in subsection (b). However, the adjusted rates may not exceed the established Medicaid rates paid to Medicaid providers who are not contracted providers in the office's managed health care services program.

(b) For each state fiscal year beginning after June 30, 2001, an inflation adjustment factor shall be applied under subsection (a) that is the average of the percentage increase in the medical care component of the Consumer Price Index for all Urban Consumers and the percentage increase in the Consumer Price Index for all Urban Consumers, as published by the United States Bureau of Labor Statistics, for the twelve (12) month period ending in March preceding the beginning of the state fiscal year.

(c) Actions taken after December 31, 2004, and before April 1, 2006, in accordance with this section are hereby declared legalized and valid, as if IC 12-15-11.5-4.1 had not expired.

(d) This section expires April 1, 2006.

SECTION 3. IC 12-16-2.5-6.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004 (RETROACTIVE)]: **Sec. 6.3. For purposes of this article, the following definitions apply to the hospital care for the indigent program:**

(1) "Assistance" means the satisfaction of a person's financial obligation under IC 12-16-7.5-1.2 for hospital items or services, physician services, or transportation services provided to the person.

(2) "Claim" means a statement filed with the division by a hospital, physician, or transportation provider that identifies the health care items or services the hospital, physician, or transportation provider rendered to a person for whom an application under IC 12-16-4.5 has been filed with the division.

(3) "Eligible" or "eligibility", when used in regard to a person for whom an application under IC 12-16-4.5 has been filed with the division, means the extent to which:

(A) the person, for purposes of the application, satisfies the income and resource standards established under IC 12-16-3.5; and

(B) the person's medical condition, for purposes of the application, satisfies one (1) or more of the medical conditions identified in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3).

SECTION 4. IC 12-16-2.5-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: **Sec. 6.5. (a) Notwithstanding IC 12-16-4.5, IC 12-16-5.5, and IC 12-16-6.5, except for the functions provided for under IC 12-16-4.5-3, IC 12-16-4.5-4, IC 12-16-6.5-3, IC 12-16-6.5-4, IC 12-16-6.5-7 and the payment of funds, the division may enter into a written agreement with a hospital licensed under IC 16-21 for the hospital's performance of one (1) or more of the functions of the division or a county office under IC 12-16-4.5, IC 12-16-5.5, and IC 12-16-6.5. Under an agreement between the division and a hospital:**

(1) if the hospital is authorized to determine:

(A) if a person meets the income and resource requirements established under IC 12-16-3.5;

(B) if the person's medical condition satisfies one (1) or more of the medical conditions identified in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(C) if the health care items or services received by the person were necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3), or were a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3);

the determinations must be limited to persons receiving care at the hospital;

(2) the agreement must state whether the hospital is authorized to make determinations regarding physician services or transportation services provided to a person;

(3) the agreement must state the extent to which the functions performed by the hospital include the provision of the notices required under IC 12-16-5.5 and IC 12-16-6.5;

(4) the agreement may not limit the hearing and appeal process available to persons, physicians, transportation providers, or other hospitals under IC 12-16-6.5;

(5) the agreement must state how determinations made by the hospital will be communicated to the division for purposes of the attributions and calculations under IC 12-15-15-9, IC 12-15-15-9.5, IC 12-16-7.5, and IC 12-16-14; and

(6) the agreement must state how the accuracy of the hospital's determinations will be reviewed.

(b) A hospital, its employees, and its agents are immune from civil or criminal liability arising from their good faith implementation and administration of the agreement between the division and the hospital under this section.

SECTION 5. IC 12-16-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004 (RETROACTIVE)]: Sec. 1. (a) An Indiana resident who meets the income and resource standards established by the division under section 3 of this chapter is eligible for assistance to ~~pay for any part of the cost of~~ **satisfy the resident's financial obligation for** care provided **to the resident** in a hospital in Indiana that was necessitated after the onset of a medical condition that was manifested by symptoms of sufficient severity that the absence of immediate medical attention would probably result in any of the following:

(1) Placing the individual's life in jeopardy.

(2) Serious impairment to bodily functions.

(3) Serious dysfunction of a bodily organ or part.

(b) A qualified resident is also eligible for assistance to ~~pay~~ **satisfy the resident's financial obligation** for the ~~part of the cost of~~ care that is a direct consequence of the medical condition that necessitated the emergency care.

SECTION 6. IC 12-16-3.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004 (RETROACTIVE)]: Sec. 2. (a) An individual who is not an Indiana resident is eligible for assistance to ~~pay~~ **satisfy the individual's financial obligation** for the ~~part of the cost of~~ care provided **to the individual** in a hospital in Indiana that was necessitated after the onset of a medical condition that was manifested by symptoms of sufficient severity that the absence of immediate medical attention would probably result in any of the following:

(1) Placing the individual's life in jeopardy.

(2) Serious impairment to bodily functions.

(3) Serious dysfunction of any bodily organ or part.

(b) An individual is eligible for assistance under subsection (a) only if the following qualifications exist:

(1) The individual meets the income and resource standards established by the division under section 3 of this chapter.

(2) The onset of the medical condition that necessitated medical attention occurred in Indiana.

SECTION 7. IC 12-16-3.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The division shall adopt rules under IC 4-22-2 to establish income and resource eligibility standards for patients whose care is to be paid under the hospital care for the indigent program.

(b) To the extent possible **and subject to this article,** rules adopted under this section must meet the following conditions:

(1) Be consistent with IC 12-15-21-2 and IC 12-15-21-3.

(2) Be adjusted at least one (1) time every two (2) years.

(c) The income and eligibility standards established under this section do not include any spend down provisions available under IC 12-15-21-2 or IC 12-15-21-3.

(d) In addition to the conditions imposed under subsection (b), rules adopted under this section must exclude a Holocaust victim's settlement payment received by an eligible individual from the income and eligibility standards for patients whose care is to be paid for under the hospital care for the indigent program.

SECTION 8. IC 12-16-4.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) To receive ~~payment from the division for the care provided to an~~ **assistance under the hospital care for the** indigent ~~person,~~ **program under this article,** a hospital, **a physician, a transportation provider, the person, or the person's representative** must file an application regarding the person with the division.

(b) Upon receipt of an application under subsection (a), the division shall determine whether the person is a resident of Indiana and, if so, the person's county of residence. If the person is a resident of Indiana, the division shall provide a copy of the application to the county office of the person's county of residence. If the person is not a resident of Indiana, the division shall provide a copy of the application to the county office of the county where the onset of the medical condition that necessitated the care occurred. If the division cannot determine whether the person is a resident of Indiana or, if the person is a resident of Indiana, the person's county of residence, the division shall provide a copy of the application to the county office of the county where the onset of the medical condition that necessitated the care occurred.

(c) A county office that receives a request from the division shall cooperate with the division in determining whether a person is a resident of Indiana and, if the person is a resident of Indiana, the person's county of residence.

SECTION 9. IC 12-16-4.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A hospital, **physician, or transportation provider** must file the application with the division not more than ~~thirty (30)~~ **forty-five (45)** days after the person has been ~~admitted to, or otherwise provided care by,~~ **released or discharged from** the hospital, unless the person is medically unable and the next of kin or legal representative is unavailable.

SECTION 10. IC 12-16-4.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **Subject to this article,** the division shall adopt rules under IC 4-22-2 prescribing the following:

(1) The form of an application.

(2) The establishment of procedures for applications.

(3) The time for submitting and processing claims.

SECTION 11. IC 12-16-4.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A person **or a person's representative** may file an application directly with the division if the application is filed not more than ~~thirty (30)~~ **forty-five (45)** days after the person ~~was admitted to, or provided care by,~~ **has been released or discharged from** the hospital.

(b) Reimbursement for the costs incurred in providing care to an eligible person may only be made to the providers of the care.

SECTION 12. IC 12-16-4.5-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.5. A claim for hospital**

items or services, physician services, or transportation services must be filed with the division not more than one hundred eighty (180) days after the person who received the care has been released or discharged from the hospital. For good cause as determined by the division, this one hundred eighty (180) day limit may be extended or waived for a claim.

SECTION 13. IC 12-16-5.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a)** The division shall, upon receipt of an application of or for a person who was admitted to, or who was otherwise provided care by a hospital, promptly investigate to determine the person's eligibility under the hospital care for the indigent program. **The division shall consider the following information obtained by the hospital regarding the person:**

(1) Income.

(2) Resources.

(3) Place of residence.

(4) Medical condition.

(5) Hospital care.

(6) Physician care.

(7) Transportation to and from the hospital.

The division may rely on the hospital's information in determining the person's eligibility under the program.

(b) The division may choose not to interview the person if, based on the information provided to the division, the division determines that it appears that the person is eligible for the program. If the division determines that an interview of the person is necessary, the division shall allow the interview to occur by telephone with the person or with the person's representative if the person is not able to participate in the interview.

(c) The county office located in:

(1) the county where the person is a resident; or

(2) the county where the onset of the medical condition that necessitated the care occurred if the person's Indiana residency or Indiana county of residence cannot be determined;

shall cooperate with the division in determining the person's eligibility under the program.

SECTION 14. IC 12-16-5.5-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.2. (a) The division shall, upon receipt of a claim pertaining to a person:**

(1) who was admitted to, or who was otherwise provided care by, a hospital; and

(2) whose medical condition satisfies one (1) or more of the medical conditions identified in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3);

promptly review the claim to determine if the health care items or services identified in the claim were necessitated by the person's medical condition or, if applicable, if the items or services were a direct consequence of the person's medical condition.

(b) In conducting the review of a claim referenced in subsection (a), the division shall calculate the amount of the claim. For purposes of this section, IC 12-15-15-9, IC 12-15-15-9.5, IC 12-16-6.5, and IC 12-16-7.5, the amount of a claim shall be calculated in a manner described in IC 12-16-7.5-2.5(c).

SECTION 15. IC 12-16-5.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Subject to subsection (b) **and IC 12-16-6.5-1.5,** if the division is unable after prompt and diligent efforts to verify information contained in the application that is reasonably necessary to determine eligibility, the division may deny assistance under the hospital care for the indigent program. **The pending expiration of the period specified in IC 12-16-6.5-1.5 is not a valid reason for denying a person's eligibility for the hospital care for the indigent program.**

(b) Before denying assistance under the hospital care for the indigent program, the division must provide the person, ~~and~~ the hospital, **and any other provider who submitted a claim under IC 12-16-4.5-8.5** written notice of:

(1) the specific information or verification needed to determine eligibility; ~~and~~

~~(2) the date on which the application will be denied if the information or verification is not provided within ten (10) days after the date of the notice.~~

(2) the specific efforts undertaken to obtain the information or verification; and

(3) the statute or rule requiring the information or verification identified under subdivision (1).

(c) The division must provide the hospital and any other provider who submitted a claim under IC 12-16-4.5-8.5 a period of time, not less than ten (10) days beyond the deadline established under IC 12-16-6.5-1.5, to submit to the division information concerning the person's eligibility. If the division does not make a determination of the person's eligibility within ten (10) days after receiving the information under this subsection, the person is eligible without the division's determination of the person's eligibility for the hospital care for the indigent care program under this article.

SECTION 16. IC 12-16-5.5-3.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.2. (a) Subject to subsection (b) and IC 12-16-6.5-1.7, if the division is unable after prompt and diligent efforts to determine that a health care item or service identified in a claim:**

(1) was necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(2) was a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3);

the division may deny assistance to the person under the hospital care for the indigent program for that item or service. The pending expiration of the period specified in IC 12-16-6.5-1.7 is not a valid reason for determining that an item or a service was not necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3), or was not a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3).

(b) Before denying assistance under the hospital care for the indigent program for an item or a service described in subsection (a), the division must provide the provider of the item or service written notice of:

(1) the specific item or service in question; and

(2) an explanation of the basis for the division's inability to determine that the health care item or service was:

(A) necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(B) a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3);

including, if applicable, an explanation of the basis for a conclusion by the division that an item or service, in fact, was not necessitated by, or, as applicable, not a direct consequence of, one (1) or more of such medical conditions.

(c) The division must grant the provider of the item or service a period of time, not less than ten (10) days beyond the deadline under IC 12-16-6.5-1.7, to submit to the division information or materials bearing on whether the item or service was necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3), or was a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3). If the division does not make its determination regarding the item or service within ten (10) days after receiving information or materials provided for in this section, the item or service is considered, without the division's determination, to have been necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3), or to have been a direct consequence of one (1) or more of the medical conditions

listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3).

SECTION 17. IC 12-16-6.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. If the division determines that a person is not eligible for ~~payment of~~ **assistance for** medical care, hospital care, or transportation services, an affected person, physician, hospital, or transportation provider may appeal to the division not later than ninety (90) days after the mailing of notice of that determination to the affected person, physician, hospital, or transportation provider ~~at~~ **to** the last known address of the person, physician, hospital, or transportation provider.

SECTION 18. IC 12-16-6.5-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.2. (a) If the division determines that an item or service identified in a claim:**

(1) was not necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(2) was not a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3);

the affected person, physician, hospital, and transportation provider may appeal to the division not later than ninety (90) days after the mailing of the notice of that determination to the affected person, physician, hospital, or transportation provider to the last known address of the person, physician, hospital, or transportation provider.

(b) If the division determines that an item or service identified in a claim:

(1) was necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(2) was a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3);

but the affected physician, hospital, or transportation provider disagrees with the amount of the claim calculated by the division under IC 12-16-5.5-1.2(b), the affected physician, hospital, or transportation provider may appeal the calculation to the division not later than ninety (90) days after the mailing of the notice of that calculation to the affected physician, hospital, or transportation provider to the last known address of the physician, hospital, or transportation provider.

SECTION 19. IC 12-16-6.5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. Subject to IC 12-16-5.5-3(c), if the division fails to complete an investigation and determination of a person's eligibility for the hospital care for the indigent program not later than forty-five (45) days after receipt of the application filed under IC 12-16-4.5, the person is considered to be eligible without the division's determination of assistance under the program.**

SECTION 20. IC 12-16-6.5-1.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.7. Subject to IC 12-16-5.5-3.2(c), if the division fails to complete an investigation and determination of one (1) or more health care items or services identified in a claim within forty-five (45) days after receipt of the claim filed under IC 12-16-4.5, the item or service is considered to have been:**

(1) necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(2) a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3).

SECTION 21. IC 12-16-6.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) **If the division receives an application that was filed on behalf of a person under IC 12-16-4.5,** the division shall determine:

(1) the eligibility of the person for ~~payment of the cost of medical or hospital care~~ **assistance** under the hospital care for the indigent program; **and**

(2) if the health care items or services provided to the person and identified in a claim filed with the division under IC 12-16-4.5 were:

(A) necessitated by at least one (1) medical condition listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(B) the direct consequence of at least one (1) of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3).

(b) If:

(1) the person, **initially or upon appeal,** is found eligible ~~the division shall pay the reasonable cost of the care covered under IC 12-16-3.5-1 or IC 12-16-3.5-2 to the physicians furnishing the covered medical care and the transportation providers furnishing the covered transportation services, subject to the limitations in IC 12-16-7.5.~~ **for assistance; and**

(2) at least one (1) of the items or services identified in the claim is determined initially or upon appeal:

(A) to have been necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(B) to be a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3);

the person is entitled to assistance for those items and services.

~~(c) If the person is found eligible, the payment for the hospital services and items covered under IC 12-16-3.5-1 or IC 12-16-3.5-2 shall be calculated using the office's applicable Medicaid fee-for-service reimbursement principles. Payment to the hospital shall be made:~~

~~(1) under IC 12-15-15-9; and~~

~~(2) if the hospital is eligible, under IC 12-15-15-9.5.~~

SECTION 22. IC 12-16-6.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. A person, **hospital, physician, or transportation provider** aggrieved by a determination **of an appeal taken** under ~~section 5(a)~~ **section 1 or 1.2** of this chapter may appeal the determination under IC 4-21.5.

SECTION 23. IC 12-16-7.5-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004 (RETROACTIVE)]: **Sec. 1.2. (a) A person determined to be eligible under the hospital care for the indigent program is not financially obligated for hospital items or services, physician services, or transportation services provided to the person during the person's eligibility under the program, if the items or services were:**

(1) identified in a claim filed with the division under IC 12-16-4.5; and

(2) determined:

(A) to have been necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(B) to be a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3).

(b) Based on a hospital's items or services identified in a claim under subsection (a), the hospital may receive a payment from the office calculated and made under IC 12-15-15-9 and, if applicable, IC 12-15-15-9.5.

(c) Based on a physician's services identified in a claim under subsection (a), the physician may receive a payment from the division calculated and made under section 5 of this chapter.

(d) Based on the transportation services identified in a claim under subsection (a), the transportation provider may receive a payment from the division calculated and made under section 5 of this chapter.

SECTION 24. IC 12-16-7.5-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 2.5. (a) Payable claims shall be segregated by state fiscal year.

(b) For purposes of this chapter, IC 12-15-15-9, IC 12-15-15-9.5,

and IC 12-16-14, ~~(1) a~~"
payable claim" **refers to the following:**

(1) Subject to subdivision (2), is a claim for payment for physician care, hospital care, or transportation services under this chapter:

(A) that includes, on forms prescribed by the division, all the information required for timely payment;

(B) that is for a period during which the person is determined to be financially and medically eligible for the hospital care for the indigent program; and

(C) for which the payment amounts for the care and services are determined by the division. ~~and~~

This subdivision applies for the state fiscal year ending June 30, 2004.

(2) For state fiscal years ending after June 30, 2004, is a claim for payment for physician care, hospital care, or transportation services under this chapter:

(A) provided to a person under the hospital care for the indigent program under this article during the person's eligibility under the program;

(B) identified in a claim filed with the division; and

(C) determined to:

(i) have been necessitated by one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3) or IC 12-16-3.5-2(a)(1) through IC 12-16-3.5-2(a)(3); or

(ii) be a direct consequence of one (1) or more of the medical conditions listed in IC 12-16-3.5-1(a)(1) through IC 12-16-3.5-1(a)(3).

(c) For purposes of this chapter, IC 12-15-15-9, IC 12-15-15-9.5, and IC 12-16-14,"amount" when used in regard to a claim or payable claim means an amount calculated under STEP THREE of the following formula:

STEP ONE: Identify the items and services identified in a claim or payable claim.

STEP TWO: Using the applicable Medicaid fee for service reimbursement rates, calculate the reimbursement amounts for each of the items and services identified in STEP ONE.

STEP THREE: Calculate the sum of the amounts identified in STEP TWO.

~~(2)~~ **(d) For purposes of this chapter, IC 12-15-15-9, IC 12-15-15-9.5, and IC 12-16-14,** a physician, hospital, or transportation provider that submits a ~~payable~~ claim to the division is considered to have submitted the ~~payable~~ claim during the state fiscal year during which the ~~division determined, initially or upon appeal, the amount to pay for the care and services comprising the payable claim.~~ **amount of the claim was determined under IC 12-16-5.5-1.2(b) or, if successfully appealed by a physician, hospital, or transportation provider, the state fiscal year in which the appeal was decided.**

~~(c)~~ **(e)** The division shall ~~promptly~~ determine the amount ~~to pay for the care and services comprising a payable claim.~~ **of a claim under IC 12-16-5.5-1.2(b).**

SECTION 25. IC 12-16-7.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. All providers receiving payment under **section 1.2 of** this chapter agree to accept, as payment in full, the ~~amount paid for the hospital care for the indigent program~~ **payment referred to in section 1.2 of this chapter** for ~~those claims submitted for payment under the program, with the exception of authorized deductibles, co-insurance, co-payment, or similar cost-sharing charges.~~ **the health care items or services identified in payable claims submitted to the division.**

SECTION 26. IC 12-16-12.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The division is responsible for the emergency medical care given in a hospital to an individual who qualifies for assistance under this chapter, subject to ~~the limitations in~~ IC 12-16-7.5.

SECTION 27. IC 12-16-12.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) If a hospital owned by the health and hospital corporation is:

(1) unable to care for a patient; or

(2) unable to treat a patient at the time a transfer is requested by the hospital initiating treatment;

the hospital may continue to treat the patient until the patient's discharge.

(b) Subject to ~~the limitations in~~ IC 12-16-7.5, the ~~division~~ **treatment** shall ~~pay the costs of care~~ **be covered under the hospital care for the indigent program under this article.**

SECTION 28. IC 12-16-12.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The ~~division is not responsible~~ **hospital care** for **the indigent program under this article does not apply to** the following:

(1) ~~The payment of~~ Nonemergency ~~medical costs,~~ **care,** except as provided under ~~the hospital care for the indigent program.~~ **this article.**

(2) ~~The payment of medical costs accrued~~ **Care provided** at a hospital owned or operated by a health and hospital corporation, except for ~~hospital~~ care provided under this chapter to a person not residing in Marion County.

SECTION 29. IC 34-30-2-45.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 45.2. IC 12-16-2.5-6.5 (Concerning administering agreements between the hospital and the division of family and children under the hospital care for the indigent program).**

SECTION 30. THE FOLLOWING ARE REPEALED [EFFECTIVE DECEMBER 31, 2004 (RETROACTIVE)]: IC 12-15-11.5-3; IC 12-15-11.5-4.1.

SECTION 31. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 12-16-2.5-3; IC 12-16-6.5-2; IC 12-16-7.5-1; IC 12-16-11.5-1; IC 12-16-11.5-2.

SECTION 32. **An emergency is declared for this act.**

(Reference is to ESB 66 as reprinted April, 1, 2005.)

DILLON	T. BROWN
ROGERS	WELCH
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 498–1; filed April 27, 2005, at 9:39 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 498 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 34-28-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) An action to enforce a statute defining an infraction shall be brought in the name of the state of Indiana by the prosecuting attorney for the judicial circuit in which the infraction allegedly took place. However, if the infraction allegedly took place on a public highway (as defined in IC 9-25-2-4) that runs on and along a common boundary shared by two (2) or more judicial circuits, a prosecuting attorney for any judicial circuit sharing the common boundary may bring the action.

(b) An action to enforce an ordinance shall be brought in the name of the municipal corporation. The municipal corporation need not prove that it or the ordinance is valid unless validity is controverted by affidavit.

(c) Actions under this chapter (or IC 34-4-32 before its repeal):

(1) shall be conducted in accordance with the Indiana Rules of Trial Procedure; and

(2) must be brought within two (2) years after the alleged conduct or violation occurred.

(d) The plaintiff in an action under this chapter must prove the commission of an infraction or ordinance violation by a preponderance of the evidence.

(e) The complaint and summons described in IC 9-30-3-6 may be used for any infraction or ordinance violation.

(f) The prosecuting attorney or the attorney for a municipal corporation may establish a deferral program for deferring actions

brought under this section. Actions may be deferred under this section if:

(1) the defendant in the action agrees to conditions of a deferral program offered by the prosecuting attorney or the attorney for a municipal corporation;

(2) the defendant in the action agrees to pay to the clerk of the court an initial user's fee and monthly user's fee set by the prosecuting attorney or the attorney for the municipal corporation in accordance with IC 33-37-4-2(e);

(3) the terms of the agreement are recorded in an instrument signed by the defendant and the prosecuting attorney or the attorney for the municipal corporation;

(4) the defendant in the action agrees to pay court costs of twenty-five dollars ($25) to the clerk of court if the action involves a moving traffic offense (as defined in IC 9-13-2-110); and

(5) the agreement is filed in the court in which the action is brought.

When a defendant complies with the terms of an agreement filed under this subsection (or IC 34-4-32-1(f) before its repeal), the prosecuting attorney or the attorney for the municipal corporation shall request the court to dismiss the action. Upon receipt of a request to dismiss an action under this subsection, the court shall dismiss the action. An action dismissed under this subsection (or IC 34-4-32-1(f) before its repeal) may not be refiled.

(g) If a judgment is entered against a defendant in an action to enforce an ordinance, the defendant may perform community restitution or service (as defined in IC 35-41-1-4.6) instead of paying a monetary judgment for the ordinance violation as described in section 4(e) of this chapter if:

(1) the:

(A) defendant; and

(B) attorney for the municipal corporation;

agree to the defendant's performance of community restitution or service instead of the payment of a monetary judgment;

(2) the terms of the agreement described in subdivision (1):

(A) include the amount of the judgment the municipal corporation requests that the defendant pay under section 4(e) of this chapter for the ordinance violation if the defendant fails to perform the community restitution or service provided for in the agreement as approved by the court; and

(B) are recorded in a written instrument signed by the defendant and the attorney for the municipal corporation;

(3) the agreement is filed in the court where the judgment was entered; and

(4) the court approves the agreement.

If a defendant fails to comply with an agreement approved by a court under this subsection, the court shall require the defendant to pay up to the amount of the judgment requested in the action under section 4(e) of this chapter as if the defendant had not entered into an agreement under this subsection.

SECTION 2. IC 34-28-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) A judgment of up to ten thousand dollars ($10,000) may be entered for a violation constituting a Class A infraction.

(b) A judgment of up to one thousand dollars ($1,000) may be entered for a violation constituting a Class B infraction.

(c) A judgment of up to five hundred dollars ($500) may be entered for a violation constituting a Class C infraction.

(d) A judgment of up to twenty-five dollars ($25) may be entered for a violation constituting a Class D infraction.

(e) **Subject to section 1(g) of this chapter,** a judgment:

(1) up to the amount requested in the complaint; and

(2) not exceeding any limitation under IC 36-1-3-8;

may be entered for an ordinance violation.

SECTION 3. IC 34-28-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. The violations clerk or deputy violations clerk shall:

(1) accept:

(A) written appearances;

(B) waivers of trial;

(C) admissions of violation;

(D) declarations of nolo contendere for moving traffic violations;

(E) payments of judgments (including costs) in traffic violation cases; ~~and~~

(F) deferral agreements made under section 1(f) of this chapter (or IC 34-4-32-1(f) before its repeal) and deferral program fees prescribed under IC 33-37-4-2(e); **and**

(G) community restitution or service agreements made under section 1(g) of this chapter;

(2) issue receipts and account for any judgments (including costs) collected; and

(3) pay the judgments (including costs) collected to the appropriate unit of government as provided by law.

SECTION 4. IC 36-1-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) Subject to subsection (b), a unit does not have the following:

(1) The power to condition or limit its civil liability, except as expressly granted by statute.

(2) The power to prescribe the law governing civil actions between private persons.

(3) The power to impose duties on another political subdivision, except as expressly granted by statute.

(4) The power to impose a tax, except as expressly granted by statute.

(5) The power to impose a license fee greater than that reasonably related to the administrative cost of exercising a regulatory power.

(6) The power to impose a service charge or user fee greater than that reasonably related to reasonable and just rates and charges for services.

(7) The power to regulate conduct that is regulated by a state agency, except as expressly granted by statute.

(8) The power to prescribe a penalty for conduct constituting a crime or infraction under statute.

(9) The power to prescribe a penalty of imprisonment for an ordinance violation.

(10) The power to prescribe a penalty of a fine as follows:

(A) More than ten thousand dollars ($10,000) for the violation of an ordinance or a regulation concerning air emissions adopted by a county that has received approval to establish an air program under IC 13-17-12-6.

(B) **For a violation of any other ordinance:**

(i) more than two thousand five hundred dollars ($2,500) for ~~any other~~ **a first violation of the** ordinance; **and**

(ii) except as provided in subsection (c), more than seven thousand five hundred dollars ($7,500) for a second or subsequent violation **of the ordinance.**

(11) The power to invest money, except as expressly granted by statute.

(12) The power to order or conduct an election, except as expressly granted by statute.

(b) A township does not have the following, except as expressly granted by statute:

(1) The power to require a license or impose a license fee.

(2) The power to impose a service charge or user fee.

(3) The power to prescribe a penalty.

(c) Subsection (a)(10)(B)(ii) does not apply to the violation of an ordinance that regulates traffic or parking.

(Reference is to ESB 498 as printed April 1, 2005.)

SERVER	HINKLE
BRODEN	VAN HAAFTEN
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

Representatives Crooks and Oxley, who had been excused, were present. Representatives Alderman, Heim, Koch, Ripley, and Ruppel were excused.

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

Engrossed House Bill 1112–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 8 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1112–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 8 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1112–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 598: yeas 70, nays 8. Report adopted.

Representative Bauer, who had been excused, was present.

Engrossed Senate Bill 127–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11: Engrossed Senate Bill 127–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11: Engrossed Senate Bill 127–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. After discussion and requests from various members to delay action on conference committee report 1 on Engrossed Senate Bill 127, the House recessed until the fall of the gavel.

RECESS.

The House reconvened at 10:40 p.m. with the Speaker in the Chair.

Engrossed Senate Bill 127–1

Conference committee report 1 on Engrossed Senate Bill 127 was pending.

The Speaker announced that action on the conference committee report would be deferred until Thursday, April 28, at 11:15 a.m.

OTHER BUSINESS ON THE SPEAKER'S TABLE

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 63 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

Representatives Alderman, Heim, Koch, Ripley, and Ruppel, who had been excused, were present. Representative Bauer was excused.

RESOLUTIONS ON FIRST READING

House Resolution 93

Representatives Noe and Aguilera introduced House Resolution 93:

A HOUSE RESOLUTION urging the establishment of an interim study committee on public safety, homeland security, and identification issues.

Whereas, In order to protect the security of our state and nation, the legislative council is urged to establish an interim study committee on public safety, homeland security, and identification issues: Therefore,

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

SECTION 1. That the legislative council is urged to establish an interim study committee on public safety, homeland security, and identification issues.

SECTION 2. That the committee, if established, shall have among its charges the requirement to review:

(1) the "Hispanic/Latino Access to the Indiana Driver's License: A Report on the Challenges of Obtaining an Indiana Driver's License" authored by the Subcommittee on the Driver's License Issue of the Indiana Commission on Hispanic/Latino Affairs; and

(2) the latest version of federal legislation known as the REAL ID Act of 2005 (H.R.418 for the 109th Congress) concerning improved security for driver's licenses and personal identification cards.

SECTION 3. That the committee, if established, shall consist of 16 members, four of whom shall be lay members of Hispanic/Latino descent. The lay members shall be appointed as follows:

(1) One lay member by Indiana University.

(2) One lay member by Purdue University.

(3) One lay member by the House of Representatives.

(4) One lay member by the Senate.

SECTION 4. That the committee, if established, shall operate under the direction of the legislative council and shall issue a final report when directed to do so by the council.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

House Resolution 94

Representative Koch introduced House Resolution 94:

A HOUSE RESOLUTION urging the establishment of an interim study committee to study school deregulation and innovation as effective strategies in improving student learning.

Whereas, The state of Indiana must determine whether school deregulation and innovation are effective strategies to improve student learning: Therefore,

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

SECTION 1. That the legislative council is urged to establish a committee to study whether school deregulation and innovation are effective strategies to improve student learning.

SECTION 2. That the committee, if established, shall operate under the direction of the legislative council and shall issue a final report when directed to do so by the council.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

Senate Concurrent Resolution 63

The Speaker handed down Senate Concurrent Resolution 63, sponsored by Representative Buell:

A CONCURRENT RESOLUTION honoring Reggie Miller.

Whereas, Reggie Miller is and always will be the heart and soul of Indiana Pacers basketball, spending his entire 18 year career wearing number 31;

Whereas, Reggie Miller is the player all Pacers fans look to for that final shot that wins a close game;

Whereas, Reggie Miller is the player who, for years, has been the role model young athletes want to pattern themselves after;

Whereas, Reggie Miller epitomizes everything that is good and wholesome about sports;

Whereas, Reggie Miller is the type of athlete every mother and father want their child to become;

Whereas, Reggie Miller is a selfless player, a team player, and a player who knows that someday younger players will be ready to assume his leadership role on the team;

Whereas, That time has come for the player who owns the National Basketball Association all-time record for 3-point shots made and attempted;

Whereas, Reggie Miller, who will turn 40 this summer, will retire at the end of the 2004-2005 season;

Whereas, Reggie Miller, now in his 18th season with the Pacers, was a first-round draft pick out of UCLA in 1987;

Whereas, Reggie Miller quickly became known as a force within the NBA, is a five-time All-Star averaging at least 18 points a game for 12 consecutive seasons through 2000-2001, and is the winner of an Olympic gold medal and a World Championship gold medal;

Whereas, Reggie Miller burst onto the national scene in 1994 when he scored 25 fourth-quarter points in an Eastern Conference finals victory over the host New York Knicks while trading barbs with movie director Spike Lee, who was seated courtside;

Whereas, Reggie Miller's career is highlighted with outstanding achievements, such as: more than 25,000 career points, making him one of the elite players in the history of the NBA and the all-time top scorer in Pacers history; the most prolific three-point shooter in NBA history, both for completions and attempts; and he is among the top players in free-throw percentage, completed free throws, and games played in NBA history;

Whereas, Patrick Ewing, now an assistant coach for the Houston Rockets, credits Reggie as being one of the "purest shooters to play the game";

Whereas, One of Reggie Miller's most memorable performances came against Patrick Ewing and the Knicks in the first game of the 1995 Eastern Conference playoffs, where Reggie turned a 6 point New York lead into a 107-105 Pacers victory by scoring eight points in 8.9 seconds, stunning the partisan crowd at Madison Square Garden in New York City;

Whereas, Reggie Miller is much more than an outstanding basketball player; he contributes greatly to the community by visiting Indianapolis schools, where he signs autographs and mentors students, and by visiting patients in local hospitals, where he has helped raise tens of thousands of dollars for fire and burn units;

Whereas, Reggie Miller's heroics on the basketball court were surpassed when he heard the cries of Richard Craig on an Indianapolis interstate and stopped to help save Craig's stricken mother's life; and

Whereas, Reggie Miller is an inspiration to Hoosiers and to sports fans everywhere, and an excellent candidate for the NBA Hall of Fame: Therefore,

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

SECTION 1. That the members of the Indiana General Assembly express their gratitude to Reggie Miller for setting a good example for young Hoosiers to follow, for the hours of dedicated service he has given willingly to those in need, and for the hours of pleasure he has given basketball fans through the years.

SECTION 2. That copies of this resolution be transmitted by the Secretary of the Senate to Reggie Miller and the Indiana Pacers organization.

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

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

Engrossed House Bill 1501–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1501–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1501–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 599: yeas 96, nays 0. Report adopted.

Representative Behning was excused.

Pursuant to House Rule 68 which allows the Committee on Rules and Legislative Procedure to meet at any time, a committee meeting was announced and committee members, Representatives Alderman, T. Brown, Foley, Frizzell, E. Harris, Oxley, Pelath, Stilwell, Turner, and Whetstone, were excused.

Engrossed House Bill 1765–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1765–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may

be eligible to be placed before the House for action: Engrossed House Bill 1765–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 600: yeas 81, nays 4. Report adopted.

Engrossed Senate Bill 420–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 420–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 420–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 601: yeas 85, nays 0. Report adopted.

Engrossed Senate Bill 590–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 7 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 590–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 7 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 590–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 602: yeas 85, nays 0. Report adopted.

Representatives Behning, T. Brown, Foley, Turner, and Whetstone, who had been excused, were present.

Engrossed House Bill 1075–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 6 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1075–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report is eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee report may be laid over on the members' desks for 6 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1075–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Representatives Borders and Murphy were excused from voting, pursuant to House Rule 47. Roll Call 603: yeas 82, nays 6. Report adopted.

CONFEREES AND ADVISORS APPOINTED

The Speaker announced the following changes in appointment of Representatives as conferees and advisors:

ESB 607 Conferees: Stutzman replacing Aguilera

OTHER BUSINESS ON THE SPEAKER'S TABLE

HOUSE MOTION

Mr. Speaker: Pursuant to House Rule 8, I move that we suspend any and all rules that prevent the House from returning to conference committee report 1 on Engrossed Senate Bill 127 and then take a vote on Engrossed Senate Bill 127–1 before adjournment on April 27, 2005.

C. BROWN

Motion failed for lack of a second.

[*Journal Clerk's Note: pursuant to Rule 8, a motion to suspend the rules must be seconded by a constitution majority, 51 members. The motion of Representative C. Brown was not seconded by 51 members.*]

On the motion of Representative Whetstone, the House adjourned at 11:59 p.m., this twenty-seventh day of April, 2005, until Thursday, April 28, 2005, at 10:00 a.m.

BRIAN C. BOSMA
Speaker of the House of Representatives

M. CAROLINE SPOTTS
Principal Clerk of the House of Representatives