Journal of the House

State of Indiana

115th General Assembly — First Regular Session

Fifty-second Meeting Day — **Saturday Morning** — **April 28, 2007**

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

The Speaker read a prayer for guidance and insight (printed January 8, 2007).

The Pledge of Allegiance to the Flag was led by Representative Peggy M. Welch.

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

Austin
Avery
Bardon
Battles
Behning
Bell
Bischoff
Borders
Borror
Bosma
C. Brown
T. Brown
Buck
Buell
Burton
Candelaria Reardon
Cheatham
Cheney
Cherry
Cochran
Crawford ⏏
Crooks
Crouch
Davis
Day
Dembowski
Denbo
Dermody
Dickinson
Dobis
Dodge
Duncan
Dvorak
Eberhart
Elrod
Espich
Foley
Friend
Frizzell
Fry
GiaQuinta
Goodin ⏏
Grubb
Gutwein
E. Harris
T. Harris
Herrell
Hinkle
Hoy
Kersey
Klinker
Knollman
Koch
Kuzman ⏏
L. Lawson ⏏
Lehe
Leonard
Lutz
Mays
McClain
Micon
Moses
Murphy
Neese
Niezgodski
Noe
Orentlicher
Oxley
Pelath
Pflum
Pierce
Pond
Porter
Reske
Richardson
Ripley
Robertson
Ruppel
Saunders
M. Smith
V. Smith
Soliday
Stemler
Stevenson
Stilwell
Stutzman
Summers
Thomas
Thompson
Tincher
Torr
Turner
Tyler
Ulmer
VanHaaften
Walorski
Welch
Whetstone
Wolkins
Mr. Speaker

Roll Call 624: 96 present; 4 excused. The Speaker announced a quorum in attendance. [*NOTE*: ⏏ *indicates those who were excused*.]

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report 1 on Engrossed House Bills 1722 and 1731.

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 Bills 44, 113, 128, 191, 450, 480, 502, 561, and 568.

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 Bills 134 and 211.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Acts 94, 192, 220, 232, 267, 329, 345, and 534 for signature of the Speaker of the House.

MARY C. MENDEL
Principal Secretary of the Senate

RECEIPT OF ENROLLED ACT VETOED

MESSAGE FROM THE CLERK OF THE HOUSE

Mr. Speaker: On this day, April 27, 2007, House Enrolled Act 1388, enacted by the First Regular Session of the 115th General Assembly and vetoed by Governor Daniels, was returned to the House and received by me, pursuant to Article 5, Section 14(a)(2)(D) of the Indiana Constitution.

CLINTON McKAY
Clerk of the House

MESSAGE FROM THE GOVERNOR

Mr. Speaker and Members of the House: By the authority vested in me as Governor of Indiana, under the provisions of Article 5, Section 14, of the Constitution of the State of Indiana, I do hereby veto House Enrolled Act 1388, enacted during the regular session of the 115th General Assembly and related to tax incentives for qualified media productions.

Providing targeted tax and other financial incentives to encourage film and other media productions in Indiana is reasonable economic development and fiscal policy. In 2005 and 2006, I signed legislation which designated film production as a qualified activity for purposes of the Hoosier Business

Investment Tax Credit and provided a sales tax exemption for purchases related to film production.

I also supported HEA 1388 in its original intent. Tax credits and other financial incentives make sense when there is a significant return on the taxpayer's investment, as in the form of new jobs and economic activity that would not have happened otherwise. Regrettably, a good idea became in the end a Christmas tree of giveaways at the expense of Hoosier taxpayers.

House Enrolled Act 1388 provides an unlimited refundable tax credit for all media productions under $6 million. Much of that activity, including advertising productions, corporate media productions and other digital media productions, is already occurring in Indiana without any incentive. In addition, it provided a 15 per cent credit to an unreasonably wide variety of production-related expenses, including legal fees and script acquisitions. The result was a bill with a price tag, at $30 million over the biennium, that is simply too high, especially when much of these subsidies would not lead to a single new job or purchase in our state.

My concerns with the bloating of House Enrolled Act 1388 were made well-known to those supporting the add-on of these costly incentives. We sought a balanced approach to encourage production activities in a targeted manner, most notably to secure projects that the state would not otherwise have attracted, and which offered the potential of substantial new employment and capital investment.

In the next legislative session, if the General Assembly returns to the original intent and purpose of this legislation—to provide reasonable and targeted tax and financial incentives to encourage film productions with significant employment and capital investment commitments in Indiana—I would be an enthusiastic supporter.

Date: April 27, 2007

MITCHELL E. DANIELS, JR.
Governor

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
ESB 125–1; filed April 27, 2007, at 6:29 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 125 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 courts.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 33-37-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Costs in a criminal action are not a part of the sentence and may ~~not~~ be suspended **only under section 3 of this chapter.** However, if:

(1) two (2) or more charges against a person are joined for trial; and

(2) the person is convicted of two (2) or more offenses in the trial;

the court may waive the person's liability for costs for all but one (1) of the offenses.

(b) If a person is acquitted or an indictment or information is dismissed by order of the court, the person is not liable for costs.

SECTION 2. IC 33-37-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) **Except as provided in subsection (b),** when the court imposes costs, it shall conduct a hearing to determine whether the convicted person is indigent. If the person is not indigent, the court shall order the person to pay:

(1) the entire amount of the costs at the time sentence is pronounced;

(2) the entire amount of the costs at some later date; or

(3) specified parts of the costs at designated intervals.

(b) A court may impose costs and suspend payment of all or part of the costs until the convicted person has completed all or part of the sentence. If the court suspends payment of the costs, the court shall conduct a hearing at the time the costs are due to determine whether the convicted person is indigent. If the convicted person is not indigent, the court shall order the convicted person to pay the costs:

(1) at the time the costs are due; or

(2) in a manner set forth in subsection (a)(2) through (a)(3).

(c) If a court suspends payment of costs under subsection (b), the court retains jurisdiction over the convicted person until the convicted person has paid the entire amount of the costs.

~~(b)~~ **(d)** Upon any default in the payment of the costs:

(1) an attorney representing the county may bring an action on a debt for the unpaid amount; ~~or~~

(2) the court may direct that the person, if the person is not indigent, be committed to the county jail and credited toward payment at the rate of twenty dollars ($20) for each twenty-four (24) hour period the person is confined, until the amount paid plus the amount credited equals the entire amount due; **or**

(3) the court may institute contempt proceedings to enforce the court's order for payment of the costs.

~~(c)~~ **(e)** If, after a hearing under subsection (a) **or (b),** the court determines that a convicted person is able to pay part of the costs of representation, the court shall order the person to pay an amount of not more than the cost of the defense services rendered on behalf of the person. The clerk shall deposit the amount paid by a convicted person under this subsection in the county's supplemental public defender services fund established under IC 33-40-3-1.

~~(d)~~ **(f)** A person ordered to pay part of the cost of representation under subsection ~~(c)~~ **(e)** has the same rights and protections as those of other judgment debtors under the Constitution of the State of Indiana and Indiana law.

SECTION 3. IC 33-37-5-15, AS AMENDED BY P.L.174-2006, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) The sheriff shall collect a service of process fee of thirteen dollars ($13) from a party requesting service of a writ, an order, a process, a notice, a tax warrant, or any other paper completed by the sheriff. **A service of process fee collected under this subsection may be collected only one (1) time per case for the duration of the case.**

(b) The sheriff shall collect from the person who filed the civil action a service of process fee of sixty dollars ($60), in addition to any other fee for service of process, if:

(1) a person files a civil action outside Indiana; and

(2) a sheriff in Indiana is requested to perform a service of process associated with the civil action in Indiana.

(c) A sheriff shall transfer fees collected under this section to the county auditor of the county in which the sheriff has jurisdiction.

(d) The county auditor shall deposit fees collected under this section:

(1) in the pension trust established by the county under IC 36-8-10-12; or

(2) if the county has not established a pension trust under

IC 36-8-10-12, in the county general fund.

SECTION 4. IC 35-38-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) **Except as provided in subsection (b),** whenever the court imposes a fine, it shall conduct a hearing to determine whether the convicted person is indigent. If the person is not indigent, the court shall order:

(1) that the person pay the entire amount at the time sentence is pronounced;

(2) that the person pay the entire amount at some later date;

(3) that the person pay specified parts at designated intervals; or

(4) at the request of the person, commitment of the person to the county jail for a period of time set by the court in lieu of a fine. If the court orders a person committed to jail under this subdivision, the person's total confinement for the crime that resulted in the conviction must not exceed the maximum term of imprisonment prescribed for the crime under IC 35-50-2 or IC 35-50-3.

(b) A court may impose a fine and suspend payment of all or part of the fine until the convicted person has completed all or part of the sentence. If the court suspends payment of the fine, the court shall conduct a hearing at the time the fine is due to determine whether the convicted person is indigent. If the convicted person is not indigent, the court shall order the convicted person to pay the fine:

(1) at the time the fine is due; or

(2) in a manner set forth in subsection (a)(2) through (a)(4).

(c) If a court suspends payment of a fine under subsection (b), the court retains jurisdiction over the convicted person until the convicted person has paid the entire amount of the fine.

~~(b)~~ **(d)** Upon any default in the payment of the fine:

(1) an attorney representing the county may bring an action on a debt for the unpaid amount; ~~or~~

(2) the court may direct that the person, if the person is not indigent, be committed to the county jail and credited toward payment at the rate of twenty dollars ($20) for each twenty-four (24) hour period the person is confined, until the amount paid plus the amount credited equals the entire amount due; **or**

(3) the court may institute contempt proceedings or order the convicted person's wages, salary, and other income garnished in accordance with IC 24-4.5-5-105 to enforce the court's order for payment of the fine.

SECTION 5. IC 35-38-2-3, AS AMENDED BY P.L.13-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The court may revoke a person's probation if:

(1) the person has violated a condition of probation during the probationary period; and

(2) the petition to revoke probation is filed during the probationary period or before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(b) When a petition is filed charging a violation of a condition of probation, the court may:

(1) order a summons to be issued to the person to appear; or

(2) order a warrant for the person's arrest if there is a risk of the person's fleeing the jurisdiction or causing harm to others.

(c) The issuance of a summons or warrant tolls the period of probation until the final determination of the charge.

(d) The court shall conduct a hearing concerning the alleged violation. The court may admit the person to bail pending the hearing.

(e) The state must prove the violation by a preponderance of the evidence. The evidence shall be presented in open court. The person is entitled to confrontation, cross-examination, and representation by counsel.

(f) Probation may not be revoked for failure to comply with conditions of a sentence that imposes financial obligations on the person unless the person recklessly, knowingly, or intentionally fails to pay.

(g) If the court finds that the person has violated a condition at any time before termination of the period, and the petition to revoke is filed within the probationary period, the court may:

(1) continue the person on probation, with or without modifying or enlarging the conditions;

(2) extend the person's probationary period for not more than one (1) year beyond the original probationary period; or

(3) order execution of all or part of the sentence that was suspended at the time of initial sentencing.

(h) If the court finds that the person has violated a condition of home detention at any time before termination of the period, and the petition to revoke probation is filed within the probationary period, the court shall:

(1) order a sanction as set forth in subsection (g); and

(2) provide credit for time served as set forth under IC 35-38-2.5-5.

(i) If the court finds that the person has violated a condition during any time before the termination of the period, and the petition is filed under subsection (a) after the probationary period has expired, the court may:

(1) reinstate the person's probationary period, with or without enlarging the conditions, if the sum of the length of the original probationary period and the reinstated probationary period does not exceed the length of the maximum sentence allowable for the offense that is the basis of the probation; or

(2) order execution of all or part of the sentence that was suspended at the time of the initial sentencing.

(j) If the court finds that the person has violated a condition of home detention during any time before termination of the period, and the petition is filed under subsection (a) after the probation period has expired, the court shall:

(1) order a sanction as set forth in subsection (i); and

(2) provide credit for time served as set forth under IC 35-38-2.5-5.

(k) A judgment revoking probation is a final appealable order.

(l) Failure to pay fines or costs required as a condition of probation may not be the sole basis for commitment to the department of correction.

(m) Failure to pay fees or costs assessed against a person under IC 33-40-3-6, ~~IC 33-37-2-3(c),~~ **IC 33-37-2-3(e),** or IC 35-33-7-6 is not grounds for revocation of probation.

(Reference is to ESB 125 as reprinted March 27, 2007.)

DILLON	KUZMAN
LANANE	ELROD
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT

ESB 193–1; filed April 27, 2007, at 6:30 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 193 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. P.L.96-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 2. (a) As used in this SECTION, "comprehensive care bed" means a bed that:

(1) is licensed or is to be licensed under IC 16-28-2;
(2) functions as a bed licensed under IC 16-28-2; or
(3) is subject to IC 16-28.

The term does not include a comprehensive care bed that will be used solely to provide specialized services and that is subject to IC 16-29.

(b) As used in this SECTION, "replacement bed" means a comprehensive care bed that is relocated to a health facility that is licensed or is to be licensed under IC 16-28.

~~(b)~~ **(c)** This SECTION does not apply to the following:

(1) A hospital licensed under IC 16-21-2 that in accordance with IC 16-29-3-1, as amended by this act, converts not more than:
(A) thirty (30) acute care beds to skilled care comprehensive long term care beds; and
(B) an additional twenty (20) acute care beds to either intermediate care comprehensive long term care beds or skilled care comprehensive long term care beds;
that are to be certified for participation in a state or federal reimbursement program, including a program under Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) or the state Medicaid program, if those beds will function essentially as beds licensed under IC 16-28.

(2) A health facility licensed or to be licensed under IC 16-28 that is under development on June 30, 2006, to add, construct, or convert comprehensive care beds. In determining whether a health facility is under development on June 30, 2006, the state department shall consider:
(A) whether:
(i) architectural plans have been completed;
(ii) funding has been received;
(iii) zoning requirements have been met; and
(iv) construction plans for the project have been approved by the state department and the division of fire and building safety; and
(B) any other evidence that the state department determines is an indication that the health facility is under development.

(3) A health facility that is licensed or is to be licensed under IC 16-28 and that adds, constructs, or converts a comprehensive care bed that is a replacement bed for an existing comprehensive care bed.

(4) A health facility that is licensed or is to be licensed under IC 16-28 and that applies to certify a comprehensive care bed for participation in a state reimbursement program, if the bed for which the health facility is seeking certification is a replacement bed for an existing certified comprehensive care bed.

(5) A continuing care retirement community required to file a disclosure statement under IC 23-2-4.

(6) One (1) health facility that is licensed or is to be licensed under IC 16-28 and that meets the following conditions:
(A) The health facility will add or construct not more than a total of twenty (20) comprehensive care beds.
(B) The director of the division of aging has determined that the health facility will provide an innovative and unique approach to the delivery of comprehensive care that incorporates residential accommodations in a small group setting offering a person centered culture.

~~(c)~~ **(d)** Comprehensive care beds may not be added or constructed in Indiana.

~~(d)~~ **(e)** Residential beds licensed under IC 16-28-2 and unlicensed beds may not be converted to comprehensive care beds.

~~(e)~~ **(f)** The Indiana health facilities council may not recommend and the state department of health may not approve the certification of new or converted comprehensive care beds for participation in a state reimbursement program, including the state Medicaid program.

(g) A health facility that:
(1) is licensed under IC 16-28; and
(2) has not, before May 1, 2007, filed a disclosure statement under IC 23-2-4 that is required of a continuing care retirement community;
may not convert to a continuing care retirement community or file the disclosure statement described in IC 23-2-4.

~~(f)~~ **(h)** This SECTION expires ~~June 30, 2007.~~ **March 30, 2008.**

SECTION 2. [EFFECTIVE UPON PASSAGE] **(a) The health finance commission shall study the following topics:**
(1) Whether hospitals, including specialty hospitals, should be placed under a moratorium from adding or constructing new facilities.
(2) Whether specialty hospitals should be restricted from presenting their facilities to the public as a hospital.
(3) Whether the definition of the term "hospital" under IC 16-18-2-179 should be amended to include or exclude certain specialty health facilities.

(b) The health finance commission shall issue its recommendations concerning the topics studied under subsection (a) before November 1, 2007.

(c) This SECTION expires December 31, 2007.

SECTION 3. [EFFECTIVE UPON PASSAGE] **405 IAC 5-4-4 is void prospectively upon the date of passage of this act. The publisher of the Indiana Administrative Code and Indiana Register shall remove this section from the Indiana Administrative Code.**

SECTION 4. **An emergency is declared for this act.**

(Reference is to ESB 193 as printed March 27, 2007.)

MILLER	C. BROWN
ROGERS	T. BROWN
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT
ESB 566–1; filed April 27, 2007, at 6:31 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 566 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 12-7-2-47.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 47.5. "Covered entity", for purposes of IC 12-15-23.5, has the meaning set forth in IC 12-15-23.5-1.**

SECTION 2. IC 12-15-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) **Except as provided by IC 12-15-35-50,** a notice or bulletin that is issued by:

(1) the office;
(2) a contractor of the office; or

(3) a managed care plan under the office;

concerning a change to the Medicaid program that does not require use of the rulemaking process under IC 4-22-2 may not become effective until forty-five (45) days after the date the notice or bulletin is mailed to the parties affected by the notice or bulletin.

(b) The office must mail a notice or bulletin described in subsection (a) within five (5) business days after the date on the notice or bulletin.

SECTION 3. IC 12-15-23.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 23.5. Coordination of Benefits Study

Sec. 1. As used in this chapter, "covered entity" has the meaning set forth in 45 CFR 160.103.

Sec. 2. (a) Before January 1, 2008, the office shall:

(1) examine all Medicaid claims paid after January 1, 2001, and before July 1, 2007;

(2) determine which claims examined under subdivision (1) were eligible for payment by a third party other than Medicaid; and

(3) recover the claims that were determined under subdivision (2) to be eligible for payment by a third party other than Medicaid.

(b) The office shall require through an eligibility and benefit request, and a covered entity shall provide, any information necessary for the office to complete the examination required by this section. The office, after notice and hearing, may impose a fine not to exceed one thousand dollars ($1,000) for each refusal by a covered entity to provide information concerning an eligibility and benefit request for a Medicaid recipient requested by the office under this section.

Sec. 3. If at least one percent (1%) of the claims were determined under section 2 of this chapter to be eligible for payment by a third party other than Medicaid, the office shall develop and implement a procedure to improve the coordination of benefits between:

(1) the Medicaid program; and

(2) any other third party source of health care coverage provided to a recipient.

Sec. 4. If a procedure is developed and implemented under section 3 of this chapter, the procedure:

(1) must be automated; and

(2) must provide a system for determining whether a Medicaid claim is eligible for payment by another third party before the claim is paid under the Medicaid program.

SECTION 4. IC 12-15-29-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Subject to subsection (b), an insurer shall furnish records or information pertaining to the coverage of an individual for the individual's medical costs under an individual or a group policy or other obligation, or the medical benefits paid or claims made under a policy or an obligation, if the office does the following:

(1) Requests the information ~~in writing.~~ **electronically or by United States mail.**

(2) Certifies that the individual is:

(A) a Medicaid applicant or recipient; or

(B) a person who is legally responsible for the applicant or recipient.

(b) The office may request only the records or information necessary to determine whether insurance benefits have been or should have been claimed and paid with respect to items of medical care and services that were received by a particular individual and for which Medicaid coverage would otherwise be available.

SECTION 5. IC 12-15-29-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.5. (a) An insurer shall accept a Medicaid claim for a Medicaid recipient for three (3) years from the date the service was provided.**

(b) An insurer may not deny a Medicaid claim submitted by the office solely on the basis of:

(1) the date of submission of the claim;

(2) the type or format of the claim form;

(3) the method of submission of the claim; or

(4) a failure to provide proper documentation at the point of sale that is the basis of the claim;

if the claim is submitted by the office within three (3) years from the date the service was provided as required in subsection (a) and the office commences action to enforce the office's rights regarding the claim within six (6) years of the office's submission of the claim.

(c) An insurer may not deny a Medicaid claim submitted by the office solely due to a lack of prior authorization. An insurer shall conduct the prior authorization on a retrospective basis for claims where prior authorization is necessary and adjudicate any claim authorized in this manner as if the claim received prior authorization.

SECTION 6. IC 12-15-29-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) The notice requirements of section 4 of this chapter are satisfied if:

(1) the insurer receives from the office, ~~by certified~~ **electronically** or ~~registered~~ **by United States** mail, a statement of the claims paid or medical services rendered by the office, together with a claim for reimbursement; or

(2) the insurer receives a claim from a beneficiary stating that the beneficiary has applied for or has received Medicaid from the office in connection with the same claim.

(b) An insurer that receives a claim under subsection (a)(2) shall notify the office of the insurer's obligation on the claim and shall:

(1) pay the obligation to the provider of service; or

(2) if the office has provided Medicaid, pay the office.

SECTION 7. IC 12-15-29-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) IC 27-8-23 applies to this section.

(b) To the extent that payment for covered medical expenses has been made under the state Medicaid program for health care items or services furnished to a person, in a case where a third party has a legal liability to make payments, the state is considered to have acquired the rights of the person to payment by any other party for the health care items or services.

(c) As required under 42 U.S.C. 1396a(a)(25), an insurer shall accept the state's right of recovery and the assignment to the state of any right of the individual or entity to payment for a health care item or service for which payment has been made under the state Medicaid plan.

SECTION 8. IC 12-15-35-50 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 50. (a) IC 12-15-13-6 does not apply to this section.**

(b) The office shall maintain an Internet web site and post on the web site any changes concerning the office's maximum allowable cost schedule for drugs.

(c) A change in the office's maximum allowable cost schedule for drugs may not take effect less than thirty (30) days after the change is posted on the office's Internet web site.

(d) The office is not required to mail a notice to providers concerning a change in the office's maximum allowable cost schedule for drugs.

(e) A pharmacy may determine not to participate in the Medicaid program because of a change to the office's maximum allowable cost schedule for drugs if the pharmacy notifies the office not less than thirty (30) days after the changes take effect.

SECTION 9. IC 12-19-7.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this chapter, "children's psychiatric residential treatment services" means services that are:

(1) eligible for federal financial participation under the state Medicaid plan; and

(2) provided to individuals less than twenty-one (21) years of age who are:

(A) eligible for services under the state Medicaid plan;

(B) approved by the office **as eligible** for admission to and treatment in a private psychiatric residential treatment facility; and

(C) **either** residing in a:

(i) private psychiatric residential facility for the purposes of treatment for a mental health condition, based on an approved treatment plan that complies with applicable federal and state Medicaid rules and regulations; **or**

(ii) less restrictive setting and participating in a federally approved community alternatives to psychiatric residential treatment facilities demonstration grant that provides safe, intensive, and appropriate services under an approved treatment plan that complies with federal and state Medicaid law.

SECTION 10. IC 12-24-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Each ~~patient in a~~ state institution ~~and the responsible parties of the patient, individually or collectively,~~ shall ~~pay for the ensuing fiscal year an amount not to exceed the per capita cost at that state institution.~~ **establish a charge structure for institutional services and treatment. The charge structure must be approved by the director of the division before July 1 of each year and, once approved, the charge structure must be effective for the following state fiscal year.**

(b) Except as provided in section 5 of this chapter, each patient in a state institution and the responsible parties, individually or collectively, are liable for the payment of the ~~cost of~~ **charges for the** treatment and maintenance of the patient.

SECTION 11. IC 12-24-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. If a patient in a state institution has insurance coverage that covers hospitalization or medical services in psychiatric hospitals, all benefits under the insurance coverage ~~in an amount not to exceed the cost of treatment and maintenance of the patient,~~ shall be assigned to the appropriate division.

SECTION 12. IC 12-24-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. The appropriate division shall issue to any party liable under this chapter for any type of psychiatric service statements of sums due as maintenance charges. The division shall require the liable party to pay monthly, quarterly, or otherwise as may be arranged an amount not exceeding the maximum ~~cost~~ **charge** as determined under this chapter.

SECTION 13. IC 12-24-13-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. The estate of a patient who receives care, treatment, maintenance, or any other service furnished by the division at the state's expense is liable for payment ~~of the cost~~ of **the charges as determined under this chapter for** the service. The estate is exempt from the requirements of section 10 of this chapter or any part of this chapter directly in conflict with the intent of the chapter to hold a patient's estate liable for payment.

SECTION 14. IC 12-24-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The billing and collection of maintenance ~~expenses~~ **charges** under this article shall be made by the division or a unit of the division designated by the director.

SECTION 15. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 12-24-13-3; IC 12-24-13-8; IC 12-24-13-9.

SECTION 16. **An emergency is declared for this act.**

(Reference is to ESB 566 as reprinted April 10, 2007.)

DILLON	C. BROWN
MRVAN	T. BROWN
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT

ESB 412–1; filed April 27, 2007, at 6:32 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 412 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 4-1-10-1.5 IS ADDED TO THE INDIANA CODE AS **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. As used in this chapter, "person" means an individual, a corporation, a limited liability company, a partnership, or other legal entity.**

SECTION 2. IC 4-1-10-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. Unless prohibited by state law, federal law, or a court order, the following apply:**

(1) A state educational institution may disclose, in addition to the disclosures otherwise permitted by this chapter, a Social Security number of an individual to the following:

(A) A state, local, or federal agency or a person with whom a state, local, or federal agency has a contract to perform the agency's duties and responsibilities.

(B) A person that the state educational institution contracts with to provide goods or services to the state educational institution if:

(i) the disclosure is necessary for the contractor to perform the contractor's duties and responsibilities under the contract; and

(ii) the contract requires adequate safeguards, including any safeguards required by state or federal law, to prevent any use or disclosure of the Social Security numbers for any purpose other than those purposes described in the contract and to require the return or confirmed destruction of any Social Security numbers following termination of the contractual relationship.

(C) Persons to whom the state educational institution may otherwise legally disclose for the permissible purposes of the following:

(i) The Family Education Rights and Privacy Act (20 U.S.C. 1232g et seq.).

(ii) The Health Insurance Portability and Accountability Act (42 U.S.C. 201 et seq.).

(D) The state educational institution's legal counsel, but only to the extent that a state educational institution could disclose a Social Security number to an in-house counsel.

(2) Consent for the authorized disclosure of any individual's Social Security number may be given to a state educational institution by electronic transmission if the state educational institution is reasonably able to

verify the authenticity of the consent. A state educational institution may rely on the written consent of an individual given to a third party if the consent expressly permits the disclosure of the individual's Social Security number by the state educational institution.

SECTION 3. IC 36-2-7-10.1, AS AMENDED BY P.L.171-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.1. (a) As used in this section, "bulk form" means:

(1) a copy of all recorded documents received by the county recorder for recording in a calendar day, week, month, or year;

(2) the indices for finding, retrieving, and viewing all recorded documents received by the county recorder for recording in a calendar day, week, month, or year; or

(3) both subdivisions (1) and (2).

(b) As used in this section, "bulk user" means an individual, a corporation, a partnership, a limited liability company, or an unincorporated association that purchases bulk form copies. However, "bulk user" does not include an individual, a corporation, a partnership, a limited liability company, or an unincorporated association whose primary purpose is to resell public records.

(c) As used in this section, "copy" means:

(1) duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage; or

(2) reproducing on microfilm.

(d) As used in this section, "indices" means all of the indexing information used by the county recorder for finding, retrieving, and viewing a recorded document.

(e) As used in this section, "recorded document" means a writing, a paper, a document, a plat, a map, a survey, or anything else received at any time for recording or filing in the public records maintained by the county recorder.

(f) The county recorder shall collect the fees prescribed by this section for the sale of recorded documents in bulk form copies to bulk users of public records. The county recorder shall pay the fees into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other fees for bulk form copies required by law to be charged for services rendered by the county recorder to bulk users.

(g) Except as provided by subsection (h), the county recorder shall charge bulk users the following for bulk form copies:

(1) Five cents ($0.05) per page for a recorded document, including the index of the instrument number or book and page, or both, for retrieving the recorded document.

(2) Five cents ($0.05) per recorded document for a copy of the other indices used by the county recorder for finding, retrieving, and viewing a recorded document.

(h) As used in this subsection, "actual cost" does not include labor costs or overhead costs. The county recorder may charge a fee that exceeds the amount established by subsection (g) if the actual cost of providing the bulk form copies exceeds the amount established by subsection (g). However, the total amount charged for the bulk form copies may not exceed the actual cost plus one cent ($0.01) of providing the bulk form copies.

(i) The county recorder shall provide bulk users with bulk form copies in the format or medium in which the county recorder maintains the recorded documents and indices. If the county recorder maintains the recorded documents and indices in more than one (1) format or medium, the bulk user may select the format or medium in which the bulk user shall receive the bulk form copies. If the county recorder maintains the recorded documents and indices for finding, retrieving, and viewing the recorded documents in an electronic or a digitized format, a reasonable effort shall be made to provide the bulk user with bulk form copies in a standard, generally acceptable, readable format. Upon request of the bulk user, the county recorder shall provide the bulk form copies to the bulk user within a reasonable time after the recorder's archival process is completed and bulk form copies become available in the office of the county recorder.

(j) Bulk form copies under this section may be used:

(1) in the ordinary course of the business of the bulk user; and

(2) by customers of the bulk user.

The bulk user may charge its customers a fee for using the bulk form copies obtained by the bulk user. However, bulk form copies obtained by a bulk user under this section may not be resold.

(k) All revenue generated by the county recorder under this section shall be deposited in the recorder's record perpetuation fund and used by the recorder in accordance with section ~~10(c)~~ **10(d)** of this chapter.

(l) This section does not apply to enhanced access under IC 5-14-3-3.

SECTION 4. IC 36-2-11-15, AS AMENDED BY P.L.171-2006, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) This section does not apply to:

(1) an instrument executed before July 1, 1959, or recorded before July 26, 1967;

(2) a judgment, order, or writ of a court;

(3) a will or death certificate;

(4) an instrument executed or acknowledged outside Indiana; or

(5) a federal lien on real property or a federal tax lien on personal property, as described in section 25 of this chapter.

(b) The recorder may receive for record or filing an instrument that conveys, creates, encumbers, assigns, or otherwise disposes of an interest in or lien on property only if:

(1) the name of the person and governmental agency, if any, that prepared the instrument is printed, typewritten, stamped, or signed in a legible manner at the conclusion of the instrument; and

(2) all Social Security numbers in the document are redacted, unless required by law.

(c) An instrument complies with subsection (b)(1) if it contains a statement in the following form:

"This instrument was prepared by (name).".

(d) An instrument complies with subsection (b)(2) if it contains a statement in the following form **at the conclusion of the instrument and immediately preceding or following the statement required by subsection (b)(1):**

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law (name).".

SECTION 5. **An emergency is declared for this act.**

(Reference is to ESB 412 as reprinted April 10, 2007.)

HERSHMAN	MICON
LANANE	WALORSKI
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT

ESB 320–1; filed April 27, 2007, at 7:20 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 320 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 10-13-3-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 37. (a) Under Public Law 92-544 (86 Stat. 1115), a local law enforcement agency may use fingerprints submitted for the purpose of identification in a request related to the following:

(1) A taxicab driver's license application.

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

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

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

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

(d) The local law enforcement agency may:

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

(2) receive the results of all fingerprint investigations.

SECTION 2. IC 25-1-2-2.1, AS AMENDED BY SEA 490-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.1. Rather than being issued annually, the following permits, licenses, certificates of registration, or evidences of authority granted by a state agency must be issued for a period of two (2) years or for the period specified in the article under which the permit, license, certificate of registration, or evidence of authority is issued if the period specified in the article is longer than two (2) years:

(1) Certified public accountants, public accountants, and accounting practitioners.

(2) Architects and landscape architects.

(3) Dry cleaners.

(4) Professional engineers.

(5) Land surveyors.

(6) Real estate brokers.

(7) Real estate agents.

(8) Security dealers' licenses issued by the securities commissioner.

(9) Dental hygienists.

(10) Dentists.

(11) Veterinarians.

(12) Physicians.

(13) Chiropractors.

(14) Physical therapists.

(15) Optometrists.

(16) Pharmacists and assistants, drugstores or pharmacies.

(17) Motels and mobile home community licenses.

(18) Nurses.

(19) Podiatrists.

(20) Occupational therapists and occupational therapy assistants.

(21) Respiratory care practitioners.

(22) Social workers, marriage and family therapists, and mental health counselors.

(23) Real estate appraiser licenses and certificates issued by the real estate appraiser licensure and certification board.

(24) Wholesale legend drug distributors.

(25) Physician assistants.

(26) Dietitians.

(27) Hypnotists.

(28) Athlete agents.

(29) Manufactured home installers.

(30) Home inspectors.

(31) Registered interior designers.

(32) Massage therapists.

SECTION 3. IC 25-1-2-6, AS AMENDED BY SEA 490-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) As used in this section, "license" includes all occupational and professional licenses, registrations, permits, and certificates issued under the Indiana Code, and "licensee" includes all occupational and professional licensees, registrants, permittees, and certificate holders regulated under the Indiana Code.

(b) This section applies to the following entities that regulate occupations or professions under the Indiana Code:

(1) Indiana board of accountancy.

(2) Indiana grain buyers and warehouse licensing agency.

(3) Indiana auctioneer commission.

(4) Board of registration for architects, landscape architects, and registered interior designers.

(5) State board of barber examiners.

(6) State board of cosmetology examiners.

(7) Medical licensing board of Indiana.

(8) Secretary of state.

(9) State board of dentistry.

(10) State board of funeral and cemetery service.

(11) Worker's compensation board of Indiana.

(12) Indiana state board of health facility administrators.

(13) Committee of hearing aid dealer examiners.

(14) Indiana state board of nursing.

(15) Indiana optometry board.

(16) Indiana board of pharmacy.

(17) Indiana plumbing commission.

(18) Board of podiatric medicine.

(19) Private detectives licensing board.

(20) State board of registration for professional engineers.

(21) Board of environmental health specialists.

(22) State psychology board.

(23) Indiana real estate commission.

(24) Speech-language pathology and audiology board.

(25) Department of natural resources.

(26) State boxing commission.

(27) Board of chiropractic examiners.

(28) Mining board.

(29) Indiana board of veterinary medical examiners.

(30) State department of health.

(31) Indiana physical therapy committee.

(32) Respiratory care committee.

(33) Occupational therapy committee.

(34) Social worker, marriage and family therapist, and mental health counselor board.

(35) Real estate appraiser licensure and certification board.

(36) State board of registration for land surveyors.

(37) Physician assistant committee.

(38) Indiana dietitians certification board.

(39) Indiana hypnotist committee.

(40) Attorney general (only for the regulation of athlete agents).

(41) Manufactured home installer licensing board.

(42) Home inspectors licensing board.

(43) State board of massage therapy.

~~(43)~~ **(44)** Any other occupational or professional agency created after June 30, 1981.

(c) Notwithstanding any other law, the entities included in subsection (b) shall send a notice of the upcoming expiration of a license to each licensee at least sixty (60) days prior to the expiration of the license. The notice must inform the licensee of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the entity, the licensee is not subject to a sanction for failure to renew if, once notice is received from the entity, the license is renewed within forty-five (45) days of the receipt of the notice.

SECTION 4. IC 25-1-6-3, AS AMENDED BY

SEA 490-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The licensing agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).
(2) Board of registration for architects, landscape architects, and registered interior designers (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).
(16) State board of massage therapy (IC 25-21.8-2-1).

(b) Nothing in this chapter may be construed to give the licensing agency policy making authority, which remains with each board.

SECTION 5. IC 25-1-7-1, AS AMENDED BY SEA 490-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this chapter:

"Board" means the appropriate agency listed in the definition of regulated occupation in this section.

"Director" refers to the director of the division of consumer protection.

"Division" refers to the division of consumer protection, office of the attorney general.

"Licensee" means a person who is:

(1) licensed, certified, or registered by a board listed in this section; and
(2) the subject of a complaint filed with the division.

"Person" means an individual, a partnership, a limited liability company, or a corporation.

"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).
(2) Board of registration for architects, landscape architects, and registered interior designers (IC 25-4-1-2).
(3) Indiana auctioneer commission (IC 25-6.1-2-1).
(4) State board of barber examiners (IC 25-7-5-1).
(5) State boxing commission (IC 25-9-1).
(6) Board of chiropractic examiners (IC 25-10-1).
(7) State board of cosmetology examiners (IC 25-8-3-1).
(8) State board of dentistry (IC 25-14-1).
(9) State board of funeral and cemetery service (IC 25-15-9).
(10) State board of registration for professional engineers (IC 25-31-1-3).
(11) Indiana state board of health facility administrators (IC 25-19-1).
(12) Medical licensing board of Indiana (IC 25-22.5-2).
(13) Indiana state board of nursing (IC 25-23-1).
(14) Indiana optometry board (IC 25-24).
(15) Indiana board of pharmacy (IC 25-26).
(16) Indiana plumbing commission (IC 25-28.5-1-3).
(17) Board of podiatric medicine (IC 25-29-2-1).
(18) Board of environmental health specialists (IC 25-32-1).
(19) State psychology board (IC 25-33).
(20) Speech-language pathology and audiology board (IC 25-35.6-2).
(21) Indiana real estate commission (IC 25-34.1-2).
(22) Indiana board of veterinary medical examiners (IC 15-5-1.1).
(23) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
(24) Respiratory care committee (IC 25-34.5).
(25) Private detectives licensing board (IC 25-30-1-5.1).
(26) Occupational therapy committee (IC 25-23.5).
(27) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
(28) Real estate appraiser licensure and certification board (IC 25-34.1-8).
(29) State board of registration for land surveyors (IC 25-21.5-2-1).
(30) Physician assistant committee (IC 25-27.5).
(31) Indiana athletic trainers board (IC 25-5.1-2-1).
(32) Indiana dietitians certification board (IC 25-14.5-2-1).
(33) Indiana hypnotist committee (IC 25-20.5-1-7).
(34) Indiana physical therapy committee (IC 25-27).
(35) Manufactured home installer licensing board (IC 25-23.7).
(36) Home inspectors licensing board (IC 25-20.2-3-1).
(37) State board of massage therapy (IC 25-21.8-2-1).
~~(37)~~ **(38)** Any other occupational or professional agency created after June 30, 1981.

SECTION 6. IC 25-1-8-1, AS AMENDED BY SEA 490-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).
(2) Board of registration for architects, landscape architects, and registered interior designers (IC 25-4-1-2).
(3) Indiana auctioneer commission (IC 25-6.1-2-1).
(4) State board of barber examiners (IC 25-7-5-1).
(5) State boxing commission (IC 25-9-1).
(6) Board of chiropractic examiners (IC 25-10-1).
(7) State board of cosmetology examiners (IC 25-8-3-1).
(8) State board of dentistry (IC 25-14-1).
(9) State board of funeral and cemetery service (IC 25-15).
(10) State board of registration for professional engineers (IC 25-31-1-3).
(11) Indiana state board of health facility administrators (IC 25-19-1).
(12) Medical licensing board of Indiana (IC 25-22.5-2).
(13) Mining board (IC 22-10-1.5-2).
(14) Indiana state board of nursing (IC 25-23-1).
(15) Indiana optometry board (IC 25-24).
(16) Indiana board of pharmacy (IC 25-26).
(17) Indiana plumbing commission (IC 25-28.5-1-3).
(18) Board of environmental health specialists (IC 25-32-1).
(19) State psychology board (IC 25-33).
(20) Speech-language pathology and audiology board (IC 25-35.6-2).
(21) Indiana real estate commission (IC 25-34.1-2-1).
(22) Indiana board of veterinary medical examiners (IC 15-5-1.1-3).
(23) Department of insurance (IC 27-1).
(24) State police department (IC 10-11-2-4), for purposes of certifying polygraph examiners under IC 25-30-2.
(25) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.

(26) Private detectives licensing board (IC 25-30-1-5.1).
(27) Occupational therapy committee (IC 25-23.5-2-1).
(28) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6-2-1).
(29) Real estate appraiser licensure and certification board (IC 25-34.1-8).
(30) State board of registration for land surveyors (IC 25-21.5-2-1).
(31) Physician assistant committee (IC 25-27.5).
(32) Indiana athletic trainers board (IC 25-5.1-2-1).
(33) Board of podiatric medicine (IC 25-29-2-1).
(34) Indiana dietitians certification board (IC 25-14.5-2-1).
(35) Indiana physical therapy committee (IC 25-27).
(36) Manufactured home installer licensing board (IC 25-23.7).
(37) Home inspectors licensing board (IC 25-20.2-3-1).
(38) State board of massage therapy (IC 25-21.8-2-1).
~~(38)~~ **(39)** Any other occupational or professional agency created after June 30, 1981.

SECTION 7. IC 25-1-11-1, AS AMENDED BY SEA 490-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this chapter, "board" means any of the following:
(1) Indiana board of accountancy (IC 25-2.1-2-1).
(2) Board of registration for architects, landscape architects, and registered interior designers (IC 25-4-1-2).
(3) Indiana auctioneer commission (IC 25-6.1-2).
(4) State board of barber examiners (IC 25-7-5-1).
(5) State boxing commission (IC 25-9-1).
(6) State board of cosmetology examiners (IC 25-8-3-1).
(7) State board of registration of land surveyors (IC 25-21.5-2-1).
(8) State board of funeral and cemetery service (IC 25-15-9).
(9) State board of registration for professional engineers (IC 25-31-1-3).
(10) Indiana plumbing commission (IC 25-28.5-1-3).
(11) Indiana real estate commission (IC 25-34.1-2-1).
(12) Real estate appraiser licensure certification board (IC 25-34.1-8).
(13) Private detectives licensing board (IC 25-30-1-5.1).
(14) Manufactured home installer licensing board (IC 25-23.7).
(15) Home inspectors licensing board (IC 25-20.2-3-1).
(16) State board of massage therapy (IC 25-21.8-2-1).

SECTION 8. IC 25-21.8 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

ARTICLE 21.8. MASSAGE THERAPISTS

Chapter 1. Definitions

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

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

Sec. 3. "Licensing agency" means the Indiana professional licensing agency established under IC 25-1-5-3.

Sec. 4. "Massage therapy":
(1) means the application of massage techniques on the human body;
(2) includes:
(A) the use of touch, pressure, percussion, kneading, movement, positioning, nonspecific stretching, stretching within the normal anatomical range of movement, and holding, with or without the use of massage devices that mimic or enhance manual measures; and
(B) the external application of heat, cold, water, ice, stones, lubricants, abrasives, and topical preparations that are not classified as prescription drugs; and
(3) does not include:
(A) spinal manipulation; and
(B) diagnosis or prescribing drugs for which a license is required.

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

Chapter 2. State Board of Massage Therapy

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

Sec. 2. (a) The board consists of five (5) members appointed by the governor as follows:
(1) Three (3) massage therapists, each of whom:
(A) is certified under this article; and
(B) has been actively practicing massage therapy for at least three (3) of the five (5) years immediately preceding the individual's appointment.
(2) Two (2) members of the general public. A board member appointed under this subdivision must not:
(A) be certified under this article;
(B) be the spouse of an individual who is certified or intends to be certified under this article; or
(C) have a direct or an indirect financial interest in the profession regulated under this article.

(b) A massage therapist member of the board is not required to be a member of a professional massage therapy association. However:
(1) not more than one (1) massage therapist member appointed to the board may belong to the same professional massage therapy association; and
(2) one (1) massage therapist member must not be a member of a professional massage therapy association.

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

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

(b) A member may not serve more than two (2) consecutive terms in addition to any unexpired term to which the individual was appointed. A member may serve until a successor has been appointed and qualified under this chapter.

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

Sec. 5. (a) Each year the board shall elect from its members the following officers:
(1) A chairperson.
(2) A vice chairperson.

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

Sec. 6. The board shall meet at least one (1) time each calendar year upon the call of the chairperson or the written request of a majority of the members of the board and with the advice and consent of the executive director of the professional licensing agency.

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

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

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

Sec. 9. The board shall adopt rules under IC 4-22-2 regarding standards for the competent practice of massage therapy.

Chapter 3. Powers and Duties of the Board

Sec. 1. (a) The board shall do the following:
(1) Administer and enforce this article.
(2) Adopt rules under IC 4-22-2 for the administration and enforcement of this article.

(3) Judge the qualifications of applicants for certification under this article.
(4) Issue, deny, or renew certifications under this article.
(5) Subject to IC 4-21.5, IC 25-1-7, and IC 25-1-11, discipline individuals who are certified under this article for violations of this article.
(6) Establish reasonable fees for examination, certification applications, renewal of certifications, and other services.
(7) Maintain a record of all proceedings.
(8) Maintain records of certified massage therapists.
(9) Adopt at least two (2) examinations that an applicant may use for certification under this article.
(b) The board may do the following:
(1) Conduct administrative hearings.
(2) Administer oaths in matters relating to the discharge of the official duties of the board.
Sec. 2. The licensing agency shall do the following:
(1) Carry out the administrative functions of the board.
(2) Provide necessary personnel to carry out the duties of this article.
(3) Receive and account for all fees required under this article.
(4) Deposit fees collected with the treasurer of state for deposit in the state general fund.
Chapter 4. Issuance of Certification
Sec. 1. An application for a massage therapist certification must be:
(1) made to the board in the form and manner provided by the board; and
(2) accompanied by an application fee in the amount set by the board.
Sec. 2. An individual who applies for certification as a massage therapist must do the following:
(1) Furnish evidence satisfactory to the board showing that the individual:
(A) is at least eighteen (18) years of age;
(B) has a high school diploma or the equivalent of a high school diploma;
(C) has successfully completed a massage therapy school or program that:
(i) requires at least five hundred (500) hours of supervised classroom and hands on instruction on massage therapy;
(ii) is in good standing with a state, regional, or national agency of government charged with regulating massage therapy schools or programs; and
(iii) is accredited by the Indiana commission on proprietary education established by IC 20-12-76-11 or accredited by another state where the standards for massage therapy education are substantially the same as the standards in Indiana, or is a program at an institution of higher learning that is approved by the board; and
(D) has taken and passed a certification examination approved by the board.
(2) Provide a history of any criminal convictions the individual has, including any convictions related to the practice of the profession. The board shall deny an application for certification if the applicant:
(A) has been convicted of:
(i) prostitution;
(ii) rape; or
(iii) sexual misconduct; or
(B) is a registered sex offender.
(3) Verify the information submitted on the application form.
(4) Pay fees established by the board.
Sec. 3. An individual who is not certified under this article may not:
(1) profess to be a certified massage therapist; or
(2) use:
(A) the title "Certified Massage Therapist" or "Massage Therapist"; or
(B) the abbreviation "CMT" or "MT" to imply the person is a certified massage therapist.
Chapter 5. Certification by Endorsement
Sec. 1. (a) The board may grant certification by endorsement to an individual who:
(1) is licensed, certified, or registered in another state having credentialing standards that are at least as strict as the credentialing standards specified under this article;
(2) is in good standing with the standards of the other state or country;
(3) pays an application fee established by the board; and
(4) provides a history of the individual's criminal convictions, if any, including any criminal convictions relating to the practice of the profession.
(b) The board shall deny an application for certification if the applicant:
(1) has been convicted of:
(A) prostitution;
(B) rape; or
(C) sexual misconduct; or
(2) is a registered sex offender.
(c) An applicant for a certification by endorsement shall cause each state that previously credentialed the applicant to provide the board with the applicant's current status in the state.
Chapter 6. Certification Renewal
Sec. 1. A certification issued by the board is valid for four (4) years. A certification expires at midnight on the date established by the licensing agency under IC 25-1-6-4 and every four (4) years thereafter, unless renewed before that date.
Sec. 2. An individual who applies to renew certification as a massage therapist must:
(1) apply for renewal in the manner required by the board; and
(2) pay a renewal fee established by the board.
Sec. 3. If a renewal application is not submitted within the time under section 1 of this chapter, the board shall charge the applicant a reinstatement fee in an amount established under IC 25-1-8-6.
Chapter 7. Discipline and Violations
Sec. 1. (a) This section does not apply to the violation of a rule adopted by the board.
(b) A person who knowingly violates or causes a violation of this article commits a Class C misdemeanor.
Sec. 2. The board shall follow the disciplinary procedures established under IC 25-1-7 and IC 25-1-11.
Sec. 3. If an individual certified under this article is convicted of a crime, the individual is responsible for notifying the board not later than thirty (30) days after the conviction.
SECTION 9. [EFFECTIVE JULY 1, 2007] (a) As used in this SECTION, "board" refers to the state board of massage therapy established by IC 25-21.8-2-1, as added by this act.
(b) The governor shall make initial appointments to the board not later than January 1, 2008. The initial members of the board shall serve for the following terms:
(1) One (1) member appointed under IC 25-21.8-2-2(1), as added by this act, serves for one (1) year.
(2) One (1) member appointed under IC 25-21.8-2-2(1), as added by this act, and one (1) member appointed

under IC 25-21.8-2-2(2), as added by this act, serve for two (2) years.

(3) One (1) member appointed under IC 25-21.8-2-2(1), as added by this act, and one (1) member appointed under IC 25-21.8-2-2(2), as added by this act, serve for three (3) years.

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

(1) substantially meets the requirements of licensure under IC 25-21.8, as added by this act;

(2) currently practices massage therapy in Indiana; and

(3) has practiced massage therapy in Indiana after June 1, 2004, for at least three (3) consecutive years.

(d) The three (3) members appointed under IC 25-21.8-2-2(1), as added by this act, are not required to be members of a professional massage therapy association. However:

(1) not more than one (1) massage therapist member appointed to the board may belong to the same professional massage therapy association; and

(2) one (1) massage therapist member must not be a member of a professional massage therapy association.

(e) This SECTION expires July 1, 2011.

SECTION 10. [EFFECTIVE JULY 1, 2007] **(a) Notwithstanding IC 25-21.8-2-2, as added by this act, the state board of massage therapy established by IC 25-21.8-2-1, as added by this act, may issue a certification before July 1, 2009, to an applicant who practiced massage therapy in Indiana after June 30, 2001, and before July 1, 2009, if the applicant meets the condition set forth in one (1) of the following subdivisions:**

(1) Either:

(A) provides the board with Internal Revenue Service income tax return forms from two (2) consecutive years that reflect that the applicant has been employed in the practice of massage therapy;

(B) provides the board with business records from two (2) consecutive years that reflect that the applicant has been employed in the practice of massage therapy; or

(C) has completed at least five hundred (500) hours of supervised classroom and hands on instruction.

(2) Provides a copy of a diploma, a transcript, a certificate, or another proof of completion of:

(A) a massage therapy school accredited by:

(i) the Indiana commission on proprietary education established by IC 20-12-76-11; or

(ii) another state where the standards for massage therapy education are substantially equivalent to the standards in Indiana; or

(B) a program at an institution of higher learning that is approved by the board.

(b) An applicant who begins practicing massage therapy in Indiana after January 1, 2009, must meet the certification requirements set forth in IC 25-21.8, as added by this act, to be certified under IC 25-21.8, as added by this act.

(c) Notwithstanding IC 25-21.8-4-2 and IC 25-21.8-5, both as added by this act, the state board of massage therapy may issue a certification to an applicant who:

(1) before July 1, 2007, enrolled in a massage therapy school or program that:

(A) required at least five hundred (500) hours of supervised classroom and hands on instruction; and

(B) was in good standing with a state, regional, or national agency of government charged with regulating massage therapy or programs; and

(2) before January 1, 2008, completes the requirements of the massage therapy school or program described in subdivision (1).

(d) This SECTION expires July 1, 2010.

SECTION 11. [EFFECTIVE JULY 1, 2007] **(a) Before December 31, 2008, the state board of massage therapy established by IC 25-21.8-2-1, as added by this act, shall adopt at least two (2) certification examinations as required under IC 25-21.8-3-1(a)(9), as added by this act, that an individual may use as the basis for complying with IC 25-21.8-4-2(1)(D), as added by this act.**

(b) This SECTION expires December 31, 2009.

(Reference is to ESB 320 as reprinted (printer's error) April 3, 2007.)

MILLER	KLINKER
ERRINGTON	FRIZZELL
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT
ESB 250–1; filed April 27, 2007, at 7:26 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 250 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 agriculture and animals.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-4-27-3, AS AMENDED BY P.L.1-2006, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The director of the department of agriculture or the director's designee shall charge a fee of ten dollars ($10) for each moisture testing device inspected from each inspection site under this chapter.

(b) All fees shall be deposited in the ~~state treasury.~~ **grain buyers and warehouse licensing agency license fee fund established by IC 26-3-7-6.3.**

SECTION 2. IC 6-2.5-7-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5.5. (a) Notwithstanding the limit on deductions in section 5(d) of this chapter, and only to the extent funds are available to reimburse the state as required under IC 15-4-10-24.5, a retail merchant is entitled to the deduction allowed under section 5(c) of this chapter.**

(b) The department shall annually publish in the Indiana Register a notice of the amount of funds available for the reimbursement required under IC 15-4-10-24.5.

SECTION 3. IC 15-4-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. This chapter applies to all kinds and varieties of corn ~~including seed corn,~~ marketed or sold as corn by a producer in Indiana except sweet corn, **seed corn,** and popcorn. As used in this chapter, "corn" does not include sweet corn, **seed corn,** or popcorn.

SECTION 4. IC 15-4-10-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 3.5. As used in this chapter, "dean" refers to dean of the college of agriculture at Purdue University.**

SECTION 5. IC 15-4-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. **(a)** As used in this chapter, "first purchaser" means a person who is engaged in Indiana in the business of buying ~~grain~~ **corn** from producers. **The term refers to a person buying or otherwise acquiring corn**

from:

(1) the producer of the corn; or

(2) the Commodity Credit Corporation, if the corn is pledged as collateral for a loan issued under a price support loan program administered by the Commodity Credit Corporation.

(b) The term does not include a buyer of ~~grain~~ **corn** who buys less than ~~fifty thousand (50,000)~~ **one hundred thousand (100,000)** bushels of ~~grain~~ **corn** annually for the buyer's own use as seed or feed.

SECTION 6. IC 15-4-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. As used in this chapter, "marketing year" means the twelve (12) month period beginning ~~September~~ **October** 1 and ending the following ~~August 31.~~ **September 30.**

SECTION 7. IC 15-4-10-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 10.5. As used in this chapter, "promotion" means:**

(1) communication directly with corn producers;

(2) technical assistance; and

(3) trade marketing activities;

to enhance the marketing opportunities of corn for corn products in domestic and foreign markets.

SECTION 8. IC 15-4-10-10.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 10.7. As used in this chapter, "research" means any type of study to advance the:**

(1) marketability;

(2) production;

(3) product development;

(4) quality; or

(5) functional or nutritional value;

of corn or corn products, including any research activity designed to identify and analyze barriers to domestic and foreign sales of corn or corn products.

SECTION 9. IC 15-4-10-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) The Indiana corn marketing council is established. The council is a public body corporate and politic, and though it is separate from the state, the exercise by the council of its powers constitutes an essential governmental function. The council may sue and be sued and plead and be impleaded.

(b) The council shall be composed of ~~fifteen (15)~~ **seventeen (17) voting and eight (8) ex officio, nonvoting** members. The elected members from districts listed under section 16(a) of this chapter must be:

(1) registered as voters in Indiana;

(2) at least eighteen (18) years of age; and

(3) producers.

(c) Each elected member of the council must reside in the district identified in section 16(a) of this chapter from which the member was elected.

(d) Each member of the council is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency. However, council members are not entitled to any salary or per diem.

SECTION 10. IC 15-4-10-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) If ~~an elected~~ **a** member of the council **elected or appointed under section 16(a), 16(b), 16(c), or 16(d) of this chapter** ceases to meet one (1) or more of the qualifications set forth in section 12(b) of this chapter, the member's term of office terminates and the member's office becomes vacant.

(b) When an elected council member's office becomes vacant before the expiration of the member's term of office, the council shall fill the vacancy by appointing a replacement member who meets the qualifications set forth in section 12(b) of this chapter. The appointee shall serve for the remainder of the unexpired term.

(c) When the office of a council member appointed under section ~~16(c)~~ **16(e), 16(g), or 16(h)** of this chapter ~~to represent first purchaser organizations~~ becomes vacant before the expiration of the member's term of office, the ~~director~~ **dean** shall fill the vacancy by appointing a replacement member who represents ~~a first purchaser organization.~~ **the group from which the member was originally appointed.** The appointee shall serve for the remainder of the unexpired term.

(d) When ~~an appointed council member's office representing the senate becomes vacant before the expiration of the member's term of office, the president pro tempore of the senate shall fill the vacancy by appointing a replacement member who represents the senate and is a member of the same political party as the appointed council member who vacated the office. When an appointed council member's office representing the house of representatives becomes vacant before the expiration of the member's term of office, the speaker of the house of representatives shall fill the vacancy by appointing a replacement member who represents the house of representatives and is a member of the same political party as the appointed council member who vacated the office.~~ **the office of a member appointed under section 16(f) of this chapter becomes vacant, the appointing authority who appointed the member shall fill the vacancy.** An appointee under this subsection shall serve for the remainder of the unexpired term.

SECTION 11. IC 15-4-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. **(a)** When necessary, the council may appoint individuals who hold offices of importance to the corn industry or have special expertise concerning that industry to participate in the work of the council. ~~but~~ These individuals may not participate in votes taken by the council **but are eligible for reimbursement for traveling expenses.**

(b) A person appointed under this section serves a term of three (3) years.

(c) A person appointed under this section may not serve for more than three (3) consecutive full terms.

SECTION 12. IC 15-4-10-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) One (1) council member shall be elected from each of the following districts:

DISTRICT 1. The counties of Lake, Newton, Jasper, Benton, Porter, LaPorte, Starke, White, and Pulaski.

DISTRICT 2. The counties of St. Joseph, Elkhart, Marshall, Kosciusko, Fulton, Carroll, Cass, Miami, and Wabash.

DISTRICT 3. The counties of LaGrange, Steuben, Noble, Dekalb, Whitley, Allen, Huntington, Wells, and Adams.

DISTRICT 4. The counties of Montgomery, Fountain, Warren, Tippecanoe, Vermillion, Parke, Putnam, Vigo, Clay, and Owen.

DISTRICT 5. The counties of Clinton, Boone, Tipton, Howard, Grant, Hamilton, Madison, Hendricks, Marion, Hancock, Morgan, Johnson, Shelby, Rush, Bartholomew, and Decatur.

DISTRICT 6. The counties of Blackford, Jay, Delaware, Henry, Randolph, Wayne, Fayette, and Union.

DISTRICT 7. The counties of Sullivan, Greene, Knox, Daviess, Martin, Gibson, Pike, Dubois, Posey, Vanderburgh, Warrick, and Spencer.

DISTRICT 8. The counties of Monroe, Brown, Lawrence, Jackson, Orange, Washington, Perry, Crawford, Harrison, and Floyd.

DISTRICT 9. The counties of Franklin, Jennings,

Jefferson, Ripley, Dearborn, Ohio, Clark, Switzerland, and Scott.

~~DISTRICT 10. All counties in Indiana.~~

(b) ~~The dean of the school of agriculture at Purdue University or the dean's designee shall serve as an ex officio member of the council.~~ **Six (6) council members shall be elected to represent all counties in Indiana.**

(c) The dean shall appoint one (1) representative of the largest general farm organization in Indiana to serve as a member of the council.

(d) The dean shall appoint one (1) representative of the second largest general farm organization in Indiana to serve as a member of the council.

~~(c)~~ **(e)** The director shall appoint two (2) representatives of first purchaser organizations to serve as **nonvoting** members of the council.

~~(d) The president pro tempore of the senate shall appoint one (1) member of the senate to serve as a member of the council. The speaker of the house of representatives shall appoint one (1) member of the house of representatives to serve as a member of the council.~~ **(f) Four (4) members serve on the council, to be appointed as nonvoting members as follows:**

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

(2) One (1) member appointed by the minority leader of the senate.

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

(4) One (1) member appointed by the minority leader of the house of representatives.

The members appointed under this subsection are ex officio members of the council. These appointed members shall at all times be members of different political parties. Notwithstanding any other law, the members appointed under this section are entitled to receive the per diem of members of the general assembly for time spent in attendance at the meetings of the council. Per diem of these members shall be paid by the council upon approval of the director.

(g) The dean or the dean's designee shall serve as an ex officio, nonvoting member of the council.

(h)The secretary of agriculture or the secretary's designee shall serve as an ex officio, nonvoting member of the council.

SECTION 13. IC 15-4-10-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. An election of a council member shall be held in a district in the year in which the term of the district's council member is to expire. Between ~~April~~ **January** 1 and ~~April~~ **March** 15 of that year, the council shall notify the producers of the district of the impending election by publishing one (1) notice in a statewide agricultural publication and by making information available to the news media in the district.

SECTION 14. IC 15-4-10-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) The ballot for the election of a district council member must bear the name of each producer who:

(1) meets the qualifications set forth in section 12(b) of this chapter; and

(2) files with the ~~director,~~ **council,** before June ~~16~~ **30** of the year of the election, a petition in support of candidacy signed by ten (10) other producers who reside in the district.

(b) The ~~director~~ **council** shall provide petition forms upon request and shall make forms available:

(1) at cooperative extension service offices located in the district; ~~The director shall determine the position of names on the ballot by drawing lots and shall provide the producers who have qualified to have their names on the ballot with advance notice of the time and place of the drawing.~~ **and**

(2) via the council's Internet web site.

(c) The council shall allow a producer to request a ballot through the council's Internet web site.

~~(c)~~ **(d)** No names other than the names of the producers who have qualified under this subsection may be printed on the ballot by the ~~director. A name may not be written in on the ballot by a producer.~~ **council. All names on the ballot must be listed in alphabetical order based on the producer's surname.**

(e) The council shall require that each producer who submits a ballot provides a separate attestation that the person is an eligible producer.

SECTION 15. IC 15-4-10-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) For ~~the~~ purposes of the election of a district council member, the ~~director~~ **council** shall provide an absentee ballot to every producer who:

(1) resides outside Indiana or expects to be absent from the district in which the producer resides on the day of the election; **and**

(2) requests an absentee ballot from the ~~director no~~ **council not less than five (5) days and not** more than thirty (30) days before the election. ~~and~~

~~(3) files with the director a notarized affidavit swearing or affirming that the producer is eligible to vote in the election.~~

(b) A producer's absentee ballot is not valid unless the ~~director~~ **council** receives the ballot ~~and the affidavit~~ from the producer at least two (2) ~~working~~ days before the election.

SECTION 16. IC 15-4-10-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. The election of a district council member shall be conducted by the council in August at voting places located within the district. The winner of an election takes office on the following ~~September~~ **October** 1.

SECTION 17. IC 15-4-10-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. (a) The council shall do the following:

(1) Elect a ~~chairman, vice chairman,~~ **president, vice president,** secretary, treasurer, and other officers the council considers necessary.

(2) Employ personnel and contract for services that are necessary for the proper implementation of this chapter.

(3) Bond the treasurer and such other persons as necessary to ensure adequate protection of funds received and administered by the council.

(4) Authorize the expenditure of funds and the contracting of expenditures to conduct proper activities under this chapter.

(5) Annually establish priorities and prepare and approve a budget consistent with the estimated resources of the council and the scope of this chapter.

(6) Annually publish an activities ~~and financial~~ report **and audit** and present ~~this~~ **the** report **and audit** to the director, **the dean, and the legislative council. The report and audit must:**

(A) be sent to the legislative council in an electronic format under IC 5-14-6; and

(B) be available on the council's Internet web site.

(7) Procure and evaluate data and information necessary for the proper implementation of this chapter.

(8) Formulate and execute assessment procedures and methods of collection.

(9) Receive and investigate, or cause to be investigated, complaints and violations of this chapter and take necessary action within its authority.

(10) Adopt bylaws and operating procedures governing operations of the council.

(11) Keep accurate accounts of all receipts and disbursements of funds handled by the council and have the receipts and disbursements audited annually by a certified public accountant.

(12) Establish and maintain an Internet web site.

~~(10)~~ **(13)** Take any other action necessary for the proper implementation of this chapter.

(b) ~~Seven (7)~~ **A majority of the voting members of the council constitutes a quorum. The** affirmative votes **of at least a majority of the quorum, and at least nine (9) affirmative votes,** are required for the council to take action.

SECTION 18. IC 15-4-10-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. **(a)** The council shall meet at least ~~once in each of the following periods:~~

~~(1) January, February, and March.~~

~~(2) April, May, and June.~~

~~(3) July, August, and September.~~

~~(4) October, November, and December.~~

three (3) times in each marketing year at the call of the president or at the request of two-thirds (2/3) of the members of the council.

(b) The council shall comply with the requirements under IC 5-14-1.5 (open door law).

SECTION 19. IC 15-4-10-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 24. (a) The council shall pay all expenses incurred under this chapter with money from the assessments remitted to the council under this chapter.

(b) The council may invest all money it receives under this chapter, including ~~assessments, gifts, and grants,~~ **any gifts or grants that are given for the express purpose of implementing this chapter,** in ~~any~~ **the same** way allowed by law for public funds.

(c) The council may expend money from assessments and from investment income not needed for expenses for the purpose of market development, **promotion, and research.**

(d) The council may not use money received, collected, or accrued under this chapter for any purpose other than the implementation of this chapter.

SECTION 20. IC 15-4-10-24.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 24.5. (a) The Indiana corn market development account is established within the state general fund for the ~~purpose~~ **purposes** of market development **and reimbursing the state for the E85 retail merchant deduction allowed under IC 6-2.5-7-5(d).** The account shall be administered by the council. The account consists of:

(1) assessments the council receives under this chapter;

(2) gifts; and

(3) grants.

(b) The expenses of administering this chapter shall be paid from money in the account. If the balance of the account is not more than five hundred thousand dollars ($500,000) in a fiscal year, the council may expend not more than twenty-five percent (25%) of the balance for administrative expenses. If the account has a balance of more than five hundred thousand dollars ($500,000) in a fiscal year, the council may spend an additional amount of not more than ten percent (10%) of the balance over five hundred thousand dollars ($500,000) for administrative expenses.

(c) Beginning on July 1, 2008, and on July 1 of each year thereafter, the budget agency shall transfer from the account an amount equal to the lesser of:

(1) twenty-five percent (25%) of the balance of the account on the immediately preceding June 30, before the deduction of any expenses under subsection (b); or

(2) the sum of all retail merchant deductions allowed under IC 6-2.5-7-5(d), and IC 6-2.5-7-5.5, in the immediately preceding state fiscal year.

The amount transferred under this subsection shall be deposited in the same manner as state gross retail and use taxes are required to be deposited under IC 6-2.5-10-1.

~~(c)~~ **(d)** The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

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

~~(e) Money in the account is continually appropriated to the council for purposes of this chapter.~~

SECTION 21. IC 15-4-10-26, AS AMENDED BY P.L.1-2006, SECTION 247, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 26. (a) An assessment of one-half cent ($0.005) per bushel ~~is permitted~~ **shall be collected** on all corn sold in Indiana. The assessment may be imposed and collected on a quantity of corn only once and shall be collected by the first purchaser. ~~if the producer exercises the option under subsection (b) to be included in the assessment. An assessment shall not be conducted on the producer without the producer's written consent.~~ **A buyer of corn who purchases more than one hundred thousand (100,000) bushels annually for the buyer's own use as seed or feed, is responsible only for collecting checkoff assessments on corn purchases made after the buyer exceeds the one hundred thousand (100,000) bushel threshold and becomes a first purchased under section 6(a) of this chapter.** The rate of the assessment imposed by this section may be ~~increased~~ **changed** only by the general assembly.

~~(b) In conjunction with the producer's first settlement with the first purchaser following June 30, 2001, the first purchaser shall make available to the producer the forms granting the producer the option to be included in the assessment and inform the producer of the option to be included. If the producer desires to be included in the assessment, the producer shall complete and sign a form, in writing, indicating the producer's desire to be included in the assessment permitted by subsection (a). It is a producer's obligation to return enrollment forms to a first purchaser. The first purchaser shall keep a record of each producer's desire to be included in the assessment, as indicated on the completed forms. Forms completed by a producer shall remain in effect until repealed in writing by the producer and delivered to the first purchaser. The initial enrollment by producers who want to participate in the corn marketing program must occur from July 1, 2001, through August 31, 2001. Corn market development assessments collected by a first purchaser begin on September 15, 2001. A change in participation by a producer to be included in the assessment or to discontinue the assessment does not take effect until July 1 following the producer's election to change. The department of agriculture shall prescribe the forms to be used under this subsection and distribute the forms to the first purchaser prior to July 1, 2001. The council shall reimburse the department of agriculture for the costs of preparation and distribution of the forms required by this subsection from the funds the council receives under this chapter. Auditing fees collected from this program and all other programs by the Indiana grain buyers and warehouse licensing agency revert to the office of agriculture account to cover administrative costs.~~

~~(c) If the producer indicates the desire to be included in the assessment permitted under subsection (a) by following the procedure described in subsection~~ (b) The first purchaser of a quantity of corn shall deduct the assessment on the corn from the sum of money to be paid to the producer based on the sale of the corn. A first purchaser shall accumulate assessments collected under this subsection throughout each of the following periods:

(1) January, February, and March.

(2) April, May, and June.

(3) July, August, and September.

(4) October, November, and December.

~~(d)~~ **(c)** At the end of each period, the first purchaser shall remit to the council all assessments collected during the period. A first

purchaser who remits all assessments collected during a period within ~~fifteen (15)~~ **thirty (30)** days after the end of the period is entitled to retain three percent (3%) of the total of the assessments as a handling fee.

SECTION 22. IC 15-4-10-26.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 26.5. (a) If a producer has sold corn and the state assessment was deducted from the sale price of the corn, the producer may secure a refund equal to the amount deducted upon filing a written application.**

(b) A producer's application for a refund under this section must be made to the council within one hundred eighty (180) days after the state assessment is deducted from the sale price of the producer's corn.

(c) The council shall provide application forms to a first purchaser for purposes of this section upon request and make application forms available on the council's Internet web site. Until July 1, 2009, a first purchaser shall provide an application form to each producer along with each settlement form that shows a deduction. After July 1, 2009, a first purchaser shall make application forms available in plain view at the first purchaser's place of business.

(d) Proof that an assessment has been deducted from the sale price of the producer's corn must be attached to each application for a refund submitted under this section by a producer. The proof that an assessment was deducted may be in the form of a duplicate or an original copy of the purchase invoice or settlement sheet from the first purchaser. The claim form and proof of assessment may be mailed or faxed to the council. The refund form must clearly state how to request a refund and the address where the form must be mailed or faxed.

(e) If a refund is due under this section, the council shall remit the refund to the producer not later than thirty (30) days after the date the producer's application and proof of assessment are received.

SECTION 23. IC 15-4-10-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. (a) A first purchaser shall keep detailed records of all assessments collected and remitted under this chapter **for at least three (3) years.**

(b) Upon request, a first purchaser shall supply the council with any information from records kept under subsection (a).

(c) The council may periodically audit a first purchaser's checkoff assessment and remittance records as kept under subsection (a). An audit must be conducted by a qualified public accountant of the council's choosing, and the costs of the audit shall be paid by the council.

SECTION 24. IC 15-4-10-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 30. (a) If a first purchaser fails to remit the assessments collected during a period defined in section 26 of this chapter within ~~forty-five (45)~~ **thirty (30)** days after the end of the period, the council shall contact the first purchaser and allow the first purchaser to present comments to the council concerning:

(1) the status and amount of the assessments due; and

(2) any reasons why the council should not bring legal action against the first purchaser.

(b) After allowing a first purchaser the opportunity to present comments, the council:

(1) ~~shall~~ **may** adjust the amount of the assessments due, if the first purchaser's comments reveal that the council's figure is inaccurate; ~~and~~

(2) may assess a penalty against the first purchaser; ~~of no more than ten percent (10%) of the amount of any assessments not remitted within forty-five (45) days after the end of the period.~~

(3) shall:

(A) assess a fee for an unpaid assessment due the council, from a person responsible for remitting assessments, at the rate of two percent (2%) of the amount of the unpaid assessment each month, beginning with the day following the date the assessment is due under this subsection; and

(B) if there is any remaining amount due after the assessment of the fee under clause (A), assess a fee at the same rate on the corresponding day of each month thereafter until the entire amount of the unpaid assessment is paid;

(4) shall compute the amounts payable on unpaid assessments under this section monthly and include any unpaid late charges previously applied under this section; and

(5) shall determine the date of a payment for purposes of this subsection by the postmark applied to the remitting envelope.

(c) If a first purchaser fails to remit assessments after being allowed to present comments under subsection (a) or to pay any penalty assessed under subsection (b), the council may bring a civil action against the first purchaser in the circuit, superior, or municipal court of any county. The action shall be tried and a judgment rendered as in any other proceeding for the collection of a debt. In an action under this subsection, the council may obtain:

(1) a judgment in the amount of all unremitted assessments and any unpaid penalty; and

(2) an award of the costs of bringing the action.

SECTION 25. IC 15-4-10-32 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 32. (a) Proceeds of the checkoff assessment collected by the council under this chapter may not be used to influence legislation or governmental action or policy.**

(b) Proceeds of the assessment collected under this chapter may be used to communicate information relating to the:

(1) conduct;

(2) implementation; or

(3) results;

of promotion, research, and market development activities to appropriate government officials.

(c) After January 1, 2009, proceeds of the assessment collected under this chapter may be used for action designed to market corn or corn products directly to a foreign government or a political subdivision of a foreign government. However, not more than five percent (5%) of the annual amount collected may be used under this subsection.

SECTION 26. IC 15-4-10-33 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 33. (a) For the marketing year beginning October 1, 2009, if at least twenty-five percent (25%) of the assessment is refunded during the marketing year, the council shall:**

(1) cease collecting the assessment on January 1 of the subsequent year;

(2) maintain a sufficient amount of money to pay for any refunds requested by producers; and

(3) request that the legislative council have legislation prepared to repeal the corn market law.

(b) If for the marketing year beginning October 1, 2009, less than twenty-five percent (25%) of the assessments are refunded, the council shall review the refunds for each year beginning with the marketing year beginning October 1, 2010. If refunds exceed twenty-five percent (25%) in two (2) consecutive marketing years, the council shall:

(1) cease collecting the assessment on the subsequent January 1 on the subsequent year;

(2) maintain a sufficient amount of money to pay for any refunds requested by producers; and

(3) request that the legislative council have legislation

prepared to repeal the corn market law.

(c) The dean and the council shall report to the legislative council the amounts collected and refunded. The report to the legislative council must be in an electronic format under IC 5-14-6.

SECTION 27. IC 15-4-10-34 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 34. The checkoff assessment and remittance record form must:**

(1) be in a format that allows a corn producer to submit the same form for an assessment refund;

(2) contain the address and fax number of where the assessment refund form may be sent;

(3) contain information concerning procedures to claim an assessment refund; and

(4) contain any other information determined necessary by the council.

SECTION 28. IC 26-3-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The agency may issue the following licenses:

(1) A grain bank license may be issued to a person that:

(A) stores only grain bank grain;

(B) has a storage capacity of not more than fifty thousand (50,000) bushels of grain; and

(C) purchases less than fifty thousand (50,000) bushels of grain per year.

(2) A warehouse license may be issued to a person that:

(A) stores grain for hire; and

(B) purchases less than fifty thousand (50,000) bushels of grain per year.

(3) A grain buyer license may be issued to a person that:

(A) purchases annually at least fifty thousand (50,000) bushels of grain that are not for the sole purpose of feeding the person's own livestock or poultry;

(B) does not store grain for hire; and

(C) offers deferred pricing, delayed payments, or contracts linked to the commodity futures or commodity options market in connection with grain purchases.

(4) A buyer-warehouse license may be issued to a person that operates both as a warehouse and as a grain buyer.

(b) An applicant shall file with the director a separate application for each license or amendment of a license at the times, on the forms, and containing the information that the director prescribes.

(c) An initial application for a license must be accompanied by a license fee as follows:

(1) For a grain bank or for a warehouse or buyer-warehouse with a storage capacity of less than two hundred fifty thousand (250,000) bushels, two hundred fifty dollars ($250) for the first facility and fifty dollars ($50) for each additional facility.

(2) For a warehouse or a buyer-warehouse with a storage capacity of at least two hundred fifty thousand (250,000) bushels but less than one million (1,000,000) bushels, five hundred dollars ($500) for the first facility and fifty dollars ($50) for each additional facility.

(3) For a warehouse or a buyer-warehouse with a storage capacity of at least one million (1,000,000) bushels but less than ten million (10,000,000) bushels, seven hundred fifty dollars ($750) for the first facility and fifty dollars ($50) for each additional facility.

(4) For a warehouse or buyer-warehouse with a storage capacity greater than ten million (10,000,000) bushels, one thousand dollars ($1,000) for the first facility and fifty dollars ($50) for each additional facility.

(5) For a grain buyer, including a grain buyer that is also licensed as a warehouse under the warehouse act, five hundred dollars ($500) for the first facility and fifty dollars ($50) for each additional facility.

The director may prorate the initial application fee for a license that is issued at least thirty (30) days after the anniversary date of the licensee's business.

(d) Before the anniversary date of the license, the licensee shall pay an annual fee in an amount equal to the amount required under subsection (c).

(e) A licensee or an applicant for an initial license must have a minimum current asset to current liability ratio of one to one (1:1) or better.

(f) An applicant for an initial license shall submit with the person's application a review level financial statement or better financial statement that reflects the applicant's financial situation on a date not more than fifteen (15) months before the date on which the application is submitted. Not more than ninety (90) days after the end of a licensee's fiscal year, the licensee shall file with the agency a current review level financial statement or better financial statement that reflects the licensee's financial situation for the fiscal year just ended. A financial statement submitted under this section must:

(1) be prepared by an independent accountant certified under IC 25-2.1;

(2) comply with generally accepted accounting principles; and

(3) contain:

(A) an income statement;

(B) a balance sheet;

(C) a statement of cash flow;

(D) a statement of retained earnings;

(E) the preparer's notes; and

(F) other information the agency may require.

The director may adopt rules under IC 4-22-2 to allow the agency to accept other substantial supporting documents instead of those listed to determine the financial solvency of the applicant if the director determines that providing the listed documents creates a financial or other hardship on the applicant or licensee.

(g) An application for a license implies a consent to be inspected.

(h) A person that:

(1) does not operate a facility used to store grain for hire;

(2) purchases:

(A) less than fifty thousand (50,000) bushels of grain per year; or

(B) only grain used for the production of the person's own livestock or poultry; and

(3) does not purchase grain by:

(A) offering deferred pricing;

(B) offering delayed payment; or

(C) offering other contracts;

that are linked to the commodity futures or commodity options market;

is not required to be licensed.

(i) Fees collected under this section shall be deposited in the grain buyers and warehouse licensing agency license fee fund established by section 6.3 of this chapter.

SECTION 29. IC 26-3-7-6.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 6.3. (a) The grain buyers and warehouse licensing agency license fee fund is established to provide funds for the administration of this chapter. The fund shall be administered by the agency. The fund consists of:**

(1) the moisture testing device inspection fees collected under IC 4-4-27-3;

(2) the licensing fees collected under section 6 of this chapter;

(3) gifts and bequests; and

(4) appropriations made by the general assembly.

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

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

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

SECTION 30. [EFFECTIVE JULY 1, 2007] **IC 6-2.5-7-5.5, as added by this act, applies to reporting periods ending after June 30, 2007.**

SECTION 31. [EFFECTIVE JULY 1, 2007] **(a) The definitions in IC 15-4-10 apply to this SECTION.**

(b) Money in the Indiana corn market development account under IC 15-4-10-24.5 shall be used to pay for the administrative costs of the requirements under IC 15-4-10, as amended by this act. However, if the money in the Indiana corn market development account is insufficient to pay for the administrative costs, the council may borrow funds to pay for the administrative costs.

(c) Before September 1, 2007, the council shall prepare and deliver all necessary forms concerning assessment refunds and information concerning the operation of the program to all first purchasers.

(d) This SECTION expires July 1, 2008.

SECTION 32. [EFFECTIVE JULY 1, 2007] **(a) The definitions in IC 15-4-10 apply to this SECTION.**

(b) Notwithstanding IC 15-4-10-15(b), as amended by this act, the three (3) year term limit begins for individuals appointed by the council after July 1, 2007.

(c) This SECTION expires July 1, 2010.

(Reference is to ESB 250 as reprinted April 10, 2007.)

GARD	GRUBB
R. YOUNG	GUTWEIN
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT
ESB 270–1; filed April 27, 2007, at 7:26 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 270 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 6-2.5-7-5, AS AMENDED BY P.L.122-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) Each retail merchant who dispenses gasoline or special fuel from a metered pump shall, in the manner prescribed in IC 6-2.5-6, report to the department the following information:

(1) The total number of gallons of gasoline sold from a metered pump during the period covered by the report.

(2) The total amount of money received from the sale of gasoline described in subdivision (1) during the period covered by the report.

(3) That portion of the amount described in subdivision (2) which represents state and federal taxes imposed under this article, IC 6-6-1.1, or Section 4081 of the Internal Revenue Code.

(4) The total number of gallons of special fuel sold from a metered pump during the period covered by the report.

(5) The total amount of money received from the sale of special fuel during the period covered by the report.

(6) That portion of the amount described in subdivision (5) that represents state and federal taxes imposed under this article, IC 6-6-2.5, or Section 4041 of the Internal Revenue Code.

(7) The total number of gallons of E85 sold from a metered pump during the period covered by the report.

(b) Concurrently with filing the report, the retail merchant shall remit the state gross retail tax in an amount which equals five and sixty-six hundredths percent (5.66%) of the gross receipts, including state gross retail taxes but excluding Indiana and federal gasoline and special fuel taxes, received by the retail merchant from the sale of the gasoline and special fuel that is covered by the report and on which the retail merchant was required to collect state gross retail tax. The retail merchant shall remit that amount regardless of the amount of state gross retail tax which he has actually collected under this chapter. However, the retail merchant is entitled to deduct and retain the amounts prescribed in subsection (c), IC 6-2.5-6-10, and IC 6-2.5-6-11.

(c) A retail merchant is entitled to deduct from the amount of state gross retail tax required to be remitted under subsection (b) the amount determined under STEP THREE of the following formula:

STEP ONE: Determine:

(A) the sum of the prepayment amounts made during the period covered by the retail merchant's report; minus

(B) the sum of prepayment amounts collected by the retail merchant, in the merchant's capacity as a qualified distributor, during the period covered by the retail merchant's report.

STEP TWO: Subject to subsection (d), for reporting periods ending before July 1, ~~2008,~~ **2020,** determine the product of:

(A) ~~ten~~ **eighteen** cents ~~($0.10),~~ **($0.18);** multiplied by

(B) the number of gallons of E85 sold at retail by the retail merchant during the period covered by the retail merchant's report.

STEP THREE: Add the amounts determined under STEPS ONE and TWO.

For purposes of this section, a prepayment of the gross retail tax is presumed to occur on the date on which it is invoiced.

(d) The total amount of deductions allowed under subsection (c) STEP TWO may not exceed ~~two~~ **one** million dollars ~~($2,000,000)~~ **($1,000,000)** for all retail merchants in all reporting periods. A retail merchant is not required to apply for an allocation of deductions under subsection (c) STEP TWO. If the department determines that the sum of:

(1) the deductions that would otherwise be reported under subsection (c) STEP TWO for a reporting period; plus

(2) the total amount of deductions granted under subsection (c) STEP TWO in all preceding reporting periods;

will exceed ~~two~~ **one** million dollars ~~($2,000,000),~~ **($1,000,000),** the department shall publish in the Indiana Register a notice that the deduction program under subsection (c) STEP TWO is terminated after the date specified in the notice and that no additional deductions will be granted for retail transactions occurring after the date specified in the notice.

SECTION 2. IC 8-14-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 4. (a) The auditor of state shall establish a special account to be called the "local road and street account" and credit this account monthly with forty-five percent (45%) of the money deposited in the highway, road and street fund.

(b) The auditor shall distribute to units of local government money from this account each month. **Before making any other distributions under this chapter, the auditor shall distribute E85 incentive payments to all political subdivisions entitled to a payment under section 8 of this chapter.**

(c) **After distributing E85 incentive payments required under section 8 of this chapter,** the auditor of state shall allocate to each county the **remaining** money in this account on the basis of the ratio of each county's passenger car registrations to the total passenger car registrations of the state. The auditor shall further determine the suballocation between the county and the cities within the county as follows:

(1) In counties having a population of more than fifty thousand (50,000), sixty percent (60%) of the money shall be distributed on the basis of the population of the city or town as a percentage of the total population of the county and forty percent (40%) distributed on the basis of the ratio of city and town street mileage to county road mileage.

(2) In counties having a population of fifty thousand (50,000) or less, twenty percent (20%) of the money shall be distributed on the basis of the population of the city or town as a percentage of the total population of the county and eighty percent (80%) distributed on the basis of the ratio of city and town street mileage to county road mileage.

(3) For the purposes of allocating funds as provided in this section, towns which become incorporated as a town between the effective dates of decennial censuses shall be eligible for allocations upon the effectiveness of a corrected population count for the town under IC 1-1-3.5.

(4) Money allocated under the provisions of this section to counties containing a consolidated city shall be credited or allocated to the department of transportation of the consolidated city.

(d) Each month the auditor of state shall inform the department of the amounts allocated to each unit of local government from the local road and street account.

SECTION 3. IC 8-14-2-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 8. (a) As used in this section, "administrator" has the meaning set forth in IC 6-6-1.1-103(a).**

(b) As used in this section, "E85" has the meaning set forth in IC 6-6-1.1-103(s).

(c) As used in this section, "qualified motor vehicle" means a motor vehicle that may be fueled by E85.

(d) A political subdivision is entitled to a monthly E85 incentive payment under this section if at least seventy-five percent (75%) of the motor fuel purchased by the political subdivision in the preceding calendar month for use in the political subdivision's qualified motor vehicles was E85.

(e) Subject to subsection (i), the amount of a monthly E85 incentive payment to which a political subdivision is entitled under this section is equal to:

(1) the total number of qualified motor vehicles owned by the political subdivision; multiplied by

(2) thirty-three dollars and thirty-three cents ($33.33).

(f) To claim an E85 incentive payment under this section, the fiscal officer of a political subdivision must present to the auditor of state a statement that:

(1) contains a written verification that the incentive payment claim is made under penalties of perjury; and

(2) sets forth:

(A) the total number of qualified motor vehicles owned by the political subdivision;

(B) the total amount of E85 purchased by the political subdivision in the preceding calendar month for use in each qualified motor vehicle described in clause (A); and

(C) the total amount of motor fuel purchased for use in each qualified motor vehicle described in clause (A).

(g) The auditor of state may request the administrator to make investigations the auditor of state considers necessary before issuing an E85 incentive payment under this section. The administrator shall provide any assistance requested under this section. Upon the request of the administrator, a political subdivision shall furnish to the administrator sufficient documentation to prove the validity of the information presented under subsection (f).

(h) If an E85 incentive payment is not issued within ninety (90) days after filing of the verified statement and all supplemental information required by subsection (g), the auditor of state shall pay interest at the rate established by IC 6-8.1-9 computed from the date of filing of the verified statement and all supplemental information required under this section until a date determined by the auditor of state that does not precede by more than thirty (30) days the date on which the E85 incentive payment is made.

(i) A political subdivision is not entitled to an E85 incentive payment for E85 used in a qualified motor vehicle owned by the political subdivision after December 31 of the fifth calendar year of the political subdivision's ownership of the qualified motor vehicle.

(j) This section expires January 1, 2015.

SECTION 4. IC 15-9-5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 5. E85 Fueling Station Grant Program

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

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

(1) a tank;

(2) a pump; and

(3) other components;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) in conformity with applicable governmental

standards, if any, and other nationally recognized standards applying to storage and handling of E85 base fuel, as determined under the standards prescribed by the department.

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

(1) makes a qualified investment; and

(2) places the qualified investment in service;

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

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

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

(b) The amount of a grant awarded under this chapter may not exceed the lesser of the following:

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

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

Sec. 9. The department shall do the following:

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

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

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

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

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

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

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

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

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

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

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

SECTION 5. [EFFECTIVE JULY 1, 2007] **IC 6-2.5-7-5, as amended by this act, applies to reporting periods ending after June 30, 2007.**

SECTION 6. [EFFECTIVE JULY 1, 2007] **(a) There is appropriated to the department of agriculture one million dollars ($1,000,000) from the state general fund for deposit in the E85 fueling station grant fund established under IC 15-9-5, as added by this act, beginning July 1, 2007, and ending June 30, 2008.**

(b) This SECTION expires July 1, 2008.

SECTION 7. [EFFECTIVE JANUARY 1, 2008] **(a) IC 8-14-2-8, as added by this act, applies to a political subdivision's purchase of E85 (as defined in IC 6-6-1.1-103(s)) occurring after December 31, 2007.**

(b) A political subdivision may not claim an E85 incentive payment for any purchase of E85 occurring after December 31, 2014.

(Reference is to ESB 270 as reprinted April 3, 2007.)

HEINOLD	GRUBB
LEWIS	ULMER
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT

EHB 1566–2; filed April 28, 2007, at 8:38 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 1566 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 4-13-16.5-1, AS AMENDED BY SEA 526-2007, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **(a)** The ~~following~~ definitions **in this section** apply throughout this chapter.

~~(1)~~ **(b)** "Commission" refers to the governor's commission on minority and women's business enterprises established under section 2 of this chapter.

~~(2)~~ **(c)** "Commissioner" refers to the deputy commissioner for minority and women's business enterprises of the department.

~~(3)~~ **(d)** "Contract" means any contract awarded by a state agency for construction projects or the procurement of goods or services, including professional services.

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

~~(5)~~ **(f)** "Minority business enterprise" or "minority business" means an individual, partnership, corporation, limited liability company, or joint venture of any kind that is owned and controlled by one (1) or more persons who are:

~~(A)~~ **(1)** United States citizens; and

~~(B)~~ **(2)** members of a minority group **or a qualified minority or women's nonprofit corporation.**

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

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

(2) is headquartered in Indiana;

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

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

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

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

~~(6)~~ **(h)** "Owned and controlled" means: ~~having:~~

(1) if the business is a qualified minority or women's nonprofit corporation, a majority of the board of directors; or

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

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

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

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

~~(7)~~ **(i)** "Minority group" means:

~~(A)~~ **(1)** Blacks;

~~(B)~~ **(2)** American Indians;

~~(C)~~ **(3)** Hispanics;

~~(D)~~ **(4)** Asian Americans; and

~~(E)~~ **(5)** other similar minority groups. ~~as defined by 13 CFR 124.103.~~

~~(8)~~ **(j)** "Separate body corporate and politic" refers to an entity established by the general assembly as a body corporate and politic.

~~(9)~~ **(k)** "State agency" refers to any authority, board, branch, commission, committee, department, division, or other instrumentality of the executive, including the administrative, department of state government

SECTION 2. IC 4-13-16.5-2, AS AMENDED BY P.L.4-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) There is established a governor's commission on minority and women's business enterprises. The commission shall consist of the following members:

(1) A governor's designee, who shall serve as chairman of the commission.

(2) The commissioner of the Indiana department of transportation.

(3) The chairperson of the board of the Indiana economic development corporation or the chairperson's designee.

(4) The commissioner of the department.

(5) Nine (9) individuals with demonstrated capabilities in business and industry, especially minority and women's business enterprises, appointed by the governor from the following geographical areas of the state:

(A) Three (3) from the northern one-third (1/3) of the state.

(B) Three (3) from the central one-third (1/3) of the state.

(C) Three (3) from the southern one-third (1/3) of the state.

(6) Two (2) members of the house of representatives, no more than one (1) from the same political party, appointed by the speaker of the house of representatives to serve in a nonvoting advisory capacity.

(7) Two (2) members of the senate, no more than one (1) from the same political party, appointed by the president pro tempore of the senate to serve in a nonvoting advisory capacity.

Not more than six (6) of the ten (10) members appointed or designated by the governor may be of the same political party. Appointed members of the commission shall serve four (4) year terms. A vacancy occurs if a legislative member leaves office for any reason. Any vacancy on the commission shall be filled in the same manner as the original appointment.

(b) Each member of the commission who is not a state employee is entitled to the following:

(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

(2) Reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided under IC 4-13-1-4 and in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each legislative member of the commission is entitled to receive the same per diem, mileage, and travel allowances established by the legislative council and paid to members of the general assembly serving on interim study committees. The allowances specified in this subsection shall be paid by the legislative services agency from the amounts appropriated for that purpose.

(d) A member of the commission who is a state employee but who is not a member of the general assembly is not entitled to any of the following:

(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

(2) Reimbursement for traveling expenses as provided under IC 4-13-1-4.

(3) Other expenses actually incurred in connection with the member's duties.

(e) The commission shall meet at least four (4) times each year and at other times as the chairman considers necessary.

(f) The duties of the commission shall include but not be limited to the following:

(1) Identify minority and women's business enterprises in the state.

(2) Assess the needs of minority and women's business enterprises.

(3) Initiate aggressive programs to assist minority and women's business enterprises in obtaining state contracts.

(4) Give special publicity to procurement, bidding, and qualifying procedures.

(5) Include minority and women's business enterprises on solicitation mailing lists.

(6) Evaluate the competitive differences between qualified minority or women's nonprofit corporations and other than qualified minority or women's nonprofit corporations that offer similar services and make recommendation to the department on policy changes necessary to ensure fair competition among minority and women's business enterprises.

~~(6)~~ **(7)** Define the duties, goals, and objectives of the deputy commissioner of the department as created under this chapter to assure compliance by all state agencies, separate bodies corporate and politic, and state educational institutions with state and federal legislation and policy concerning the awarding of contracts **(including, notwithstanding section 1(d) of this chapter or any other law, contracts of state educational institutions)** to minority and women's business enterprises.

~~(7)~~ **(8)** Establish annual goals:

(A) for the use of minority and women's business enterprises; and

(B) derived from a statistical analysis of utilization study of state contracts **(including, notwithstanding section 1(d) of this chapter or any other law, contracts of state educational institutions)** that are required to be updated every five (5) years.

~~(8)~~ **(9)** Prepare a review of the commission and the various affected departments of government to be submitted to the governor and the legislative council on March 1 and October 1 of each year, evaluating progress made in the areas defined in this subsection.

(10) Ensure that the statistical analysis required under this section:

(A) is based on goals for participation of minority business enterprises established in Richmond v. Croson, 488 U.S. 469 (1989);

(B) includes information on both contracts and subcontracts (including, notwithstanding section 1(d) of this chapter or any other law, contracts and subcontracts of state educational institutions); and

(C) uses data on the combined capacity of minority and women's businesses enterprises in Indiana and not just regional data.

(g) The department shall adopt rules of ethics under IC 4-22-2 for commission members other than commission members appointed under subsection (a)(6) or (a)(7).

(h) The department shall furnish administrative support and staff as is necessary for the effective operation of the commission.

SECTION 3. IC 4-13-16.5-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 8. (a) This section applies to a contractor whose offer designated minority businesses or women's business enterprises to furnish any supplies or perform any work under the contract awarded to the contractor.**

(b) As used in this section, "contract" refers to any of the following:

(1) A contract for the purchase of supplies by a state agency.

(2) A contract for the performance of services for a state agency.

(3) A public works contract (as defined in IC 4-13.6-1-14).

(4) A contract to perform professional services (as defined in IC 4-13.6-1-11) in connection with a public works contract.

(c) As used in this section, "contractor" refers to a person awarded a contract by a state agency.

(d) As used in this section, "offer" means a response to a solicitation. The term includes a bid, proposal, and quote.

(e) As used in this section, "solicitation" means the procedure by which a state agency invites persons to submit an offer to enter into a contract with the state agency. The term includes an invitation for bids, a request for proposals, and a request for quotes.

(f) Before beginning work on a contract, a contractor shall do the following:

(1) Notify in writing each minority business and women's business enterprise designated in the contractor's offer that the contractor has been awarded the contract.

(2) Give copies of each notification to the state agency that awarded the contract.

(g) If a contractor fails to comply with subsection (f), the awarding state agency may consider the failure a breach of contract and do any of the following:

(1) Cancel the contract.

(2) Collect from the contractor all funds paid to the contractor under the contract.

(3) Exercise any of the state's rights set out in the contract.

(4) Use the failure as a basis for finding the contractor not responsible when awarding other contracts.

SECTION 4. IC 4-13-16.5-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 9. (a) The department shall adopt rules under IC 4-22-2 to establish procedures to resolve grievances arising under this chapter.**

(b) The rules may include informal procedures to resolve grievances.

(c) The procedures established under the rules must provide for final resolution of grievances before either of the following:

(1) A panel of three (3) commission members. A panel formed under this subdivision must consist of at least two (2) commission members described in section 2(a)(5) of this chapter.

(2) The commission. However, if the commission acts to resolve a grievance under this subdivision, members of the commission described in section 2(a)(6) or 2(a)(7) may not participate in the proceeding.

(d) Final resolution of grievances arising under this chapter are subject to IC 4-21.5.

SECTION 5. [EFFECTIVE JULY 1, 2007] **(a) Notwithstanding the provisions in IC 4-13-16.5-2, as amended by this act, requiring that statistical analysis of the use of minority and women's business enterprises must be updated every five (5) years, the commission on minority and women's business enterprises shall:**

(1) conduct; or

(2) enter into a contract for;

the statistical analysis of the use of minority and women's business enterprises during the fiscal year beginning July 1, 2007, and ending June 30, 2008.

(b) The criteria for the analysis in IC 4-13-16.5-2, as amended by this act, must be used for the statistical analysis required under this SECTION.

(c) This SECTION expires December 31, 2008.

(Reference is to EHB 1566 as reprinted April 11. 2007.

CRAWFORD	FORD
DUNCAN	SIMPSON
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
ESB 461–1; filed April 28, 2007, at 9:26 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 461 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 4-22-2.1-6, AS ADDED BY P.L.188-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) Not later than seven (7) days before the date of the public hearing set forth in the agency's notice under IC 4-22-2-24, the corporation shall do the following:

(1) Review the proposed rule and economic impact statement submitted to the corporation by the agency under section 5(c) of this chapter.

(2) Submit written comments to the agency on the proposed rule and the economic impact statement prepared by the agency under section 5 of this chapter. The corporation's comments may:

(A) recommend that the agency implement one (1) or more of the regulatory alternatives considered by the agency under section 5(a)(5) of this chapter;

(B) suggest regulatory alternatives not considered by the agency under section 5(a)(5) of this chapter;

(C) recommend any other changes to the proposed rule that would minimize the economic impact of the proposed rule on small businesses; or

(D) recommend that the agency abandon or delay the rulemaking action until:

(i) more data on the impact of the proposed rule on small businesses can be gathered and evaluated; or

(ii) less intrusive or less costly alternative methods of achieving the purpose of the proposed rule can be effectively implemented with respect to small businesses.

(b) Upon receipt of the corporation's written comments under subsection (a), the agency shall make the comments available:

(1) for public inspection and copying at the offices of the agency under IC 5-14-3;

(2) electronically through the electronic gateway administered **under IC 4-13.1-2-2(a)(5)** by the ~~intelenet commission,~~ **office of technology;** and

(3) for distribution at the public hearing required by IC 4-22-2-26.

(c) Before finally adopting a rule under IC 4-22-2-29, and in the same manner that the agency considers public comments under IC 4-22-2-27, the agency must fully consider the comments submitted by the corporation under subsection (a). After considering the comments under this subsection, the agency may:

(1) adopt any version of the rule permitted under IC 4-22-2-29; or

(2) abandon or delay the rulemaking action as recommended by the corporation under subsection (a)(2)(D), if applicable.

SECTION 2. IC 4-23-7.3 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 7.3. Indiana GIS Mapping Standards

Sec. 1. As used in this chapter, "data exchange agreement" means an agreement concerning the exchange of any GIS data or framework data.

Sec. 2. As used in this chapter, "electronic map" has the meaning set forth in IC 5-14-3-2(d).

Sec. 3. (a) As used in this chapter, "framework data" means common electronic map information for a geographic area.

(b) The term includes the following:

(1) Digital orthophotography.

(2) Digital cadastre.

(3) Public land survey system.

(4) Elevation.

(5) Geodetic control.

(6) Governmental boundary units.

(7) Water features.

(8) Addresses.

(9) Streets.

Sec. 4. As used in this chapter, "fund" refers to the Indiana mapping data and standards fund established by section 19 of this chapter.

Sec. 5. As used in this chapter, "GIS" refers to geographic information systems.

Sec. 6. As used in this chapter, "IGIC" refers to the nonprofit entity known as the Indiana Geographic Information Council, or its successor organization.

Sec. 7. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

Sec. 8. As used in this chapter, "state agency" has the meaning set forth in IC 4-13-1-1.

Sec. 9. As used in this chapter, "state data center" refers to the state data center established under IC 4-23-7.1.

Sec. 10. As used in this chapter, "state GIS officer" refers to the individual appointed under section 13 of this chapter.

Sec. 11. As used in this chapter, "statewide base map" means an electronic map of Indiana consisting of framework data for Indiana.

Sec. 12. As used in this chapter, "statewide data integration plan" means a plan:

(1) to integrate GIS data and framework data developed and maintained by different units of the federal, state, and local government into statewide coverage of framework data; and

(2) that includes details for:

(A) an inventory of existing data;

(B) stakeholder data requirements;

(C) identification of data stewards;

(D) data standards and schema, costs, work flow, data transfer mechanisms, update frequency, and maintenance; and

(E) identification of appropriate data sharing policies and mechanisms to facilitate intergovernmental data exchange, such as data exchange agreements.

Sec. 13. (a) The governor shall appoint an individual as the state GIS officer.

(b) The individual appointed by the governor must be an experienced geography and mapping professional who has:

(1) extensive knowledge of the principles, practices, terminology, and trends in GIS, spatial data, analysis, and related technology; and

(2) experience in administration, project management, policy development, coordination of services, and planning.

Sec. 14. The state GIS officer shall do the following:

(1) Function as the chief officer for GIS matters for state agencies.

(2) Review and either veto or adopt both the:

(A) state's GIS data standards; and

(B) statewide data integration plan;

as recommended by the IGIC. If either of the recommendations is vetoed, the state GIS officer shall return the recommendation to the IGIC with a message announcing the veto and stating the reasons for the veto. If the IGIC ceases to exist or refuses to make the recommendations listed in this subsection, the state GIS officer may develop and adopt state GIS data standards and a statewide data integration plan. The standards and the plan adopted under this subsection must promote interoperability and open use of data with various GIS software, applications, computer hardware, and computer operating systems.

(3) Act as the administrator of:

(A) the state standards and policies concerning GIS data and framework data; and

(B) the statewide data integration plan.

(4) Enforce the state GIS data standards and execute the statewide data integration plan adopted under subdivision (2) through the use of:

(A) GIS policies developed for state agencies; and

(B) data exchange agreements involving an entity other than a state agency.

(5) Coordinate the state data center's duties under this chapter.

(6) Act as the state's representative for:

(A) requesting grants available for the acquisition or enhancement of GIS resources; and

(B) preparing funding proposals for grants to enhance coordination and implementation of GIS.

(7) Review and approve, in accordance with the statewide data integration plan, the procurement of GIS goods and services involving the state data center or a state agency.

(8) Cooperate with the United States Board on Geographic Names established by P.L.80-242 by serving as the chair of a committee formed with the IGIC as the state names authority for Indiana.

(9) Publish a biennial report. The report must include the status and metrics on the progress of the statewide data integration plan.

(10) Represent the state's interest to federal agencies regarding the National Spatial Data Infrastructure.

(11) Serve as the state's primary point of contact for communications and discussions with federal agencies regarding framework data, spatial data exchanges, cost leveraging opportunities, spatial data standards, and other GIS related issues.

(12) Facilitate GIS data cooperation between units of the federal, state, and local governments.

(13) Promote the development and maintenance of statewide GIS data and framework data layers associated with a statewide base map.

(14) Approve and maintain data exchange agreements

to which the state data center or a state agency is a party to increase the amount and quality of GIS data and framework data available to the state.

(15) Use personnel made available from state educational institutions to provide technical support to the:

(A) state GIS officer in carrying out the officer's duties under this chapter; and

(B) IGIC.

Sec. 15. The publication and access requirements of this chapter do not apply to data that would otherwise be exempt from public disclosure under IC 5-14-3-4(b)(19).

Sec. 16. With money from the fund, the state GIS officer, through the data center, the IGIC, and the other organizations, shall do the following:

(1) Ensure that there are adequate depositories of all GIS data and framework data obtained by a state agency.

(2) Acquire, publish, store, and distribute GIS data and framework data through the computer gateway administered under IC 4-13.1-2-2(a)(5) by the office of technology and through the state data center. The state GIS officer may also provide access through the IGIC and other entities as directed by the state GIS officer.

(3) Integrate GIS data and framework data developed and maintained by state agencies and political subdivisions into the statewide base map.

(4) Maintain a state historical archive of GIS data, framework data, and electronic maps.

(5) Except as otherwise provided in this chapter, provide public access to GIS data and framework data in locations throughout Indiana.

(6) Provide assistance to state agencies and political subdivisions regarding public access to GIS data and framework data so that information is available to the public while confidentiality is protected for certain data from electronic maps.

(7) Develop and maintain statewide framework data layers associated with a statewide base map or electronic map.

(8) Publish and distribute the state GIS data standards and the statewide data integration plan adopted under section 14(2) of this chapter.

(9) Subject to section 20 of this chapter, make GIS data, framework data, and electronic maps available for use by the Indiana Business Research Center.

Sec. 17. The state GIS officer shall coordinate with state educational institutions to do the following:

(1) Promote formal GIS education opportunities for full-time and part-time students.

(2) Provide informal GIS learning opportunities through a series of seminars and noncredit concentrated classes provided throughout Indiana.

(3) Coordinate research assets for the benefit of Indiana by maintaining inventories of the universities' academic and technical GIS experts, data and technology resources as provided by the universities, and research interests for collaboration to pursue research grant opportunities.

(4) Implement an outreach network to Indiana political subdivisions to enhance communication and data sharing among state government, political subdivisions, and the business community.

Sec. 18. (a) Except as provided in subsection (b), a state educational institution may not bid on contracts to provide photogrametry services or framework layer data conversion services for the benefit of a state agency or political subdivision. This section shall not be construed to prohibit the purchase of any of the following by a state agency or political subdivision from a state educational institution:

(1) GIS data or framework data.

(2) Data previously created by the state educational institution as part of the educational, research, or service mission of the state educational institution.

(b) If there is a lack of qualified bids on contracts referred to in subsection (a) by entities other than state educational institutions, the state agency or political subdivision may, with the advice of the state GIS officer, solicit bids from state educational institutions.

Sec. 19. (a) The Indiana mapping data and standards fund is established for the following purposes:

(1) Funding GIS grants.

(2) Administering this chapter.

(b) The fund consists of the following:

(1) Appropriations made to the fund by the general assembly.

(2) Gifts, grants, or other money received by the state for GIS purposes.

(c) The state GIS officer shall administer the fund.

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

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

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

Sec. 20. (a) Except as provided in subsections (b), (c), and (d), a political subdivision maintains the right to control the sale, exchange, and distribution of any GIS data or framework data provided by the political subdivision to the state through a data exchange agreement entered into under this chapter.

(b) A political subdivision may agree, through a provision in a data exchange agreement, to allow the sale, exchange, or distribution of GIS data or framework data provided to the state.

(c) Subsection (a) does not apply to data that is otherwise required by state or federal law to be provided by a political subdivision to the state or federal government.

(d) As a condition in a data exchange agreement for providing state GIS data or framework data to a political subdivision, the state GIS officer may require the political subdivision to follow the state GIS data standards and the statewide data integration plan when the political subdivision makes use of the GIS data or framework data as provided by the state.

Sec. 21. (a) Nothing in this chapter shall be construed to permit the IGIC, the state GIS officer, or the state data center to recommend or restrict standards for GIS hardware or software that a proprietary vendor provides to any political subdivision.

(b) It is the intent of the general assembly in enacting this chapter to promote high technology enterprise and employment within Indiana. To the extent practicable, the "Buy Indiana Presumption" required by Executive Order 05-05, shall be observed with respect to all procurement decisions related to this chapter, so long as Executive Order 05-05 is in effect.

Sec. 22. The publication and access requirements of this chapter do not supersede IC 5-14-3.

SECTION 3. IC 5-22-22-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4.5. (a) The purchasing agency may sell surplus property using an Internet auction site that satisfies both of the following:

(1) The site is approved by the ~~intelenet commission.~~ **office of technology established by IC 4-13.1-2-1.**

(2) The site is linked to the electronic gateway administered **under IC 4-13.1-2-2(a)(5)** by the ~~intelenet~~

~~commission.~~ **office of technology.**

(b) The purchasing agency's posting of the sale on the Internet auction site must include a detailed description of the surplus property to be sold.

(c) The purchasing agency may pay the costs of conducting the auction on the Internet site as required by the person maintaining the auction site.

SECTION 4. IC 9-14-3-5, AS AMENDED BY P.L.210-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) Except as provided in subsection (b), (d), or (e), the bureau shall prepare and deliver information on titles, registrations, and licenses and permits upon the request of any person. All requests must be:

(1) submitted in writing; or

(2) made electronically through the computer gateway administered **under IC 4-13.1-2-2(a)(5)** by the ~~intelenet commission under IC 5-21,~~ **office of technology;**

to the bureau and, unless exempted under IC 9-29, must be accompanied by the payment of the fee prescribed in IC 9-29-2-2.

(b) The bureau shall not disclose:

(1) the Social Security number;

(2) the federal identification number;

(3) the driver's license number;

(4) the digital image of the driver's license applicant;

(5) a reproduction of the signature secured under IC 9-24-9-1 or IC 9-24-16-3; or

(6) medical or disability information;

of any person except as provided in subsection (c).

(c) The bureau may disclose any information listed in subsection (b):

(1) to a law enforcement officer;

(2) to an agent or a designee of the department of state revenue;

(3) for uses permitted under IC 9-14-3.5-10(1), IC 9-14-3.5-10(4), IC 9-14-3.5-10(6), and IC 9-14-3.5-10(9); or

(4) for voter registration and election purposes required under IC 3-7 or IC 9-24-2.5.

(d) As provided under 42 U.S.C. 1973gg-3(b), the commission may not disclose any information concerning the failure of an applicant for a motor vehicle driver's license to sign a voter registration application, except as authorized under IC 3-7-14.

(e) The commission may not disclose any information concerning the failure of an applicant for a title, registration, license, or permit (other than a motor vehicle license described under subsection (d)) to sign a voter registration application, except as authorized under IC 3-7-14.

SECTION 5. IC 9-29-2-2, AS AMENDED BY P.L.210-2005, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The fee to obtain information regarding vehicle titles under IC 9-14-3-5 is:

(1) four dollars ($4) for each record requested in writing; and

(2) a fee to be determined by the bureau not to exceed four dollars ($4), in conformance with IC 5-14-3-8, for each record requested electronically through the computer gateway administered **under IC 4-13.1-2-2(a)(5)** by the ~~intelenet commission under IC 5-21,~~ **office of technology;**

plus any service fee charged by the ~~intelenet commission.~~ **office of technology established by IC 4-13.1-2-1.**

(b) The fee to obtain information regarding a license, vehicle registration, or permit under IC 9-14-3-5 is four dollars ($4) for a record requested either:

(1) in writing; or

(2) electronically through the computer gateway administered **under IC 4-13.1-2-2(a)(5)** by the ~~intelenet commission under IC 5-21,~~ **office of technology;**

plus any service fee charged by the ~~intelenet commission.~~ **office of technology established by IC 4-13.1-2-1.**

(c) The fee imposed by this section and paid to the bureau is in lieu of fees established under IC 5-14-3-8 and does not apply to a law enforcement agency or an agency of government.

SECTION 6. IC 5-21 IS REPEALED [EFFECTIVE JULY 1, 2007].

(Reference is to ESB 461 as reprinted April 3, 2007.)

FORD	RESKE
MRVAN	MURPHY
Senate Conferees	House Conferees

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

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 1774 and that the House now concur in the Senate amendments to said bill.

VAN HAAFTEN

Roll Call 625: yeas 87, nays 0. Motion prevailed.

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

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 reports are eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 12 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed Senate Bills 9–1, 128–1, 330–2, and 520–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee reports are eligible for consideration after April 11 and that House Rule 164.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 12 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed Senate Bills 9–1, 128–1, 330–2, and 520–1.

PELATH, Chair

Motion prevailed.

Engrossed Senate Bill 9–1

The conference committee report was reread. Representative Turner was excused from voting, pursuant to House Rule 46. Roll Call 626: yeas 84, nays 8. Report adopted.

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

Representative L. Lawson, who had been excused, was present.

Engrossed Senate Bill 330–2

The conference committee report was reread. Roll Call 627: yeas 95, nays 0. Report adopted.

Engrossed Senate Bill 128–1

The conference committee report was reread. Roll Call 628: yeas 94, nays 0. Report adopted.

Engrossed Senate Bill 520–1

The conference committee report was reread. Roll Call 629: yeas 94, nays 0. Report adopted.

Representative Pelath announced a meeting of the Committee on Rules and Legislative Procedures

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 3:40 p.m. with the Speaker in the Chair.

Representatives Crawford, Goodin, and Kuzman, who had been excused. were present.

The Speaker ordered the roll of the House to be called to determine the presence or absence of a quorum. Roll Call 630: 86 present. The Speaker declared a quorum present.

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 Bill 1266.

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 Bills 9, 320, 416, and 520.

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 2 on Engrossed Senate Bill 330.

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 David Long has made the following change in conferees appointments to Engrossed House Bill 1046:

Conferee: Ford replacing Kruse

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolutions 67, 85, and 88 and the same are herewith returned to the House.

MARY C. MENDEL
Principal Secretary of the Senate

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
EHB 1379–1; filed April 28, 2007, at 11:17 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 1379 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 5-14-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) For the purposes of this section, "state agency" has the meaning set forth in IC 4-13-1-1.

(b) Except as provided in this section, a public agency may not charge any fee under this chapter:

(1) to inspect a public record; or

(2) to search for, examine, or review a record to determine whether the record may be disclosed.

(c) The Indiana department of administration shall establish a uniform copying fee for the copying of one (1) page of a standard-sized document by state agencies. The fee may not exceed the average cost of copying records by state agencies or ten cents ($0.10) per page, whichever is greater. A state agency may not collect more than the uniform copying fee for providing a copy of a public record. However, a state agency shall establish and collect a reasonable fee for copying nonstandard-sized documents.

(d) This subsection applies to a public agency that is not a state agency. The fiscal body (as defined in IC 36-1-2-6) of the public agency, or the governing body, if there is no fiscal body, shall establish a fee schedule for the certification **or** copying ~~or facsimile machine transmission~~ of documents. The fee **for certification of documents may not exceed five dollars ($5) per document. The fee for copying documents** may not exceed ~~the actual cost of certifying, copying, or facsimile transmission of the document by the agency and the fee must be uniform throughout the public agency and uniform to all purchasers. As used in this subsection, "actual cost" means the cost of paper and the per-page cost for use of copying or facsimile equipment and does not include labor costs or overhead costs.~~ **the greater of:**

(1) ten cents ($0.10) per page for copies that are not color copies or twenty-five cents ($0.25) per page for color copies; or

(2) the actual cost to the agency of copying the document.

A fee established under this subsection must be uniform throughout the public agency and uniform to all purchasers.

(e) If:

(1) a person is entitled to a copy of a public record under this chapter; and

(2) the public agency which is in possession of the record has reasonable access to a machine capable of reproducing the public record;

the public agency must provide at least one (1) copy of the public record to the person. However, if a public agency does not have reasonable access to a machine capable of reproducing the record or if the person cannot reproduce the record by use of enhanced access under section 3.5 of this chapter, the person is only entitled to inspect and manually transcribe the record. A public agency may require that the payment for copying costs be made in advance.

(f) Notwithstanding subsection (b), (c), (d), (g), (h), or (i), a public agency shall collect any certification, copying, facsimile

machine transmission, or search fee that is specified by statute or is ordered by a court.

(g) Except as provided by subsection (h), for providing a duplicate of a computer tape, computer disc, microfilm, or similar or analogous record system containing information owned by the public agency or entrusted to it, a public agency may charge a fee, uniform to all purchasers, that does not exceed the sum of the following:

(1) The agency's direct cost of supplying the information in that form.

(2) The standard cost for selling the same information to the public in the form of a publication if the agency has published the information and made the publication available for sale.

(3) In the case of the legislative services agency, a reasonable percentage of the agency's direct cost of maintaining the system in which the information is stored. However, the amount charged by the legislative services agency under this subdivision may not exceed the sum of the amounts it may charge under subdivisions (1) and (2).

(h) This subsection applies to the fee charged by a public agency for providing enhanced access to a public record. A public agency may charge any reasonable fee agreed on in the contract under section 3.5 of this chapter for providing enhanced access to public records.

(i) This subsection applies to the fee charged by a public agency for permitting a governmental entity to inspect public records by means of an electronic device. A public agency may charge any reasonable fee for the inspection of public records under this subsection, or the public agency may waive any fee for the inspection.

(j) Except as provided in subsection (k), a public agency may charge a fee, uniform to all purchasers, for providing an electronic map that is based upon a reasonable percentage of the agency's direct cost of maintaining, upgrading, and enhancing the electronic map and for the direct cost of supplying the electronic map in the form requested by the purchaser. If the public agency is within a political subdivision having a fiscal body, the fee is subject to the approval of the fiscal body of the political subdivision.

(k) The fee charged by a public agency under subsection (j) to cover costs for maintaining, upgrading, and enhancing an electronic map may be waived by the public agency if the electronic map for which the fee is charged will be used for a noncommercial purpose, including the following:

(1) Public agency program support.

(2) Nonprofit activities.

(3) Journalism.

(4) Academic research.

SECTION 2. IC 16-22-8-34, AS AMENDED BY P.L.88-2006, SECTION 5, AND AS AMENDED BY P.L.145-2006, SECTION 133, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 34. (a) The board or corporation may do all acts necessary or reasonably incident to carrying out the purposes of this chapter, including the following:

(1) As a municipal corporation, sue and be sued in any court with jurisdiction.

(2) To serve as the exclusive local board of health and local department of health within the county with the powers and duties conferred by law upon local boards of health and local departments of health.

(3) To adopt and enforce ordinances consistent with Indiana law and administrative rules for the following purposes:

(A) To protect property owned or managed by the corporation.

(B) To determine, prevent, and abate public health nuisances.

(C) To establish quarantine regulations, impose restrictions on persons having infectious or contagious diseases and contacts of the persons, and regulate the disinfection of premises.

(D) To license, regulate, and establish minimum sanitary standards for the operation of a business handling, producing, processing, preparing, manufacturing, packing, storing, selling, distributing, or transporting articles used for food, drink, confectionery, or condiment in the interest of the public health.

(E) To control:

(i) rodents, mosquitos, and other animals, including insects, capable of transmitting microorganisms and disease to humans and other animals; and

(ii) the ~~animal's~~ **animals'** breeding places.

(F) To require persons to connect to available sewer systems and to regulate the disposal of domestic or sanitary sewage by private methods. However, the board and corporation have no jurisdiction over publicly owned or financed sewer systems or sanitation and disposal plants.

(G) To control rabies.

(H) For the sanitary regulation of water supplies for domestic use.

(I) To protect, promote, or improve public health. For public health activities and to enforce public health laws, the state health data center described in IC 16-19-10 shall provide health data, medical information, and epidemiological information to the corporation.

(J) To detect, report, prevent, and control disease affecting public health.

(K) To investigate and diagnose health problems and health hazards.

(L) To regulate the sanitary and structural conditions of residential and nonresidential buildings and unsafe premises.

(M) To license and regulate the design, construction, and operation of public pools, spas, and beaches.

(N) To regulate the storage, containment, handling, use, and disposal of hazardous materials.

(O) To license and regulate tattoo parlors and body piercing facilities.

(4) To manage the corporation's hospitals, medical facilities, and mental health facilities.

(5) To furnish health and nursing services to elementary and secondary schools within the county.

(6) To furnish medical care to the indigent within the county unless medical care is furnished to the indigent by the division of family ~~*and children.*~~ *resources.*

(7) To determine the public health policies and programs to be carried out and administered by the corporation.

(8) To adopt an annual budget ordinance and levy taxes.

(9) To incur indebtedness in the name of the corporation.

(10) To organize the personnel and functions of the corporation into divisions and subdivisions to carry out the corporation's powers and duties and to consolidate, divide, or abolish the divisions and subdivisions.

(11) To acquire and dispose of property.

(12) To receive *charitable contributions* and ~~*make*~~ gifts *as provided in 26 U.S.C. 170.*

(13) To make charitable contributions and gifts.

(14) To establish a charitable foundation as provided in 26 U.S.C. 501.

~~*(13)*~~ *(15)* To receive and distribute federal, state, local, or private grants.

(16) To receive and distribute grants from charitable foundations.

(17) To establish nonprofit corporations to carry out the purposes of the corporation.

~~(14)~~ *(18)* To erect buildings or structures or improvements to existing buildings or structures.

~~(15)~~ *(19)* To determine matters of policy regarding internal organization and operating procedures.

~~(16)~~ *(20)* To do the following:

(A) Adopt a schedule of reasonable charges for nonresidents of the county for medical and mental health services.

(B) Collect the charges from the patient or from the governmental unit where the patient resided at the time of the service.

(C) Require security for the payment of the charges.

~~(17)~~ *(21)* To adopt a schedule of and to collect reasonable charges for patients able to pay in full or in part.

~~(18)~~ *(22)* To enforce Indiana laws, administrative rules, and the code of the health and hospital corporation of the county.

~~(19)~~ *(23)* To purchase supplies, materials, and equipment for the corporation.

~~(20)~~ *(24)* To employ personnel and establish personnel policies to carry out the duties, functions, and powers of the corporation.

~~(21)~~ *(25)* To employ attorneys admitted to practice law in Indiana.

~~(22)~~ *(26)* To acquire, erect, equip, and operate the corporation's hospitals, medical facilities, and mental health facilities.

~~(23)~~ *(27)* To dispose of surplus property in accordance with a policy by the board.

~~(24)~~ *(28)* To determine the duties of officers and division directors.

~~(25)~~ *(29)* To fix the compensation of the officers and division directors.

~~(26)~~ *(30)* To carry out the purposes and object of the corporation.

~~(27)~~ *(31)* To obtain loans for hospital expenses in amounts and upon terms agreeable to the board. The board may secure the loans by pledging accounts receivable or other security in hospital funds.

~~(28)~~ *(32)* To establish fees for licenses, services, and records. The corporation may accept payment by credit card for fees. **IC 5-14-3-8(d) does not apply to fees established under this subdivision for copying and certifying documents.**

(b) The board shall exercise the board's powers and duties in a manner consistent with Indiana law, administrative rules, and the code of the health and hospital corporation of the county.

SECTION 3. IC 16-37-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) A local health department may make a charge under IC 16-20-1-27 for each certificate of birth, death, or stillbirth registration. **IC 5-14-3-8(d) does not apply to the health department making a charge for a certificate of birth, death, or stillbirth registration under IC 16-20-1-27.**

(b) If the local department of health makes a charge for a certificate of death under subsection (a), a one dollar ($1) coroners continuing education fee must be added to the rate established under IC 16-20-1-27. The local department of health shall deposit any coroners continuing education fees with the county auditor within thirty (30) days after collection. The county auditor shall transfer semiannually any coroners continuing education fees to the treasurer of state.

(c) Notwithstanding IC 16-20-1-27, a charge may not be made for furnishing a certificate of birth, death, or stillbirth registration to a person or to a member of the family of a person who needs the certificate for one (1) of the following purposes:

(1) To establish the person's age or the dependency of a member of the person's family in connection with:

(A) the person's service in the armed forces of the United States; or

(B) a death pension or disability pension of a person who is serving or has served in the armed forces of the United States.

(2) To establish or to verify the age of a child in school who desires to secure a work permit.

SECTION 4. IC 36-2-7-10, AS AMENDED BY SEA 526-2007, SECTION 384, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) The county recorder shall tax and collect the fees prescribed by this section for recording, filing, copying, and other services the recorder renders, and shall pay them into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other recording fees required by law to be charged for services rendered by the county recorder.

(b) The county recorder shall charge the following:

(1) Six dollars ($6) for the first page and two dollars ($2) for each additional page of any document the recorder records if the pages are not larger than eight and one-half (8 ½) inches by fourteen (14) inches.

(2) Fifteen dollars ($15) for the first page and five dollars ($5) for each additional page of any document the recorder records, if the pages are larger than eight and one-half (8 ½) inches by fourteen (14) inches.

(3) For attesting to the release, partial release, or assignment of any mortgage, judgment, lien, or oil and gas lease contained on a multiple transaction document, the fee for each transaction after the first is the amount provided in subdivision (1) plus the amount provided in subdivision (4) and one dollar ($1) for marginal mortgage assignments or marginal mortgage releases.

(4) One dollar ($1) for each cross-reference of a recorded document.

(5) One dollar ($1) per page not larger than eight and one-half (8 ½) inches by fourteen (14) inches for furnishing copies of records and two dollars ($2) per page that is larger than eight and one-half (8 ½) inches by fourteen (14) inches.

(6) Five dollars ($5) for acknowledging or certifying to a document.

(7) Five dollars ($5) for each deed the recorder records, in addition to other fees for deeds, for the county surveyor's corner perpetuation fund for use as provided in IC 21-47-3-3 or IC 36-2-12-11(e).

(8) A fee in an amount authorized under IC 5-14-3-8 for transmitting a copy of a document by facsimile machine.

(9) A fee in an amount authorized by an ordinance adopted by the county legislative body for duplicating a computer tape, a computer disk, an optical disk, microfilm, or similar media. This fee may not cover making a handwritten copy or a photocopy or using xerography or a duplicating machine.

(10) A supplemental fee of three dollars ($3) for recording a document that is paid at the time of recording. The fee under this subdivision is in addition to other fees provided by law for recording a document.

(11) Three dollars ($3) for each mortgage on real estate recorded, in addition to other fees required by this section, distributed as follows:

(A) Fifty cents ($0.50) is to be deposited in the recorder's record perpetuation fund.

(B) Two dollars and fifty cents ($2.50) is to be distributed to the auditor of state on or before June 20 and December 20 of each year as provided in IC 24-9-9-3.

(c) The county recorder shall charge a two dollar ($2) county identification security protection fee for recording or filing a document. This fee shall be deposited under IC 36-2-7.5-6.

(d) The county treasurer shall establish a recorder's records perpetuation fund. All revenue received under **section 10.1 of this chapter and** subsection (b)(5), (b)(8), (b)(9), and (b)(10), and fifty cents ($0.50) from revenue received under subsection (b)(11), shall be deposited in this fund. The county recorder may use any money in this fund without appropriation for the preservation of records and the improvement of record keeping systems and equipment. **Money from the fund may not be deposited or transferred into the county general fund and does not revert to the county general fund at the end of a fiscal year.**

(e) As used in this section, "record" or "recording" includes the functions of recording, filing, and filing for record.

(f) The county recorder shall post the fees set forth in subsection (b) in a prominent place within the county recorder's office where the fee schedule will be readily accessible to the public.

(g) The county recorder may not tax or collect any fee for:

(1) recording an official bond of a public officer, a deputy, an appointee, or an employee; or

(2) performing any service under any of the following:

(A) IC 6-1.1-22-2(c).

(B) IC 8-23-7.

(C) IC 8-23-23.

(D) IC 10-17-2-3.

(E) IC 10-17-3-2.

(F) IC 12-14-13.

(G) IC 12-14-16.

(h) The state and its agencies and instrumentalities are required to pay the recording fees and charges that this section prescribes.

SECTION 5. IC 36-2-7-10.1, AS AMENDED BY P.L.171-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10.1. (a) As used in this section, "bulk form" means:

(1) a copy of all recorded documents received by the county recorder for recording in a calendar day, week, month, or year;

(2) the indices for finding, retrieving, and viewing all recorded documents received by the county recorder for recording in a calendar day, week, month, or year; or

(3) both subdivisions (1) and (2).

(b) As used in this section, "bulk user" means an individual, a corporation, a partnership, a limited liability company, or an unincorporated association that purchases bulk form copies. However, "bulk user" does not include an individual, a corporation, a partnership, a limited liability company, or an unincorporated association whose primary purpose is to resell public records.

(c) As used in this section, "copy" means:

(1) duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage; or

(2) reproducing on microfilm.

(d) As used in this section, "indices" means all of the indexing information used by the county recorder for finding, retrieving, and viewing a recorded document.

(e) As used in this section, "recorded document" means a writing, a paper, a document, a plat, a map, a survey, or anything else received at any time for recording or filing in the public records maintained by the county recorder.

(f) The county recorder shall collect the fees prescribed by this section for the sale of recorded documents in bulk form copies to bulk users of public records. The county recorder shall pay the fees into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other fees for bulk form copies required by law to be charged for services rendered by the county recorder to bulk users.

(g) Except as provided by subsection (h), the county recorder shall charge bulk users the following for bulk form copies:

(1) ~~Five~~ **Seven** cents ~~($0.05)~~ **($0.07)** per page for a recorded document, including the index of the instrument number or book and page, or both, for retrieving the recorded document.

(2) ~~Five~~ **Seven** cents ~~($0.05)~~ **($0.07)** per recorded document for a copy of the other indices used by the county recorder for finding, retrieving, and viewing a recorded document.

(h) As used in this subsection, "actual cost" does not include labor costs or overhead costs. The county recorder may charge a fee that exceeds the amount established by subsection (g) if the actual cost of providing the bulk form copies exceeds the amount established by subsection (g). However, the total amount charged for the bulk form copies may not exceed the actual cost plus one cent ($0.01) of providing the bulk form copies.

(i) The county recorder shall provide bulk users with bulk form copies in the format or medium in which the county recorder maintains the recorded documents and indices. If the county recorder maintains the recorded documents and indices in more than one (1) format or medium, the bulk user may select the format or medium in which the bulk user shall receive the bulk form copies. If the county recorder maintains the recorded documents and indices for finding, retrieving, and viewing the recorded documents in an electronic or a digitized format, a reasonable effort shall be made to provide the bulk user with bulk form copies in a standard, generally acceptable, readable format. Upon request of the bulk user, the county recorder shall provide the bulk form copies to the bulk user within a reasonable time after the recorder's archival process is completed and bulk form copies become available in the office of the county recorder.

(j) Bulk form copies under this section may be used:

(1) in the ordinary course of the business of the bulk user; and

(2) by customers of the bulk user.

(k) The bulk user may charge its customers a fee for using the bulk form copies obtained by the bulk user. However, bulk form copies obtained by a bulk user under this section may not be resold **in:**

(1) bulk form or separated into one (1) or more copies of recorded documents or indices, or both, and resold as separate copies; and

(2) a single transaction or on a continuing or subscription basis.

~~(k)~~ **(l)** All revenue generated by the county recorder under this section shall be deposited in the recorder's record perpetuation fund and used by the recorder in accordance with section ~~10(c)~~ **10 (d)** of this chapter.

~~(l)~~ **(m)** This section does not apply to enhanced access under IC 5-14-3-3.

(Reference is to EHB 1379 as reprinted April 4, 2007.)

HOY	C. LAWSON
FRIEND	DEIG
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1503–1; filed April 28, 2007, at 11:56 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 1503 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 16-35-7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 7. Deaths of Children

Sec. 1. The state department may receive funds from any source and expend the funds for the administration of this chapter.

Sec. 2. The state department shall adopt rules under IC 4-22-2 requiring hospitals and physicians to identify suspicious deaths of children who are less than eighteen (18) years of age.

Sec. 3. (a) The medical licensing board may adopt rules under IC 4-22-2 to certify a child death pathologist and to require special training to conduct autopsies on child fatalities.

(b) A child death pathologist must be a physician:

(1) who is certified by the American Board of Pathology in forensic pathology;

(2) who is certified in anatomic pathology by:

(A) the American Board of Pathology; or

(B) another certifying organization that:

(i) is comparable to the American Board of Pathology in its adherence to nationally or internationally recognized certification standards; and

(ii) has been approved and recognized by the medical licensing board;

and has received special training in the area of child fatalities that has been approved by the medical licensing board; or

(3) who has received certification in the area of forensic pathology or child death pathology by a certifying organization that:

(A) is comparable to the American Board of Pathology in its adherence to nationally or internationally recognized certification standards; and

(B) that has been approved and recognized by the medical licensing board.

(c) The medical licensing board may approve an annual training program or provide a training program for pathologists concerning new procedures for child death investigations for physicians who want to become child death pathologists under subsection (b)(2). In approving or providing a training program, the medical licensing board shall consult and coordinate with pathologists who have received:

(1) certification in forensic pathology by the American Board of Pathology; or

(2) a comparable certification in forensic pathology.

SECTION 2. IC 16-37-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) A local health department may make a charge under IC 16-20-1-27 for each certificate of birth, death, or stillbirth registration.

(b) If the local department of health makes a charge for a certificate of death under subsection (a), ~~a one dollar ($1)~~ **the** coroners continuing education fee **described in subsection (d)** must be added to the rate established under IC 16-20-1-27. The local department of health shall deposit any coroners continuing education fees with the county auditor within thirty (30) days after collection. The county auditor shall transfer semiannually any coroners continuing education fees to the treasurer of state.

(c) Notwithstanding IC 16-20-1-27, a charge may not be made for furnishing a certificate of birth, death, or stillbirth registration to a person or to a member of the family of a person who needs the certificate for one (1) of the following purposes:

(1) To establish the person's age or the dependency of a member of the person's family in connection with:

(A) the person's service in the armed forces of the United States; or

(B) a death pension or disability pension of a person who is serving or has served in the armed forces of the United States.

(2) To establish or to verify the age of a child in school who desires to secure a work permit.

(d) The coroners continuing education fee is:

(1) one dollar and seventy-five cents ($1.75) after June 30, 2007, and before July 1, 2013;

(2) two dollars ($2) after June 30, 2013, and before July 1, 2018;

(3) two dollars and twenty-five cents ($2.25) after June 30, 2018, and before July 1, 2023;

(4) two dollars and fifty cents ($2.50) after June 30, 2023, and before July 1, 2028;

(5) two dollars and seventy-five cents ($2.75) after June 30, 2028, and before July 1, 2033;

(6) three dollars ($3) after June 30, 2033, and before July 1, 2038;

(7) three dollars and twenty-five cents ($3.25) after June 30, 2038, and before July 1, 2043; and

(8) three dollars and fifty cents ($3.50) after June 30, 2043.

SECTION 3. IC 25-22.5-2-7, AS AMENDED BY P.L.1-2006, SECTION 447, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. **(a)** The board shall do the following:

(1) Adopt rules and forms necessary to implement this article that concern, but are not limited to, the following areas:

(A) Qualification by education, residence, citizenship, training, and character for admission to an examination for licensure or by endorsement for licensure.

(B) The examination for licensure.

(C) The license or permit.

(D) Fees for examination, permit, licensure, and registration.

(E) Reinstatement of licenses and permits.

(F) Payment of costs in disciplinary proceedings conducted by the board.

(2) Administer oaths in matters relating to the discharge of its official duties.

(3) Enforce this article and assign to the personnel of the agency duties as may be necessary in the discharge of the board's duty.

(4) Maintain, through the agency, full and complete records of all applicants for licensure or permit and of all licenses and permits issued.

(5) Make available, upon request, the complete schedule of minimum requirements for licensure or permit.

(6) Issue, at the board's discretion, a temporary permit to an applicant for the interim from the date of application until the next regular meeting of the board.

(7) Issue an unlimited license, a limited license, or a temporary medical permit, depending upon the qualifications of the applicant, to any applicant who successfully fulfills all of the requirements of this article.

(8) Adopt rules establishing standards for the competent practice of medicine, osteopathic medicine, or any other form of practice regulated by a limited license or permit issued under this article.

(9) Adopt rules regarding the appropriate prescribing of Schedule III or Schedule IV controlled substances for the purpose of weight reduction or to control obesity.

(10) Adopt rules establishing standards for office based procedures that require moderate sedation, deep sedation, or general anesthesia.

(b) The board may adopt rules that establish:

(1) certification requirements for child death pathologists;

(2) an annual training program for child death pathologists under IC 16-35-7-3(b)(2); and

(3) a process to certify a qualified child death pathologist.

SECTION 4. IC 31-33-24-7, AS ADDED BY P.L.145-2006, SECTION 287, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (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.

(c) If a local child fatality review team requests records from a hospital, physician, coroner, or mental health professional regarding a death that the local child fatality review team is investigating, the hospital, physician, coroner, or mental health professional shall provide the requested records, subject to IC 34-30-15, to the child fatality review team.

SECTION 5. IC 31-33-24-9, AS ADDED BY P.L.145-2006, SECTION 287, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) A local child fatality review team consists of the following members:

(1) A coroner or deputy coroner from the area served by the local child fatality review team.

(2) A representative from:

(A) the health and hospital corporation of Marion County as set forth in IC 16-22-8;

(B) a local health department established under IC 16-20-2; or

(C) a multiple county health department established under IC 16-20-3;

from the area served by the local child fatality review team.

(3) A physician residing or practicing medicine in the area served by the local child fatality review team.

(4) A representative of law enforcement from the area served by the local child fatality review team.

(5) A representative from an emergency medical services provider doing business in the area served by the local child fatality review team.

(6) A director or manager of a local or regional office of the department from the area served by the local child fatality review team.

(7) A representative of the prosecuting attorney from the area served by the local child fatality review team.

(8) A pathologist with forensic experience who is licensed to practice medicine in Indiana **and who, if feasible, is certified by the American Board of Pathology in forensic pathology.**

(9) A representative from a fire department or volunteer fire department (as defined in IC 36-8-12-2) from the area served by the local child fatality review team.

(b) If a local child fatality review team is established in one (1) county, the legislative body that voted to establish the local child fatality review team under section 6 of this chapter shall:

(1) adopt an ordinance for the appointment and reappointment of members of the local child fatality review team; and

(2) appoint members to the local child fatality review team under the ordinance adopted.

(c) If a local child fatality review team is established in a region, the county legislative bodies that voted to establish the local child 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 child fatality review team; and

(2) appoint members to the local child fatality review team under the ordinances adopted.

SECTION 6. IC 31-33-24-15, AS ADDED BY P.L.145-2006, SECTION 287, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) The department shall collect and document information surrounding the deaths of children reviewed by local child fatality review teams. The department shall develop a data collection form that includes:

(1) identifying and nonidentifying information;

(2) information regarding the circumstances surrounding a death;

(3) factors contributing to a death; and

(4) findings and recommendations.

(b) The data collection form developed under this section must also be provided to:

(1) the appropriate community child protection team; ~~and~~

(2) as appropriate:

(A) the health and hospital corporation of Marion County as set forth in IC 16-22-8;

(B) the local health department established under IC 16-20-2; or

(C) the multiple county health department established under IC 16-20-3; **and**

(3) the appropriate coroner and the pathologist who performed the autopsy on the child.

SECTION 7. IC 31-33-25-7, AS ADDED BY P.L.145-2006, SECTION 288, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: 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.

(c) If the statewide child fatality review committee requests records from a hospital, physician, coroner, or mental health professional regarding a death that the statewide child fatality review committee is investigating, the hospital, physician, coroner, or mental health professional shall provide the requested records, subject to IC 34-30-15, to the statewide child fatality review committee.

SECTION 8. IC 31-33-25-8, AS ADDED BY P.L.145-2006, SECTION 288, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. The statewide child fatality review committee consists of the following members appointed by the governor:

(1) a coroner or deputy coroner;

(2) a representative from:

(A) the state department of health established by IC 16-19-1-1;

(B) a local health department established under IC 16-20-2; or

(C) a multiple county health department established under IC 16-20-3;

(3) a pediatrician;

(4) a representative of law enforcement;

(5) a representative from an emergency medical services provider;

(6) the director or a representative of the department;

(7) a representative of a prosecuting attorney;

(8) a pathologist ~~with forensic experience~~ who is:

(A) certified by the American Board of Pathology in forensic pathology; and

(B) licensed to practice medicine in Indiana;

(9) a mental health provider;

(10) a representative of a child abuse prevention program; and

(11) a representative of the department of education.

SECTION 9. IC 31-33-25-13, AS ADDED BY P.L.145-2006, SECTION 288, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) The department shall collect and document information surrounding the deaths of children reviewed by the statewide child fatality review committee. The department shall develop a data collection form that includes:

(1) identifying and nonidentifying information;

(2) information regarding the circumstances surrounding a death;

(3) factors contributing to a death; and

(4) findings and recommendations.

(b) The data collection form developed under this section must also be provided to:

(1) the appropriate community child protection team established under IC 31-33-3; ~~and~~

(2) the appropriate:

(A) local health department established under IC 16-20-2; or

(B) multiple county health department established under IC 16-20-3; **and**

(3) the appropriate coroner and the pathologist who performed the autopsy on the child.

SECTION 10. IC 36-2-14-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.5. As used in this chapter, "child death pathologist" means a physician described in IC 16-35-7-3(b).**

SECTION 11. IC 36-2-14-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5.5. A child death pathologist shall:**

(1) consult with a coroner concerning a death described in section 6.3(b) of this chapter;

(2) conduct an autopsy of a child as described in sections 6.3(c) and 6.7(b) of this chapter; and

(3) perform duties described in section 6.7(e) of this chapter.

SECTION 12. IC 36-2-14-6, AS AMENDED BY SEA 271-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) Whenever the coroner is notified that a person in the county:

(1) has died from violence;

(2) has died by casualty;

(3) has died when apparently in good health;

(4) has died in an apparently suspicious, unusual, or unnatural manner; or

(5) has been found dead;

the coroner shall, before the scene of the death is disturbed, notify a law enforcement agency having jurisdiction in that area. The agency shall assist the coroner in conducting an investigation of how the person died and a medical investigation of the cause of death. The coroner may hold the remains of the decedent until the investigation of how the person died and the medical investigation of the cause of death are concluded.

(b) The coroner:

(1) shall file ~~with the person in charge of interment a coroner's certificate of death within seventy-two (72) hours after being notified of the death. If the cause of death is not established with reasonable certainty within seventy-two (72) hours, the coroner shall file with the person in charge of interment a coroner's certificate of death, with the cause of death designated as "deferred pending further action". As soon as the coroner determines the cause of death, the coroner shall file a supplemental report indicating the exact findings with the local health officer having jurisdiction, who shall make it part of the official records.~~ **a certificate of death with the county health department, or, if applicable, a multiple county health department, of the county in which the individual died, within seventy-two (72) hours after the completion of the death investigation;**

(2) shall complete the certificate of death utilizing all verifiable information establishing the time and date of death; and

(3) may file a pending investigation certificate of death before completing the certificate of death, if necessary.

(c) If this section applies, the body and the scene of death may not be disturbed until the coroner has photographed them in the manner that most fully discloses how the person died. However, a coroner or law enforcement officer may order a body to be moved before photographs are taken if the position or location of the body unduly interferes with activities carried on where the body is found, but the body may not be moved from the immediate area and must be moved without substantially destroying or altering the evidence present.

(d) When acting under this section, if the coroner considers it necessary to have an autopsy performed, is required to perform an autopsy under subsection (f), or is requested by the prosecuting attorney of the county to perform an autopsy, the coroner shall employ a: ~~physician:~~

(1) **physician** certified by the American board of pathology; or

(2) ~~holding an unlimited license to practice medicine in Indiana and~~ **pathology resident** acting under the ~~direction~~ **direct supervision** of a physician certified **in anatomic pathology** by the American board of pathology;

to perform the autopsy. The physician performing the autopsy shall be paid a fee of at least fifty dollars ($50) from the county treasury. ~~A coroner may employ the services of the medical examiner system, provided for in IC 4-23-6-6, when an autopsy is required, as long as this subsection is met.~~

(e) If:

(1) at the request of:

(A) the decedent's spouse;

(B) a child of the decedent, if the decedent does not have a spouse;

(C) a parent of the decedent, if the decedent does not have a spouse or children;

(D) a brother or sister of the decedent, if the decedent does not have a spouse, children, or parents; or

(E) a grandparent of the decedent, if the decedent does not have a spouse, children, parents, brothers, or sisters;

(2) in any death, ~~where~~ two (2) or more witnesses who corroborate the circumstances surrounding death are present; and

(3) two (2) physicians who are licensed to practice medicine in the state and who have made separate examinations of the decedent certify the same cause of death in an affidavit within twenty-four (24) hours after death;

an autopsy need not be performed. The affidavits shall be filed with the circuit court clerk.

(f) A county coroner may not certify the cause of death in the case of the sudden and unexpected death of a child who is ~~at least one (1) week old and not more~~ **less** than three (3) years old unless an autopsy is performed at county expense. However, a coroner may certify the cause of death of a child described in this subsection without the performance of an autopsy if subsection (e) applies to the death of the child.

(g) After consultation with the law enforcement agency investigating the death of a decedent, the coroner shall do the following:

(1) Inform a crematory authority if a person is barred under IC 23-14-31-26(c) from serving as the authorizing agent with respect to the cremation of the decedent's body because the coroner made the determination under IC 23-14-31-26(c)(2) in connection with the death of the decedent.

(2) Inform a cemetery owner if a person is barred under IC 23-14-55-2(d) from authorizing the disposition of the body or cremated remains of the decedent because the coroner made the determination under IC 23-14-55-2(d)(2) in connection with the death of the decedent.

(3) Inform a seller of prepaid services or merchandise if a person's contract is unenforceable under IC 30-2-13-23(b) because the coroner made the determination under IC 30-2-13-23(b)(4) in connection with the death of the decedent.

SECTION 13. IC 36-2-14-6.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 6.3. (a) A coroner shall notify:**

(1) the local child fatality review team; or

(2) if the county does not have a local child fatality review team, the statewide child fatality review committee;

of each death of a person who is less than eighteen (18) years of age, or appears to be less than eighteen (18) years of age, and who has died in an apparently suspicious, unusual, or unnatural manner.

(b) If a child less than eighteen (18) years of age dies in an apparently suspicious, unusual, or unnatural manner, the coroner shall consult with a child death pathologist to determine whether an autopsy is necessary. If the coroner and the child death pathologist disagree over the need for an autopsy, the county prosecutor shall determine whether an autopsy is necessary. If the autopsy is considered necessary, a child death pathologist or a pathology resident acting under the direct supervision of a child death pathologist shall conduct the autopsy within twenty-four (24) hours. If the autopsy is not considered necessary, the autopsy shall not be conducted.

(c) If a child death pathologist and coroner agree under subsection (b) that an autopsy is necessary, the child death pathologist or a pathology resident acting under the direct supervision of a child death pathologist shall conduct the autopsy of the child.

SECTION 14. IC 36-2-14-6.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 6.7. (a) This section applies to a child who:**

(1) died suddenly and unexpectedly;

(2) was less than three (3) years of age at the time of death; and

(3) was in apparent good health before dying.

(b) A child death pathologist or a pathology resident acting under the direct supervision of a child death pathologist shall conduct an autopsy of a child described in subsection (a).

(c) A county coroner may not certify the cause of death of a child described in subsection (a) until an autopsy is performed at county expense.

(d) The county coroner shall contact the parent or guardian of a child described in subsection (a) and notify the parent or guardian that an autopsy will be conducted at county expense.

(e) The child death pathologist shall:

(1) ensure that a tangible summary of the autopsy results is provided;

(2) provide informational material concerning sudden infant death syndrome; and

(3) unless the release of autopsy results would jeopardize a law enforcement investigation, provide notice that a parent or guardian has the right to receive the preliminary autopsy results;

to the parents or guardian of the child within one (1) week after the autopsy.

(f) If a parent or guardian of a child described in subsection (a) requests the autopsy report of the child, the coroner shall provide the autopsy report to the parent or guardian within thirty (30) days after the:

(1) request; or

(2) completion of the autopsy report;

whichever is later, at no cost.

(g) A coroner shall notify:

(1) a local child fatality review team; or

(2) if the county does not have a local child fatality review team, the statewide child fatality review committee;

of the death of a child described in subsection (a).

SECTION 15. IC 36-2-14-12.5, AS ADDED BY HEA 1306-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12.5. (a) A coroner shall make all reasonable attempts to promptly identify human remains, including taking the following steps:

(1) Photograph the human remains before an autopsy is conducted.

(2) X-ray the human remains.

(3) Photograph items found with the human remains.

(4) Fingerprint the remains, if possible.

(5) Obtain tissue, bone, or hair samples suitable for DNA typing, if possible.

(6) Collect any other information relevant to identification efforts.

(b) A coroner may not dispose of unidentified human remains or take any other action that will materially affect the condition of the remains until the coroner has taken the steps described in subsection (a).

(c) If human remains have not been identified after thirty (30) days, the coroner or other person having custody of the remains shall request the state police to do the following:

(1) Enter information that may assist in the identification of the remains into:

(A) the National Crime Information Center (NCIC) data base; and

(B) any other appropriate data base.

(2) Upload relevant DNA profiles from the remains to the missing persons data base of the State DNA Index System (SDIS) and the National DNA Index System (NDIS) after completion of the DNA analysis and other procedures required for data base entry.

~~(3) Ensure that a person who enters data relating to medical or dental records in a data base has the appropriate training to understand and correctly enter the information.~~

(d) If unidentified human remains are identified as belonging to a missing person, the coroner shall:

(1) notify the law enforcement agency handling the missing persons case that the missing person is deceased; and

(2) instruct the law enforcement agency to make documented efforts to contact family members of the missing person.

(e) No person may order the cremation of unidentified human remains.

SECTION 16. IC 36-2-14-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. (a) A person who knowingly or intentionally fails to immediately notify the coroner or a law enforcement agency of the discovery of the body of a person who: ~~has died:~~

(1) **has died** from violence; ~~or~~

(2) **has died** in an apparently suspicious, unusual, or unnatural manner; **or**

(3) has died at less than three (3) years of age;

commits a Class B infraction. **However, the failure to immediately notify under this subsection is a Class A misdemeanor if the person fails to immediately notify with the intent to hinder a criminal investigation.**

(b) A person who, **with the intent to hinder a criminal investigation and** without the permission of the coroner or a law enforcement officer, knowingly or intentionally ~~moves or transports from~~ **alters** the scene of death ~~the body~~ of a person who has died:

(1) from violence; or

(2) in an apparently suspicious, unusual, or unnatural manner;

commits a Class D felony.

SECTION 17. IC 36-2-14-18, AS AMENDED BY P.L.141-2006, SECTION 113, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) Notwithstanding IC 5-14-3-4(b)(1), when a coroner investigates a death, the office of the coroner is required to make available for public inspection and copying the following:

(1) The name, age, address, sex, and race of the deceased.

(2) The address where the dead body was found, or if there is no address the location where the dead body was found and, if different, the address where the death occurred, or if there is no address the location where the death occurred.

(3) The name of the agency to which the death was reported and the name of the person reporting the death.

(4) The name of any public official or governmental employee present at the scene of the death and the name of the person certifying or pronouncing the death.

(5) Information regarding an autopsy (requested or performed) limited to the date, the person who performed the autopsy, where the autopsy was performed, and a conclusion as to:

(A) the probable cause of death;

(B) the probable manner of death; and

(C) the probable mechanism of death.

(6) The location to which the body was removed, the person determining the location to which the body was removed, and the authority under which the decision to remove the body was made.

(7) The records required to be filed by a coroner under section 6 of this chapter and the verdict and the written report required under section 10 of this chapter.

(b) A county coroner or a coroner's deputy who receives an investigatory record from a law enforcement agency shall treat the investigatory record with the same confidentiality as the law enforcement agency would treat the investigatory record.

(c) Notwithstanding any other provision of this section, a coroner shall make available a full copy of an autopsy report, other than a photograph, **a** video recording, or **an** audio recording of the autopsy, upon the written request of the next of kin of the decedent or of an insurance company investigating a claim arising from the death of the individual upon whom the autopsy was performed. The insurance company is prohibited from publicly disclosing any information contained in the report beyond that information that may otherwise be disclosed by a coroner under this section. This prohibition does not apply to information disclosed in communications in conjunction with the investigation, settlement, or payment of the claim.

(d) Notwithstanding any other provision of this section, a coroner shall make available a full copy of an autopsy report, other than a photograph, **a** video recording, or **an** audio recording of the autopsy, upon the written request of:

(1) the director of the division of disability and rehabilitative services established by IC 12-9-1-1;

(2) the director of the division of mental health and addiction established by IC 12-21-1-1; or

(3) the director of the division of aging established by IC 12-9.1-1-1;

in connection with a division's review of the circumstances surrounding the death of an individual who received services from a division or through a division at the time of the individual's death.

(e) Notwithstanding any other provision of this section, a coroner shall make available a full copy of an autopsy report, including a photograph, a video recording, or an audio recording of the autopsy, to:

(1) the department of child services established by IC 31-25-1-1, including an office of the department located in the county where the death occurred;

(2) the statewide child fatality review committee established by IC 31-33-25-6; or

(3) a county child fatality review team or regional child fatality review team established under IC 31-33-24-6 by the county or for the county where the death occurred;

for purposes of an entity described in subdivisions (1) through (3) conducting a review or an investigation of the circumstances surrounding the death of a child (as defined in IC 31-9-2-13(d)(1)) and making a determination as to whether the death of the child was a result of abuse, abandonment, or neglect.

(f) An autopsy report made available under subsection (e) is confidential and shall not be disclosed to another individual or agency, unless otherwise authorized or required by law.

SECTION 18. IC 36-2-14-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. (a) **As used in this section, "autopsy" means the external and surgical internal examination of all body systems of a decedent, including toxicology and histology.**

(b) Except as provided in subsection (b) and IC 4-24-4-1, if an Indiana resident:

(1) dies in an Indiana county as a result of an incident that occurred in another Indiana county; and

(2) is the subject of an autopsy performed under the authority and duties of the county coroner of the county where the death occurred;

the county coroner shall bill the county in which the incident occurred for the cost of the autopsy, including the physician fee under section 6(d) of this chapter.

~~(b)~~ **(c)** Except as provided in subsection ~~(a)~~ **(b)** and IC 4-24-4-1, payment for the costs of an autopsy requested by a party other than the:

(1) county prosecutor; or

(2) county coroner;

of the county in which the individual died must be made by the party requesting the autopsy.

~~(c)~~ **(d)** This section does not preclude the coroner of a county in which a death occurs from attempting to recover autopsy costs from the jurisdiction outside Indiana where the incident that caused the death occurred.

SECTION 19. IC 36-2-14-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 22. (a) Upon the request of a coroner who is conducting or will conduct a death investigation on an individual who is admitted or was admitted to a hospital, the hospital shall provide a sample of the individual's blood or tissue to the coroner.**

(b) A coroner does not need to obtain a warrant to request a blood or tissue sample under this section.

SECTION 20. IC 36-2-14-22.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 22.2. A coroner shall follow the procedures set forth in IC 29-2-16.1 concerning organ and tissue procurement.**

SECTION 21. THE FOLLOWING ARE REPEALED

[EFFECTIVE JULY 1, 2007]: IC 36-2-14-12; IC 36-2-14-14.

(Reference is to EHB 1503 as reprinted April 11, 2007.)

ORENTLICHER	C. LAWSON
SUMMERS	SIMPSON
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
ESB 49–1; filed April 28, 2007, at 1:10 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 49 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 trusts and fiduciaries.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 28-1-12-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 8. (a) Unless otherwise provided in an agreement or a trust, a bank or trust company that holds funds or property as a fiduciary may use the funds or property to purchase from the bank, the trust company, or an affiliate of the bank or trust company, a product, service, or security, including an insurance product or security that is underwritten by the bank, the trust company, an affiliate of the bank or trust company, or a syndicate or selling group that includes the bank, the trust company, or an affiliate of the bank or trust company if the:**

(1) purchase price and any ongoing charges and costs are fair, reasonable, and substantially equivalent to the cost of similar products and services; and

(2) purchase complies with IC 30-4-3.5.

The compensation for the product, services, or security received by the bank, trust company, an affiliate of the bank or trust company, or a syndicate or selling group that includes the bank, the trust company, or an affiliate of the bank or trust company may be in addition to the compensation that the bank or trust company is otherwise entitled to from the fiduciary account.

(b) A bank or trust company that makes a purchase or sale described in subsection (a) shall disclose, at least annually, to each person entitled to receive statements of account activity from the bank or trust company any purchase or sale made by the bank or trust company during the year. The disclosure must be in writing or an electronic format and include the following:

(1) Any capacity in which the bank, the trust company, or an affiliate of the bank or trust company acts for:

(A) the issuer of the securities; or

(B) the provider of the products or services;

that is the subject of the purchase or sale.

(2) A statement that the bank, the trust company, or an affiliate of the bank or trust company has an interest in the subject of the purchase or sale, if applicable.

(3) The rate and method by which that compensation was determined.

(4) The name, telephone number, street address, and mailing address of an officer of the bank or trust company who may be contacted for further information.

(5) A notice that the bank's or trust company's ability to make transactions described in subsection (a) ends upon receipt at any time of a notice of objection by a majority of the persons entitled to receive statements of account activity.

(c) The following apply to a purchase or sale under subsection (a):

(1) Except as provided in subdivisions (2) and (3), if the fiduciary relationship is a trust or an agency, the trustee or agent shall treat the purchase or sale under subsection (a) as if it were a conflict of interest transaction under IC 30-4-3-5 and shall give any notice and obtain any consent that may be required under IC 30-4-3-5, subject to the following:

(A) IC 30-2-14-16 applies to any notice required to be given by a trustee or an agent under this subdivision, subject to the following:

(i) If the fiduciary relationship is a revocable trust with one (1) or more living grantors, the trustee must give notice only to the living grantors, who shall be considered to have all income and principal interests in the trust at the time the notice is given. If a grantor is incapacitated, the trustee shall give notice to the grantor's court appointed guardian, the principal under a durable power of attorney, or a co-trustee of the revocable trust, unless the guardian, principal, or co-trustee is the bank or trust company that seeks the consent. If the representative of the incapacitated grantor is the bank or trust company that seeks the consent to a purchase or sale under subsection (a), the trustee shall obtain consent from the court.

(ii) If the fiduciary relationship is a revocable trust and the assets of the revocable trust are distributable to one (1) or more other trusts, notice shall be given to the trustees of the other trusts. However, if the bank or trust company that seeks the consent to a purchase or sale under subsection (a) is the trustee of another trust to which the assets of the revocable trust are distributable, the bank or trust company shall give notice to those beneficiaries of the other trust who are entitled to receive statements of account activity from the bank or trust company.

(iii) If the fiduciary relationship is an agency, the principal must consent to the purchase or sale under subsection (a) in writing in advance of the transaction. The principal shall be considered to have all income and principal interests in the account at the time the notice of the proposed transaction is given. If the principal is incapacitated, consent must be obtained from the principal's court appointed guardian, unless the guardian of the incapacitated principal is the bank or trust company that seeks the consent. If the guardian of the incapacitated principal is the bank or trust company that seeks the consent, consent to a purchase or sale under subsection (a) must be obtained from the court supervising the principal's guardianship.

(B) If the fiduciary relationship is a trust, the following apply with respect to any consent required to be obtained under IC 30-4-3-5(a)(2):

(i) Notwithstanding the requirement under IC 30-4-3-5(a)(2)(A) that all interested persons provide written consent to the proposed action, and subject to subdivision (2), a trustee, for a proposed purchase or sale under subsection (a), need only obtain the written consent of a majority of the persons entitled to notice under

IC 30-2-14-16, as modified by subdivision (1)(A). However, the trustee must obtain the written consent of at least one (1) beneficiary who is receiving income under the trust at the time of the notice and at least one (1) individual who would receive a distribution of principal if the trust were terminated at the time notice is given.

(ii) Upon obtaining the written consents required under item (i), the trustee need not wait until the period to make written objections under IC 30-2-14-16 ends, in order to take the proposed action.

(2) Any consent granted under subdivision (1)(B)(i) may be revoked by a writing signed by a majority of the persons entitled to notice under IC 30-2-14-16, as modified by subdivision (1)(A). However, the revocation must be signed by:

(A) at least one (1) beneficiary who is receiving income under the trust at the time the revocation is signed; and

(B) at least one (1) individual who would receive a distribution of principal if the trust were terminated at the time the revocation is signed.

(3) The notice and consent otherwise required under subdivision (1) are not required if the purchase or sale under subsection (a) is specifically authorized:

(A) in the document creating the fiduciary relationship; or

(B) under IC 30-4-3-7.

SECTION 2. IC 28-6.1-6-26 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 26. (a) Unless otherwise provided in an agreement or a trust, a savings bank that holds funds or property as a fiduciary may use the funds or property to purchase from the savings bank or an affiliate of the savings bank a product, service, or security, including an insurance product or security that is underwritten by the savings bank, an affiliate of the savings bank, or a syndicate or selling group that includes the savings bank or an affiliate of the savings bank, if:**

(1) the purchase price and any ongoing charges and costs are fair, reasonable, and substantially equivalent to the cost of similar products and services; and

(2) the purchase complies with IC 30-4-3.5.

The compensation for the product, service, or security received by the savings bank or an affiliate of the savings bank or a syndicate or selling group that includes the savings bank, or an affiliate of the savings bank, may be in addition to the compensation that the savings bank is otherwise entitled to from the fiduciary account.

(b) A savings bank that makes a purchase or sale described in subsection (a) shall disclose, at least annually, to each person entitled to receive statements of account activity from the savings bank any purchase or sale made by the savings bank during the year. The disclosure must be in writing or an electronic format and include the following:

(1) Any capacity in which the savings bank or an affiliate of the savings bank acts for:

(A) the issuer of the securities; or

(B) the provider of the products or services;

that is the subject of the purchase or sale.

(2) A statement that the savings bank or an affiliate of the savings bank has an interest in the subject of the purchase or sale, if applicable.

(3) The rate and method by which that compensation was determined.

(4) The name, telephone number, street address, and mailing address of an officer of the savings bank who may be contacted for further information.

(5) A notice that the savings bank's ability to make transactions described in subsection (a) ends upon receipt at any time of a notice of objection by a majority of the persons entitled to receive statements of account activity.

(c) The following apply to a purchase or sale under subsection (a):

(1) Except as provided in subdivisions (2) and (3), if the fiduciary relationship is a trust or an agency, the trustee or agent shall treat the purchase or sale under subsection (a) as if it were a conflict of interest transaction under IC 30-4-3-5 and shall give any notice and obtain any consent that may be required under IC 30-4-3-5, subject to the following:

(A) IC 30-2-14-16 applies to any notice required to be given by a trustee or an agent under this subdivision, subject to the following:

(i) If the fiduciary relationship is a revocable trust with one (1) or more living grantors, the trustee must give notice only to the living grantors, who shall be considered to have all income and principal interests in the trust at the time the notice is given. If a grantor is incapacitated, the trustee shall give notice to the grantor's court appointed guardian, the principal under a durable power of attorney, or a co-trustee of the revocable trust, unless the guardian, principal, or co-trustee is the savings bank that seeks the consent. If the representative of the incapacitated grantor is the savings bank that seeks the consent to a purchase or sale under subsection (a), the trustee shall obtain consent from the court.

(ii) If the fiduciary relationship is a revocable trust and the assets of the revocable trust are distributable to one (1) or more other trusts, notice shall be given to the trustees of the other trusts. However, if the savings bank that seeks the consent to a purchase or sale under subsection (a) is the trustee of another trust to which the assets of the revocable trust are distributable, the savings bank shall give notice to those beneficiaries of the other trust who are entitled to receive statements of account activity from the savings bank.

(iii) If the fiduciary relationship is an agency, the principal must consent to the purchase or sale under subsection (a) in writing in advance of the transaction. The principal shall be considered to have all income and principal interests in the account at the time the notice of the proposed transaction is given. If the principal is incapacitated, consent must be obtained from the principal's court appointed guardian, unless the guardian of the incapacitated principal is the savings bank that seeks the consent. If the guardian of the incapacitated principal is the savings bank that seeks the consent, consent to a purchase or sale under subsection (a) must be obtained from the court supervising the principal's guardianship.

(B) If the fiduciary relationship is a trust, the following apply with respect to any consent required to be obtained under IC 30-4-3-5(a)(2):

(i) Notwithstanding the requirement under IC 30-4-3-5(a)(2)(A) that all interested persons provide written consent to the proposed action, and subject to subdivision (2), a trustee, for a proposed purchase or sale under subsection (a), need only obtain the written consent of a majority of the persons entitled to notice under IC 30-2-14-16, as modified by this clause.

However, the trustee must obtain the written consent of at least one (1) beneficiary who is receiving income under the trust at the time of the notice and at least one (1) individual who would receive a distribution of principal if the trust were terminated at the time notice is given.

(ii) Upon obtaining the written consents required under item (i), the trustee need not wait until the period to make written objections under IC 30-2-14-16 ends, in order to take the proposed action.

(2) Any consent granted under subdivision (1)(B)(i) may be revoked by a writing signed by a majority of the persons entitled to notice under IC 30-2-14-16, as modified by subdivision (1)(A). However, the revocation must be signed by:

(A) at least one (1) beneficiary who is receiving income under the trust at the time the revocation is signed; and

(B) at least one (1) individual who would receive a distribution of principal if the trust were terminated at the time the revocation is signed.

(3) The notice and consent otherwise required under subdivision (1) is not required if the purchase or sale under subsection (a) is specifically authorized:

(A) in the document creating the fiduciary relationship; or

(B) under IC 30-4-3-7.

SECTION 3. IC 30-4-3-7, AS AMENDED BY P.L.238-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) Unless the terms of the trust provide otherwise **or the transaction is authorized under IC 28-1-12-8 or IC 28-6.1-6-26,** the trustee has a duty:

(1) not to loan funds to ~~himself~~ **the trustee** or an affiliate;

(2) not to purchase or participate in the purchase of trust property from the trust for the trustee's own or an affiliate's account;

(3) not to sell or participate in the sale of the trustee's own or an affiliate's property to the trust; or

(4) if a corporate trustee, not to purchase for or retain in the trust its own or a parent or subsidiary corporation's stock, bonds, or other capital securities. However, the trustee may retain such securities already held in trusts created prior to September 2, 1971.

(b) Unless the terms of the trust provide otherwise, a corporate trustee may invest in, purchase for, or retain in the trust its own or an affiliate's obligations, including savings accounts and certificates of deposit, without the investment, purchase, or retention constituting a conflict of interest under section 5 of this chapter.

(c) Unless the terms of the trust provide otherwise, a corporate trustee does not violate subsection (a) by investing in, purchasing for, or retaining in the trust its own or an affiliate's obligations, including savings accounts and certificates of deposit, if the payment of each obligation is fully insured by the Bank Insurance Fund or the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or any insurer approved by the department of financial institutions under IC 28-7-1-31.5.

(d) If the terms of the trust permit the trustee to deal with a beneficiary for the trustee's own account, the trustee has a duty to deal fairly with and to disclose to the beneficiary all material facts related to the transaction which the trustee knows or should know.

(e) Unless the terms of the trust provide otherwise, the trustee may sell, exchange, or participate in the sale or exchange of trust property from one (1) trust to ~~himself~~ **the trustee** as trustee of another trust, provided the sale or exchange is fair and reasonable with respect to the beneficiaries of both trusts and the trustee discloses to the beneficiaries of both trusts all material facts related to the sale or exchange which the trustee knows or should know.

(f) This section does not prohibit a trustee from enforcing or fulfilling any enforceable contract or agreement:

(1) executed during the settlor's lifetime; and

(2) between the settlor and the trustee in the trustee's individual capacity.

SECTION 4. IC 30-4-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. ~~(Liability of the Trustee to the Beneficiary)~~ (a) The trustee is accountable to the beneficiary for the trust estate.

(b) If the trustee commits a breach of trust, he is liable to the beneficiary for:

(1) any loss or depreciation in the value of the trust property as a result of the breach;

(2) any profit made by the trustee through the breach;

(3) any reasonable profit which would have accrued on the trust property in the absence of a breach; and

(4) reasonable attorney's fees incurred by the beneficiary in bringing an action on the breach.

(c) In the absence of a breach of trust, the trustee has no liability to the beneficiary either for any loss or depreciation in value of the trust property or for a failure to make a profit. **However, if:**

(1) a loss or depreciation in value of the trust property; or

(2) the trust's failure to make a profit;

is the result of a violation by the trustee of IC 28-1-12-8 or IC 28-6.1-6-26, one (1) or more beneficiaries of the trust may petition the court for any remedy described in subsection (b) or for removal of the trustee under section 22(a)(4) of this chapter, regardless of whether the transaction under IC 28-1-12-8 or IC 28-6.1-6-26 constitutes or involves a breach of trust. The court may award one (1) or more remedies described in subsection (b) or remove the trustee, or both, if the court determines that the remedy or removal of the trustee is in the best interests of all beneficiaries of the trust. The burden of proof is on the one (1) or more petitioning beneficiaries to demonstrate that the remedy or removal of the trustee is in the best interests of all beneficiaries of the trust.

(d) The trustee is liable to the beneficiary for acts of an agent which, if committed by the trustee, would be a breach of the trust if ~~he:~~ **the trustee:**

(1) directs or permits the act of the agent;

(2) delegates the authority to perform an act to the agent which he is under a duty not to delegate;

(3) fails to use reasonable care in the selection or retention of the agent;

(4) fails to exercise proper supervision over the conduct of the agent;

(5) approves, acquiesces in or conceals the act of the agent; or

(6) fails to use reasonable effort to compel the agent to reimburse the trust estate for any loss or to account to the trust estate for any profit.

SECTION 5. IC 30-4-4-5, AS ADDED BY P.L.238-2005, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) A trustee may furnish to a person other than a beneficiary a certification of trust instead of a copy of the trust instrument. The certification of trust must contain the following information:

(1) That the trust exists and the date the trust instrument was executed.

(2) The identity of the settlor.

(3) The identity and address of the currently acting trustee.

(4) The powers of the trustee.

(5) The revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust.

(6) The authority of cotrustees to sign or otherwise authenticate and whether all or less than all the cotrustees are required in order to exercise the powers of the trustee.

~~(7) The trust's taxpayer identification number.~~

~~(8)~~ **(7)** The manner of taking title to trust property.

(b) A certification of trust may be signed or authenticated by any trustee.

(c) A certification of trust must state that the trust has not been revoked, modified, or amended in any manner that would cause the representations contained in the certification of trust to be incorrect.

(d) A certification of trust may contain the dispositive terms of a trust.

(e) A recipient of a certification of trust may require the trustee to furnish copies of excerpts from the original trust instrument and later amendments that:

(1) designate the trustee; and

(2) confer on the trustee the power to act in a pending transaction in which the recipient has an interest.

(f) A person who acts in reliance on a certification of trust without knowledge that the representations contained in the certification of trust are incorrect:

(1) is not liable to any person for acting in reliance on the certification of trust; and

(2) may assume without inquiry the existence of the facts contained in the certification of trust.

Knowledge of the terms of the trust may not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying on the certification.

(g) A person who in good faith enters into a transaction in reliance on a certification of trust may enforce the transaction against the trust property as if the representations contained in the certification were correct.

(h) A person making a demand for the trust instrument in addition to a certification of trust or excerpts from the original trust instrument is liable for damages if the court determines that a person did not act in good faith in demanding the trust instrument.

(i) This section does not limit the right of a person to obtain a copy of the trust instrument in a judicial proceeding concerning the trust.

(Reference is to ESB 49 as printed April 3, 2007.)

ZAKAS	KUZMAN
BRODEN	FOLEY
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1738–1; filed April 28, 2007, at 2:42 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 1738 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:

Page 1, delete the title and insert the following:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 14-25-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as provided in section 8 of this chapter **and subject to section 2.5 of this chapter,** the commission may contract with a person for the provision of certain minimum quantities of stream flow or for the sale of water on a unit pricing basis. A contract for the provision of minimum stream flows or for the sale of water on a unit pricing basis:

(1) must be executed by the commission; and

(2) is subject to approval by the following:

(A) The attorney general.

(B) The governor.

(C) The person desiring the use.

(b) A contract entered into under this chapter may not cover a period of more than fifty (50) years.

(c) Before the submission of the contract to the governor for approval, the commission shall submit a copy of the contract to the department. The department shall, within twenty (20) days of receipt, do the following:

(1) Prepare a memorandum relative to the effect that the contract might have on recreational facilities.

(2) Submit the memorandum to the governor for the governor's consideration.

SECTION 2. IC 14-25-2-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. (a) As used in this chapter, "water utility" means:**

(1) a public utility (as defined in IC 8-1-2-1(a));

(2) a municipally owned utility (as defined in IC 8-1-2-1(h));

(3) a not-for-profit utility (as defined in IC 8-1-2-125(a));

(4) a cooperatively owned corporation;

(5) a conservancy district established under IC 14-33; or

(6) a regional water district established under IC 13-26; that provides water service to the public.

(b) A person that seeks to contract with the commission for the provision of certain minimum quantities of stream flow or the sale of water on a unit pricing basis under section 2 of this chapter must submit a request to the commission and the department. The commission shall not make a determination as to whether to enter into a contract with the person making the request until:

(1) the procedures set forth in this section have been followed; and

(2) the commission has reviewed and considered each report submitted to the commission under subsection (i).

(c) Not later than thirty (30) days after receiving a request under subsection (b), the department shall provide, by certified mail, written notice of the request to the following:

(1) Each person with whom the commission holds a contract for:

(A) the provision of certain minimum quantities of stream flow; or

(B) the sale of water on a unit pricing basis;

as of the date of the request.

(2) The executive and legislative body of each:

(A) county;

(B) municipality, if any; and

(C) conservancy district established under IC 14-33, if any;

in which the water sought in the request would be used.

(3) The executive and legislative body of each:

(A) county;

(B) municipality, if any; and

(C) conservancy district established under IC 14-33, if any;

in which the affected reservoir is located.

(d) Not later than seven (7) days after receiving a notice from the department under subsection (c), each person described in subsection (c)(1) shall, by certified mail, provide written notice of the request to each:

(1) water utility; or
(2) other person;
that contracts with the person described in subsection (c)(1) for the purchase of water for resale. Each person to whom notice is mailed under this subsection is in turn responsible for providing written notice by certified mail to each water utility or other person that purchases water from that person for resale. A water utility or another person required to provide notice under this subsection shall mail the required notice not later than seven (7) days after it receives notice of the request from the water utility or other person from whom it purchases water for resale.

(e) At the same time that:
(1) a person described in subsection (c)(1); or
(2) a water utility or another person described in subsection (d);
mails any notice required under subsection (d), it shall also mail to the department, by certified mail, a list of the names and addresses of each water utility or other person to whom it has mailed the notice under subsection (d).

(f) In addition to the mailed notice required under subsection (c), the department shall publish notice of the request, in accordance with IC 5-3-1, in each county:
(1) in which a person described in section (c)(1) is located;
(2) in which the affected reservoir is located;
(3) in which the water sought in the request would be used; and
(4) in which a water utility or other person included in a list received by the department under subsection (e) is located.
Notwithstanding IC 5-3-1-6, in each county in which publication is required under this subsection, notice shall be published in at least one (1) general circulation newspaper in the county. The department may, in its discretion, publish public notices in a qualified publication (as defined in IC 5-3-1-0.7) or additional newspapers to provide supplementary notification to the public. The cost of publishing supplementary notification is a proper expenditure of the department.

(g) A notice required to be mailed or published under this section must:
(1) identify the person making the request;
(2) include a brief description of:
(A) the nature of the pending request;
(B) the process by which the commission will determine whether to enter into a contract with the person making the request; and
(3) set forth the date, time, and location of the public meeting required under subsection (h); and
(4) in the case of a notice that is required to be mailed under subsection (c)(1) or (d), a statement of the recipient's duty to in turn provide notice to any:
(A) water utility; or
(B) other person;
that purchases water for resale from the recipient, in accordance with subsection (d).

(h) The advisory council established by IC 14-9-6-1 shall hold a public meeting in each county in which notice is published under subsection (f). A public meeting required under this subsection must include the following:
(1) A presentation by the department describing:
(A) the nature of the pending request; and
(B) the process by which the commission will determine whether to enter into a contract with the person making the request.
(2) An opportunity for public comment on the pending request.
The advisory council may appoint a hearing officer to assist with a public meeting held under this subsection.

(i) Not later than thirty (30) days after a public meeting is held under subsection (h), the advisory council shall submit to the commission a report summarizing the public meeting.

SECTION 3. IC 35-43-1-5, AS ADDED BY SEA 286-2007, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. **(**a) A person who, with the intent to cause serious bodily injury, tampers with a:
(1) water supply;
(2) water treatment plant (as defined in IC 13-11-2-264); or
(3) water distribution system (as defined in IC 13-11-2-259);
commits tampering with a water supply, a Class B felony. However, the offense is a Class A felony if it results in the death of any person.

(b) A person who recklessly, knowingly, or intentionally poisons a public water supply **with the intent to cause serious bodily injury** commits poisoning, a Class B felony.

SECTION 4. IC 35-45-3-2, AS AMENDED BY SEA 286-2007, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) A person who recklessly, knowingly, or intentionally places or leaves refuse on property of another person, except in a container provided for refuse, commits littering, a Class B infraction. However, the offense is a Class A infraction if the refuse is placed or left in, on, or within one hundred (100) feet of a body of water that is under the jurisdiction of the:
(1) department of natural resources; or
(2) United States Army Corps of Engineers.
Notwithstanding IC 34-28-5-4(a), a judgment of ~~at least~~ **not more than** one thousand dollars ($1,000) shall be imposed for each Class A infraction committed under this section.

(b) "Refuse" includes solid and semisolid wastes, dead animals, and offal.

(c) Evidence that littering was committed from a moving vehicle other than a public conveyance constitutes prima facie evidence that it was committed by the operator of that vehicle.

SECTION 5. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "committee" refers to the water resources study committee established by IC 2-5-25-1.**

(b) The committee shall study and make findings and recommendations concerning the following:
(1) Current processes and methods used in determining water resource allocation and distribution in Indiana.
(2) Appropriate policies governing future water resource allocation and distribution planning in Indiana.

(c) The committee shall report its finding and recommendations to the legislative council in an electronic format under IC 5-14-6 not later than November 1, 2007.

SECTION 4. **An emergency is declared for this act.**

(Reference is to EHB 1738 as printed March 30, 2007.)

WELCH	GARD
KOCH	SIMPSON
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1312–1; filed April 28, 2007, at 2:57 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 1312 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 25-2.1-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. This article may be cited as "the accountancy act of ~~2001".~~ **2007".**

SECTION 2. IC 25-2.1-1-3.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3.8. "Attest" means to provide any of the following financial statement services:

(1) An audit or other engagement performed in accordance with the AICPA Statements on Auditing Standards (SAS) or other similar standards adopted by reference under IC 25-2.1-2-15.

(2) A review of a financial statement performed in accordance with the AICPA Statements on Standards for Accounting and Review Services (SSARS) or other similar standards adopted by reference under IC 25-2.1-2-15.

(3) An examination of prospective financial information performed in accordance with the AICPA Statements on Standards for Attestation Engagements (SSAE) or other similar standards adopted by reference under IC 25-2.1-2-15.

(4) An engagement performed in accordance with the standards of the Public Company Accounting Oversight Board.

SECTION 3. IC 25-2.1-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. "Certificate" means:

(1) a certificate for a certified public accountant issued under IC 25-2.1-3 or IC 25-2.1-4;

(2) a certificate of registration for an accounting practitioner issued under IC 25-2.1-6-1 **(before its repeal);** or

(3) a certificate for a certified public accountant, public accountant, or accounting practitioner renewed under IC 25-2.1-4.

SECTION 4. IC 25-2.1-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. "Quality review" means a study, an appraisal, or a review of at least one (1) aspect of the professional work of:

(1) an individual **who;** or

(2) a firm in the practice of accountancy **that;**

attests or issues compilation reports, by at least one (1) individual who holds a certificate **from any state and possesses qualifications that meet the applicable substantial equivalency standards** and who is independent of the individual or firm being reviewed.

SECTION 5. IC 25-2.1-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A member of the board serves a term of three (3) years and until the member's successor is appointed and qualified.

(b) An individual may not serve more than two (2) complete terms. An appointment to fill an unexpired term is not a complete term.

(c) All terms expire on June 30.

SECTION 6. IC 25-2.1-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. **(a)** Fees collected by the board shall be received and accounted for by the board and be deposited in the state general fund.

(b) In addition to the fee to issue or renew a certificate or permit, the board shall establish a fee of not more than ten dollars ($10) per year for a person who holds a certificate as an accounting practitioner, a CPA, or a PA to provide funds for administering and enforcing the provisions of this article, including investigating and taking action against persons who violate this article. All funds collected under this subsection shall be deposited in the accountant investigative fund established by IC 25-2.1-8-4.

SECTION 7. IC 25-2.1-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. The board may adopt rules under IC 4-22-2 governing the administration and enforcement of this article and the conduct of licensees, including the following:

(1) The board's meetings and conduct of business.

(2) The procedure of investigations and hearings.

(3) The educational and experience qualifications required for the issuance of certificates under this article and the continuing professional education required for renewal of certificates under IC 25-2.1-4.

(4) Rules of professional conduct directed to controlling the quality and probity of the practice of accountancy by licensees, including independence, integrity, and objectivity, competence and technical standards, and responsibilities to the public and clients.

(5) The actions and circumstances that constitute professing to be a licensee in connection with the practice of accountancy.

(6) The manner and circumstances of use of the title "certified public accountant" and the abbreviation "CPA".

(7) Quality reviews that may be required to be performed under this article.

(8) Methods of applying for and conducting the examinations, including methods for grading examinations and determining a passing grade required of an applicant for a certificate. However, the board shall to the extent possible provide that the examination, grading of the examination, and the passing grades are uniform with those applicable in other states.

(9) Substantial equivalency.

(10) Administration of the accountant investigative fund established by IC 25-2.1-8-4.

SECTION 8. IC 25-2.1-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. The board shall renew a certificate issued under:

(1) this chapter;

(2) IC 25-2.1-3 (certified public accountants); or

(3) IC 25-2.1-6 (public accountants and accounting practitioners) **before July 1, 2007;**

if the holder of the certificate applies and meets the requirements under this chapter.

SECTION 9. IC 25-2.1-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) An individual:

(1) whose principal place of business is not in Indiana; and

(2) who either:

(A) has a valid certificate as a CPA from any state that the board or its designee has determined to be in substantial equivalence with the CPA licensure requirements of this state; or

(B) has individual CPA qualifications that have been determined by the board or its designee as substantially equivalent to the CPA licensure requirements of Indiana;

shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges granted to the holder of a CPA certificate under IC 25-2.1-3 without the need to obtain a certificate under IC 25-2.1-3 or a permit under IC 25-2.1-5.

~~(b) An individual to whom subsection (a) applies shall notify the board of the individual's intent to conduct business in the state under subsection (a).~~

(b) Notwithstanding any other provision of law, an individual who offers or renders professional services, in person or by mail, telephone, or other electronic means, as authorized under this section:

(1) is not required to provide notice or other submissions to the board; and

(2) is subject to the requirements in subsection (c).

(c) An individual of another state exercising the privilege granted under this section ~~consents,~~ **and a CPA firm that**

employs the individual consent, as a condition of the grant of this privilege: ~~to:~~

(1) **to** the personal and subject matter jurisdiction and disciplinary authority of the board;

(2) **to** comply with this article and the board's rules; ~~and~~

(3) that if a certificate as a CPA from the state of the individual's principal place of business is no longer valid, the individual shall cease exercising the privilege granted under this section in Indiana, individually and on behalf of the CPA firm; and

~~(3)~~ **(4) to** the appointment of the state board or agency that issued the individual's license as the individual's agent on whom process may be served in any action or proceeding by this board against the individual.

SECTION 10. IC 25-2.1-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) The board ~~may~~ **shall** adopt rules that require as a condition to renew a permit under this chapter, that an applicant undergo, not more than once every three (3) years, a quality review conducted in a manner the board specifies.

(b) ~~If the board adopts rules under subsection (a)~~ The rules **adopted under subsection (a)** must:

(1) be adopted reasonably in advance of the time when a quality review first becomes effective;

(2) include reasonable provision for compliance by an applicant showing that the applicant has in the preceding three (3) years undergone a quality review that is a satisfactory equivalent to the quality review required under this section;

(3) require, with respect to quality reviews under subdivision (2), that the quality review be subject to review by an oversight body established or sanctioned by the board that shall periodically report to the board on the effectiveness of the review program and provide to the board a listing of firms that have participated in a quality review program; and

(4) require, with respect to quality reviews under subdivision (2), that:

(A) the proceedings, records, and work papers of a review committee are privileged and are not subject to discovery, subpoena, or other means of legal process or introduction into evidence in a civil action, arbitration, administrative proceeding, or Indiana board of accountancy proceeding; and

(B) ~~that~~ a member of the review committee or individual who was involved in the quality review process is not permitted or required to testify in a civil action, arbitration, administrative proceeding, or Indiana board of accountancy proceeding to matters:

(i) produced, presented, disclosed or discussed during, or in connection with, the quality review process; or

(ii) that involve findings, recommendations, evaluations, opinions, or other actions of the committee or a committee member.

SECTION 11. IC 25-2.1-6-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4.5. (a) The board may not issue a certificate under this chapter after July 1, 2007.**

(b) The board may renew a certificate under this chapter that is held validly before July 1, 2007.

SECTION 12. IC 25-2.1-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. An individual who is registered with the board to practice accounting as an accounting practitioner and holds a valid certificate issued under section 1 of this chapter **(before its repeal)** or renewed under IC 25-2.1-4 may be known as an "accounting practitioner" and may use the abbreviation "AP". However, an individual registered as an accounting practitioner may not prepare or render accounting opinions or certificates for any purpose, including financial statements, schedules, reports, or exhibits for publication, credit purposes, and use in a court.

SECTION 13. IC 25-2.1-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) The board may impose sanctions for any of the following reasons:

(1) A violation of IC 25-1-11-5.

(2) Revocation or suspension of the right to practice before a state or federal agency.

(3) Dishonesty, fraud, or gross negligence in the practice of accountancy or in the filing of or failure to file the licensee's own income tax returns.

(4) Any conduct reflecting adversely on the licensee's fitness to engage in the practice of accountancy.

(5) Failure to complete continuing education requirements satisfactorily.

(6) Failure to furnish evidence, when required, of satisfactory completion of continuing education requirements.

(b) A holder of a CPA certificate issued under this article is subject to disciplinary action in this state if the CPA certificate holder:

(1) offers or renders services or uses the CPA title in another state; and

(2) commits an act in that other state for which the CPA certificate holder would be subject to discipline in the other state if the CPA certificate holder were licensed in the other state.

The board shall investigate a complaint made by a board of accountancy or the equivalent of a board of accountancy in another state.

SECTION 14. IC 25-2.1-8-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4. (a) The accountant 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 Indiana professional licensing agency.**

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

(1) money from a fee imposed upon a person who holds a certificate as an accounting practitioner, a CPA, or a PA under IC 25-2.1-2-12(b); and

(2) civil penalties collected under IC 25-2.1-13-3(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. However, if the total amount in the fund exceeds seven hundred fifty thousand dollars ($750,000) at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds seven hundred fifty thousand dollars ($750,000) reverts to the state general fund.

(e) Money in the fund is continually appropriated to the Indiana professional licensing agency for its use in administering and enforcing this article and conducting investigations and taking enforcement action against persons violating this article.

(f) The attorney general and the Indiana professional licensing agency may enter into a memorandum of understanding to provide the attorney general with funds to conduct investigations and pursue enforcement action against violators of this article.

(g) The attorney general and the Indiana professional licensing agency shall present the memorandum of understanding annually to the board for review.

SECTION 15. IC 25-2.1-13-3 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. **(a)** An individual or a firm who knowingly violates IC 25-2.1-12 commits a Class A misdemeanor.

(b) If the board finds that an individual or a firm knowingly violates IC 25-2.1-12 or a rule or order established by the board under this section, the board may impose a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. Penalties collected under this section shall be deposited in the accountant investigative fund established by IC 25-2.1-8-4.

SECTION 16. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2007]: IC 25-2.1-6-1; IC 25-2.1-6-2; IC 25-2.1-6-3; IC 25-2.1-6-4.

(Reference is to EHB 1312 as reprinted April 10, 2007.)

AUSTIN	C. LAWSON
NEESE	LANANE
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1115–1; filed April 28, 2007, at 3:16 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 1115 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 15-5-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) An owner of a dog commits a Class C misdemeanor if the owner recklessly, knowingly, or intentionally fails to take reasonable steps to restrain the dog and:

(1) the dog enters property other than the property of the dog's owner; and

(2) as the result of the failure to restrain the dog, the dog bites or attacks another person resulting in unprovoked bodily injury to the other person;

except as provided in subsection (b).

(b) The offense under subsection (a) is:

(1) a Class B misdemeanor if the person has been convicted of one (1) previous unrelated violation of this section;

(2) a Class A misdemeanor if:

(A) the person has been convicted of more than one (1) previous unrelated violation of this section; or

(B) the violation results in serious bodily injury to a person;

(3) a Class D felony if the owner recklessly violates this section and the violation results in the death of a person; and

(4) a Class C felony if the owner intentionally or knowingly violates this section and the violation results in the death of a person.

(c) This subsection does not apply to a nonaggressive dog that goes beyond the owner's premises onto agricultural or forested land. An owner of a dog commits a Class D infraction if the owner of the dog allows the dog to stray beyond the owner's premises, unless the dog is under the reasonable control of an individual or the dog is engaged in lawful hunting and accompanied by the owner or a custodian of the dog. However, the offense is a Class C infraction if the owner has a prior unrelated judgment for a violation of this subsection.

SECTION 2. IC 15-5-12-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 3.5. (a) The following definitions apply throughout this section:**

(1) "Coydog" means:

(A) an animal that is the offspring of a coyote and another animal; or

(B) an animal that is the offspring of:

(i) an animal that is the offspring of a coyote and another animal; and

(ii) another animal.

(2) "Secure enclosure" means an outdoor pen that is:

(A) roofed or that has sides at least six (6) feet tall; and

(B) constructed in such a manner that the type of animal contained within the pen cannot reasonably be expected to escape.

(3) "Wolf hybrid" means:

(A) an animal that is the offspring of a wolf and another animal; or

(B) an animal that is the offspring of:

(i) an animal that is the offspring of a wolf and another animal; and

(ii) another animal.

(b) An owner of a wolf hybrid or coydog commits a Class B infraction if the owner:

(1) fails to keep the animal in a building or secure enclosure; or

(2) does not keep the animal under the reasonable control of an individual on a leash not more than eight (8) feet in length.

An owner who tethers or chains a coydog or wolf hybrid does not comply with this subsection.

(c) An owner of a wolf hybrid or coydog commits a Class B misdemeanor if the owner recklessly, knowingly, or intentionally fails to comply with subsection (b) and:

(1) the wolf hybrid or coydog enters property other than the property of the owner; and

(2) the wolf hybrid or coydog causes damage to livestock or the personal property of another individual.

(d) The offense under subsection (c) is:

(1) a Class A misdemeanor if the owner has one (1) prior unrelated conviction under this section;

(2) a Class D felony if:

(A) the owner has more than one (1) prior unrelated conviction for a violation under this section; or

(B) the person knowingly, intentionally, or recklessly fails to comply with subsection (b) and the failure to comply results in serious bodily injury to a person; and

(3) a Class C felony if the owner knowingly, intentionally, or recklessly fails to comply with subsection (b) and the failure to comply results in the death of a person.

(e) Notwithstanding IC 36-1-3-8(a), a unit (as defined in IC 36-1-2-23) may adopt an ordinance:

(1) prohibiting a person from possessing a wolf hybrid or coydog; or

(2) imposing:

(A) a penalty of more than one thousand dollars ($1,000) up to the limits prescribed in IC 36-1-3-8(a)(10)(B) for violating the provisions of subsection (b); or

(B) conditions on the possession of a wolf hybrid or coydog that are more stringent than the provisions of subsection (b).

SECTION 3. [EFFECTIVE JULY 1, 2007] **IC 15-5-12-3.5, as added by this act, applies only to crimes committed after June 30, 2007.**

(Reference is to EHB 1115 as printed April 6, 2007.)

KERSEY	STEELE
DUNCAN	SIPES
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1505–1; filed April 28, 2007, at 3:16 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 1505 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 6-8.1-8-8, AS AMENDED BY SEA 559-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. ~~(a)~~ After a tax warrant becomes a judgment under section 2 of this chapter or a tax warrant is returned uncollected to the department under section 3 of this chapter, the department may take any of the following actions without judicial proceedings:

(1) The department may levy upon the property of the taxpayer that is held by a financial institution by sending a claim to the financial institution. Upon receipt of a claim under this subdivision, the financial institution shall surrender to the department the taxpayer's property. If the taxpayer's property exceeds the amount owed to the state by the taxpayer, the financial institution shall surrender the taxpayer's property in an amount equal to the amount owed. After receiving the department's notice of levy, the financial institution is required to place a sixty (60) day hold on or restriction on the withdrawal of funds the taxpayer has on deposit or subsequently deposits, in an amount not to exceed the amount owed.

(2) The department may garnish the accrued earnings and wages of a taxpayer by sending a notice to the taxpayer's employer. Upon receipt of a notice under this subdivision, an employer shall garnish the accrued earnings and wages of the taxpayer in an amount equal to the full amount that is subject to garnishment under IC 24-4.5-5. The amount garnished shall be remitted to the department. The employer is entitled to a fee in an amount equal to the fee allowed under IC 24-4.5-5-105(5). However, the fee shall be borne entirely by the taxpayer.

(3) The department may levy upon and sell property and may:

(A) take immediate possession of the property and store it in a secure place; or

(B) leave the property in the custody of the taxpayer;

until the day of the sale. The department shall provide notice of the sale in one (1) newspaper, as provided in IC 5-3-1-2. If the property is left in the custody of the taxpayer, the department may require the taxpayer to provide a joint and several delivery bond, in an amount and with a surety acceptable to the department. At any time before the sale, any owner or part owner of the property may redeem the property from the judgment by paying the department the amount of the judgment. The proceeds of the sale shall be applied first to the collection expenses and second to the payment of the delinquent taxes and penalties. Any balance remaining shall be paid to the taxpayer.

~~(b) A special counsel or collection agency that makes a claim to a financial institution on behalf of the department under subsection (a)(1) or on behalf of a county treasurer under IC 6-1.1-23-10(c)(1) shall submit the following to the financial institution:~~

~~(1) Proof of employment or contract with the department under section 4 of this chapter or county treasurer under IC 6-1.1-23-1.5.~~

~~(2) Subject to subsection (c), a fee of ten dollars ($10) for each claim.~~

~~(3) A notice of levy issued by the department or county treasurer.~~

~~(4) A form approved by the department or county treasurer containing instructions for remitting funds to the special counsel or collection agency making the claim.~~

~~(5) A stamped, self-addressed envelope for return of the form submitted under subdivision (4).~~

~~(c) A financial institution, special counsel, or collection agency may not assess or pass along a fee under subsection (b)(2) to:~~

~~(1) the department;~~

~~(2) the county treasurer;~~

~~(3) the taxpayer; or~~

~~(4) any other individual or unit of government.~~

SECTION 2. IC 6-8.1-8-8.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 8.7. (a) The department shall operate a data match system with each financial institution doing business in Indiana.**

(b) Each financial institution doing business in Indiana shall provide information to the department on all individuals:

(1) who hold one (1) or more accounts with the financial institution; and

(2) upon whom a levy may be issued by the department or a county treasurer.

(c) To provide the information required under subsection (b), a financial institution shall do one (1) of the following:

(1) Identify individuals by comparing records maintained by the financial institution with records provided by the department by:

(A) name; and

(B) either:

(i) Social Security number; or

(ii) tax identification number.

(2) Comply with IC 31-25-4-31(c)(2). The child support bureau established by IC 31-25-3-1 shall regularly make reports submitted under IC 31-25-4-31(c)(2) available to the department or its agents for use only in tax judgment and levy administration.

(d) The information required under subsection (b) must:

(1) be provided on a quarterly basis; and

(2) include the:

(A) name;

(B) address of record; and

(C) either:

(i) the Social Security number; or

(ii) tax identification number;

of individuals identified under subsection (b).

(e) When the department determines that the information required under subsection (d)(2) is identical for an individual who holds an account with a financial institution and an individual against whom a levy may be issued by the department or a county treasurer, the department or its agents shall provide a notice of the match, in compliance with section 4 of this chapter, if action is to be initiated to levy or encumber the account.

(f) This section does not preclude a financial institution from exercising its right to:

(1) charge back or recoup a deposit to an account; or

(2) set off from an account held by the financial

institution in which the individual has an interest in any debts owed to the financial institution that existed before:

(A) the state's levy; and

(B) notification to the financial institution of the levy.

(g) A financial institution ordered to block or encumber an account under this section is entitled to collect its normally scheduled account activity fees to maintain the account during the period the account is blocked or encumbered.

(h) All information provided by a financial institution under this section is confidential and is available only to the department or its agents for use only in levy collection activities.

(i) A financial institution providing information required under this section is not liable for:

(1) disclosing the required information to the department or the child support bureau established by IC 31-25-3-1;

(2) blocking or surrendering an individual's assets in response to a levy imposed under this section by:

(A) the department; or

(B) a person or an entity acting on behalf of the department; or

(3) any other action taken in good faith to comply with this section.

(j) The department or its agents shall pay a financial institution performing the data match required by this section a reasonable fee, as determined by the department, of at least five dollars ($5) for each levy issued to the financial institution.

(k) This section does not prevent the department or its agents from encumbering an obligor's account with a financial institution by any other remedy available under the law.

SECTION 3. IC 20-12-1-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 13. (a) Notwithstanding any other law, the following records regarding alternative investments in which institutional investment funds invest are not subject to disclosure under IC 5-14-3, unless the information has already been publicly released by the keeper of the information:**

(1) Due diligence materials that are proprietary to the institutional investment fund or the alternative vehicle.

(2) Quarterly and annual financial statements of alternative investment vehicles.

(3) Meeting materials of alternative investment vehicles that contain individual portfolio holdings.

(4) Records containing information regarding the underlying portfolio positions in which alternative investment vehicles invest.

(5) Capital call and distribution notices.

(6) Alternative investment agreements and all related documents.

(b) Notwithstanding subsection (a), the following information contained in records described in subsection (a) regarding alternative investments in which institutional investment funds invest are subject to disclosure under this chapter and are not considered a trade secret or confidential financial information exempt from disclosure:

(1) The name, address, and vintage year of each alternative investment vehicle.

(2) The dollar amount of the commitment made to each alternative investment vehicle by the institutional investment fund since inception.

(3) The dollar amount of cash contributions by the institutional investment fund to each alternative investment vehicle since inception.

(4) The dollar amount, on a fiscal year-end basis, of cash distributions received by the institutional investment fund from each alternative investment vehicle.

(5) The dollar amount, on a fiscal year-end basis, of cash distributions received by the institutional investment fund plus the remaining value of partnership assets attributable to the institutional investment fund's investment in each alternative investment vehicle.

(6) The net internal rate of return of each alternative investment vehicle since inception.

(7) The investment multiple of each alternative investment vehicle since inception.

(8) The schedule of management fees and costs assessed by each alternative vehicle to the institutional investment fund.

(9) The dollar amount of cash profit received by institutional investment funds from each alternative vehicle on a fiscal year-end basis.

(c) The following definitions apply throughout this section:

(1) "Alternative investment" means an investment in a private equity fund, real estate fund, venture fund, hedge fund, natural resource, or absolute return fund.

(2) "Alternative investment vehicle" means a limited partnership, limited liability company, or similar legal structure that is not publicly traded through which an institutional investment fund invests in portfolio companies.

(3) "Institutional investment fund" means a fund that consists of money managed in an endowment fund, including a quasi-endowment, and the returns on the endowment fund, that is held and invested by a state educational institution (as defined in IC 20-12-0.5-1).

(4) "Portfolio positions" means individual portfolio investments made by alternative investment vehicles.

SECTION 4. IC 28-1-12-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 8. (a) Unless otherwise provided in an agreement or a trust, a bank or trust company that holds funds or property as a fiduciary may use the funds or property to purchase from the bank, the trust company, or an affiliate of the bank or trust company, a product, service, or security, including an insurance product or security that is underwritten by the bank, the trust company, an affiliate of the bank or trust company, or a syndicate or selling group that includes the bank, the trust company, or an affiliate of the bank or trust company if the:**

(1) purchase price and any ongoing charges and costs are fair, reasonable, and substantially equivalent to the cost of similar products and services; and

(2) purchase complies with IC 30-4-3.5.

The compensation for the product, services, or security received by the bank, trust company, an affiliate of the bank or trust company, or a syndicate or selling group that includes the bank, the trust company, or an affiliate of the bank or trust company may be in addition to the compensation that the bank or trust company is otherwise entitled to from the fiduciary account.

(b) A bank or trust company that makes a purchase or sale described in subsection (a) shall disclose, at least annually, to each person entitled to receive statements of account activity from the bank or trust company any purchase or sale made by the bank or trust company during the year. The disclosure must be in writing or an electronic format and include the following:

(1) Any capacity in which the bank, the trust company, or an affiliate of the bank or trust company acts for:

(A) the issuer of the securities; or

(B) the provider of the products or services;

that is the subject of the purchase or sale.

(2) A statement that the bank, the trust company, or an

affiliate of the bank or trust company has an interest in the subject of the purchase or sale, if applicable.

(3) The rate and method by which that compensation was determined.

(4) The name, telephone number, street address, and mailing address of an officer of the bank or trust company who may be contacted for further information.

(5) A notice that the bank's or trust company's ability to make transactions described in subsection (a) ends upon receipt at any time of a notice of objection by a majority of the persons entitled to receive statements of account activity.

(c) The following apply to a purchase or sale under subsection (a):

(1) Except as provided in subdivisions (2) and (3), if the fiduciary relationship is a trust or an agency, the trustee or agent shall treat the purchase or sale under subsection (a) as if it were a conflict of interest transaction under IC 30-4-3-5 and shall give any notice and obtain any consent that may be required under IC 30-4-3-5, subject to the following:

(A) IC 30-2-14-16 applies to any notice required to be given by a trustee or an agent under this subdivision, subject to the following:

(i) If the fiduciary relationship is a revocable trust with one (1) or more living grantors, the trustee must give notice only to the living grantors, who shall be considered to have all income and principal interests in the trust at the time the notice is given. If a grantor is incapacitated, the trustee shall give notice to the grantor's court appointed guardian, the principal under a durable power of attorney, or a co-trustee of the revocable trust, unless the guardian, principal, or co-trustee is the bank or trust company that seeks the consent. If the representative of the incapacitated grantor is the bank or trust company that seeks the consent to a purchase or sale under subsection (a), the trustee shall obtain consent from the court.

(ii) If the fiduciary relationship is a revocable trust and the assets of the revocable trust are distributable to one (1) or more other trusts, notice shall be given to the trustees of the other trusts. However, if the bank or trust company that seeks the consent to a purchase or sale under subsection (a) is the trustee of another trust to which the assets of the revocable trust are distributable, the bank or trust company shall give notice to those beneficiaries of the other trust who are entitled to receive statements of account activity from the bank or trust company.

(iii) If the fiduciary relationship is an agency, the principal must consent to the purchase or sale under subsection (a) in writing in advance of the transaction. The principal shall be considered to have all income and principal interests in the account at the time the notice of the proposed transaction is given. If the principal is incapacitated, consent must be obtained from the principal's court appointed guardian, unless the guardian of the incapacitated principal is the bank or trust company that seeks the consent. If the guardian of the incapacitated principal is the bank or trust company that seeks the consent, consent to a purchase or sale under subsection (a) must be obtained from the court supervising the principal's guardianship.

(B) If the fiduciary relationship is a trust, the following apply with respect to any consent required to be obtained under IC 30-4-3-5(a)(2):

(i) Notwithstanding the requirement under IC 30-4-3-5(a)(2)(A) that all interested persons provide written consent to the proposed action, and subject to subdivision (2), a trustee, for a proposed purchase or sale under subsection (a), need only obtain the written consent of a majority of the persons entitled to notice under IC 30-2-14-16, as modified by this clause. However, the trustee must obtain the written consent of at least one (1) beneficiary who is receiving income under the trust at the time of the notice and at least one (1) individual who would receive a distribution of principal if the trust were terminated at the time notice is given.

(ii) Upon obtaining the written consents required under item (i), the trustee need not wait until the period to make written objections under IC 30-2-14-16 ends, in order to take the proposed action.

(2) Any consent granted under subdivision (1)(B)(i) may be revoked by a writing signed by a majority of the persons entitled to notice under IC 30-2-14-16, as modified by this subdivision. However, the revocation must be signed by:

(A) at least one (1) beneficiary who is receiving income under the trust at the time the revocation is signed; and

(B) at least one (1) individual who would receive a distribution of principal if the trust were terminated at the time the revocation is signed.

(3) The notice and consent otherwise required under subdivision (1) are not required if the purchase or sale under subsection (a) is specifically authorized:

(A) in the document creating the fiduciary relationship; or

(B) under IC 30-4-3-7.

SECTION 5. IC 28-6.1-6-26 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 26. (a) Unless otherwise provided in an agreement or a trust, a savings bank that holds funds or property as a fiduciary may use the funds or property to purchase from the savings bank or an affiliate of the savings bank a product, service, or security, including an insurance product or security that is underwritten by the savings bank, an affiliate of the savings bank, or a syndicate or selling group that includes the savings bank or an affiliate of the savings bank, if:**

(1) the purchase price and any ongoing charges and costs are fair, reasonable, and substantially equivalent to the cost of similar products and services; and

(2) the purchase complies with IC 30-4-3.5.

The compensation for the product, service, or security received by the savings bank or an affiliate of the savings bank or a syndicate or selling group that includes the savings bank or an affiliate of the savings bank may be in addition to the compensation that the savings bank is otherwise entitled to from the fiduciary account.

(b) A savings bank that makes a purchase or sale described in subsection (a) shall disclose, at least annually, to each person entitled to receive statements of account activity from the savings bank any purchase or sale made by the savings bank during the year. The disclosure must be in writing or an electronic format and include the following:

(1) Any capacity in which the savings bank or an affiliate of the savings bank acts for:

(A) the issuer of the securities; or

(B) the provider of the products or services;

that is the subject of the purchase or sale.

(2) A statement that the savings bank or an affiliate of the savings bank has an interest in the subject of the purchase or sale, if applicable.

(3) The rate and method by which that compensation was determined.

(4) The name, telephone number, street address, and mailing address of an officer of the savings bank who may be contacted for further information.

(5) A notice that the savings bank's ability to make transactions described in subsection (a) ends upon receipt at any time of a notice of objection by a majority of the persons entitled to receive statements of account activity.

(c) The following apply to a purchase or sale under subsection (a):

(1) Except as provided in subdivisions (2) and (3), if the fiduciary relationship is a trust or an agency, the trustee or agent shall treat the purchase or sale under subsection (a) as if it were a conflict of interest transaction under IC 30-4-3-5 and shall give any notice and obtain any consent that may be required under IC 30-4-3-5, subject to the following:

(A) IC 30-2-14-16 applies to any notice required to be given by a trustee or an agent under this subdivision, subject to the following:

(i) If the fiduciary relationship is a revocable trust with one (1) or more living grantors, the trustee must give notice only to the living grantors, who shall be considered to have all income and principal interests in the trust at the time the notice is given. If a grantor is incapacitated, the trustee shall give notice to the grantor's court appointed guardian, the principal under a durable power of attorney, or a co-trustee of the revocable trust, unless the guardian, principal, or co-trustee is the savings bank that seeks the consent. If the representative of the incapacitated grantor is the savings bank that seeks the consent to a purchase or sale under subsection (a), the trustee shall obtain consent from the court.

(ii) If the fiduciary relationship is a revocable trust and the assets of the revocable trust are distributable to one (1) or more other trusts, notice shall be given to the trustees of the other trusts. However, if the savings bank that seeks the consent to a purchase or sale under subsection (a) is the trustee of another trust to which the assets of the revocable trust are distributable, the savings bank shall give notice to those beneficiaries of the other trust who are entitled to receive statements of account activity from the savings bank.

(iii) If the fiduciary relationship is an agency, the principal must consent to the purchase or sale under subsection (a) in writing in advance of the transaction. The principal shall be considered to have all income and principal interests in the account at the time the notice of the proposed transaction is given. If the principal is incapacitated, consent must be obtained from the principal's court appointed guardian, unless the guardian of the incapacitated principal is the savings bank that seeks the consent. If the guardian of the incapacitated principal is the savings bank that seeks the consent, consent to a purchase or sale under subsection (a) must be obtained from the court supervising the principal's guardianship.

(B) If the fiduciary relationship is a trust, the following apply with respect to any consent required to be obtained under IC 30-4-3-5(a)(2):

(i) Notwithstanding the requirement under IC 30-4-3-5(a)(2)(A) that all interested persons provide written consent to the proposed action, and subject to subdivision (2), a trustee, for a proposed purchase or sale under subsection (a), need only obtain the written consent of a majority of the persons entitled to notice under IC 30-2-14-16, as modified by this clause. However, the trustee must obtain the written consent of at least one (1) beneficiary who is receiving income under the trust at the time of the notice and at least one (1) individual who would receive a distribution of principal if the trust were terminated at the time notice is given.

(ii) Upon obtaining the written consents required under item (i), the trustee need not wait until the period to make written objections under IC 30-2-14-16 ends, in order to take the proposed action.

(2) Any consent granted under subdivision (1)(B)(i) may be revoked by a writing signed by a majority of the persons entitled to notice under IC 30-2-14-16, as modified by this subdivision. However, the revocation must be signed by:

(A) at least one (1) beneficiary who is receiving income under the trust at the time the revocation is signed; and

(B) at least one (1) individual who would receive a distribution of principal if the trust were terminated at the time the revocation is signed.

(3) The notice and consent otherwise required under subdivision (1) are not required if the purchase or sale under subsection (a) is specifically authorized:

(A) in the document creating the fiduciary relationship; or

(B) under IC 30-4-3-7.

SECTION 6. IC 30-2-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **(a)** This chapter applies to an institutional fund **in existence after June 30, 2007.**

(b) For an institutional fund in existence before July 1, 2007, this chapter applies only to decisions made or actions taken after June 30, 2007.

SECTION 7. IC 30-2-12-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.3. As used in this chapter, "charitable purpose" means the following:**

(1) Relief of poverty.

(2) Advancement of education.

(3) Advancement of religion.

(4) Promotion of health.

(5) Promotion of a governmental purpose.

(6) Any other purpose the achievement of which benefits the community.

SECTION 8. IC 30-2-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. As used in this chapter, "endowment fund" means an institutional fund, or any part of the fund, not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument. **The term does not include assets that an institution designates as an endowment fund for the institution's use.**

SECTION 9. IC 30-2-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. As used in this chapter, "gift instrument" means a ~~will, a deed, a grant, a conveyance, an agreement, a memorandum, a writing, or other governing document~~ **record,** including ~~the terms of~~ any institutional solicitations, ~~from which an institutional fund resulted)~~ under which property is **granted or** transferred to or held by an institution as an institutional fund.

SECTION 10. IC 30-2-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. As used in this chapter, "institution" means any of the following:

~~(1) An approved institution of higher learning (as defined in IC 20-12-21-3) and its related foundations.~~

~~(2) An organization that:~~

~~(A) is an exempt organization under Section 501(c)(3) of the Internal Revenue Code;~~

~~(B) has an endowment fund with a fair market value of at least ten million dollars ($10,000,000); and~~

~~(C) is not a religious organization.~~

~~(3) A community foundation or trust.~~

(1) A person, other than an individual, that is organized and operated exclusively for charitable purposes.

(2) The state, including any agency or instrumentality of the state, or a unit of local government to the extent that the state or unit holds funds exclusively for charitable purposes.

(3) A trust that has only charitable interests, including a trust:

(A) that previously had both charitable and noncharitable interests; and

(B) the noncharitable interests of which were previously terminated.

SECTION 11. IC 30-2-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. ~~(a)~~ As used in this chapter, "institutional fund" means a fund held by an institution **exclusively** for ~~its exclusive use, benefit, or~~ **charitable** purposes. The term does not include the following:

(1) ~~Except as provided in subsection (b),~~ A fund held for an institution by a trustee that is not an institution.

(2) A fund in which a beneficiary that is not an institution has an interest, other than possible rights that could arise upon violation or failure of the purposes of the fund.

(3) Assets held by an institution primarily for charitable purposes and not primarily for investment purposes.

~~(b) The term includes a fund that is held exclusively for the benefit of a community foundation or trust regardless of the nature of the trustee or fiduciary.~~

SECTION 12. IC 30-2-12-6.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 6.4. As used in this chapter, "person" means an individual, a corporation, a business trust, an estate, a trust, a partnership, a limited liability company, an association, a joint venture, a public corporation, the state of Indiana, a state agency or instrumentality, a unit of local government, or any other legal or commercial entity.**

SECTION 13. IC 30-2-12-6.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 6.7. As used in this chapter, "record" means information that is:**

(1) inscribed on a tangible medium; or

(2) stored in an electronic or other medium; and

is retrievable in a perceivable form.

SECTION 14. IC 30-2-12-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. ~~Section 8 of this chapter does not apply if the applicable gift instrument indicates the donor's intention that net appreciation may not be expended. A restriction upon the expenditure of net appreciation may not be implied from a designation of a gift as an endowment, or from a direction or authorization in the applicable~~ **(a) Subject to the terms of a gift instrument, an institution may appropriate for expenditure or accumulate so much of an endowment fund that the institution determines is prudent for the uses, benefits, purposes, and duration of the endowment fund. Except as provided in a gift instrument, the assets in an endowment fund are donor restricted until appropriated by the institution.**

(b) In determining to appropriate or accumulate endowment funds, an institution shall:

(1) act in good faith and with the care a prudent person acting in a like position would use under similar circumstances; and

(2) consider the following factors:

(A) The duration and preservation of the endowment fund.

(B) The purposes of the institution and the endowment fund.

(C) General economic conditions.

(D) The possible effects of inflation or deflation.

(E) The expected total return from income and the appreciation of investments.

(F) Other resources of the institution.

(G) The investment policy of the institution.

(c) To be effective, a gift instrument must specifically state a limitation on the authority of an institution to appropriate or accumulate under subsection (a).

(d) A gift instrument **that designates a gift as an endowment or contains a direction or authorization** to use only income, interest, dividends, rents, issues, or profits, or to preserve the principal intact, or a similar direction:

(1) creates an endowment fund of permanent duration unless the gift instrument states otherwise; and

(2) does not otherwise limit the authority to appropriate or accumulate under subsection (a).

SECTION 15. IC 30-2-12-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) With the ~~written~~ consent of the donor **in a record,** ~~the governing board~~ **an institution** may **modify or** release, in whole or in part, a restriction ~~imposed by the applicable~~ **in a** gift instrument on the ~~use or~~ **management,** investment, **and purpose** of an institutional fund.

(b) A release under this section may not allow an institutional fund to be used for purposes other than the **charitable** purposes of the institution affected.

~~(c) This section does not limit the application of the doctrine of cy pres or the ability of the governing body through legal or equitable proceedings to obtain a release of a restriction in an applicable gift instrument.~~

(c) An institution may petition a court to modify, in a manner consistent with the donor's intentions to the extent practicable, a restriction in a gift instrument concerning the management or investment of an institutional fund if:

(1) the restriction is impracticable or wasteful;

(2) the restriction impairs the management or investment of the fund; or

(3) due to unanticipated circumstances, the modification will further the purposes of the institutional fund.

An institution shall notify the attorney general of a petition under this subsection. A court shall provide the attorney general an opportunity to be heard on the petition.

(d) An institution may petition a court to modify, in a manner consistent with the gift instrument, the charitable purpose of a fund or a restriction on the use of a fund if the charitable purpose or use becomes unlawful, impracticable, impossible, or wasteful. An institution shall notify the attorney general of a petition under this subsection. A court shall provide the attorney general an opportunity to be heard on the petition.

(e) If an institution determines that a restriction in a gift instrument on the management, investment, or purpose of an institutional fund is unlawful, impracticable, impossible, or wasteful, the institution shall notify the attorney general. Not more than sixty (60) days after providing notice under this subsection, the institution may release or modify all or part of the restriction if:

(1) the value of the institutional fund subject to the restriction is less than twenty-five thousand dollars

($25,000);

(2) the institutional fund was established more than twenty (20) years earlier; and

(3) the institution uses the institutional fund in a manner consistent with the charitable purposes expressed in the gift instrument.

SECTION 16. IC 30-2-12-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 14. (a) An institution that manages or invests an institutional fund shall consider the following:**

(1) The intent of a donor expressed in a gift instrument.

(2) The charitable purposes of the institution.

(3) The purposes of the institutional fund.

(b) A person who is responsible for managing or investing an institutional fund shall:

(1) comply with the duty of loyalty imposed by any law; and

(2) manage or invest the fund in good faith and with the care a prudent person acting in a like position would use under similar circumstances.

(c) An institution that manages or invests an institutional fund:

(1) may only incur costs that are appropriate and reasonable in relation to:

(A) the assets of;

(B) the purposes of; and

(C) the skills available to;

the institution; and

(2) shall make a reasonable effort to verify facts relevant to the management and investment of the fund.

(d) An institution may pool two (2) or more institutional funds for purposes of management or investment.

(e) Subject to the terms of a gift instrument, an institution or a person shall do the following:

(1) An institution that manages or invests an institutional fund shall consider the following factors:

(A) General economic conditions.

(B) The possible effects of inflation or deflation.

(C) The possible tax consequences of investment decisions or strategies.

(D) The role of each investment or course of action in relation to the overall investment portfolio of the institutional fund.

(E) The expected total return from income and the appreciation of investments.

(F) Other resources of the institution.

(G) The needs of the institution and institutional fund to make distributions and to preserve capital.

(H) The relationship or value of an asset to the charitable purposes of the institution.

(2) An institution shall make management and investment decisions about an individual asset:

(A) in the context of an institutional fund's portfolio of investments as a whole and not in isolation; and

(B) as part of an overall investment strategy that has risk and return objectives reasonably suited to the institutional fund and to the institution.

(3) Except as otherwise provided in law, an institution may invest in any kind of property or type of investment.

(4) An institution shall diversify the investments of an institutional fund unless the institution reasonably determines that, due to special circumstances, the purposes of the institutional fund are better served without diversification.

(5) Within a reasonable time after receiving property, an institution shall:

(A) retain or dispose of the property; or

(B) otherwise rebalance the investment portfolio; to bring the institutional fund into compliance with the purposes, terms, and distribution requirements of the institution.

(6) A person that has, or represents to have, special skills or expertise shall use the skills or expertise to manage or invest institutional funds.

(7) Notwithstanding any other provision in this chapter, an institution may retain property contributed by a donor to an institutional fund as long as the governing board of the institution considers it advisable.

SECTION 17. IC 30-2-12-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 15. (a) Subject to the terms of a gift instrument and except as provided in any other law, an institution may delegate to an agent the management or investment of an institutional fund. The institution shall act in good faith and with the care a prudent person acting in a like position would use under similar circumstances in doing the following:**

(1) Selecting an agent.

(2) Establishing the scope and terms of the delegation, subject to the purposes of the institution and the institutional fund.

(3) Periodically reviewing the agent's actions to monitor the agent's performance of and compliance with the scope and terms of the delegation.

An institution that complies with this subsection is not liable for the decisions or actions of an agent to whom the management or investment of an institutional fund is delegated.

(b) An agent shall exercise reasonable care to perform a delegated function in compliance with the scope and terms of the delegation.

(c) An agent that accepts the delegation of a management or investment function from an institution submits to the jurisdiction of Indiana courts in all proceedings concerning the delegation or the performance of a delegated function.

(d) An institution may delegate management or investment functions to its committees, officers, or employees as otherwise provided by law.

SECTION 18. IC 30-2-12-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 16. Compliance with this chapter shall be determined in light of the facts and circumstances existing at the time a decision is made or action is taken and not by hindsight.**

SECTION 19. IC 30-2-12-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 17. (a) Except as provided in subsection (b), this chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq.**

(b) This chapter does not:

(1) modify, limit, or supersede 15 U.S.C. 7001(a); or

(2) authorize electronic delivery of a notice described in 15 U.S.C. 7003(b).

SECTION 20. IC 30-2-12-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 18. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.**

SECTION 21. IC 30-4-3-7, AS AMENDED BY P.L.238-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) Unless the terms of the trust provide otherwise **or the transaction is authorized under IC 28-1-12-8 or IC 28-6.1-6-26,** the trustee has a duty:

(1) not to loan funds to ~~himself~~ **the trustee** or an affiliate;

(2) not to purchase or participate in the purchase of trust

property from the trust for the trustee's own or an affiliate's account;

(3) not to sell or participate in the sale of the trustee's own or an affiliate's property to the trust; or

(4) if a corporate trustee, not to purchase for or retain in the trust its own or a parent or subsidiary corporation's stock, bonds, or other capital securities. However, the trustee may retain such securities already held in trusts created prior to September 2, 1971.

(b) Unless the terms of the trust provide otherwise, a corporate trustee may invest in, purchase for, or retain in the trust its own or an affiliate's obligations, including savings accounts and certificates of deposit, without the investment, purchase, or retention constituting a conflict of interest under section 5 of this chapter.

(c) Unless the terms of the trust provide otherwise, a corporate trustee does not violate subsection (a) by investing in, purchasing for, or retaining in the trust its own or an affiliate's obligations, including savings accounts and certificates of deposit, if the payment of each obligation is fully insured by the Bank Insurance Fund or the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or any insurer approved by the department of financial institutions under IC 28-7-1-31.5.

(d) If the terms of the trust permit the trustee to deal with a beneficiary for the trustee's own account, the trustee has a duty to deal fairly with and to disclose to the beneficiary all material facts related to the transaction which the trustee knows or should know.

(e) Unless the terms of the trust provide otherwise, the trustee may sell, exchange, or participate in the sale or exchange of trust property from one (1) trust to ~~himself~~ **the trustee** as trustee of another trust, provided the sale or exchange is fair and reasonable with respect to the beneficiaries of both trusts and the trustee discloses to the beneficiaries of both trusts all material facts related to the sale or exchange which the trustee knows or should know.

(f) This section does not prohibit a trustee from enforcing or fulfilling any enforceable contract or agreement:

(1) executed during the settlor's lifetime; and

(2) between the settlor and the trustee in the trustee's individual capacity.

SECTION 22. IC 30-4-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. ~~(Liability of the Trustee to the Beneficiary)~~

(a) The trustee is accountable to the beneficiary for the trust estate.

(b) If the trustee commits a breach of trust, he is liable to the beneficiary for:

(1) any loss or depreciation in the value of the trust property as a result of the breach;

(2) any profit made by the trustee through the breach;

(3) any reasonable profit which would have accrued on the trust property in the absence of a breach; and

(4) reasonable attorney's fees incurred by the beneficiary in bringing an action on the breach.

(c) In the absence of a breach of trust, the trustee has no liability to the beneficiary either for any loss or depreciation in value of the trust property or for a failure to make a profit. **However, if:**

(1) a loss or depreciation in value of the trust property; or

(2) the trust's failure to make a profit;

is the result of a violation by the trustee of IC 28-1-12-8 or IC 28-6.1-6-26, one (1) or more beneficiaries of the trust may petition the court for any remedy described in subsection (b) or for removal of the trustee under section 22(a)(4) of this chapter, regardless of whether the transaction under IC 28-1-12-8 or IC 28-6.1-6-26 constitutes or involves a breach of trust. The court may award one (1) or more remedies described in subsection (b) or remove the trustee, or both, if the court determines that the remedy or the removal of the trustee is in the best interests of all beneficiaries of the trust. The burden of proof is on the one (1) or more petitioning beneficiaries to demonstrate that the remedy or the removal of the trustee is in the best interests of all beneficiaries of the trust.

(d) The trustee is liable to the beneficiary for acts of an agent which, if committed by the trustee, would be a breach of the trust if ~~he:~~ **the trustee:**

(1) directs or permits the act of the agent;

(2) delegates the authority to perform an act to the agent which ~~he~~ **the trustee** is under a duty not to delegate;

(3) fails to use reasonable care in the selection or retention of the agent;

(4) fails to exercise proper supervision over the conduct of the agent;

(5) approves, acquiesces in, or conceals the act of the agent; or

(6) fails to use reasonable effort to compel the agent to reimburse the trust estate for any loss or to account to the trust estate for any profit.

SECTION 23. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2007]: IC 30-2-12-1.5; IC 30-2-12-4; IC 30-2-12-7; IC 30-2-12-8; IC 30-2-12-10; IC 30-2-12-11; IC 30-2-12-12.

(Reference is to EHB 1505 as printed March 23, 2007.)

BARDON	BRAY
FOLEY	SIMPSON
House Conferees	Senate Conferees

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

ENROLLED ACTS SIGNED

The Speaker announced that he had signed House Enrolled Acts 1092, 1214, 1220, 1278, 1287, 1339, 1348, 1406, 1429, and 1739 and Senate Enrolled Acts 94, 192, 220, 232, 267, 286, 329, 345, 347, 472, and 534 on April 28.

RESOLUTIONS ON FIRST READING

House Resolution 98

Representative Crooks introduced House Resolution 98:

A HOUSE RESOLUTION urging the legislative council to direct an Interim Study Committee to explore options for funding, upgrading, and coordinating the state's Emergency Alert System [EAS].

Whereas, At times of natural or manmade emergencies or disasters fast methods to communicate with the public are critical;

Whereas, Amber Alerts have proven to be effective tools in recovering abducted children;

Whereas, In a time of crisis Indiana broadcasters would be the state's primary messenger to the citizens of Indiana and in a time of breakdown of other means of communication, the EAS and over-the-air broadcasters might be the only form of communication available to the Governor, Mayors, and state agencies such as Homeland Security, the Department of Health, or the State Police;

Whereas, Although the state's broadcast media are prepared to participate in the state's Emergency Alert System, the current system has significant limitations which can impede or impair the effectiveness of communication to the public;

Whereas, Modern technology exists to solve many of the problems affecting the current Emergency Alert System; and

Whereas, Amber Alerts and other emergency notifications depend upon the Emergency Alert System for delivery of those messages to the citizens of Indiana: 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 direct an interim study committee to explore options for funding, upgrading, and coordinating the state's Emergency Alert System

SECTION 2. That should the topic be assigned to a committee, that committee should gather information from the various state agencies that might depend upon the Emergency Alert System for communicating with the Indiana citizens in times of emergencies or during Amber Alerts, gather information from those currently part of the Emergency Alert System, explore modern technology that would significantly improve the reliability of the Emergency Alert System, and explore options for funding that technology.

SECTION 3. That the committee, should this topic be assigned, shall issue a final report including their findings and recommendations 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 99

Representatives M. Smith and V. Smith introduced House Resolution 99:

A HOUSE RESOLUTION urging the establishment of an interim study committee on the assessment of personal and real property.

Whereas, The rules and laws governing the assessment of real property and the rules and laws governing the assessment of personal property may not be uniform or equal with respect to each other; and

Whereas, The processes governing audits, corrections, and appeal procedures with respect to the assessed valuation of personal property and the assessment of real property are substantially different from one another: Now, 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 to study the issue of ensuring that the rules and laws with respect to the assessment of personal property and the assessment of real property are uniform and equal to each other.

SECTION 2. That the committee, if established, shall study the auditing process, the corrections process, and the appeals process with regard to the assessment of personal property and the assessment of real property.

SECTION 3. That the committee, if established, shall operate under the direction of the legislative council and that the committee 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.

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 1452 because it conflicts with SEA 94-2007 and SEA 526-2007 without properly recognizing the existence of SEA 94-2007 and SEA 526-2007, has had Engrossed House Bill 1452 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1452 be corrected as follows:

In the Conference Committee Report to EHB 1452, Page 2, line 33, delete "IC 20-12-22.3" and insert "IC 21-12-9".

In the Conference Committee Report to EHB 1452, Page 2, line 36, delete "22.3." and insert "**9.**".

In the Conference Committee Report to EHB 1452, Page 2, line 38, delete "IC 20-12-21-4." and insert "**IC 21-11-2-1.**".

In the Conference Committee Report to EHB 1452, Page 2, line 46, delete "IC 20-12-0.5-1." and insert "**IC 21-7-13-32.**".

In the Conference Committee Report to EHB 1452, Page 35, line 10, delete "P.L.127-2006," and insert "SEA 94-2007, SECTION 195,".

In the Conference Committee Report to EHB 1452, Page 35, line 11, delete "SECTION 3,".

In the Conference Committee Report to EHB 1452, Page 39, line 24, delete "mentally retarded".

In the Conference Committee Report to EHB 1452, Page 39, line 25, delete "or mentally or physically disabled".

In the Conference Committee Report to EHB 1452, Page 39, line 25, after "child" insert "who has mental retardation or a mental or physical disability".

(Reference is to EHB 1452 as reprinted April 3, 2007, and as amended by the Conference Committee Report to EHB 1452.)

PELATH, Chair
WHETSTONE, R.M.M.
KLINKER, 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 103 because it conflicts with SEA 526-2007 without properly recognizing the existence of SEA 526-2007, has had Engrossed Senate Bill 103 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 103 be corrected as follows:

In the conference committee report to ESB 103, page 12, line 7, delete "P.L.101-2006," and insert "SEA 526-2007,".

In the conference committee report to ESB 103, page 12, line 8, delete "4," and insert "101,".

In the conference committee report to ESB 103, page 12, line 23, delete "an" and insert "a state educational".

In the conference committee report to ESB 103, page 12, line 23, after "institution" delete "of" and insert ",".

In the conference committee report to ESB 103, page 12, line 24, delete "higher education,".

(Reference is to ESB 103 as reprinted March 27, 2007, and as amended by the conference committee report to ESB 103.)

PELATH, Chair
WHETSTONE, R.M.M.
STILWELL, Sponsor

Report adopted.

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

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 reports are eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 12 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed Senate Bills 125–1, 193–1, 247–1, 250–1,

270–1, 320–1, 412–1, and 566–1 and Engrossed House Bills 1078–1, 1173–1, 1274–1, 1425–1, and 1767–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee reports are eligible for consideration after April 11 and that House Rule 164.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 12 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed Senate Bills 125–1, 193–1, 247–1, 250–1, 270–1, 320–1, 412–1, and 566–1 and Engrossed House Bills 1078–1, 1173–1, 1274–1, 1425–1, and 1767–1.

PELATH, Chair

Motion prevailed.

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 reports are eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 5 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed Senate Bill 461–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee reports are eligible for consideration after April 11 and that House Rule 164.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 5 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed Senate Bill 461–1.

PELATH, Chair

Motion prevailed.

Engrossed House Bill 1078–1

The conference committee report was reread. Roll Call 631: yeas 93, nays 0. Report adopted.

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

Engrossed House Bill 1173–1

The conference committee report was reread. Representative Tincher was excused from voting, pursuant to House Rule 46. Roll Call 632: yeas 95, nays 0. Report adopted.

Engrossed House Bill 1274–1

The conference committee report was reread. Roll Call 633: yeas 93, nays 1. Report adopted.

Engrossed House Bill 1425–1

The conference committee report was reread. Roll Call 634: yeas 96, nays 0. Report adopted.

Engrossed Senate Bill 125–1

The conference committee report was reread. Roll Call 635: yeas 89, nays 3. Report adopted.

Engrossed Senate Bill 193–1

The conference committee report was reread. Representatives Frizzell, Porter, and Turner were excused from voting, pursuant to House Rule 46. Roll Call 636: yeas 72, nays 22. Report adopted.

Engrossed Senate Bill 247–1

The conference committee report was reread. Roll Call 637: yeas 85, nays 11. Report adopted.

Engrossed Senate Bill 250–1

The conference committee report was reread. Roll Call 638: yeas 87, nays 6. Report adopted.

Engrossed Senate Bill 270–1

The conference committee report was reread. Roll Call 639: yeas 92, nays 0. Report adopted.

Engrossed Senate Bill 320–1

The conference committee report was reread. Roll Call 640: yeas 61, nays 31. Report adopted.

Engrossed House Bill 1767–1

The conference committee report was reread. Roll Call 641: yeas 91, nays 2. Report adopted.

Engrossed Senate Bill 412–1

The conference committee report was reread. Roll Call 642: yeas 92, nays 0. Report adopted.

Engrossed Senate Bill 461–1

The conference committee report was reread. Roll Call 643: yeas 96, nays 0. Report adopted.

Engrossed Senate Bill 566–1

The conference committee report was reread. Roll Call 644: yeas 94, nays 0. Report adopted.

CONFEREES AND ADVISORS APPOINTED

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

EHB 1237	Conferee:	L. Lawson replacing Torr
EHB 1824	Conferee:	Crooks replacing Pelath
	Advisor:	Crooks removed
ESB 500	Conferee:	Crawford replacing Espich
	Advisor:	Crawford removed

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 6:00 p.m. with the Speaker Pro Tempore, Representative Dobis, in the Chair.

Representatives Kuzman and Stilwell were excused.

The Speaker ordered the roll of the House to be called to determine the presence or absence of a quorum. Roll Call 645: 74 present. The Speaker declared a quorum present.

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 1078, 1173, 1274, 1425 and 1767.

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 Bills 125, 193, 247, 250, 270, 412, 461, and 566.

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 1019.

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 1027.

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 1452.

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 Senate Bill 103.

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 Senate Bill 504.

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 Senate Bill 506.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Acts 104, 157, 171, 328, and 550 for signature of the Speaker of the House.

MARY C. MENDEL
Principal Secretary of the Senate

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
ESB 310–1; filed April 28, 2007, at 4:33 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 310 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 1-1-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **(a)** If a statute enacted by the general assembly or a rule, as defined by IC 4-22-2-3, requires that notice or other matter be given or sent by registered mail **or certified mail,** a person may use: ~~certified mail as established by the United States Postal Service to comply with the law or rule.~~

(1) any service of the United States Postal Service or any service of a designated private delivery service (as defined by the United States Internal Revenue Service) that:

(A) tracks the delivery of mail; and

(B) requires a signature upon delivery; or

(2) delivery by an employee of the unit of government sending the notice;

to comply with the statute or rule.

(b) If means of giving notice is not covered by rules adopted by the supreme court and if a notice or other matter sent as described in subsection (a) is returned undelivered, the notice or other matter must be given by:

(1) delivering a copy of the notice or other matter to the person to whom the notice or other matter must be given personally;

(2) leaving a copy of the notice or other matter at the dwelling house or usual place of abode of the person to whom the notice or other matter must be given;

(3) sending by first class mail a copy of the notice or other matter to the last known address of the person to whom the notice or other matter must be given; or

(4) serving the agent of the person to whom the notice or other matter must be given as provided by rule, statute, or valid agreement.

(Reference is to ESB 310 as printed April 6, 2007.)

HERSHMAN	GRUBB
BRODEN	RICHARDSON
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1192–1; filed April 28, 2007, at 4:34 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 1192 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 13-11-2-77 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 77. (a) "Facility", for purposes of IC 13-15-1-3, means a structure or an area of land used for the disposal, treatment, storage, recovery, processing, or transferring of solid waste, hazardous waste, or atomic radiation. The term includes the following:

(1) A hazardous waste facility.

(2) An incinerator.

(3) A solid waste landfill.

(4) A transfer station.

(b) "Facility", for purposes of IC 13-17-7, means a single structure, piece of equipment, installation, or operation that:

(1) emits; or
(2) has the potential to emit;
a regulated air pollutant.

(c) "Facility", for purposes of IC 13-18-5, means a building, a structure, equipment, or other stationary item that is located on:
(1) a single site; or
(2) contiguous or adjacent sites that are owned by, operated by, or under common control of the same person.

(d) "Facility", for purposes of IC 13-21, means a facility, a plant, a works, a system, a building, a structure, an improvement, machinery, equipment, a fixture, or other real or personal property of any nature that is to be used, occupied, or employed for the collection, storage, separation, processing, recovery, treatment, marketing, transfer, or disposal of solid waste.

(e) "Facility", for purposes of IC 13-25-2, means all buildings, equipment, structures, and other stationary items that are:
(1) located on a single site or on contiguous or adjacent sites; and
(2) owned or operated by:
(A) the same person; or
(B) any person that controls, is controlled by, or is under common control with the same person.
For purposes of IC 13-25-2-6, the term includes motor vehicles, rolling stock, and aircraft.

(f) "Facility", for purposes of IC 13-25-4, has the meaning set forth in 42 U.S.C. 9601(9).

~~(f)~~ **(g)** "Facility", for purposes of IC 13-29-1, means a parcel of land or site, together with the structures, equipment, and improvements on or appurtenant to the land or site, which is used or is being developed for the treatment, storage, or disposal of low-level radioactive waste.

SECTION 2. IC 13-11-2-142.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 142.3. "Nonprofit corporation", for purposes of this chapter and IC 13-25-4-8, refers to a nonprofit corporation:**
(1) that is exempt from income taxation under 26 U.S.C. 501;
(2) for which the primary purpose, as identified in the corporation's articles of incorporation, is to assist and support a political subdivision in a matter of public concern; and
(3) that has no member affiliated with any other person that is potentially liable for response costs at a facility through any of the following:
(A) A direct or an indirect familial relationship.
(B) A contractual, corporate, or financial relationship other than a contractual, corporate, or financial relationship that is created:
(i) by the instruments by which title to the facility is conveyed or financed; or
(ii) by a contract for the sale of goods or services.
(C) The result of a reorganization of a business entity that was potentially liable for response costs at the facility.

SECTION 3. IC 13-11-2-148 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 148. (a) "Operator", for purposes of IC 13-18-10, means the person in direct or responsible charge or control of one (1) or more confined feeding operations.

(b) "Operator", for purposes of IC 13-18-11 and environmental management laws, means the person in direct or responsible charge and supervising the operation of:
(1) a water treatment plant;
(2) a wastewater treatment plant; or
(3) a water distribution system.

(c) "Operator", for purposes of IC 13-20-6, means a corporation, a limited liability company, a partnership, a business association, a unit, or an individual who is a sole proprietor that is one (1) of the following:
(1) A broker.
(2) A person who manages the activities of a transfer station that receives municipal waste.
(3) A transporter.

(d) "Operator", for purposes of IC 13-23, except as provided in subsection (e), means a person:
(1) in control of; or
(2) having responsibility for;
the daily operation of an underground storage tank.

(e) "Operator", for purposes of IC 13-23-13, does not include the following:
(1) A person who:
(A) does not participate in the management of an underground storage tank;
(B) is otherwise not engaged in the:
(i) production;
(ii) refining; and
(iii) marketing;
of regulated substances; and
(C) holds evidence of ownership, primarily to protect the owner's security interest in the tank.
(2) A person who:
(A) does not own or lease, directly or indirectly, the facility or business at which the underground storage tank is located;
(B) does not participate in the management of the facility or business described in clause (A); and
(C) is engaged only in:
(i) filling;
(ii) gauging; or
(iii) filling and gauging;
the product level in the course of delivering fuel to an underground storage tank.
(3) A political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government that:
(A) acquires ownership or control of an underground storage tank on a brownfield because of:
(i) bankruptcy;
(ii) foreclosure;
(iii) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;
(iv) abandonment;
(v) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;
(vi) receivership;
(vii) transfer from another political subdivision or unit of federal or state government;
(viii) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;
(ix) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired an interest in the property because of the political subdivision's or unit's function as sovereign; or
(x) any other means to conduct remedial actions on a brownfield; and
(B) is engaged only in activities in conjunction with:
(i) investigation or remediation of hazardous substances, petroleum, and other pollutants associated with a brownfield, including complying with land use restrictions and institutional controls; or
(ii) monitoring or closure of an underground

storage tank;

unless existing contamination on the brownfield is exacerbated due to gross negligence or intentional misconduct by the political subdivision or unit of federal or state government.

(f) For purposes of subsection (e)(3)(B), reckless, willful, or wanton misconduct constitutes gross negligence.

SECTION 4. IC 13-11-2-150, AS AMENDED BY P.L.208-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 150. (a) "Owner", for purposes of IC 13-23 (except as provided in subsections (b), ~~and~~ (c), **and (d))** means:

(1) for an underground storage tank that:

(A) was:

(i) in use on November 8, 1984; or

(ii) brought into use after November 8, 1984;

for the storage, use, or dispensing of regulated substances, a person who owns the underground storage tank; or

(B) is:

(i) in use before November 8, 1984; but

(ii) no longer in use on November 8, 1984;

a person who owned the tank immediately before the discontinuation of the tank's use; or

(2) a person who conveyed ownership or control of the underground storage tank to a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government because of:

(A) bankruptcy;

(B) foreclosure;

(C) tax delinquency, including a conveyance under IC 6-1.1-24 or IC 6-1.1-25;

(D) abandonment;

(E) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(F) receivership;

(G) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

~~(G)~~ **(H)** other circumstances in which a political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or

~~(H)~~ **(I)** any other means to conduct remedial actions on a brownfield;

if the person was a person described in subdivision (1) immediately before the person conveyed ownership or control of the underground storage tank.

(b) "Owner", for purposes of IC 13-23-13, does not include a person who:

(1) does not participate in the management of an underground storage tank;

(2) is otherwise not engaged in the:

(A) production;

(B) refining; and

(C) marketing;

of regulated substances; and

(3) holds indicia of ownership primarily to protect the owner's security interest in the tank.

(c) "Owner", for purposes of IC 13-23, does not include a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government that acquired ownership or control of an underground storage tank because of:

(1) bankruptcy;

(2) foreclosure;

(3) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;

(4) abandonment;

(5) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(6) receivership;

~~(7) 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)~~ **(7)** transfer from another political subdivision or unit of federal or state government; ~~or~~

(8) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

(9) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or

~~(9)~~ **(10)** any other means to conduct remedial actions on a brownfield;

unless the political subdivision or unit of federal or state government causes or contributes to the release or threatened release of a **regulated** substance, in which case the political subdivision or unit of federal or state government is subject to IC 13-23 in the same manner and to the same extent as a nongovernmental entity under IC 13-23.

(d) "Owner", for purposes of IC 13-23, does not include a nonprofit corporation that acquired ownership or control of an underground storage tank to assist and support a political subdivision's revitalization and reuse of a brownfield for noncommercial purposes, including conservation, preservation, and recreation, unless the nonprofit corporation causes or contributes to the release or threatened release of a regulated substance, in which case the nonprofit corporation is subject to IC 13-23 in the same manner and to the same extent as any other nongovernmental entity under IC 13-23.

SECTION 5. IC 13-11-2-151, AS AMENDED BY P.L.208-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 151. (a) "Owner or operator", for purposes of IC 13-24-1, means the following:

(1) For a petroleum facility, a person who owns or operates the facility.

(2) For a petroleum facility where title or control has been conveyed because of:

(A) bankruptcy;

(B) foreclosure;

(C) tax delinquency, including a conveyance under IC 6-1.1-24 or IC 6-1.1-25;

(D) abandonment;

(E) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(F) receivership;

(G) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

~~(G)~~ **(H)** other circumstances in which a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government involuntarily acquired title or control because of the political subdivision's or unit's function as sovereign; or

~~(II)~~ **(I)** any other means to conduct remedial actions on a brownfield;

to a political subdivision or unit of federal or state government, a person who owned, operated, or otherwise controlled the petroleum facility immediately before title or control was conveyed.

(b) Subject to subsection (c), the term does not include a political subdivision or unit of federal or state government that acquired ownership or control of the facility through:

(1) bankruptcy;

(2) foreclosure;

(3) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;

(4) abandonment;

(5) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(6) receivership;

~~(7) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired title because of the political subdivision's or unit's function as sovereign;~~

~~(8)~~ **(7)** transfer from another political subdivision or unit of federal or state government; ~~or~~

(8) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

(9) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or

~~(9)~~ **(10)** any other means to conduct remedial actions on a brownfield.

(c) The term includes a political subdivision or unit of federal or state government that causes or contributes to the release or threatened release of a **regulated** substance, in which case the political subdivision or unit of federal or state government is subject to IC 13-24-1:

(1) in the same manner; and

(2) to the same extent;

as a nongovernmental entity under IC 13-24-1.

(d) The term does not include a person who:

(1) does not participate in the management of a petroleum facility;

(2) is otherwise not engaged in the:

(A) production;

(B) refining; and

(C) marketing;

of petroleum; and

(3) holds evidence of ownership in a petroleum facility, primarily to protect the owner's security interest in the petroleum facility.

(e) The term does not include a nonprofit corporation that acquired ownership or control of a facility to assist and support a political subdivision's revitalization and reuse of a brownfield for noncommercial purposes, including conservation, preservation, and recreation, unless the nonprofit corporation causes or contributes to the release or threatened release of a regulated substance, in which case the nonprofit corporation is subject to IC 13-24-1 in the same manner and to the same extent as any other nongovernmental entity under IC 13-24-1.

SECTION 6. IC 13-11-2-183 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 183. "Regulated substance", for purposes of **this chapter and** IC 13-23, includes the following:

(1) Any substance defined in section 98 of this chapter as a hazardous substance, but excluding any substance regulated as a hazardous waste under:

(A) Subtitle C of the federal Solid Waste Disposal Act, as amended (42 U.S.C. 6921 through 6939(a)); or

(B) IC 13-22-2-3.

(2) Petroleum.

(3) Any other substance designated by rules adopted by the solid waste management board under IC 13-23-1-2.

SECTION 7. IC 13-19-5-1, AS AMENDED BY P.L.235-2005, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: 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, **including assessment of petroleum contamination,** and other activities necessary or convenient to complete the environmental assessments.

(3) Remediation activities conducted on brownfields, including:

(A) remediation of petroleum contamination; **and**

(B) other activities necessary or convenient to complete remediation activities conducted on brownfields, including clearance of real property.

~~(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)~~ **(4)** Other activities **in conjunction with assessment and remediation activities** necessary or convenient to ~~complete remediation activities on brownfields.~~ **prepare a brownfield for redevelopment.**

SECTION 8. IC 13-19-5-2, AS AMENDED BY P.L.235-2005, SECTION 172, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: 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 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).

(7) Fees collected under section 7 of this chapter.

(d) The authority shall invest the money in the fund not currently needed to meet the obligations of the fund in 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;

(3) the Indiana bond bank; or

(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 must approve any trust agreement or indenture before its execution.

SECTION 9. IC 13-19-5-3, AS AMENDED BY P.L.235-2005, SECTION 173, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. **(a)** The authority shall do the following under this chapter:

(1) Be responsible for the management of all aspects of the program.

(2) Prepare and provide program information.

(3) Negotiate the negotiable aspects of each financial assistance agreement and submit the agreement to the budget agency for approval.

(4) Sign each financial assistance agreement.

(5) Review each proposed project and financial assistance agreement to determine if the project meets the credit, economic, or fiscal criteria established by guidelines of the authority.

(6) Periodically inspect or cause to be inspected projects to determine compliance with this chapter.

(7) Conduct or cause to be conducted an evaluation concerning the financial ability of a political subdivision to:

(A) pay a loan or other financial assistance and other obligations evidencing loans or other financial assistance, if required to be paid; and

(B) otherwise comply with terms of the financial assistance agreement.

(8) Evaluate or cause to be evaluated the technical aspects of the political subdivision's:

(A) environmental assessment of potential brownfield properties;

(B) proposed remediation; and

(C) remediation activities conducted on brownfield properties.

(9) Inspect or cause to be inspected remediation activities conducted under this chapter.

(10) Act as a liaison ~~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.

(12) Enter into memoranda of understanding, as necessary, with the department and the budget agency concerning the administration and management of the fund and the program.

(b) The authority may do the following under this chapter:

(1) Undertake activities to make private environmental insurance products available to encourage and facilitate the cleanup and redevelopment of brownfield properties.

(2) Enter into agreements with political subdivisions to manage any of the following conducted on brownfield properties:

(A) Environmental assessment activities.

(B) Environmental remediation activities.

(c) The authority may:

(1) negotiate with;

(2) select; and

(3) contract with;

one (1) or more insurers to provide insurance products as described in subsection (b)(1).

(d) Notwithstanding IC 13-23, IC 13-24-1, and IC 13-25-4, the authority is not liable for any contamination addressed by the authority under an agreement under subsection (b)(2) unless existing contamination on the brownfield is exacerbated due to gross negligence or intentional misconduct by the authority.

(e) For purposes of subsection (d), reckless, willful, or wanton misconduct constitutes gross negligence.

(f) The authority is entitled to the same governmental immunity afforded a political subdivision under IC 34-13-3-3(23) for any act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield under an agreement under subsection (b)(2).

SECTION 10. IC 13-19-5-7, AS AMENDED BY P.L.235-2005, SECTION 175, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) The authority may provide services to a ~~political subdivision~~ **person (as defined in IC 13-11-2-158(a))** in connection with ~~a loan or other~~ financial assistance, ~~including advisory and other services,~~ **technical assistance, and liability clarification,** and may ~~charge~~ **assess and collect** a fee for:

(1) services provided **to offset the costs of providing the services;** 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.

(c) The authority shall adopt guidelines for the assessment and collection of fees under this section.

(d) Fees collected under this section shall be deposited in the fund.

SECTION 11. IC 13-19-5-8, AS AMENDED BY P.L.235-2005, SECTION 176, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. The authority may use a priority ranking system 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 3(8)(A) and 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 12. IC 13-19-5-9, AS AMENDED BY P.L.235-2005, SECTION 177, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (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, 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.

(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~~ **fifty** percent ~~(10%)~~ **(50%)** of the money available in the fund during a **state fiscal** year may be loaned or otherwise provided to any one (1) political subdivision **during that fiscal year.**

(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) 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, 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. 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 13. IC 13-23-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Subject to section 2 of this chapter, **and except as provided in subsection (b),** an underground storage tank, whether of single or double wall construction, may not be installed before the effective date of the rules adopted under IC 13-23-1-2 for the purpose of storing regulated substances unless:

(1) the tank will prevent releases due to corrosion or structural failure for the operational life of the tank;

(2) the tank is:

(A) cathodically protected against corrosion;

(B) constructed of noncorrosive material;

(C) steel clad with a noncorrosive material; or

(D) designed to prevent the release or threatened release of any stored substance; ~~and~~

(3) the material used in the construction or lining of the tank is compatible with the substance to be stored; **and**

(4) after July 1, 2007, all newly installed or replaced piping connected to the tank meets the secondary containment requirements adopted by the board.

(b) An underground storage tank system that contains alcohol blended fuels composed of greater than fifteen percent (15%) alcohol is a petroleum UST system (as defined in 329 IAC 9-1-36 as in effect January 1, 2007) and may be installed during the period referred to in subsection (a) if the system is otherwise in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks and ancillary equipment, including dispensing equipment, used in the storing or dispensing of alcohol blended fuels for purposes of:

(1) IC 13-23-8-3(1)(A); and

(2) all other provisions of this article.

(c) Owners and operators of underground storage tank systems that store, carry, or dispense alcohol blended fuels composed of greater than fifteen percent (15%) alcohol that comply with subsection (b) are considered to meet the standards of:

(1) compatibility under subsection (a)(3); and

(2) compliance for purposes of:

(A) IC 13-23-8-3; and

(B) all other provisions of this article.

SECTION 14. IC 13-23-8-3, AS AMENDED BY SEA 155-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. For the purposes of section 2 of this chapter, the following amounts shall be used:

(1) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

(A) is not in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements; and

(B) is in compliance on a date required under the requirements described under section 4 of this chapter at the time a release was discovered;

the amount is thirty-five thousand dollars ($35,000).

(2) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

(A) is in compliance with rules adopted by the board

concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements; ~~and~~

(B) is not a double walled underground petroleum storage tank; ~~with~~ **and**

(C) has piping that ~~has~~ **does not have** secondary containment;

the amount is twenty-five thousand dollars ($25,000).

(3) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

(A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements;

(B) is not a double walled underground petroleum storage tank; and

(C) has piping that has secondary containment;

the amount is twenty-five thousand dollars ($25,000).

(4) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

(A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements;

(B) is a double walled underground petroleum storage tank; and

(C) has piping that does not have secondary containment;

the amount is twenty-five thousand dollars ($25,000).

~~(3)~~ **(5)** If the underground petroleum storage tank that was involved in the occurrence for which claims are made:

(A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements; ~~and~~

(B) is a double walled underground petroleum storage tank; ~~with~~ **and**

(C) has piping that has secondary containment;

the amount is twenty thousand dollars ($20,000).

SECTION 15. IC 13-23-13-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 16. (a) A political subdivision or unit of federal or state government that acquired ownership or control of an underground storage tank on a brownfield by any of the means listed in IC 13-11-2-150(c) and IC 13-11-2-151(b) may undertake any activity in conjunction with:**

(1) investigation or remediation of hazardous substances, petroleum, and other pollutants associated with a brownfield, including complying with land use restrictions and institutional controls; or

(2) monitoring or closure of an underground storage tank;

without being considered as contributing to the existing release or threatened release of a regulated substance on, in, or at the brownfield unless existing contamination on the brownfield is exacerbated due to gross negligence or intentional misconduct by the political subdivision or unit of federal or state government.

(b) For purposes of subsection (a), reckless, willful, or wanton misconduct constitutes gross negligence.

SECTION 16. IC 13-23-16 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 16. Notice of Release, Spill, or Overfill

Sec. 1. A citation in this chapter to a rule refers to the rule as in effect on January 1, 2007.

Sec. 2. If the department receives a report concerning:

(1) the discovery of released regulated substances at an underground storage tank site or in the surrounding area under 329 IAC 9-4-1(1); or

(2) a spill or overfill under 329 IAC 9-4-4(a);

the department shall, not more than seven (7) days after receiving the report, provide notice of the release, spill, or overfill to the county health officer of each county in which the release, spill, or overfill occurred.

Sec. 3. Not more than seven (7) days after receiving a notice from the department under section 2 of this chapter, a county health officer shall do the following:

(1) Publish notice of the release, spill, or overfill in a newspaper of general circulation in the county health officer's county.

(2) Provide any other notice of the release, spill, or overfill the county health officer considers necessary or appropriate.

Sec. 4. Notice provided by a county health officer under section 3 of this chapter must include:

(1) the same information reported to the department under 329 IAC 9-4-1(1) or 329 IAC 9-4-4(a); and

(2) any other information the county health officer considers necessary or appropriate.

SECTION 17. IC 13-25-4-8, AS AMENDED BY P.L.1-2006, SECTION 205, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: 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), 42 U.S.C. 9607(q), and 42 U.S.C. 9607(r)) 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) 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 an interest in the property because of the political subdivision's or unit's function as sovereign;~~
~~(8)~~ **(7)** transfer from another political subdivision or unit of federal or state government; ~~or~~
(8) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;
(9) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or
~~(9)~~ **(10)** 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.

(h) Except as provided in subsection (i), a nonprofit corporation 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 nonprofit corporation acquired an interest to assist and support a political subdivision's revitalization and reuse of a brownfield for noncommercial purposes, including conservation, preservation, and recreation.

(i) Notwithstanding subsection (h), a nonprofit corporation that causes or contributes to a 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 any other nongovernmental entity under this section.

(j) A political subdivision or unit of federal or state government that establishes an exemption or defense under subsection (b) or (e) may undertake any activity related to:
(1) investigation, removal, or remedial action on a brownfield, including complying with land use restrictions and institutional controls; or
(2) monitoring or closure of an underground storage tank;
without being considered as contributing to the existing release or threatened release of hazardous substances on, in, or at the brownfield unless existing contamination on the brownfield is exacerbated due to gross negligence or intentional misconduct by the political subdivision or unit of federal or state government.

(k) For purposes of subsection (j), reckless, willful, or wanton misconduct constitutes gross negligence.

SECTION 18. IC 13-26-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A district may do the following:
(1) Sue or be sued.
(2) Make contracts in the exercise of the rights, powers, and duties conferred upon the district.
(3) Adopt and alter a seal and use the seal by causing the seal to be impressed, affixed, reproduced, or otherwise used. However, the failure to affix a seal does not affect the validity of an instrument.
(4) Adopt, amend, and repeal the following:
(A) Bylaws for the administration of the district's affairs.
(B) Rules and regulations for the following:
(i) The control of the administration and operation of the district's service and facilities.
(ii) The exercise of all of the district's rights of ownership.
(5) Construct, acquire, lease, operate, or manage works and obtain rights, easements, licenses, money, contracts, accounts, liens, books, records, maps, or other property, whether real, personal, or mixed, of a person or an eligible entity.
(6) Assume in whole or in part any liability or obligation of:
(A) a person;
(B) a nonprofit water, sewage, or solid waste project system; or
(C) an eligible entity;
including a pledge of part or all of the net revenues of a works to the debt service on outstanding bonds of an entity in whole or in part in the district and including a right on the part of the district to indemnify and protect a contracting party from loss or liability by reason of the failure of the district to perform an agreement assumed by the district or to act or discharge an obligation.
(7) Fix, alter, charge, and collect reasonable rates and other charges in the area served by the district's facilities to every person whose premises are, whether directly or indirectly, supplied with water or provided with sewage or solid waste services by the facilities for the purpose of providing for the following:
(A) The payment of the expenses of the district.
(B) The construction, acquisition, improvement, extension, repair, maintenance, and operation of the district's facilities and properties.
(C) The payment of principal or interest on the district's obligations.
(D) To fulfill the terms of agreements made with:
(i) the purchasers or holders of any obligations; or
(ii) a person or an eligible entity.
(8) Except as provided in section 2.5 of this chapter, require connection to the district's sewer system of property producing sewage or similar waste, and require the discontinuance of use of privies, cesspools, septic tanks, and similar structures if:
(A) there is an available sanitary sewer within three hundred (300) feet of the property line; ~~and~~
(B) the district has given written notice by certified mail to the property owner at the address of the property at least ninety (90) days before a date for connection to be stated in the notice; **and**
(C) if the property is located outside the district's territory:

(i) the district has obtained and provided to the property owner (along with the notice required by clause (B)) a letter of recommendation from the local health department that there is a possible threat to the public's health; and

(ii) if the property is also located within the extraterritorial jurisdiction of a municipal sewage works under IC 13-9-23 or a public sanitation department under IC 36-9-25, the municipal works board or department of public sanitation has acknowledged in writing that the property is within the municipal sewage works or department of public sanitation's extraterritorial jurisdiction, but the municipal works board or department of public sanitation is unable to provide sewer service.

However, a district may not require the owner of a property described in this subdivision to connect to the district's sewer system if the property is already connected to a sewer system that has received an NPDES permit and has been determined to be functioning satisfactorily.

(9) Provide by ordinance for reasonable penalties for failure to connect and also apply to the circuit or superior court of the county in which the property is located for an order to force connection, with the cost of the action, including reasonable attorney's fees of the district, to be assessed by the court against the property owner in the action.

(10) Refuse the services of the district's facilities if the rates or other charges are not paid by the user.

(11) Control and supervise all property, works, easements, licenses, money, contracts, accounts, liens, books, records, maps, or other property rights and interests conveyed, delivered, transferred, or assigned to the district.

(12) Construct, acquire by purchase or otherwise, operate, lease, preserve, and maintain works considered necessary to accomplish the purposes of the district's establishment within or outside the district and enter into contracts for the operation of works owned, leased, or held by another entity, whether public or private.

(13) Hold, encumber, control, acquire by donation, purchase, or condemnation, construct, own, lease as lessee or lessor, use, and sell interests in real and personal property or franchises within or outside the district for:

(A) the location or protection of works;

(B) the relocation of buildings, structures, and improvements situated on land required by the district or for any other necessary purpose; or

(C) obtaining or storing material to be used in constructing and maintaining the works.

(14) Upon consent of two-thirds (2/3) of the members of the board, merge or combine with another district into a single district on terms so that the surviving district:

(A) is possessed of all rights, franchises, and authority of the constituent districts; and

(B) is subject to all the liabilities, obligations, and duties of each of the constituent districts, with all rights of creditors of the constituent districts being preserved unimpaired.

(15) Provide by agreement with another eligible entity for the joint construction of works the district is authorized to construct if the construction is for the district's own benefit and that of the other entity. For this purpose the cooperating entities may jointly appropriate land either within or outside their respective borders if all subsequent proceedings, actions, powers, liabilities, rights, and duties are those set forth by statute.

(16) Enter into contracts with a person, an eligible entity, the state, or the United States to provide services to the contracting party for any of the following:

(A) The distribution or purification of water.

(B) The collection or treatment of sanitary sewage.

(C) The collection, disposal, or recovery of solid waste.

(17) Make provision for, contract for, or sell the district's byproducts or waste.

(18) Exercise the power of eminent domain.

(19) Remove or change the location of a fence, building, railroad, canal, or other structure or improvement located within or outside the district. If:

(A) it is not feasible or economical to move the building, structure, or improvement situated in or upon land acquired; and

(B) the cost is determined by the board to be less than that of purchase or condemnation;

the district may acquire land and construct, acquire, or install buildings, structures, or improvements similar in purpose to be exchanged for the buildings, structures, or improvements under contracts entered into between the owner and the district.

(20) Employ consulting engineers, superintendents, managers, and other engineering, construction, and accounting experts, attorneys, bond counsel, employees, and agents that are necessary for the accomplishment of the district's purpose and fix their compensation.

(21) Procure insurance against loss to the district by reason of damages to the district's properties, works, or improvements resulting from fire, theft, accident, or other casualty or because of the liability of the district for damages to persons or property occurring in the operations of the district's works and improvements or the conduct of the district's activities.

(22) Exercise the powers of the district without obtaining the consent of other eligible entities. However, the district shall:

(A) restore or repair all public or private property damaged in carrying out the powers of the district and place the property in the property's original condition as nearly as practicable; or

(B) pay adequate compensation for the property.

(23) Dispose of, by public or private sale or lease, real or personal property determined by the board to be no longer necessary or needed for the operation or purposes of the district.

SECTION 19. IC 13-26-11-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The board shall, by ordinance, establish just and equitable rates or charges for the use of and the service provided by a works. The rates or charges are payable by the owner of each lot, parcel of land, or building that:

(1) is connected with and uses a works; or

(2) in any way uses or is served by a works.

(b) **Subject to section 15 of this chapter,** the board may periodically change and readjust the rates or charges as provided in this article.

SECTION 20. IC 13-26-11-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The rates or charges established for a class of users of property served shall be extended to cover any additional premises served after the rates or charges are established that are in the same class, without the necessity of hearing or notice.

(b) **Subject to section 15 of this chapter,** a change or readjustment of the rates or charges may be made in the same manner as the rates or charges were originally established.

SECTION 21. IC 13-26-11-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) A district authority is established in each regional sewage district established under this article.

(b) The district authority of a regional sewage district consists

of the following:

(1) In the case of a regional sewage district located in one (1) county:

(A) except as provided in clause (B), the county executive of that county; or

(B) if the members of the county executive are trustees of the regional sewage district, the members of the county fiscal body.

(2) In the case of a regional sewage district located in more than one (1) county, one (1) county executive member, appointed by that member's county executive, from each county in which the district is located.

However, a person who serves on the board of trustees of a district may not be a member of the district authority.

(c) If a district adopts an ordinance increasing sewer rates and charges at a rate that is greater than five percent (5%) per year, as calculated from the rates and charges in effect from the date of the district's last rate increase before January 1, 2001, **the district shall mail, either separately or along with a periodic billing statement, a notice of the new rates and charges to each user of the sewer system who is affected by the increase. The notice:**

(1) shall be mailed not later than seven (7) days after the district adopts the ordinance increasing the rates and charges; and

(2) must include a statement of a freeholder's rights under this section.

(d) If subsection (c) applies, fifty (50) freeholders of the district or ten percent (10%) of the district's freeholders, whichever is fewer, may file a written petition objecting to the rates and charges of the district. A petition filed under this subsection must:

(1) contain the name and address of each petitioner;

(2) be filed with a member of the district authority, in the county where at least one (1) petitioner resides, not later than thirty (30) days after the district adopts the ordinance establishing the rates and charges; and

(3) set forth the grounds for the freeholders' objection.

~~(d)~~ If a petition meeting the requirements of **this** subsection ~~(c)~~ is filed, the district authority shall investigate and conduct a public hearing on the petition. If more than one (1) petition concerning a particular increase in rates and charges is filed, the district authority shall consider the objections set forth in all the petitions at the same public hearing.

(e) The district authority shall set the matter for public hearing not less than ten (10) business days but not later than twenty (20) business days after the petition has been filed. The district authority shall send notice of the hearing by certified mail to the district and the petitioner and publish the notice of the hearing in a newspaper of general circulation in each county in the district.

(f) Upon the date fixed in the notice, the district authority shall hear the evidence produced and determine whether the increased sewer rates and charges established by the board by ordinance are just and equitable rates and charges, according to the standards set forth in section 9 of this chapter. The district authority, by a majority vote, shall:

(1) sustain the ordinance establishing the rates and charges;

(2) sustain the petition; or

(3) make any other ruling appropriate in the matter.

(g) The order of the district authority may be appealed by the district or a petitioner to the circuit court of the county in which the district is located. The court shall try the appeal without a jury and shall determine one (1) or both of the following:

(1) Whether the board of trustees of the district, in adopting the ordinance increasing sewer rates and charges, followed the procedure required by this chapter.

(2) Whether the increased sewer rates and charges established by the board by ordinance are just and equitable rates and charges, according to the standards set forth in section 9 of this chapter.

Either party may appeal the circuit court's decision in the same manner that other civil cases may be appealed.

SECTION 22. IC 13-30-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to actions brought by the state or a ~~private~~ person. However, this chapter does not apply to an action brought by the state if the action arises from a site that:

(1) is listed on the National Priorities List for hazardous substance response sites (40 CFR 300 et seq.);

(2) scores at least twenty-five (25) under the Indiana scoring model under 329 IAC 7; or

(3) is deemed by the commissioner to pose an imminent threat to human health or the environment.

SECTION 23. IC 13-30-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A person may, ~~bring an environmental legal action against a~~ **regardless of whether the** person ~~who~~ caused or contributed to the release of a hazardous substance or petroleum into the surface or subsurface soil or groundwater that poses a risk to human health and the environment, **bring an environmental legal action against a person that caused or contributed to the release** to recover reasonable costs of a removal or remedial action involving the hazardous substances or petroleum.

SECTION 24. IC 36-1-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. This chapter applies to the following:

(1) The state.

(2) All political subdivisions.

(3) All state agencies.

(4) Any of the following created by state law:

(A) Public instrumentalities.

(B) Public corporate bodies.

~~(4)~~ **(5)** Another state to the extent authorized by the law of that state.

~~(5)~~ **(6)** Political subdivisions of states other than Indiana, to the extent authorized by laws of the other states.

~~(6)~~ **(7)** Agencies of the federal government, to the extent authorized by federal laws.

SECTION 25. IC 36-1-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) If an agreement under section 3 of this chapter:

(1) involves as parties:

(A) only Indiana political subdivisions; **or**

(B) an Indiana political subdivision and:

(i) a public instrumentality; or

(ii) a public corporate body;

created by state law;

(2) is approved by the fiscal body of each party **that is an Indiana political subdivision** either before or after ~~it~~ **the agreement** is entered into by the ~~executives~~ **executive** of the ~~parties,~~ **party;** and

(3) delegates to the treasurer or disbursing officer of one (1) of the parties **that is an Indiana political subdivision** the duty to receive, disburse, and account for all monies of the joint undertaking;

then the approval of the attorney general is not required.

(b) If subsection (a) does not apply, an agreement under section 3 of this chapter must be submitted to the attorney general for ~~his~~ **the attorney general's** approval. The attorney general shall approve the agreement unless ~~he~~ **the attorney general** finds that it does not comply with the statutes, in which case ~~he~~ **the attorney general** shall detail in writing for the ~~executives of the~~ parties the specific respects in which the agreement does not comply. If the attorney general fails to disapprove the agreement within sixty (60) days after it is submitted to ~~him,~~ **the attorney general,** it is considered approved.

SECTION 26. IC 36-1-7-15, AS AMENDED BY

P.L.203-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) As used in this section, "economic development entity" means **any of the following:**

(1) A department of redevelopment organized under IC 36-7-14.

(2) A department of metropolitan development under IC 36-7-15.1.

(3) A port authority organized under IC 8-10-5. ~~or~~

(4) An airport authority organized under IC 8-22-3.

(5) The Indiana finance authority.

(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 approved by each entity's governing body.

(c) A party to an agreement under this section may do one (1) or more of the following:

(1) Except as provided in subsection (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.

(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, IC 36-7-14-39, or IC 36-7-15.1.

(e) An agreement under this section does not have to comply with section 3(a)(5) or 4 of this chapter.

(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 27. IC 36-7-1-3, AS AMENDED BY P.L.185-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. "Area needing redevelopment" means an area in which normal development and occupancy are undesirable or impossible because of **any of the following:**

(1) Lack of development.

(2) Cessation of growth.

(3) Deteriorated or deteriorating improvements.

(4) Environmental contamination.

~~(4)~~ **(5)** Character of occupancy.

~~(5)~~ **(6)** Age.

~~(6)~~ **(7)** Obsolescence.

~~(7)~~ **(8)** Substandard buildings. ~~or~~

~~(8)~~ **(9)** Other factors that impair values or prevent a normal use or development of property.

SECTION 28. IC 36-7-1-18, AS AMENDED BY P.L.185-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. "Redevelopment" includes the following activities:

(1) Acquiring real property in areas needing redevelopment.

(2) Replatting and determining the proper use of real property acquired.

(3) Opening, closing, relocating, widening, and improving public ways.

(4) Relocating, constructing, and improving sewers, utility services, offstreet parking facilities, and levees.

(5) Laying out and constructing necessary public improvements, including parks, playgrounds, and other recreational facilities.

(6) Restricting the use of real property acquired according to law.

(7) Repairing and maintaining buildings acquired, if demolition of those buildings is not considered necessary to carry out the redevelopment plan.

(8) Rehabilitating real or personal property ~~whether or not acquired,~~ to carry out the redevelopment or urban renewal plan, **regardless of whether the real or personal property is acquired by the unit.**

(9) Investigating and remediating environmental contamination on real property to carry out the redevelopment or urban renewal plan, regardless of whether the real property is acquired by the unit.

~~(9)~~ **(10)** Disposing of property acquired on the terms and conditions and for the uses and purposes that best serve the interests of the units served by the redevelopment commission.

~~(10)~~ **(11)** Making payments required or authorized by IC 8-23-17.

~~(11)~~ **(12)** Performing all acts incident to the statutory powers and duties of a redevelopment commission.

SECTION 29. IC 36-7-1-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 18.5. "Remediation" has the meaning set forth in IC 13-11-2-186.**

SECTION 30. IC 36-7-14-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.5. (a) The **assessment,** planning, replanning, **remediation,** development, and redevelopment of economic development areas:

(1) are public and governmental functions that cannot be accomplished through the ordinary operations of private enterprise because of:

~~(1)~~ **(A)** the necessity for requiring the proper use of the land so as to best serve the interests of the county and its citizens; and

~~(2)~~ **(B)** the costs of these projects;

~~(b) The planning, replanning, development, and redevelopment of economic development areas~~

(2) will:

~~(1)~~ **(A)** benefit the public health, safety, morals, and welfare;

~~(2)~~ **(B)** increase the economic well-being of the unit and the state; and

~~(3)~~ **(C)** serve to protect and increase property values in the unit and the state;

~~(c) The planning, replanning, development,~~ and ~~redevelopment of economic development areas under this chapter~~

(3) are public uses and purposes for which public money may be spent and private property may be acquired.

~~(d)~~ **(b)** This section and sections 41 and 43 of this chapter shall be liberally construed to carry out the purposes of this section.

SECTION 31. IC 36-7-14-11, AS AMENDED BY P.L.185-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. The redevelopment commission shall:

(1) investigate, study, and survey areas needing redevelopment within the corporate boundaries of the unit;

(2) investigate, study, determine, and, to the extent possible, combat the causes of areas needing redevelopment;

(3) promote the use of land in the manner that best serves the interests of the unit and its inhabitants;

(4) cooperate:

(A) with the departments and agencies of:

(i) the unit; and ~~of~~

(ii) other governmental entities; **and**

(B) with:

(i) public instrumentalities; and

(ii) public corporate bodies;

created by state law;

in the manner that best serves the purposes of this chapter;

(5) make findings and reports on their activities under this section, and keep those reports open to inspection by the public at the offices of the department;

(6) select and acquire the areas needing redevelopment to be redeveloped under this chapter; and

(7) replan and dispose of the areas needing redevelopment in the manner that best serves the social and economic interests of the unit and its inhabitants.

SECTION 32. IC 36-7-14-12.2, AS AMENDED BY P.L.185-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12.2. (a) The redevelopment commission may **do the following:**

(1) Acquire by purchase, exchange, gift, grant, condemnation, or lease, or any combination of methods, any personal property or interest in real property needed for the redevelopment of areas needing redevelopment that are located within the corporate boundaries of the unit.

(2) Hold, use, sell (by conveyance by deed, land sale contract, or other instrument), exchange, lease, rent, or otherwise dispose of property acquired for use in the redevelopment of areas needing redevelopment on the terms and conditions that the commission considers best for the unit and its inhabitants.

(3) Sell, lease, or grant interests in all or part of the real property acquired for redevelopment purposes to any other department of the unit or to any other governmental agency for public ways, levees, sewerage, parks, playgrounds, schools, and other public purposes on any terms that may be agreed on.

(4) Clear real property acquired for redevelopment purposes.

(5) Enter on or into, inspect, investigate, and assess real property and structures acquired or to be acquired for redevelopment purposes to determine the existence, source, nature, and extent of any environmental contamination, including the following:

(A) Hazardous substances.

(B) Petroleum.

(C) Other pollutants.

(6) Remediate environmental contamination, including the following, found on any real property or structures acquired for redevelopment purposes:

(A) Hazardous substances.

(B) Petroleum.

(C) Other pollutants.

~~(5)~~ **(7)** Repair and maintain structures acquired for redevelopment purposes.

~~(6)~~ **(8)** Remodel, rebuild, enlarge, or make major structural improvements on structures acquired for redevelopment purposes.

~~(7)~~ **(9)** Survey or examine any land to determine whether it should be included within an area needing redevelopment to be acquired for redevelopment purposes and to determine the value of that land.

~~(8)~~ **(10)** Appear before any other department or agency of the unit, or before any other governmental agency in respect to any matter affecting:

(A) real property acquired or being acquired for redevelopment purposes; or

(B) any area needing redevelopment within the jurisdiction of the commissioners.

~~(9)~~ **(11)** Institute or defend in the name of the unit any civil action.

~~(10)~~ **(12)** 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 department of redevelopment.

~~(11)~~ **(13)** Exercise the power of eminent domain in the name of and within the corporate boundaries of the unit in the manner prescribed by section 20 of this chapter.

~~(12)~~ **(14)** Appoint an executive director, appraisers, real estate experts, engineers, architects, surveyors, and attorneys.

~~(13)~~ **(15)** Appoint clerks, guards, laborers, and other employees the commission considers advisable, except that those appointments must be made in accordance with the merit system of the unit if such a system exists.

~~(14)~~ **(16)** Prescribe the duties and regulate the compensation of employees of the department of redevelopment.

~~(15)~~ **(17)** Provide a pension and retirement system for employees of the department of redevelopment by using the Indiana public employees' retirement fund or a retirement plan approved by the United States Department of Housing and Urban Development.

~~(16)~~ **(18)** Discharge and appoint successors to employees of the department of redevelopment subject to subdivision ~~(13);~~ **(15).**

~~(17)~~ **(19)** Rent offices for use of the department of redevelopment, or accept the use of offices furnished by the unit.

~~(18)~~ **(20)** Equip the offices of the department of redevelopment with the necessary furniture, furnishings, equipment, records, and supplies.

~~(19)~~ **(21)** Expend, on behalf of the special taxing district, all or any part of the money of the special taxing district.

~~(20)~~ **(22)** Contract for the construction of:

(A) local public improvements (as defined in IC 36-7-14.5-6) or structures that are necessary for redevelopment of areas needing redevelopment or economic development within the corporate boundaries of the unit; or

(B) any structure that enhances development or economic development.

~~(21)~~ **(23)** Contract for the construction, extension, or improvement of pedestrian skyways.

~~(22)~~ **(24)** 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.

~~(23)~~ **(25)** Provide financial assistance (including grants and loans) to enable individuals and families to purchase or lease residential units within the district. However, financial assistance may be provided only to individuals and families whose income is at or below the unit's median income for individuals and families, respectively.

~~(24)~~ **(26)** Provide financial assistance (including grants and loans) to neighborhood development corporations to permit them to:

(A) provide financial assistance for the purposes described in subdivision ~~(23);~~ **(25);** or

(B) construct, rehabilitate, or repair commercial property within the district. ~~and~~

~~(25)~~ **(27)** Require as a condition of financial assistance to the owner of a multiple unit residential structure that any of the units leased by the owner must be leased:

(A) for a period to be determined by the commission, which may not be less than five (5) years;

(B) to families whose income does not exceed eighty percent (80%) of the unit's median income for families; and

(C) at an affordable rate.

(b) Conditions imposed by the commission under subsection ~~(a)(25)~~ **(a)(27)** remain in force throughout the period determined under subsection ~~(a)(25)(A),~~ **(a)(27)(A),** even if the owner sells, leases, or conveys the property. The subsequent owner or lessee is bound by the conditions for the remainder of the period.

(c) As used in this section, "pedestrian skyway" means a pedestrian walkway within or outside of the public right-of-way and through and above public or private property and buildings, including all structural supports required to connect skyways to buildings or buildings under construction. Pedestrian skyways constructed, extended, or improved over or through public or private property constitute public property and public improvements, constitute a public use and purpose, and do not require vacation of any public way or other property.

(d) All powers that may be exercised under this chapter by the redevelopment commission may also be exercised by the redevelopment commission in carrying out its duties and purposes under IC 36-7-14.5.

SECTION 33. IC 36-7-14-12.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12.3. IC 5-16-7 applies to:

(1) a person that enters into a contract with a redevelopment commission to perform construction work referred to in section 12.2(a)(4), ~~12.2(a)(6), 12.2(a)(20), or 12.2(a)(21),~~ **12.2(a)(7), 12.2(a)(22), or 12.2(a)(23)** of this chapter; and

(2) a subcontractor of a person described in subdivision (1);

with respect to the construction work referred to in subdivision (1).

SECTION 34. IC 36-7-14-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) A county may contract with a city within the county to have any of the duties and powers listed in sections 11 and 12.2 of this chapter performed by the redevelopment commission of the city.

(b) A city may contract with the county in which it is located to have any of the duties and powers listed in sections 11 and 12.2 of this chapter performed by the redevelopment commission of the county.

(c) A city or county may contract with:

(1) a public instrumentality; or

(2) a public corporate body;

created by state law to have the powers listed in section 12.2(a)(4) through 12.2(a)(7) of this chapter performed by the public instrumentality or public corporate body.

~~(c)~~ **(d)** A contract made under this section must be for a stated and limited period and may be renewed.

~~(d)~~ **(e)** Whenever a city official acts under a contract made under this section, or whenever permits or other writings are used under such a contract, the action or use must be in the name of the county redevelopment commission.

SECTION 35. IC 36-7-14-15, AS AMENDED BY P.L.185-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) Whenever the redevelopment commission finds that:

(1) an area in the territory under their jurisdiction is an area needing redevelopment;

(2) the conditions described in IC 36-7-1-3 cannot be corrected in the area by regulatory processes or the ordinary operations of private enterprise without resort to this chapter; and

(3) the public health and welfare will be benefited by the acquisition and redevelopment of the area under this chapter;

the commission shall cause to be prepared the data described in subsection (b).

(b) After making a finding under subsection (a), the commission shall cause to be prepared:

(1) maps and plats showing:

(A) the boundaries of the area needing redevelopment, the location of the various parcels of property, streets, alleys, and other features affecting the acquisition, clearance, **remediation,** replatting, replanning, rezoning, or redevelopment of the area, indicating any parcels of property to be excluded from the acquisition; and

(B) the parts of the area acquired that are to be devoted to public ways, levees, sewerage, parks, playgrounds, and other public purposes under the redevelopment plan;

(2) lists of the owners of the various parcels of property proposed to be acquired; and

(3) an estimate of the cost of acquisition and redevelopment.

(c) After completion of the data required by subsection (b), the redevelopment commission shall adopt a resolution declaring that:

(1) the area needing redevelopment is a menace to the social and economic interest of the unit and its inhabitants;

(2) it will be of public utility and benefit to acquire the area and redevelop it under this chapter; and

(3) the area is designated as a redevelopment project area for purposes of this chapter.

The resolution must state the general boundaries of the redevelopment project area, and that the department of redevelopment proposes to acquire all of the interests in the land within the boundaries, with certain designated exceptions, if there are any.

(d) For the purpose of adopting a resolution under subsection (c), it is sufficient to describe the boundaries of the redevelopment project area by its location in relation to public ways or streams, or otherwise, as determined by the commissioners. Property excepted from the acquisition may be described by street numbers or location.

SECTION 36. IC 36-7-14-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. (a) The redevelopment commission may proceed with the clearing and replanning of the area described in the resolution before the acquisition of all of that area. It may also proceed with the repair and maintenance of buildings that have been acquired and are not to be cleared, **and with the following with respect to environmental contamination:**

(1) Investigation.

(2) Remediation.

~~This clearance, repair, and maintenance~~ **The redevelopment commission** may ~~be carried~~ **carry** out **activities under this subsection** by labor employed directly by the commission 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) In the planning and rezoning of the real property acquired, the opening, closing, relocation, and improvement of public ways, and the construction, relocation, and improvement of levees, sewers, parking facilities, and utility services, the redevelopment commission shall proceed in the same manner as private owners of the property. It may negotiate with the proper officers and agencies of the unit to secure the proper orders, approvals, and consents.

(d) Any construction work required in connection with improvements in the area described in the resolution may be carried out by:

(1) the appropriate municipal or county department or agency; or

(2) the department of redevelopment, 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 department of redevelopment.

(e) The redevelopment commission may pay any charges or assessments made on account of orders, approval, consents, and

construction work under this section, or may agree to pay these assessments in installments as provided by statute in the case of private owners. The commission may:

(1) by special waiver filed with the municipal works board or county executive, waive the statutory procedure and notices required by law in order to create valid liens on private property; and

(2) cause any assessments to be spread on a different basis than that provided by statute.

(f) None of the real property acquired under this chapter may be set aside and dedicated for public ways, parking facilities, sewers, levees, parks, or other public purposes until the redevelopment commission has obtained the consent and approval of the department or agency under whose jurisdiction the property will be placed.

SECTION 37. IC 36-7-14-30, AS AMENDED BY P.L.185-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 30. In addition to its authority under any other section of this chapter, the redevelopment commission may plan and undertake urban renewal projects. For purposes of this chapter, an urban renewal project includes undertakings and activities for the elimination and the prevention of the conditions described in IC 36-7-1-3, and may involve any work or undertaking that is performed for those purposes and is related to a redevelopment project, or any rehabilitation or conservation work, or any combination of such an undertaking or work, such as **the following:**

(1) Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements.

(2) Acquisition of real property and demolition, removal, or rehabilitation of buildings and improvements on the property when necessary **for the following:**

(A) To eliminate unhealthful, unsanitary, or unsafe conditions.

(B) To mitigate or eliminate environmental contamination.

(C) To do any of the following:

(i) Lessen density.

(ii) Reduce traffic hazards.

(iii) Eliminate uses that are obsolete or otherwise detrimental to the public welfare.

(iv) Otherwise remove or prevent the spread of the conditions described in IC 36-7-1-3. ~~or~~

(v) Provide land for needed public facilities.

(3) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of the urban renewal project. ~~and~~

(4) The disposition, for uses in accordance with the objectives of the urban renewal project, of any property acquired in the area of the project.

SECTION 38. IC 36-7-14-32, AS AMENDED BY P.L.185-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 32. (a) In connection with the planning and undertaking of an urban renewal plan or urban renewal project, the redevelopment commission, municipal, county, public, and private officers, agencies, and bodies have all the rights, powers, privileges, duties, and immunities that they have with respect to a redevelopment plan or redevelopment project, as if all of the provisions of this chapter applicable to a redevelopment plan or redevelopment project were applicable to an urban renewal plan or urban renewal project.

(b) In addition to its other powers, the redevelopment commission may also:

(1) make plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements;

(2) make plans for the enforcement of laws and regulations relating to the use of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements;

(3) make preliminary plans outlining urban renewal activities for neighborhoods to embrace two (2) or more urban renewal areas;

(4) make preliminary surveys, **including environmental assessments,** to determine if the undertaking and carrying out of an urban renewal project are feasible;

(5) make plans for the relocation of persons (including families, business concerns, and others) displaced by an urban renewal project;

(6) make relocation payments to or with respect to persons (including families, business concerns, and others) displaced by an urban renewal project, for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of payments financed by the federal government; and

(7) develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of the conditions described in IC 36-7-1-3 in urban areas.

SECTION 39. IC 36-7-14-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 33. (a) Any:

(1) political subdivision; ~~or~~

(2) other governmental entity;

(3) public instrumentality created by state law; or

(4) public body created by state law;

may, in the area in which it is authorized to act, do all things necessary to aid and cooperate in the planning and undertaking of an urban renewal project, including furnishing the financial and other assistance that it is authorized by this chapter to furnish for or in connection with a redevelopment plan or redevelopment project.

(b) The redevelopment commission may delegate to:

(1) an executive department of a unit or county; ~~or to~~

(2) another governmental entity;

(3) a public instrumentality created by state law; or

(4) a public body created by state law;

any of the powers or functions of the commission with respect to the planning or undertaking of an urban renewal project in the area in which that department, ~~or~~ entity, **public instrumentality, or public body** is authorized to act. The department, ~~or~~ entity, **public instrumentality, or public body** may then carry out or perform those powers or functions for the commission.

(c) A unit, ~~or other~~ **another** governmental entity, **a public instrumentality created by state law, or a public body created by state law** may enter into agreements with the redevelopment commission or any other entity respecting action to be taken under this chapter, including the furnishing of funds or other assistance in connection with an urban renewal plan or urban renewal project. These agreements may extend over any period, notwithstanding any other law.

SECTION 40. IC 36-7-15.1-2, AS AMENDED BY P.L.185-2005, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The **assessment,** clearance, **remediation,** replanning, and redevelopment of areas needing redevelopment are public and governmental functions that cannot be accomplished through the ordinary operations of private enterprise, due to the necessity for the exercise of the power of eminent domain, the necessity for requiring the proper use of the land so as to best serve the interests of the county and its citizens, and the cost of these projects.

(b) The conditions that exist in areas needing redevelopment are beyond remedy and control by regulatory processes because of the obsolescence and deteriorated conditions of

improvements, **environmental contamination,** faulty land use, shifting of population, and technological and social changes.

(c) The **assessment,** clearing, **remediation,** replanning, and redevelopment of areas needing redevelopment will benefit the health, safety, morals, and welfare and will serve to protect and increase property values in the county and the state.

(d) The **assessment,** clearance, **remediation,** replanning, and redevelopment of areas needing redevelopment under this chapter are public uses and purposes for which public money may be spent and private property may be acquired.

(e) This chapter shall be liberally construed to carry out the purposes of this section.

SECTION 41. IC 36-7-15.1-6, AS AMENDED BY P.L.185-2005, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. The commission shall:

(1) investigate, study, and survey areas needing redevelopment within the redevelopment district;

(2) investigate, study, determine, and to the extent possible combat the causes of the conditions described in IC 36-7-1-3;

(3) promote the use of land in the manner that best serves the interests of the consolidated city and its inhabitants, both from the standpoint of human needs and economic values;

(4) cooperate:

(A) with the departments and agencies of:

(i) the city; and ~~of~~

(ii) other governmental entities; **and**

(B) with:

(i) public instrumentalities; and

(ii) public bodies;

created by state law;

in the manner that best serves the purposes of this chapter;

(5) make findings and reports on its activities under this section, and keep those reports open to inspection by the public at the offices of the department;

(6) select and acquire the areas needing redevelopment to be redeveloped under this chapter; and

(7) replan and dispose of the areas needing redevelopment in the manner that best serves the social and economic interests of the city and its inhabitants.

SECTION 42. IC 36-7-15.1-7, AS AMENDED BY P.L.185-2005, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) In carrying out its duties and purposes under this chapter, the commission may do the following:

(1) Acquire by purchase, exchange, gift, grant, lease, or condemnation, or any combination of methods, any real or personal property or interest in property needed for the redevelopment of areas needing redevelopment that are located within the redevelopment district.

(2) Hold, use, sell (by conveyance by deed, land sale contract, or other instrument), exchange, lease, rent, invest in, or otherwise dispose of, through any combination of methods, property acquired for use in the redevelopment of areas needing redevelopment on the terms and conditions that the commission considers best for the city and its inhabitants.

(3) Acquire from and sell, lease, or grant interests in all or part of the real property acquired for redevelopment purposes to any other department of the city, 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 upon.

(4) Clear real property acquired for redevelopment purposes.

(5) Enter on or into, inspect, investigate, and assess real property and structures acquired or to be acquired for redevelopment purposes to determine the existence, source, nature, and extent of any environmental contamination, including the following:

(A) Hazardous substances.

(B) Petroleum.

(C) Other pollutants.

(6) Remediate environmental contamination, including the following, found on any real property or structures acquired for redevelopment purposes:

(A) Hazardous substances.

(B) Petroleum.

(C) Other pollutants.

~~(5)~~ **(7)** Repair and maintain structures acquired or to be acquired for redevelopment purposes.

~~(6)~~ **(8)** Enter upon, survey, or examine any land, to determine whether it should be included within an area needing redevelopment to be acquired for redevelopment purposes, and determine the value of that land.

~~(7)~~ **(9)** Appear before any other department or agency of the city, or before any other governmental agency in respect to any matter affecting:

(A) real property acquired or being acquired for redevelopment purposes; or

(B) any area needing redevelopment within the jurisdiction of the commission.

~~(8)~~ **(10)** Exercise the power of eminent domain in the name of the city, within the redevelopment district, in the manner prescribed by this chapter.

~~(9)~~ **(11)** Establish a uniform fee schedule whenever appropriate for the performance of governmental assistance, or for providing materials and supplies to private persons in project or program related activities.

~~(10)~~ **(12)** Expend, on behalf of the redevelopment district, all or any part of the money available for the purposes of this chapter.

~~(11)~~ **(13)** Contract for the construction, extension, or improvement of pedestrian skyways.

~~(12)~~ **(14)** 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.

~~(13)~~ **(15)** Provide financial assistance (including grants and loans) to enable individuals and families to purchase or lease residential units within the district. However, financial assistance may be provided only to those individuals and families whose income is at or below the county's median income for individuals and families, respectively.

~~(14)~~ **(16)** Provide financial assistance (including grants and loans) to neighborhood development corporations to permit them to:

(A) provide financial assistance for the purposes described in subdivision ~~(13);~~ **(15);** or

(B) construct, rehabilitate, or repair commercial property within the district.

~~(15)~~ **(17)** Require as a condition of financial assistance to the owner of a multiunit residential structure that any of the units leased by the owner must be leased:

(A) for a period to be determined by the commission, which may not be less than five (5) years;

(B) to families whose income does not exceed eighty percent (80%) of the county's median income for families; and

(C) at an affordable rate.

Conditions imposed by the commission under this subdivision remain in force throughout the period determined under clause (A), even if the owner sells, leases, or conveys the property. The subsequent owner or lessee is bound by the conditions for the remainder of the

period.

~~(16)~~ **(18)** Provide programs in job training, job enrichment, and basic skill development for residents of an enterprise zone.

~~(17)~~ **(19)** Provide loans and grants for the purpose of stimulating business activity in an enterprise zone or providing employment for residents of an enterprise zone.

~~(18)~~ **(20)** Contract for the construction, extension, or improvement of:

(A) public ways, sidewalks, sewers, waterlines, parking facilities, park or recreational areas, or other local public improvements (as defined in IC 36-7-15.3-6) or structures that are necessary for redevelopment of areas needing redevelopment or economic development within the redevelopment district; or

(B) any structure that enhances development or economic development.

(b) In addition to its powers under subsection (a), the commission may plan and undertake, alone or in cooperation with other agencies, projects for the redevelopment of, rehabilitating, preventing the spread of, or eliminating slums or areas needing redevelopment, both residential and nonresidential, which projects may include any of the following:

(1) The repair or rehabilitation of buildings or other improvements by the commission, owners, or tenants.

(2) The acquisition of real property.

(3) Either of the following with respect to environmental contamination on real property:

(A) Investigation.

(B) Remediation.

~~(3)~~ **(4)** The demolition and removal of buildings or improvements on buildings acquired by the commission where necessary **for any of the following:**

(A) To eliminate unhealthful, unsanitary, or unsafe conditions.

(B) To mitigate or eliminate environmental contamination.

(C) To lessen density.

(D) To reduce traffic hazards.

(E) To eliminate obsolete or other uses detrimental to public welfare.

(F) To otherwise remove or prevent the conditions described in IC 36-7-1-3. ~~or~~

(G) To provide land for needed public facilities.

~~(4)~~ **(5)** The preparation of sites and the construction of improvements (such as public ways and utility connections) to facilitate the sale or lease of property.

~~(5)~~ **(6)** The construction of buildings or facilities for residential, commercial, industrial, public, or other uses.

~~(6)~~ **(7)** The disposition in accordance with this chapter, for uses in accordance with the plans for the projects, of any property acquired in connection with the projects.

(c) The commission may use its powers under this chapter relative to real property and interests in real property obtained by voluntary sale or transfer, even though the real property and interests in real property are not located in a redevelopment or urban renewal project area established by the adoption and confirmation of a resolution under sections ~~8(b),~~ **8(c),** 9, 10, and 11 of this chapter. In acquiring real property and interests in real property outside of a redevelopment or urban renewal project area, the commission shall comply with section 12(b) through 12(e) of this chapter. The commission shall hold, develop, use, and dispose of this real property and interests in real property substantially in accordance with section 15 of this chapter.

(d) As used in this section, "pedestrian skyway" means a pedestrian walkway within or outside of the public right-of-way and through and above public or private property and buildings, including all structural supports required to connect skyways to buildings or buildings under construction. Pedestrian skyways constructed, extended, or improved over or through public or private property constitute public property and public improvements, constitute a public use and purpose, and do not require vacation of any public way or other property.

(e) All powers that may be exercised under this chapter by the commission may also be exercised by the commission in carrying out its duties and purposes under IC 36-7-15.3.

SECTION 43. IC 36-7-15.1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) The commission may proceed with the clearing and replanning of the area described in the resolution before the acquisition of all of that area. It may also proceed with **any of the following:**

(1) The repair and maintenance of buildings that have been acquired and are not to be cleared.

(2) Investigation of environmental contamination.

(3) Remediation of environmental contamination.

~~This clearance, repair, and maintenance~~ **The commission** may ~~be carried~~ **carry** out **the activities under this subsection** by labor employed directly by the commission 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) In the replanning and rezoning of the real property acquired, the opening, closing, relocation, and improvement of public ways, and the construction, relocation, or improvement of levees, sewers, and utility services, the commission shall proceed in the same manner as private owners of property. It may negotiate with the proper officers and agencies to secure the proper orders, approvals, and consents.

(d) The commission may pay any charges or assessments made on account of orders, approvals, consents, and construction work under this section, or may agree to pay these assessments in installments as provided by statute in the case of private owners. The commission may:

(1) by special waiver filed with the works board, waive the statutory procedure and notices required by law in order to create valid liens on private property; and

(2) cause any assessments to be spread on a different basis than that provided by statute.

(e) None of the real property acquired under this chapter may be set aside and dedicated for public ways, sewers, levees, parks, or other public purposes until the commission has obtained the consent and approval of the department or agency under whose jurisdiction the property will be placed.

SECTION 44. IC 36-7-15.1-20, AS AMENDED BY P.L.185-2005, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. In addition to its authority under any other section of this chapter, the commission may plan and undertake urban renewal projects. For purposes of this chapter, an urban renewal project includes undertakings and activities for the elimination or the prevention of the development or spread of the conditions described in IC 36-7-1-3, and may involve any work or undertaking that is performed for those purposes constituting a redevelopment project, or any rehabilitation or conservation work, or any combination of such an undertaking or work, such as **the following:**

(1) Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements.

(2) Acquisition of real property and demolition, removal, or rehabilitation of buildings and improvements on the property when necessary to **do any of the following:**

(A) Eliminate unhealthful, unsanitary, or unsafe conditions.

(B) Mitigate or eliminate environmental

contamination.

(C) Lessen density.

(D) Reduce traffic hazards.

(E) Eliminate uses that are obsolete or otherwise detrimental to the public welfare.

(F) Otherwise remove or prevent the spread of the conditions described in IC 36-7-1-3. ~~or~~

(G) Provide land for needed public facilities.

(3) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of the urban renewal project. ~~and~~

(4) The disposition, for uses in accordance with the objectives of the urban renewal project, of any property acquired in the area of the project.

SECTION 45. IC 36-7-15.1-22, AS AMENDED BY P.L.185-2005, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. (a) In connection with the planning and undertaking of an urban renewal plan or urban renewal project, the commission and all public and private officers, agencies, and bodies have all the rights, powers, privileges, duties, and immunities that they have with respect to a redevelopment plan or redevelopment project, as if all of the provisions of this chapter applicable to a redevelopment plan or redevelopment project were applicable to an urban renewal plan or urban renewal project.

(b) In addition to its other powers, the commission may also:

(1) make plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements;

(2) make plans for the enforcement of laws and regulations relating to the use of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements;

(3) make preliminary plans outlining urban renewal activities for neighborhoods to embrace two (2) or more urban renewal areas;

(4) make preliminary surveys, **including environmental assessments,** to determine if the undertaking and carrying out of an urban renewal project are feasible;

(5) make plans for the relocation of persons (including families, business concerns, and others) displaced by an urban renewal project;

(6) make relocation payments in accordance with eligibility requirements of IC 8-23-17 or the Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970 (42 U.S.C. 4621 et seq.) to or with respect to persons (including families, business concerns, and others) displaced by an urban renewal project, for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of payments financed by the federal government; and

(7) develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of the conditions described in IC 36-7-1-3 in urban areas.

SECTION 46. IC 36-7-15.1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. (a) Any:

(1) political subdivision; ~~or~~

(2) other governmental entity;

(3) public instrumentality created by state law; or

(4) public body created by state law;

may, in the area in which it is authorized to act, do all things necessary to aid and cooperate in the planning and undertaking of an urban renewal project, including furnishing the financial and other assistance that it is authorized by this chapter to furnish for or in connection with a redevelopment plan or redevelopment project.

(b) The commission may delegate to:

(1) an executive department of the consolidated city or county; ~~or to~~

(2) another governmental entity;

(3) a public instrumentality created by state law; or

(4) a public body created by state law;

any of the powers or functions of the commission with respect to the planning or undertaking of an urban renewal project in the area in which that department or entity is authorized to act. The department, ~~or~~ entity, **public instrumentality, or public body** may then carry out or perform those powers or functions for the commission.

(c) A unit, ~~or other~~ **another** governmental entity, **a public instrumentality created by state law, or a public body created by state law** may enter into agreements with the commission or any other entity respecting action to be taken under this chapter, including the furnishing of funds or other assistance in connection with an urban renewal plan or urban renewal project. These agreements may extend over any period, notwithstanding any other law.

SECTION 47. IC 36-7-15.1-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 41. (a) A political subdivision, ~~or other~~ **another** governmental entity, **a public instrumentality created by state law, or a public body created by state law** may, in the area in which it is authorized to act, do all things necessary to aid and cooperate in the planning and undertaking of a redevelopment or economic development project, including furnishing the financial and other assistance that it is authorized by this chapter to furnish for or in connection with a redevelopment plan or redevelopment project.

(b) A unit, ~~or other~~ **another** governmental entity, **a public instrumentality created by state law, or a public body created by state law** may enter into agreements with the commission or any other entity respecting action to be taken under this chapter, including the furnishing of funds or other assistance in connection with a redevelopment or economic development plan or project. These agreements may extend over any period, notwithstanding any other law.

SECTION 48. [EFFECTIVE UPON PASSAGE] **(a) An underground storage tank system that contains fuel composed of greater than fifteen percent (15%) alcohol is considered to comply with IC 13-23-5-1(b), as added by this act, if either of the following applies:**

(1) The system predates the effective date of this act.

(2) The system predates the solid waste management board's adoption after the effective date of this act of any additional rules concerning technical and safety requirements for storing and dispensing alcohol blended fuel.

(b) Replacement tanks or ancillary equipment installed in existing underground storage tank systems storing or dispensing alcohol blended fuels must meet the standards contained in additional rules adopted by the solid waste management board as described in subsection (a)(2) only if the installation occurs after the adoption of those rules.

SECTION 49. [EFFECTIVE UPON PASSAGE] **The general assembly having received and considered testimony concerning possible unresolved questions about the statute of limitations that should apply to the environmental legal action statute (IC 13-30-9), and having determined that this matter should be carefully considered, directs the legislative council to provide for an interim study committee to study and make recommendations concerning the clarification of this matter.**

SECTION 50. **An emergency is declared for this act.**

(Reference is to ESB 1192 as reprinted March 27, 2007.)

HOY	GARD
ULMER	TALLIAN
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1426–1; filed April 28, 2007, at 4:50 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 1426 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 5-28-28 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 28. State Economic Incentives and Compliance Report

Sec. 1. This chapter applies to grants, loans, and tax credits:

(1) applied for; and

(2) awarded;

after June 30, 2007.

Sec. 2. As used in this chapter, "grant" refers to a grant given by the corporation.

Sec. 3. As used in this chapter, "loan":

(1) refers to a loan made by the corporation, regardless of whether the loan is forgivable; and

(2) includes a loan guarantee made by the corporation.

Sec. 4. As used in this chapter, "tax credit" means a state tax liability credit under any of the following:

(1) IC 6-3.1-7.

(2) IC 6-3.1-13.

(3) IC 6-3.1-13.5.

(4) IC 6-3.1-26.

(5) IC 6-3.1-27.

(6) IC 6-3.1-28.

(7) IC 6-3.1-30.

Sec. 5. (a) Beginning February 1, 2008, the corporation shall:

(1) submit an economic incentives and compliance report to:

(A) the governor; and

(B) the legislative council in an electronic format under IC 5-14-6; and

(2) publish the report on the corporation's Internet web site;

on the schedule specified in subsection (b).

(b) Before August 2, 2009, the corporation shall submit and publish before February 1 and August 1 of each year an incentives and compliance report that covers the six (6) month period that ends one (1) month before the report is due. After August 1, 2009, the corporation shall submit and publish before August 1 of each year an incentives and compliance report that covers the twelve (12) month period that ends one (1) month before the report is due.

Sec. 6. The economic incentives and compliance report required under section 5 of this chapter must include at least the following:

(1) The total amount of each of the following:

(A) Tax credits approved or awarded by the corporation.

(B) Loans made by the corporation.

(C) Grants made by the corporation.

(2) With respect to each recipient of a tax credit, loan, or grant referred to in subdivision (1):

(A) The name and address of the recipient.

(B) The amount of the tax credit, loan, or grant.

(C) The purpose of the tax credit, loan, or grant.

(D) Representations of the following made by the recipient at the time of application for the tax credit, loan, or grant:

(i) Numbers of employees to be hired, retained, or trained.

(ii) Certification by the corporation that each recipient is meeting the program requirements and representations made in the recipient's application concerning the wages and compensation provided to employees who have been or are to be hired, trained, or retrained.

(iii) Other benefits to be provided to employees to be hired, retained, or trained.

(E) The extent to which the recipient has complied with the representations referred to in clause (D).

Sec. 7. (a) If in the course of compiling information to complete a report required by section 5 of this chapter the corporation determines that a recipient of a grant or loan has not complied with the representations that the recipient made in obtaining the grant or loan, the corporation shall determine:

(1) whether there was good cause for the noncompliance; and

(2) whether the recipient is in default.

(b) If in the judgment of the corporation there is not good cause for any noncompliance discovered under subsection (a), the corporation may seek a refund or arrange other methods of reclaiming the grant or loan from the recipient. If the corporation does seek a refund or otherwise reclaims a grant or loan from the recipient under this section, the amount of the refund or reclaimed part must be in proportion to the degree of default by the recipient as determined by the corporation.

(c) Subsection (b) does not apply to a recipient of a grant or loan if:

(1) the grant or loan has been disbursed on a pro rata basis; and

(2) in the judgment of the corporation, the recipient's performance in relation to the recipient's performance goals equals or exceeds the ratio of the amount of the recipient's actual benefit from the grant or loan to the total amount of the grant or loan originally contemplated in the grant or loan award.

SECTION 2. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 6-3.1-13-23; IC 6-3.1-26-24.

SECTION 3. **An emergency is declared for this act.**

(Reference is to EHB 1426 as reprinted March 20, 2007.)

AUSTIN	FORD
NEESE	LANANE
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
ESB 154–1; filed April 28, 2007, at 5:09 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 154 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 4-4-2.4-2, AS AMENDED BY SEA 526-2007, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. The office of the lieutenant governor may adopt rules under IC 4-22-2 to carry out the duties, purposes, and functions of the office of the lieutenant governor relating to:

(1) energy policy under section 1 of this chapter; **and**

(2) the administration of the center for coal technology research under IC 21-47-4-2. ~~and~~

~~(3) the Indiana recycling and energy development board under IC 4-23-5.5-6.5.~~

SECTION 2. IC 4-22-2-37.1, AS AMENDED BY SEA 551-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(9) A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an emergency.

(10) An emergency rule adopted by the Indiana finance authority under IC 8-21-12.

(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by **or other date provided by** federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires**.**

(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(16) An emergency rule adopted by the Indiana gaming commission under *IC 4-32.2-3-3(b),* IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(22) An emergency rule adopted by the Indiana state board of animal health under IC 15-2.1-18-21.

(23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34 **(repealed).**

(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33 **(repealed).**

(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) **(repealed)** or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) **(repealed)** or IC 6-1.1-22.5-20.

(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

(30) A rule adopted by the Indiana finance authority:

(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;

(B) under IC 8-15-2-17.2(a)(10):

(i) establishing enforcement procedures; and

(ii) making assessments for failure to pay required tolls;

(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or

(D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.

(31) An emergency rule adopted by the board of the Indiana health informatics corporation under IC 5-31-5-8.

(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*~~ *format* of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the ~~*secretary of state*~~ *publisher* for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The ~~*secretary of state*~~ *publisher* shall determine the ~~*number of copies*~~ *format* of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the ~~*secretary of state*~~ *publisher* shall:

(1) accept the rule for filing; and

(2) ~~*file stamp and indicate*~~ *electronically record* 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), *and (l),* a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

SECTION 3. IC 4-23-5.5-1, AS AMENDED BY P.L.1-2006, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this chapter:

(1) "board" ~~means~~ **refers to** the Indiana recycling ~~and energy~~ **market** development board created by this chapter; **and**

(2) "division" refers to the division of pollution prevention established by IC 13-27-2-1.

SECTION 4. IC 4-23-5.5-2, AS AMENDED BY P.L.1-2006, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The Indiana recycling ~~and energy~~ **market** development board is created and constitutes a public instrumentality of the state. The exercise by the board of the powers conferred by this chapter is an essential governmental function.

(b) The board consists of ~~thirteen (13)~~ **nine (9)** members, one (1) of whom shall be the lieutenant governor or the lieutenant governor's designee and ~~twelve (12)~~ **eight (8)** of whom shall be appointed by the governor for four (4) year terms. The governor's appointees shall be chosen from among representatives of:

(1) the ~~coal~~ **waste management** industry;

(2) ~~other regulated and nonregulated energy related industries;~~ **the recycling industry;**

(3) Indiana universities and colleges with expertise in

~~(A)~~ recycling research and development; ~~or~~

~~(B) energy research and development;~~

~~(4) agriculture;~~

~~(5) labor;~~

~~(6)~~ **(4)** industrial and commercial consumers **of recycled feedstock;**

~~(7)~~ **(5)** environmental groups; and

~~(8)~~ **(6)** private citizens with a special interest in

~~(A)~~ recycling. ~~or~~

~~(B) energy resources development.~~

No more than ~~six (6)~~ **four (4)** appointive members shall be of the same political party.

(c) A vacancy in the office of an appointive member, other than by expiration, shall be filled in like manner as the original appointment for the remainder of the term of that retiring member. Appointed members may be removed by the governor for cause.

(d) The board shall have seven (7) ex officio advisory members as follows:

(1) The governor.

(2) The director of the department of natural resources.

(3) The commissioner of the department of environmental management.

(4) Two (2) members from the house of representatives of opposite political parties appointed by the speaker of the house of representatives for two (2) year terms.

(5) Two (2) members from the senate of opposite political parties appointed by the president pro tempore of the senate for two (2) year terms.

(e) The ~~office of the lieutenant governor~~ **division** shall serve as the staff of the board.

SECTION 5. IC 4-23-5.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The governor shall appoint one (1) of the appointed members as chairman. ~~Seven (7)~~ **Five (5)** members of the board shall constitute a quorum and the affirmative vote of a majority of the membership shall be necessary for any action taken by the board. A vacancy in the membership of the board does not impair the right of the quorum to act.

(b) All the members of the board shall be reimbursed for their actual expenses incurred in the performance of their duties. The appointed members may also receive a per diem allowance as determined by the budget agency for attendance of board meetings and activities. All reimbursement for expenses shall be as provided by law.

SECTION 6. IC 4-23-5.5-4, AS AMENDED BY P.L.1-2006, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. **A representative appointed by** the **division, in consultation with the** lieutenant governor or the lieutenant governor's designee, shall be the chief administrative officer for the board and shall direct and supervise the administrative affairs and technical activities of the board in accordance with rules, regulations, and policies established by the board. The ~~lieutenant governor or the lieutenant governor's designee~~ **division** may appoint the employees as the board may require and the agents or consultants as may be necessary for implementing this chapter. The ~~lieutenant governor or the lieutenant governor's designee~~ **division** shall prepare an annual administrative budget for review by the budget agency and the budget committee.

SECTION 7. IC 4-23-5.5-6, AS AMENDED BY P.L.1-2006, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The board shall do the following:

(1) Adopt procedures for the regulation of its affairs and

the conduct of its business.

(2) Meet at the offices of the ~~lieutenant governor~~ **division** on call of:

(A) the lieutenant governor or the lieutenant governor's designee; **or**

(B) the commissioner of the department of environmental management or the commissioner's designee;

at least once each calendar quarter. The meetings shall be upon ten (10) days written notification, shall be open to the public, and shall have official minutes recorded for public scrutiny.

(3) Report annually in an electronic format under IC 5-14-6 to the legislative council the projects in which it has participated and is currently participating with a complete list of expenditures for those projects.

(4) Annually prepare an administrative budget for review by the budget agency and the budget committee.

(5) Keep proper records of accounts and make an annual report of its condition to the state board of accounts.

~~(b) The board may request that the lieutenant governor conduct assessments of the opportunities and constraints presented by all sources of energy. The board shall encourage the balanced use of all sources of energy with primary emphasis on:~~

~~(1) the utilization of Indiana's high sulphur coal; and~~

~~(2) the utilization of Indiana's agricultural and forest resources and products for the production of alcohol fuel. However, the board shall seek to avoid possible undesirable consequences of total reliance on a single source of energy.~~

~~(c)~~ **(b)** The board shall consider projects involving the creation of the following:

(1) Markets for products made from recycled materials.

(2) New products made from recycled materials.

~~(d)~~ **(c)** The board may promote, fund, and encourage programs facilitating the development and ~~effective use of all sources of energy~~ **implementation of waste reduction, reuse, and recycling** in Indiana.

SECTION 8. IC 4-23-5.5-6.5, AS ADDED BY P.L.144-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6.5. The ~~office of the lieutenant governor~~ **department of environmental management** may adopt rules under IC 4-22-2 to carry out the duties, purposes, and functions of this chapter.

SECTION 9. IC 4-23-5.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. The board, upon approval by the governor and the budget agency, may make the following expenditures:

(1) Matching grants to federal, state, and local governmental agencies for research and development of: ~~energy resources~~

(A) recycling projects; and

(B) recycling market development projects;

in Indiana.

(2) Matching grants to individuals, corporations, limited liability companies, partnerships, educational institutions, and other private sector groups for ~~energy resources~~ **recycling** and recycling market research and development.

(3) Direct grants, loans, or loan guarantees to those individuals and organizations specified in subdivision (1) or (2) of this section.

(4) Contractual services for ~~energy resources~~ **recycling** and recycling market research and development programs.

~~(5) Purchase or lease land for energy resources and recycling market research and development projects.~~

~~(6)~~ **(5)** Other projects and expenses consistent with this chapter.

SECTION 10. IC 4-23-5.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. The board may:

(1) on behalf of the state, receive and accept grants, gifts, and contributions from public agencies, including the federal government, and from private agencies and private sources, including the Indiana business modernization and technology corporation, for the purpose of researching and developing ~~energy resources~~ **recycling** within the state, and may administer such, including contracting with other public and private organizations, to carry out the purposes for which such grants, gifts, and contributions were made;

(2) establish application forms and procedures for programs consistent with this chapter;

(3) accept applications from private and public sources for funding of programs consistent with this chapter;

(4) provide funding for studies, research projects, and other activities required to assess the nature and extent of recycling markets in Indiana and the nature and extent of ~~energy~~ **recycling** resources to meet the needs of the state; ~~including but not limited to coal and other fossil fuels, alcohol fuels produced from agricultural and forest products and resources, renewable, and other energy resources;~~

(5) deposit funds not currently needed to meet the obligations of the board with the treasurer of state to the credit of the fund, or invest in obligations as provided by IC 5-13-10.5; and

(6) participate in or sponsor programs, conferences, or seminars aimed at assisting the state in promoting recycling market development. ~~and the effective use of all sources of energy in Indiana.~~

SECTION 11. IC 13-14-9-1, AS AMENDED BY P.L.100-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as provided in ~~section~~ **sections 8 and** 14 of this chapter, this chapter applies to the following:

(1) A board.

(2) The underground storage tank financial assurance board established by IC 13-23-11-1.

(b) In addition to the requirements of IC 4-22-2 and IC 13-14-8, a board may not adopt a rule except in accordance with this chapter.

SECTION 12. IC 13-14-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Unless a board determines ~~under section 5(c)(2) of this chapter~~ that a proposed rule should be subject to additional comments **or makes a determination described in subsection (f),** sections ~~3~~ **2 through 7** and ~~4~~ **sections 9 through 14** of this chapter do not apply to a rulemaking action if the commissioner determines that:

(1) the proposed rule constitutes:

(A) an adoption or incorporation by reference of a federal law, regulation, or rule that:

(i) is or will be applicable to Indiana; and

(ii) contains no amendments that have a substantive effect on the scope or intended application of the federal law or rule;

(B) a technical amendment with no substantive effect on an existing Indiana rule; or

(C) a substantive amendment to an existing Indiana rule, the primary and intended purpose of which is to clarify the existing rule; and

(2) the proposed rule is of such nature and scope that there is no reasonably anticipated benefit to the environment or the persons referred to in section 7(a)(2) of this chapter from the following:

(A) Exposing the proposed rule to diverse public comment under section 3 or 4 of this chapter.

(B) Affording interested or affected parties the opportunity to be heard under section 3 or 4 of this chapter.

(C) Affording interested or affected parties the

opportunity to develop evidence in the record collected under sections 3 and 4 of this chapter.

(b) If the commissioner makes a determination under subsection (a), the commissioner shall prepare written findings under this section. The full text of the commissioner's written findings shall be

~~(1) published in the Indiana Register before the public meeting held under section 5(a)(1) of this chapter; and~~

~~(2)~~ included in:

(1) the notice of adoption of the proposed rule; and

(2) the written materials to be considered by the board at the public ~~meeting~~ **hearing** held under **this** section. ~~5(a)(1) of this chapter.~~

(c) The notice of adoption of a proposed rule under this section must:

(1) be published in the Indiana Register; and

(2) include the following:

(A) Draft rule language that includes the language described in subsection (a)(1).

(B) A written comment period of at least thirty (30) days.

(C) A notice of public hearing before the appropriate board.

(d) The department shall include the following in the written materials to be considered by the board at the public hearing referred to in subsection (c):

(1) The full text of the proposed rule as most recently prepared by the department.

(2) Written responses of the department to written comments received during the comment period referred to in subsection (c).

(3) The commissioner's findings under subsection (b).

(e) At the public hearing referred to in subsection (c), the board may:

(1) adopt the proposed rule;

(2) reject the proposed rule;

(3) determine that additional public comment is necessary; or

(4) determine to reconsider the proposed rule at a subsequent board meeting.

(f) If the board determines under subsection (e) that additional public comment is necessary, the department shall publish a second notice in accordance with section 4 of this chapter and complete the rulemaking in accordance with this chapter.

SECTION 13. IC 13-14-9-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. The board may reject a proposed rule under section 9(4) of this chapter if one (1) of the following conditions exists:

(1) The following occurs or has occurred:

(A) under section 8 of this chapter, sections 3 and 4 of this chapter did not apply to the proposed rule; and

(B) either:

(i) the board determines that necessary amendments to the proposed rule will affect persons that reasonably require an opportunity to comment under section 4 of this chapter, considering the criteria set forth in section ~~8(2)~~ **8(a)(2)** of this chapter; or

(ii) the board determines that due to the fundamental or inherent structure or content of the proposed rule, the only reasonably anticipated method of developing a rule acceptable to the board is to require the department to redraft the rule and to obtain the public comments under section 4 of this chapter. ~~or~~

(2) The following occurs or has occurred:

(A) the proposed rule was subject to sections 3 and 4 of this chapter; and

(B) either:

(i) the board makes a determination set forth in subdivision (1)(B)(i) or (1)(B)(ii); or

(ii) the board determines that, due to a procedural or other defect in the implementation of the requirements under sections 3 and 4 of this chapter, an interested or affected party will be unfairly and substantially prejudiced if the public comment period under section 4 of this chapter is not again afforded and that no reasonable alternative method to obtain public comments is available to the interested or affected party other than the public comment period under section 4 of this chapter.

SECTION 14. IC 13-20-13-8, AS AMENDED BY P.L.1-2006, SECTION 202, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) Except as provided in subsection (d)(2), (d)(3), (d)(6), and (d)(7), the waste tire management fund is established for the following purposes:

(1) **The department may use not more than** thirty-five percent (35%) of the money deposited in the fund each year ~~shall be used to assist the department:~~ **for:**

(A) ~~in~~ the removal and disposal of waste tires from sites where the waste tires have been disposed of improperly; **and**

(B) ~~in~~ operating the waste tire education program under section 15 of this chapter. ~~and~~

~~(C) to pay the expenses of administering the programs described in clause (B).~~

(2) ~~Sixty-five percent (65%) of~~ **The department may use** the **remaining** money deposited in the fund each year ~~shall be used~~ to: ~~assist the lieutenant governor:~~

(A) ~~in providing~~ **provide** grants and loans **under section 9(b) of this chapter** to ~~persons~~ **entities** involved in waste tire management activities; ~~under section 9 of this chapter;~~ and

(B) ~~to~~ pay the expenses of administering the programs described in:

(i) subdivision (1)(B); and

(ii) clause (A).

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

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

(d) Sources of money for the fund are the following:

(1) Fees paid under section 4(a)(6) of this chapter and IC 13-20-14-5(e).

(2) Fees collected under section 7 of this chapter. All money deposited in the fund under this subdivision may be used by the department for waste reduction, recycling, removal, or remediation projects.

(3) Costs and damages recovered from a person **or other entity** under section 14 of this chapter or IC 13-20-14-8. All money deposited in the fund under this subdivision may be used by the department for removal and remediation projects.

(4) Fees established by the general assembly for the purposes of this chapter.

(5) Appropriations made by the general assembly.

(6) Gifts and donations intended for deposit in the fund. A gift or donation deposited in the fund under this subdivision may be specified to be entirely for the use of the department. ~~or the lieutenant governor.~~

(7) Civil penalties collected under IC 13-30-4 for violations of:

(A) this chapter;

(B) IC 13-20-14; and

(C) rules adopted under section 11 of this chapter and IC 13-20-14-6.

All money deposited in the fund under this subdivision may be used by the department for ~~waste tire removal and remediation~~ **eligible** projects.

SECTION 15. IC 13-20-13-9, AS AMENDED BY

P.L.1-2006, SECTION 203, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) The department may use money in the fund to assist the department in:

(1) removing waste tires from sites where waste tires have been disposed of improperly;
(2) properly managing waste tires;
(3) performing surveillance and enforcement activities used to implement proper waste tire management; and
(4) conducting the waste tire education program under section 15 of this chapter.

(b) The ~~lieutenant governor~~ **department** may use money in the fund to provide grants and loans to ~~persons~~ **entities** to establish and operate programs involving the following:

(1) Recycling or reuse of waste tires.
(2) Using waste tires as a source of fuel.
(3) Developing markets for waste tires and products containing recycled or reused waste tires.

(c) The ~~lieutenant governor~~ **department** may adopt rules under IC 4-22-2 necessary to implement this section.

SECTION 16. [EFFECTIVE UPON PASSAGE] **(a) The terms of the members of the Indiana recycling and energy development board are terminated on June 30, 2007.**

(b) Before July 1, 2007, the governor shall appoint the members of the Indiana recycling market development board.

(c) This SECTION expires July 1, 2007.

SECTION 17. [EFFECTIVE JULY 1, 2007] **(a) The environmental quality service council established under IC 13-13-7 shall study and make findings and recommendations concerning the following:**

(1) Shortening the environmental rulemaking process for rules adopted under IC 13 by considering the following:
(A) Other state and local agency rulemaking processes.
(B) Other state environmental rulemaking processes.
(C) Negotiated rulemaking.
(D) Steps and requirements of rulemaking.
(E) Professional boards and the relationship between boards and the office of environmental adjudication.
(2) The goals, funding, markets, and structure of recycling in Indiana.

(b) The environmental quality service council shall include its findings and recommendations developed under subsection (a) in the council's 2007 final report to the legislative council.

(c) This SECTION expires January 1, 2008.

SECTION 18. **An emergency is declared for this act.**

(Reference is to ESB 154 as printed April 6, 2007.)

GARD	DVORAK
TALLIAN	WOLKINS
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT
ESB 205–1; filed April 28, 2007, at 5:09 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 205 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 environmental law.

Delete everything after the enacting clause and insert:

SECTION 1. IC 13-20-2-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 9. (a) A person that:**

(1) holds a valid construction permit that is issued under this chapter and authorizes construction for a facility that has not been substantially developed; and
(2) has not commenced construction within:
(A) five (5) years after the date of the permit; or
(B) another period established by rule or statute;

must apply for a new construction permit and meet the requirements of all applicable environmental laws existing at the time the new permit is sought.

(b) A person that:

(1) holds a valid construction permit that is issued under this chapter and authorizes construction at an operating facility; and
(2) has not commenced construction within:
(A) five (5) years after the date of the permit; or
(B) another period established by rule or statute;

must meet the requirements of all applicable environmental laws existing at the time construction is substantially commenced.

(c) The periods described in subsections (a) and (b) for a person to commence construction are tolled pending either of the following concerning the construction permit:

(1) An administrative appeal.
(2) A judicial review.

(Reference is to ESB 205 as printed April 6, 2007.)

GARD	DVORAK
HUME	WOLKINS
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT
ESB 45–1; filed April 28, 2007, at 5:10 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 45 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 35-34-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) An indictment or information which charges the commission of an offense may not be dismissed but may be amended on motion by the prosecuting attorney at any time because of any immaterial defect, including:

(1) any miswriting, misspelling, or grammatical error;
(2) any misjoinder of parties defendant or offenses charged;
(3) the presence of any unnecessary repugnant allegation;
(4) the failure to negate any exception, excuse, or provision contained in the statute defining the offense;
(5) the use of alternative or disjunctive allegations as to the acts, means, intents, or results charged;
(6) any mistake in the name of the court or county in the title of the action, or the statutory provision alleged to have been violated;
(7) the failure to state the time or place at which the offense was committed where the time or place is not of the essence of the offense;
(8) the failure to state an amount of value or price of any

matter where that value or price is not of the essence of the offense; or

(9) any other defect which does not prejudice the substantial rights of the defendant.

(b) The indictment or information may be amended in matters of substance ~~or form,~~ and the names of material witnesses may be added, by the prosecuting attorney, upon giving written notice to the defendant at any time:

(1) up to:

~~(1)~~ **(A)** thirty (30) days if the defendant is charged with a felony; or

~~(2)~~ **(B)** fifteen (15) days if the defendant is charged only with one (1) or more misdemeanors;

before the omnibus date; **or**

(2) before the commencement of trial;

if the amendment does not prejudice the substantial rights of the defendant. When the information or indictment is amended, it shall be signed by the prosecuting attorney **or a deputy prosecuting attorney.**

(c) Upon motion of the prosecuting attorney, the court may, at any time before, during, or after the trial, permit an amendment to the indictment or information in respect to any defect, imperfection, or omission in form which does not prejudice the substantial rights of the defendant.

(d) Before amendment of any indictment or information other than amendment as provided in subsection (b) of this section, the court shall give all parties adequate notice of the intended amendment and an opportunity to be heard. Upon permitting such amendment, the court shall, upon motion by the defendant, order any continuance of the proceedings which may be necessary to accord the defendant adequate opportunity to prepare his defense.

(e) An amendment of an indictment or information to include a habitual offender charge under IC 35-50-2-8, **IC 35-50-2-8.5, or IC 35-50-2-10** must be made not later than ten (10) days after the omnibus date. However, upon a showing of good cause, the court may permit the filing of a habitual offender charge at any time before the commencement of the trial.

SECTION 2. IC 35-38-1-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.3. After a court has pronounced a sentence for a felony conviction, the court shall issue a statement of the court's reasons for selecting the sentence that it imposes.**

SECTION 3. IC 35-42-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) As used in this section, "corrections officer" includes a person employed by:

(1) the department of correction;

(2) a law enforcement agency;

(3) a probation department;

~~(3)~~ **(4)** a county jail; or

~~(4)~~ **(5)** a circuit, superior, county, probate, city, or town court.

(b) As used in this section, "firefighter" means a person who is a:

(1) full-time, salaried firefighter;

(2) part-time, paid firefighter; or

(3) volunteer firefighter (as defined in IC 36-8-12-2).

(c) As used in this section, "first responder" means a person who:

(1) is certified under IC 16-31 and who meets the Indiana emergency medical services commission's standards for first responder certification; and

(2) responds to an incident requiring emergency medical services.

~~(b)~~ **(d)** As used in this section, "human immunodeficiency virus (HIV)" includes acquired immune deficiency syndrome (AIDS) and AIDS related complex.

~~(c)~~ **(e)** A person who knowingly or intentionally in a rude, insolent, or angry manner places blood or another body fluid or waste on a law enforcement officer, **firefighter, first responder,** or ~~a~~ corrections officer identified as such and while engaged in the performance of official duties or coerces another person to place blood or another body fluid or waste on the law enforcement officer, **firefighter, first responder,** or corrections officer commits battery by body waste, a Class D felony. However, the offense is:

(1) a Class C felony if the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with:

(A) hepatitis B **or hepatitis C;**

(B) HIV; or

(C) tuberculosis;

(2) a Class B felony if:

(A) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with hepatitis B **or hepatitis C** and the offense results in the transmission of hepatitis B **or hepatitis C** to the other person; or

(B) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with tuberculosis and the offense results in the transmission of tuberculosis to the other person; and

(3) a Class A felony if:

(A) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with HIV; and

(B) the offense results in the transmission of HIV to the other person.

~~(d)~~ **(f)** A person who knowingly or intentionally in a rude, an insolent, or an angry manner places human blood, semen, urine, or fecal waste on another person commits battery by body waste, a Class A misdemeanor. However, the offense is:

(1) a Class D felony if the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with:

(A) hepatitis B **or hepatitis C;**

(B) HIV; or

(C) tuberculosis;

(2) a Class C felony if:

(A) the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with hepatitis B **or hepatitis C** and the offense results in the transmission of hepatitis B **or hepatitis C** to the other person; or

(B) the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with tuberculosis and the offense results in the transmission of tuberculosis to the other person; and

(3) a Class B felony if:

(A) the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with HIV; and

(B) the offense results in the transmission of HIV to the other person.

SECTION 4. IC 35-50-2-1.3, AS ADDED BY P.L.71-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.3. (a) For purposes of sections 3 through 7 of this chapter, "advisory sentence" means a guideline sentence that the court may voluntarily consider as the midpoint between the maximum sentence and the minimum sentence.

(b) Except as provided in subsection (c), a court is not required to use an advisory sentence.

(c) In imposing:

(1) consecutive sentences **for felony convictions that are not crimes of violence (as defined in IC 35-50-1-2(a)) arising out of an episode of criminal conduct,** in accordance with IC 35-50-1-2;

(2) an additional fixed term to an habitual offender under section 8 of this chapter; or

(3) an additional fixed term to a repeat sexual offender under section 14 of this chapter;

a court is required to use the appropriate advisory sentence in imposing a consecutive sentence or an additional fixed term. However, the court is not required to use the advisory sentence in imposing the sentence for the underlying offense.

(d) This section does not require a court to use an advisory sentence in imposing consecutive sentences for felony convictions that do not arise out of an episode of criminal conduct.

SECTION 5. [EFFECTIVE JULY 1, 2007] **IC 35-42-2-6, as amended by this act, applies only to acts committed after June 30, 2007.**

SECTION 6. **An emergency is declared for this act.**

(Reference is to ESB 45 as reprinted April 10, 2007.)

BRAY	L. LAWSON
ARNOLD	FOLEY
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT

EHB 1566–3; filed April 28, 2007, at 5:32 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 1566 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 4-13-16.5-1, AS AMENDED BY SEA 526-2007, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **(a)** The ~~following~~ definitions **in this section** apply throughout this chapter.

~~(1)~~ **(b)** "Commission" refers to the governor's commission on minority and women's business enterprises established under section 2 of this chapter.

~~(2)~~ **(c)** "Commissioner" refers to the deputy commissioner for minority and women's business enterprises of the department.

~~(3)~~ **(d)** "Contract" means any contract awarded by a state agency for construction projects or the procurement of goods or services, including professional services.

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

~~(5)~~ **(f)** "Minority business enterprise" or "minority business" means an individual, partnership, corporation, limited liability company, or joint venture of any kind that is owned and controlled by one (1) or more persons who are:

~~(A)~~ **(1)** United States citizens; and

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

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

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

(2) is headquartered in Indiana;

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

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

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

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

~~(6)~~ **(h)** "Owned and controlled" means: ~~having:~~

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

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

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

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

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

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

~~(7)~~ **(i)** "Minority group" means:

~~(A)~~ **(1)** Blacks;

~~(B)~~ **(2)** American Indians;

~~(C)~~ **(3)** Hispanics;

~~(D)~~ **(4)** Asian Americans; and

~~(E)~~ **(5)** other similar minority groups. ~~as defined by 13 CFR 124.103.~~

~~(8)~~ **(j)** "Separate body corporate and politic" refers to an entity established by the general assembly as a body corporate and politic.

~~(9)~~ **(k)** "State agency" refers to any authority, board, branch, commission, committee, department, division, or other instrumentality of the executive, including the administrative, department of state government

SECTION 2. IC 4-13-16.5-1.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.3. As used in this chapter, "women's business enterprise" means a business that is one (1) of the following:

(1) A sole proprietorship owned and controlled by a woman.

(2) A partnership or joint venture owned and controlled by women in which:

(A) at least fifty-one percent (51%) of the ownership is held by women; and

(B) the management and daily business operations ~~of which~~ are controlled by at least one (1) of the women who owns the business.

(3) A corporation or other entity:

(A) whose management and daily business operations are controlled by at least one (1) of the women who owns the business; and

(B) that is at least fifty-one percent (51%) owned by women, or if stock is issued, at least fifty-one percent (51%) of the stock is owned by at least one (1) of the women.

(4) A qualified women's nonprofit corporation as defined in IC 4-13-16.5-1(g) and IC 4-13-16.5-1(h).

SECTION 3. IC 4-13-16.5-2, AS AMENDED BY P.L.4-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) There is established a governor's commission on minority and women's business enterprises. The commission shall consist of the following members:

(1) A governor's designee, who shall serve as chairman of the commission.

(2) The commissioner of the Indiana department of transportation.

(3) The chairperson of the board of the Indiana economic development corporation or the chairperson's designee.
(4) The commissioner of the department.
(5) Nine (9) individuals with demonstrated capabilities in business and industry, especially minority and women's business enterprises, appointed by the governor from the following geographical areas of the state:
(A) Three (3) from the northern one-third (1/3) of the state.
(B) Three (3) from the central one-third (1/3) of the state.
(C) Three (3) from the southern one-third (1/3) of the state.
(6) Two (2) members of the house of representatives, no more than one (1) from the same political party, appointed by the speaker of the house of representatives to serve in a nonvoting advisory capacity.
(7) Two (2) members of the senate, no more than one (1) from the same political party, appointed by the president pro tempore of the senate to serve in a nonvoting advisory capacity.

Not more than six (6) of the ten (10) members appointed or designated by the governor may be of the same political party. Appointed members of the commission shall serve four (4) year terms. A vacancy occurs if a legislative member leaves office for any reason. Any vacancy on the commission shall be filled in the same manner as the original appointment.

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

(c) Each legislative member of the commission is entitled to receive the same per diem, mileage, and travel allowances established by the legislative council and paid to members of the general assembly serving on interim study committees. The allowances specified in this subsection shall be paid by the legislative services agency from the amounts appropriated for that purpose.

(d) A member of the commission who is a state employee but who is not a member of the general assembly is not entitled to any of the following:
(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).
(2) Reimbursement for traveling expenses as provided under IC 4-13-1-4.
(3) Other expenses actually incurred in connection with the member's duties.

(e) The commission shall meet at least four (4) times each year and at other times as the chairman considers necessary.

(f) The duties of the commission shall include but not be limited to the following:
(1) Identify minority and women's business enterprises in the state.
(2) Assess the needs of minority and women's business enterprises.
(3) Initiate aggressive programs to assist minority and women's business enterprises in obtaining state contracts.
(4) Give special publicity to procurement, bidding, and qualifying procedures.
(5) Include minority and women's business enterprises on solicitation mailing lists.
(6) Evaluate the competitive differences between qualified minority or women's nonprofit corporations and other than qualified minority or women's nonprofit corporations that offer similar services and make recommendation to the department on policy changes necessary to ensure fair competition among minority and women's business enterprises.
~~(6)~~ **(7)** Define the duties, goals, and objectives of the deputy commissioner of the department as created under this chapter to assure compliance by all state agencies, separate bodies corporate and politic, and state educational institutions with state and federal legislation and policy concerning the awarding of contracts **(including, notwithstanding section 1(d) of this chapter or any other law, contracts of state educational institutions)** to minority and women's business enterprises.
~~(7)~~ **(8)** Establish annual goals:
(A) for the use of minority and women's business enterprises; and
(B) derived from a statistical analysis of utilization study of state contracts **(including, notwithstanding section 1(d) of this chapter or any other law, contracts of state educational institutions)** that are required to be updated every five (5) years.
~~(8)~~ **(9)** Prepare a review of the commission and the various affected departments of government to be submitted to the governor and the legislative council on March 1 and October 1 of each year, evaluating progress made in the areas defined in this subsection.
(10) Ensure that the statistical analysis required under this section:
(A) is based on goals for participation of minority business enterprises established in Richmond v. Croson, 488 U.S. 469 (1989);
(B) includes information on both contracts and subcontracts (including, notwithstanding section 1(d) of this chapter or any other law, contracts and subcontracts of state educational institutions); and
(C) uses data on the combined capacity of minority and women's businesses enterprises in Indiana and not just regional data.

(g) The department shall adopt rules of ethics under IC 4-22-2 for commission members other than commission members appointed under subsection (a)(6) or (a)(7).

(h) The department shall furnish administrative support and staff as is necessary for the effective operation of the commission.

SECTION 4. IC 4-13-16.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) There is created in the department a deputy commissioner for minority and women's business enterprise development. Upon consultation with the commission, the commissioner of the department, with the approval of the governor, shall appoint an individual who possesses demonstrated capability in business or industry, especially in minority or women's business enterprises, to serve as deputy commissioner to work with the commission in the implementation of this chapter.

(b) The deputy commissioner shall do the following:
(1) Identify and certify minority and women's business enterprises for state projects.
(2) Establish a central certification file.
(3) Periodically update the certification status of each minority or women's business enterprise.
(4) Monitor the progress in achieving the goals established under section ~~2(f)(7)~~ **2(f)(8)** of this chapter.
(5) Require all state agencies, separate bodies corporate and politic, and state educational institutions to report on planned and actual participation of minority and women's business enterprises in contracts awarded by state agencies. The commissioner may exclude from the reports uncertified minority and women's business enterprises.

(6) Determine and define opportunities for minority and women's business participation in contracts awarded by all state agencies, separate bodies corporate and politic, and state educational institutions.

(7) Implement programs initiated by the commission under section 2 of this chapter.

(8) Perform other duties as defined by the commission or by the commissioner of the department.

SECTION 5. IC 4-13-16.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) Before January 1 of even-numbered years, the department shall determine whether, during the most recently completed two (2) year period ending the previous July 1, the goals set under section ~~2(f)(7)~~ **2(f)(8)** of this chapter have been met.

(b) The department shall adopt rules under IC 4-22-2 to ensure that the goals set under section 2(f)(7) of this chapter are met. Expenditures with business enterprises that qualify as both a minority business enterprise and a women's business enterprise may be counted toward the attainment of the goal for either:

(1) minority business enterprises; or

(2) women's business enterprises;

at the election made by the procurer of goods, services, or goods and services, but not both.

SECTION 6. IC 4-13-16.5-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 8. (a) This section applies to a contractor whose offer designated minority businesses or women's business enterprises to furnish any supplies or perform any work under the contract awarded to the contractor.**

(b) As used in this section, "contract" refers to any of the following:

(1) A contract for the purchase of supplies by a state agency.

(2) A contract for the performance of services for a state agency.

(3) A public works contract (as defined in IC 4-13.6-1-14).

(4) A contract to perform professional services (as defined in IC 4-13.6-1-11) in connection with a public works contract.

(c) As used in this section, "contractor" refers to a person awarded a contract by a state agency.

(d) As used in this section, "offer" means a response to a solicitation. The term includes a bid, proposal, and quote.

(e) As used in this section, "solicitation" means the procedure by which a state agency invites persons to submit an offer to enter into a contract with the state agency. The term includes an invitation for bids, a request for proposals, and a request for quotes.

(f) Before beginning work on a contract, a contractor shall do the following:

(1) Notify in writing each minority business and women's business enterprise designated in the contractor's offer that the contractor has been awarded the contract.

(2) Give copies of each notification to the state agency that awarded the contract.

(g) If a contractor fails to comply with subsection (f), the awarding state agency may consider the failure a breach of contract and do any of the following:

(1) Cancel the contract.

(2) Collect from the contractor all funds paid to the contractor under the contract.

(3) Exercise any of the state's rights set out in the contract.

(4) Use the failure as a basis for finding the contractor not responsible when awarding other contracts.

SECTION 7. IC 4-13-16.5-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 9. (a) The department shall adopt rules under IC 4-22-2 to establish procedures to resolve grievances arising under this chapter.**

(b) The rules may include informal procedures to resolve grievances.

(c) The procedures established under the rules must provide for final resolution of grievances before either of the following:

(1) A panel of three (3) commission members. A panel formed under this subdivision must consist of at least two (2) commission members described in section 2(a)(5) of this chapter.

(2) The commission. However, if the commission acts to resolve a grievance under this subdivision, members of the commission described in section 2(a)(6) or 2(a)(7) of this chapter may not participate in the proceeding.

(d) Final resolution of grievances arising under this chapter are subject to IC 4-21.5.

SECTION 8. [EFFECTIVE JULY 1, 2007] **(a) Notwithstanding the provisions in IC 4-13-16.5-2, as amended by this act, requiring that statistical analysis of the use of minority and women's business enterprises must be updated every five (5) years, the commission on minority and women's business enterprises shall:**

(1) conduct; or

(2) enter into a contract for;

the statistical analysis of the use of minority and women's business enterprises during the fiscal year beginning July 1, 2007, and ending June 30, 2008.

(b) The criteria for the analysis in IC 4-13-16.5-2, as amended by this act, must be used for the statistical analysis required under this SECTION.

(c) This SECTION expires December 31, 2008.

(Reference is to EHB 1566 as reprinted April 11, 2007.)

CRAWFORD	FORD
DUNCAN	SIMPSON
House Conferees	Senate Conferees

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

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 524 because it conflicts with HEA 1555-2007 and SEA 526-2007 without properly recognizing the existence of HEA 1555-2007 and SEA 526-2007, has had Engrossed Senate Bill 524 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 524 be corrected as follows:

Page 16, line 13, after "IC 4-4-11-41" insert ", AS AMENDED BY HEA 1555-2007, SECTION 1,".

Page 16, line 14, delete "[EFFECTIVE JULY 1, 2007]:" and insert "[EFFECTIVE JULY 1, 2008]:".

Page 16, line 18, delete "IC 23-2-1" and insert "IC 23-19".

Page 27, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 19. IC 5-1-16.5-7, AS ADDED BY SEA 526-2007, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. As used in this chapter, "authority" refers to the Indiana ~~health and educational facility~~ finance authority established by ~~IC 5-1-16-2.~~ **IC 4-4-11-4.**".

Page 30, line 42, delete "IC 5-28-28" and insert "IC 5-28-28.4".

Page 31, line 3, delete "28." and insert "**28.4.**".

Page 77, line 42, delete "P.L.235-2005," and insert "SEA 526-2007, SECTION 355,".

Page 78, line 1, delete "SECTION 204,".

Page 79, line 13, delete "IC 20-12-63;" and insert "~~IC 5-1-16.5,~~".

Page 82, line 31, delete "P.L.235-2005," and insert "SEA 526-2007, SECTION 376,".

Page 82, line 32, delete "SECTION 209,".

Page 82, line 33, delete "IC 20-12-63-15" and insert "IC 5-1-16.5-41".

Page 82, line 35, delete "IC 20-12-63)." and insert "IC 5-1-16.5).".

Page 83, line 1, after "IC 5-1-16-35;" insert "**IC 5-1-16.5-54;**".

Page 83, line 32, delete "IC 5-28-28," and insert "**IC 5-28-28.4,**".

Page 84, after line 26, begin a new paragraph and insert:

"**SECTION 44. [EFFECTIVE JULY 1, 2007] (a) Notwithstanding IC 4-4-11-41, as amended by this act, any bonds issued by the authority pursuant to IC 4-4-11 and any other securities issued in connection with a financing under IC 4-4-11 shall be exempt from the registration and other requirements of IC 23-2-1 and any other securities registration laws.**

(b) This SECTION expires June 30, 2008.".

Renumber all sections consecutively.

(Reference is to ESB 524 as printed March 30, 2007.)

PELATH, Chair
WHETSTONE, R.M.M.
MAYS, Sponsor

Report adopted.

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

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 reports are eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 1 hour, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed Senate Bill 49–1 and Engrossed House Bill 1505–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee reports are eligible for consideration after April 11 and that House Rule 164.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 1 hour, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed Senate Bill 49–1 and Engrossed House Bill 1505–1.

PELATH, Chair

Motion prevailed.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rules 162.1 and 164.1 and recommends that House Rules 162.1 and 164.1 be suspended so that the following conference committee reports may be eligible for consideration after April 11: Engrossed House Bills 1115–1 and 1738–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 and 164.1 be suspended so that the following conference committee reports are eligible for consideration after April 11: Engrossed House Bills 1115–1 and 1738–1.

PELATH, Chair

Motion prevailed.

Engrossed Senate Bill 463–1

The conference committee report was reread. Roll Call 646: yeas 69, nays 22. Report adopted.

Engrossed House Bill 1115–1

The conference committee report was reread. Roll Call 647: yeas 75, nays 15. Report adopted.

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 reports are eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 2 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed House Bill 1312–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee reports are eligible for consideration after April 11 and that House Rule 164.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 2 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed House Bill 1312–1.

PELATH, Chair

Motion prevailed.

Engrossed House Bill 1312–1

The conference committee report was reread. Roll Call 648: yeas 93, nays 0. Report adopted.

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 reports are eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 5 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed House Bill 1503–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee reports are eligible for consideration after April 11 and that House Rule 164.1 be suspended so that the following conference committee reports

may be laid over on the members' desks for 5 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed House Bill 1503–1.

PELATH, Chair

Motion prevailed.

Engrossed House Bill 1503–1

The conference committee report was reread. Roll Call 649: yeas 50, nays 49. Report failed for lack of a constitutional majority.

[*Journal Clerk's note: Roll Call 650 was a machine test.*]

Representative Borders was excused for the rest of the day.

Engrossed House Bill 1505–1

The conference committee report was reread. Roll Call 651: yeas 94, nays 0. Report adopted.

Engrossed House Bill 1738–1

The conference committee report was reread. Roll Call 652: yeas 85, nays 5. Report adopted.

Engrossed Senate Bill 49–1

The conference committee report was reread. Roll Call 653: yeas 92, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
EHB 1717–1; filed April 28, 2007, at 6:04 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 1717 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 4-6-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Beginning July 1, 2005, the unit shall do the following:

(1) Investigate deceptive acts in connection with mortgage lending.

(2) Investigate violations of IC 24-9.

(3) Institute appropriate administrative and civil actions to redress:

(A) deceptive acts in connection with mortgage lending; and

(B) violations of IC 24-5-0.5 and IC 24-9.

(4) Cooperate with federal, state, and local law enforcement agencies in the investigation of **the following:**

(A) Deceptive acts in connection with mortgage lending.

(B) Criminal violations involving deceptive acts in connection with mortgage lending. ~~and~~

(C) Violations of IC 24-5-0.5 and IC 24-9.

(D) Violations of:

(i) the federal Truth in Lending Act (15 U.S.C. 1601 et seq.);

(ii) the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.); and

(iii) any other federal laws or regulations concerning mortgage lending.

To the extent authorized by federal law, the unit may enforce compliance with the federal statutes or regulations described in this clause or refer suspected violations of the statutes or regulations to the appropriate federal regulatory agencies.

(b) The attorney general shall adopt rules under IC 4-22-2 to the extent necessary to organize the unit.

SECTION 2. IC 4-6-12-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10. (a) Beginning in 2008, the unit shall, after June 30 and before November 1 of each year, report to the legislative council on the following:**

(1) The unit's budget for the most recent state fiscal year.

(2) The unit's actual income and expenses during the most recent state fiscal year.

(3) The projected budget required by the unit to carry out its duties under this chapter during the current state fiscal year.

(4) The unit's staffing during the most recent fiscal year, including information on:

(A) the number of employees employed by the unit and a description of their responsibilities; and

(B) any vacant positions.

(5) The unit's projected staffing needs during the current state fiscal year.

(6) The number and types of complaints received by the unit, including a description of:

(A) the number of complaints resolved; and

(B) the number of complaints outstanding.

(7) Any recommendations for legislation needed to address mortgage lending or deceptive acts in connection with mortgage lending.

(b) A report to the legislative council under this section must be in an electronic format under IC 5-14-6.

SECTION 3. IC 4-33-2-11.6, AS ADDED BY P.L.170-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11.6. "Law enforcement agency" means any of the following:

(1) The gaming agents of the Indiana gaming commission.

(2) The state police department.

(3) The conservation officers of the department of natural resources.

(4) The state excise police of the alcohol and tobacco commission.

(5) The enforcement department of the securities division of the office of the secretary of state.

SECTION 4. IC 5-2-1-9, AS AMENDED BY SEA 526-2007, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. The rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.

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

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

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

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

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

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

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

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

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

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

(B) Identification of human and sexual trafficking.

(C) Communicating with traumatized persons.

(D) Therapeutically appropriate investigative techniques.

(E) Collaboration with federal law enforcement officials.

(F) Rights of and protections afforded to victims.

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

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

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

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

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

(1) make an arrest;

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

(3) carry a firearm;

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

(e) This subsection does not apply to:

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

(2) an:

(A) attorney; or

(B) investigator;

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

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

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

(1) law enforcement officers;

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

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

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

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes the mandatory inservice training requirements established by rules adopted by the board. Inservice training must include training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the board, and training concerning human and sexual trafficking. The board may approve courses offered by other public or private training entities, including postsecondary educational institutions, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to either of the following:

(1) An emergency situation.

(2) The unavailability of courses.

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

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

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

(3) Law enforcement officers successfully completing the

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

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

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

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

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

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

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

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

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

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

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

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

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;
(2) worked as a full-time law enforcement officer for at least one (1) year before the officer is hired under subdivision (1);
(3) has not been employed as a law enforcement officer for at least two (2) years and less than six (6) years before the officer is hired under subdivision (1) due to the officer's resignation or retirement; and
(4) completed a basic training course certified by the board before the officer is hired under subdivision (1).

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

(1) arrest;
(2) search; and
(3) seizure.

(p) A law enforcement officer who:

(1) has completed a basic training course certified by the board; and
(2) has not been employed as a law enforcement officer in the six (6) years before the officer is hired as a law enforcement officer;

is not eligible to attend the refresher course described in subsection (n) and must repeat the full basic training course to regain law enforcement powers.

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

(1) the agent successfully completes the pre-basic course established in subsection (f); and
(2) the agent successfully completes any other training courses established by the Indiana gaming commission in conjunction with the board.

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

(1) the securities enforcement officer successfully completes the pre-basic course established in subsection (f); and
(2) the securities enforcement officer successfully completes any other training courses established by the securities commissioner in conjunction with the board.

SECTION 5. IC 23-2-2.5-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 34. **(a)** If ~~in the opinion of~~ **it appears to** the commissioner **that:**

(1) the offer of any franchise is subject to registration under this chapter and it is being, or it has been, offered for sale without such offer first being registered; **or**
(2) a person has engaged in or is about to engage in an act, a practice, or a course of business constituting a violation of this chapter or a rule or an order under this chapter;

the commissioner may ~~order the franchisor or offeror of such franchise to cease and desist from the further offer or sale of such franchise unless and until such offer has been registered under this chapter. If, after such an order has been made, a request for a hearing is filed in writing by the person to whom such order was directed, a hearing shall be held to commence within fifteen (15) days after the request is made, unless the person affected consents to a later date.~~ **investigate and may issue, with or without a prior hearing, orders and notices as the commissioner determines to be in the public interest, including cease and desist orders, orders to show cause, and notices. After notice and an opportunity for hearing, the commissioner may enter an order of rescission, restitution, or disgorgement, including interest at the rate of eight percent (8%) per year, directed to a person who has violated this chapter or a rule or order under this chapter. In addition to all other remedies, the commissioner may bring an action in the name of and on behalf of the state against any person participating in or about to participate in a violation of this chapter, to enjoin the person from continuing or doing an act furthering a violation of this chapter and may obtain the appointment of a receiver or conservator. Upon a proper showing by the commissioner, the court shall enter an order of the commissioner directing rescission, restitution, or disgorgement against a person who has violated this chapter or a rule or order under this chapter.**

(b) Upon the issuance of an order or a notice by the commissioner under subsection (a), the commissioner shall

promptly notify the respondent of the following:

(1) That the order or notice has been issued.

(2) The reasons the order or notice has been issued.

(3) That upon the receipt of a written request the matter will be set for a hearing to commence not later than forty-five (45) business days after the commissioner receives the request, unless the respondent consents to a later date.

If the respondent does not request a hearing and the commissioner does not order a hearing, the order or notice will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after giving notice of the hearing, may modify or vacate the order or extend it until final determination.

(c) In a final order, the commissioner may charge the costs of an investigation or a proceeding conducted in connection with a violation of:

(1) this chapter; or

(2) a rule or an order adopted or issued under this chapter;

to be paid as directed by the commissioner in the order.

(d) In a proceeding in a circuit or superior court under this section, the commissioner is entitled to recover all costs and expenses of investigation to which the commissioner would be entitled in an administrative proceeding, and the court shall include the costs in its final judgment.

(e) If the commissioner determines, after notice and opportunity for a hearing, that a person has violated this chapter, the commissioner may, in addition to or instead of all other remedies, impose a civil penalty upon the person in an amount not to exceed ten thousand dollars ($10,000) for each violation. An appeal from the decision of the commissioner imposing a civil penalty under this subsection may be taken by an aggrieved party under section 44 of this chapter.

(f) The commissioner may bring an action in the circuit or superior court of Marion County to enforce payment of any penalty imposed under subsection (e).

(g) Penalties collected under this section shall be deposited in the securities division enforcement account established under IC 23-2-1-15(c).

SECTION 6. IC 23-2-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) As used in this chapter, "certificate of registration" means a certificate issued by the commissioner authorizing an individual to engage in origination activities on behalf of a licensee.

(b) As used in this chapter, "creditor" means a person:

(1) that loans funds of the person in connection with a loan; and

(2) to whom the loan is initially payable on the face of the note or contract evidencing the loan.

(c) As used in this chapter, "license" means a license issued by the commissioner authorizing a person to engage in the loan brokerage business.

(d) As used in this chapter, "licensee" means a person that is issued a license under this chapter.

(e) As used in this chapter, "loan broker" means any person who, in return for any consideration from any source procures, attempts to procure, or assists in procuring a loan from a third party or any other person, whether or not the person seeking the loan actually obtains the loan. "Loan broker" does not include:

(1) any **supervised financial organization (as defined in IC 24-4.5-1-301(20)), including a** bank, savings bank, trust company, savings association, **or** credit union; ~~or~~

(2) any other financial institution that is:

(A) regulated by any agency of the United States or any state; and

(B) regularly actively engaged in the business of making consumer loans that are not secured by real estate or taking assignment of consumer sales contracts that are not secured by real estate;

~~(2)~~ **(3)** any insurance company; or

~~(3)~~ **(4)** any person arranging financing for the sale of the person's product.

(f) As used in this chapter, "loan brokerage business" means a person acting as a loan broker.

(g) As used in this chapter, "origination activities" means communication with or assistance of a borrower or prospective borrower in the selection of loan products or terms.

(h) As used in this chapter, "originator" means a person engaged in origination activities. The term "originator" does not include a person who performs origination activities for any entity that is not a loan broker under subsection (e).

(i) As used in this chapter, "person" means an individual, a partnership, a trust, a corporation, a limited liability company, a limited liability partnership, a sole proprietorship, a joint venture, a joint stock company, or another group or entity, however organized.

(j) As used in this chapter, "registrant" means an individual who is registered:

(1) to engage in origination activities under this chapter; **or**

(2) as a principal manager.

(k) As used in this chapter, "ultimate equitable owner" means a person who, directly or indirectly, owns or controls ~~any ownership~~ **ten percent (10%) or more of the equity** interest in a ~~person,~~ **loan broker licensed or required to be licensed under this chapter,** regardless of whether the person owns or controls the ~~ownership~~ **equity** interest through one (1) or more other persons or one (1) or more proxies, powers of attorney, or variances.

(l) As used in this chapter, "principal manager" means an individual who:

(1) has at least three (3) years of experience:

(A) as a loan broker; or

(B) in financial services;

that is acceptable to the commissioner; and

(2) is principally responsible for the supervision and management of the employees and business affairs of a licensee.

SECTION 7. IC 23-2-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) Any person desiring to engage or continue in the loan brokerage business shall apply to the commissioner for a license under this chapter.

(b) An individual **desiring to be** employed by a licensee to engage in origination activities shall ~~be registered, by the licensee, with~~ **apply to** the commissioner **for registration** under ~~section 5(a)(6) and section 5(c) of~~ this chapter.

(c) Any individual desiring to be employed by a licensee as a principal manager shall apply to the commissioner for registration under this chapter.

SECTION 8. IC 23-2-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) An application for license or renewal of a license must contain:

(1) consent to service of process under subsection ~~(c),~~ **(h);**

(2) evidence of the bond required in subsection ~~(b),~~ **(e);**

(3) an application fee of ~~two~~ **four** hundred dollars ~~($200),~~ **($400), plus two hundred dollars ($200) for each ultimate equitable owner;**

(4) an affidavit affirming that none of the applicant's ultimate equitable owners, directors, managers, or officers have been convicted, in any jurisdiction, of an offense involving fraud or deception that is punishable by at least one (1) year of imprisonment, unless waived by the commissioner under subsection (f);

(5) evidence that the applicant, if the applicant is an individual, has completed the education requirements under section 21 of this chapter;

~~(6) a registration form setting forth the name, home~~

~~address, home telephone number, and Social Security number of each employee or prospective employee of the applicant who is or who will be engaged in origination activities; and~~

~~(7) evidence that the license applicant's proposed registrants have completed the education requirements of section 21 of this chapter.~~

(6) the name and registration number for each originator to be employed by the licensee;

(7) the name and registration number for each principal manager; and

(8) for each ultimate equitable owner, the following information:

(1) The name of the ultimate equitable owner.

(2) The address of the ultimate equitable owner, including the home address of the ultimate equitable owner if the ultimate equitable owner is an individual.

(3) The telephone number of the ultimate equitable owner, including the home telephone number if the ultimate equitable owner is an individual.

(4) The ultimate equitable owner's Social Security number and date of birth, if the ultimate equitable owner is an individual.

(b) An application for registration as an originator shall be made on a registration form prescribed by the commissioner. The application must include the following information for the individual that seeks to be registered as an originator:

(1) The name of the individual.

(2) The home address of the individual.

(3) The home telephone number of the individual.

(4) The individual's Social Security number and date of birth.

(5) The name of the:

(A) licensee; or

(B) applicant for licensure;

for whom the individual seeks to be employed as an originator.

(6) Consent to service of process under subsection (h).

(7) Evidence that the individual has completed the education requirements described in section 21 of this chapter.

(8) An application fee of one hundred dollars ($100).

(9) All registration numbers previously issued to the individual under this chapter, if applicable.

(c) An application for registration as a principal manager shall be made on a registration form prescribed by the commissioner. The application must include the following information for the individual who seeks to be registered as a principal manager:

(1) The name of the individual.

(2) The home address of the individual.

(3) The home telephone number of the individual.

(4) The individual's Social Security number and date of birth.

(5) The name of the:

(A) licensee; or

(B) applicant for licensure;

for whom the individual seeks to be employed as a principal manager.

(6) Consent to service of process under subsection (h).

(7) Evidence that the individual has completed the education requirements described in section 21 of this chapter.

(8) Evidence that the individual has at least three (3) years of experience in the:

(A) loan brokerage; or

(B) financial services;

business.

(9) An application fee of two hundred dollars ($200).

(10) All registration numbers previously issued to the individual, if applicable.

(d) The commissioner shall require an applicant for registration as:

(1) an originator under subsection (b); or

(2) a principal manager under subsection (c);

to pass a written examination prepared and administered by the commissioner or an agent appointed by the commissioner.

~~(b)~~ **(e)** A licensee must maintain a bond satisfactory to the commissioner in the amount of fifty thousand dollars ($50,000), which shall be in favor of the state and shall secure payment of damages to any person aggrieved by any violation of this chapter by the licensee.

~~(c)~~ **(f)** The commissioner shall issue a license **and license number** to an applicant that meets the licensure requirements of this chapter. Whenever the registration provisions of this chapter have been complied with, the commissioner shall issue a certificate of registration **and registration number** authorizing the registrant to:

(1) engage in origination activities; **or**

(2) act as a principal manager;

whichever applies.

~~(d) Licenses issued by the commissioner before January 1, 2001, shall be valid, and renewal of such licenses shall not be required until January 1, 2001. Individuals engaging in origination activities for a licensee before January 1, 2001, shall not be required to apply for and receive a certificate of registration until January 1, 2001. Except as otherwise provided in this subsection, licenses~~ **(g) Licenses** and **initial** certificates of registration issued by the commissioner are valid until January 1 of the second year after issuance. ~~The education requirements of section 21 of this chapter shall first apply to applicants for issuance or renewal of licenses or registrations effective as of January 1, 2001.~~

~~(e)~~ **(h)** Every applicant for licensure **or registration** or for renewal of a license **or a registration** shall file with the commissioner, in such form as the commissioner by rule or order prescribes, an irrevocable consent appointing the secretary of state to be the applicant's agent to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant arising from the violation of any provision of this chapter. Service shall be made in accordance with the Indiana Rules of Trial Procedure.

~~(f)~~ **(i)** Upon good cause shown, the commissioner may waive the requirements of subsection (a)(4) for one (1) or more of an applicant's ultimate equitable owners, directors, managers, or officers.

~~(g)~~ **(j)** Whenever an initial or **a** renewal application for **a** license **or registration** is denied or withdrawn, the commissioner shall retain the initial or renewal application fee paid.

(k) The commissioner shall require each:

(1) equitable owner; and

(2) applicant for registration as:

(A) an originator; or

(B) a principal manager;

to undergo a criminal background check at the expense of the equitable owner or applicant.

(l) The commissioner may check the qualifications, background, licensing status, and service history of each:

(1) equitable owner; and

(2) applicant for registration as:

(A) an originator; or

(B) a principal manager;

by accessing, upon availability, a multistate automated licensing system for mortgage brokers and originators, including the National Mortgage Licensing Database proposed by the Conference of State Bank Supervisors and

the American Association of Residential Mortgage Regulators. The equitable owner or the applicant shall pay any fees or costs associated with a check conducted under this subsection.

SECTION 9. IC 23-2-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) To be enforceable, every contract for the services of a loan broker shall be in writing and signed by the contracting parties.

(b) At the time a contract for the services of a loan broker is signed, the loan broker shall provide a copy of the signed contract to each of the other parties to the contract.

(c) Every contract for the services of a loan broker must include the following statement:

"No statement or representation by a loan broker is valid or enforceable unless the statement or representation is in writing."

~~(c)~~ **(d)** This section does not apply to a contract that provides for the payment of referral fees by a lender or a third party.

SECTION 10. IC 23-2-5-9.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 9.1. (a) As used in this section, "appraisal company" means a person that employs or retains the services of one (1) or more real estate appraisers.**

(b) As used in this section, "immediate family", with respect to an individual, refers to:

(1) the individual's spouse who resides in the individual's household; and

(2) any dependent child of the individual.

(c) As used in this section, "real estate appraiser" means a person who:

(1) is licensed as a real estate broker under IC 25-34.1 and performs real estate appraisals within the scope of the person's license; or

(2) holds a real estate appraiser license or certificate issued under IC 25-34.1-8.

(d) A person licensed or registered under this chapter, or a person required to be licensed or registered under this chapter, shall not knowingly bribe, coerce, or intimidate another person to corrupt or improperly influence the independent judgment of a real estate appraiser with respect to the value of any real estate offered as security for a mortgage loan.

(e) Except as provided in subsection (f), after June 30, 2007:

(1) a person licensed or registered under this chapter, or a person required to be licensed or registered under this chapter;

(2) a member of the immediate family of:

(A) a person licensed or registered under this chapter; or

(B) a person required to be licensed or registered under this chapter; or

(3) a person described in subdivision (1) or (2) in combination with one (1) or more other persons described in subdivision (1) or (2);

may not own or control a majority interest in an appraisal company.

(f) This subsection applies to a person or combination of persons described in subsection (e) who own or control a majority interest in an appraisal company on June 30, 2007. The prohibition set forth in subsection (e) does not apply to a person or combination of persons described in this subsection, subject to the following:

(1) The interest in the appraisal company owned or controlled by the person or combination of persons described in subsection (e) shall not be increased after June 30, 2007.

(2) The interest of a person licensed or registered under this chapter, or of a person required to be licensed or registered under this chapter, shall not be transferred to a member of the person's immediate family.

(3) If the commissioner determines that any person or combination of persons described in subsection (e) has violated this chapter, the commissioner may order one (1) or more of the persons to divest their interest in the appraisal company. The commissioner may exercise the remedy provided by this subdivision in addition to, or as a substitute for, any other remedy available to the commissioner under this chapter.

SECTION 11. IC 23-2-5-10, AS AMENDED BY P.L.48-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) Whenever it appears to the commissioner that a person has engaged in or is about to engage in an act or a practice constituting a violation of this chapter or a rule or an order under this chapter, the commissioner may investigate and may issue, with a prior hearing if there exists no substantial threat of immediate irreparable harm or without a prior hearing, if there exists a substantial threat of immediate irreparable harm, orders and notices as the commissioner determines to be in the public interest, including cease and desist orders, orders to show cause, and notices. After notice and hearing, the commissioner may enter an order of rescission, restitution, or disgorgement, including interest at the rate of eight percent (8%) per year, directed to a person who has violated this chapter or a rule or order under this chapter.

(b) Upon the issuance of an order or notice without a prior hearing by the commissioner under subsection (a), the commissioner shall promptly notify the respondent **and, if the subject of the order or notice is a registrant, the licensee for whom the registrant is employed:**

(1) that the order or notice has been issued;

(2) of the reasons the order or notice has been issued; and

(3) that upon the receipt of a written request the matter will be set down for a hearing to commence within fifteen (15) business days after receipt of the request unless the respondent consents to a later date.

If a hearing is not requested and not ordered by the commissioner, an order remains in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of an opportunity for hearing, may modify or vacate the order or extend it until final determination.

(c) The commissioner may deny, suspend, or revoke the license of a licensee or the registration of a registrant if the licensee, ~~or~~ the registrant, **or an ultimate equitable owner of a licensee:**

(1) fails to maintain the bond required under section 5 of this chapter;

(2) has, within the most recent ten (10) years:

(A) been the subject of an adjudication or a determination by:

(i) a court with jurisdiction; or

(ii) an agency or administrator that regulates securities, commodities, banking, financial services, insurance, real estate, or the real estate appraisal industry;

in Indiana or in any other jurisdiction; and

(B) been found, after notice and opportunity for hearing, to have violated the securities, commodities, banking, financial services, insurance, real estate, or real estate appraisal laws of Indiana or any other jurisdiction;

(3) has:

(A) been denied the right to do business in the securities, commodities, banking, financial services, insurance, real estate, or real estate appraisal industry; or

(B) had the person's authority to do business in the

securities, commodities, banking, financial services, insurance, real estate, or real estate appraisal industry revoked or suspended;

by Indiana or by any other state, federal, or foreign governmental agency or self regulatory organization;

~~(2)~~ **(4)** is insolvent;

~~(3)~~ **(5)** has violated any provision of this chapter;

~~(4)~~ **(6)** has knowingly filed with the commissioner any document or statement ~~containing any~~ **that:**

(A) contains a false representation of a material fact; ~~or omitting~~

(B) fails to state a material fact; or ~~if~~

(C) contains a representation **that** becomes false after the filing but during the term of a license or certificate of registration as provided in subsection ~~(g), or~~ **(i);**

~~(5)~~ **(7)** has:

(A) been convicted, within ten (10) years before the date of the application, renewal, or review, of any crime involving fraud or deceit; **or**

(B) had a felony conviction (as defined in IC 35-50-2-1(b)) within five (5) years before the date of the application, renewal, or review;

(8) if the person is a licensee or principal manager, has failed to reasonably supervise the person's originators or employees to ensure their compliance with this chapter;

(9) is on the most recent tax warrant list supplied to the commissioner by the department of state revenue; or

(10) has engaged in dishonest or unethical practices in the loan broker business, as determined by the commissioner.

(d) The commissioner may do either of the following:

(1) Censure:

(A) a licensee;

(B) an officer, a director, or an ultimate equitable owner of a licensee;

(C) a registrant; or

(D) any other person;

who violates or causes a violation of this chapter.

(2) Permanently bar any person described in subdivision (1) from being:

(A) licensed or registered under this chapter; or

(B) employed by or affiliated with a person licensed or registered under this chapter;

if the person violates or causes a violation of this chapter.

~~(d)~~ **(e)** The commissioner may not enter a final order:

(1) denying, suspending, or revoking the license of a licensee or the registration of a registrant; **or**

(2) imposing other sanctions;

without prior notice to all interested parties, opportunity for a hearing, and written findings of fact and conclusions of law. However, the commissioner may by summary order deny, suspend, or revoke a license or certificate of registration pending final determination of any proceeding under this section **or before any proceeding is initiated under this section.** Upon the entry of a summary order, the commissioner shall promptly notify all interested parties that ~~it~~ **the summary order** has been entered, of the reasons for the summary order, and that upon receipt by the commissioner of a written request from a party, the matter will be set for hearing to commence within fifteen (15) business days after receipt of the request. If no hearing is requested and none is ordered by the commissioner, the order remains in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of the hearing has been given to all interested persons and the hearing has been held, may modify or vacate the order or extend it until final determination.

~~(e)~~ **(f)** IC 4-21.5 does not apply to a proceeding under this section.

~~(f)~~ **(g)** If ~~(1) a licensee desires to have a previously unregistered employee begin engaging in origination activities, or (2) an individual who was previously registered under this chapter is employed by~~ **a registrant seeks to transfer the registrant's registration to** another licensee who desires to have the registrant engage in origination activities **or serve as a principal manager, whichever applies,** the ~~employer licensee~~ **registrant** shall, ~~within five (5) business days after the employee first~~ **before the registrant** conducts origination activities **or serves as a principal manager for the new employer,** submit to the commissioner, on a form prescribed by the commissioner, ~~notice of the registrant's employment. If the employee has not previously been registered, the licensee shall submit evidence that the employee has completed the education requirements of section 21 of this chapter.~~ **a registration application, as required by section 5 of this chapter.**

(h) If the employment of a registrant is terminated, whether:

(1) voluntarily by the registrant; or

(2) by the licensee employing the registrant;

the licensee that employed the registrant shall, not later than five (5) days after the termination, notify the commissioner of the termination and the reasons for the termination.

~~(g)~~ **(i)** If a material fact or statement included in an application under this chapter changes after the application has been submitted, the applicant shall provide written notice to the commissioner of the change. The commissioner may revoke or refuse to renew the license or registration of any person who:

(1) is required to submit a written notice under this subsection and fails to provide the required notice within two (2) business days after the person discovers or should have discovered the change; or

(2) would not qualify for licensure or registration under this chapter as a result of ~~a~~ **the** change in **a** material fact or statement.

SECTION 12. IC 23-2-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. Any person who violates this chapter **or any rule or regulation adopted under this chapter,** in connection with a contract for the services of a loan broker, is liable to any person damaged by the violation, for the amount of the actual damages suffered, interest at the legal rate, and attorney's fees. If a person violates any provision of this chapter, **or any rule or regulation adopted under this chapter,** in connection with a contract for loan brokering services, the contract is void, and the prospective borrower is entitled to receive from the loan broker all sums paid to the loan broker.

SECTION 13. IC 23-2-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. **(a) Except as provided in subsection (b),** a person who knowingly violates this chapter commits a Class D felony.

(b) A person commits a Class C felony if the person knowingly makes or causes to be made:

(1) in any document filed with or sent to the commissioner or the securities division; or

(2) in any proceeding, investigation, or examination under this chapter;

any statement that is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect.

SECTION 14. IC 23-2-5-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 18.5. Whenever a person licensed or registered under this chapter, or a person required to be licensed or registered under this chapter, has possession of funds belonging to others, including money received by or on behalf of a prospective borrower, the person licensed or registered under this**

chapter, or required to be licensed or registered under this chapter, shall:

(1) upon request of the prospective borrower, account for any funds handled for the prospective borrower;

(2) follow any reasonable and lawful instructions from the prospective borrower concerning the prospective borrower's funds; and

(3) return any unspent funds of the prospective borrower to the prospective borrower in a timely manner.

SECTION 15. IC 23-2-5-19, AS AMENDED BY HEA 1555-2007, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. (a) The following persons are exempt from the requirements of sections 4, 5, 6, 9, 17, 18, and 21 of this chapter:

(1) Any attorney while engaging in the practice of law.

(2) Any certified public accountant, public accountant, or accountant practitioner holding a certificate or registered under IC 25-2.1 while performing the practice of accountancy (as defined by IC 25-2.1-1-10).

(3) Any person licensed as a real estate broker or salesperson under IC 25-34.1 to the extent that the person is rendering loan related services in the ordinary course of a transaction in which a license as a real estate broker or salesperson is required.

(4) Any broker-dealer, agent, or investment advisor registered under IC 23-19.

(5) Any person that:

(A) procures;

(B) promises to procure; or

(C) assists in procuring;

a loan that is not subject to the Truth in Lending Act (15 U.S.C. 1601 through 1667e).

(6) Any community development corporation (as defined in IC 4-4-28-2) acting as a subrecipient of funds from the Indiana housing and community development authority established by IC 5-20-1-3.

(7) The Indiana housing and community development authority.

(8) **Subject to subsection (e), and except as provided in subsection (f),** any person authorized to:

(A) sell and service a loan for the Federal National Mortgage Association or the Federal Home Loan Mortgage Association;

(B) issue securities backed by the Government National Mortgage Association;

(C) make loans insured by the United States Department of Housing and Urban Development or the United States Department of Agriculture Rural Housing Service;

(D) act as a supervised lender or nonsupervised automatic lender of the United States Department of Veterans Affairs; or

(E) act as a correspondent of loans insured by the United States Department of Housing and Urban Development, **if the person closes at least twenty-five (25) such insured loans in Indiana during each calendar year.**

(9) Any person who is a creditor, or proposed to be a creditor, for any loan.

(b) As used in this chapter, "bona fide third party fee" includes fees for the following:

(1) Credit reports, investigations, and appraisals performed by a person who holds a license or certificate as a real estate appraiser under IC 25-34.1-8.

(2) If the loan is to be secured by real property, title examinations, an abstract of title, title insurance, a property survey, and similar purposes.

(3) The services provided by a loan broker in procuring possible business for a lending institution if the fees are paid by the lending institution.

(c) As used in this section, "successful procurement of a loan" means that a binding commitment from a creditor to advance money has been received and accepted by the borrower.

(d) The burden of proof of any exemption or classification provided in this chapter is on the party claiming the exemption or classification.

(e) A person claiming an exemption under subsection (a)(8) shall, as a condition to receiving or maintaining the exemption, file a notice every twenty-four (24) months on a form acceptable to the commissioner. The notice required under this subsection must:

(1) provide the name and business address of each originator employed by the person to originate loans in Indiana;

(2) include all other information required by the commissioner; and

(3) be accompanied by a fee of four hundred dollars ($400).

If any information included in a notice under this subsection changes after the notice has been submitted, the person shall provide written notice to the commissioner of the change. The commissioner's receipt of a notice under this subsection shall not be considered to be a determination or confirmation by the commissioner of the validity of the claimed exemption.

(f) An exemption described in subsection (a)(8) does not extend to:

(1) a subsidiary of the exempt person; or

(2) an unaffiliated third party.

An exemption that applies to a person under subsection (a)(8)(D) does not extend to a registered United States Department of Veterans Affairs agent.

SECTION 16. IC 23-2-5-20.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 20.5. (a) A person licensed or required to be licensed as a loan broker under this chapter shall not employ a person to engage in origination activities unless the person is registered as an originator or a principal manager under this chapter. The registration of an originator or a principal manager is not effective during any period in which the originator or principal manager is not employed by a loan broker licensed under this chapter.**

(b) A person licensed or required to be licensed as a loan broker under this chapter shall not operate any principal or branch office of a loan brokerage business without employing a registered principal manager at that location.

SECTION 17. IC 23-2-5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. (a) ~~Except as provided under section 5(d) of this chapter,~~ A person applying for ~~a~~ **an initial** license or certificate of registration must provide to the commissioner evidence that during the twenty-four (24) month period immediately preceding the application that the person completed at least twenty-four (24) hours of academic instruction, acceptable to the commissioner, related to the loan brokerage business. ~~A person renewing a license or certificate of registration must provide to the commissioner evidence that during the twenty-four (24) month period immediately preceding the application that the person completed at least twelve (12) hours of academic instruction, acceptable to the commissioner, related to the loan brokerage business.~~ **To maintain a license or registration under this chapter, a person must provide to the commissioner evidence that the person has completed at least six (6) hours of academic instruction that is:**

(1) acceptable to the commissioner; and

(2) related to the loan brokerage business;

during each calendar year after the year in which the license or registration was initially issued.

(b) In determining the acceptability of academic instruction the commissioner shall give consideration to approval of a licensee's internal academic instruction programs completed by

employees.

(c) In determining the acceptability of an education course, the commissioner may require a fee, in an amount prescribed by the commissioner by rule or order, for the commissioner's review of the course.

SECTION 18. IC 23-2-5-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 23. Any document delivered or required to be delivered by a person licensed or required to be licensed to a borrower or prospective borrower must contain:**

(1) the license number of the loan broker; and

(2) the registration number of each:

(A) originator; or

(B) principal manager;

who had contact with the file.

SECTION 19. IC 23-19-6-5, AS ADDED BY HEA 1555-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) The commissioner may:

(1) issue forms and orders and, after notice and comment, may adopt and amend rules necessary or appropriate to carry out this article and may repeal rules, including rules and forms governing registration statements, applications, notice filings, reports, and other records;

(2) by rule, define terms, whether or not used in this article, but those definitions may not be inconsistent with this article; and

(3) by rule, classify securities, persons, and transactions and adopt different requirements for different classes.

(b) Under this article, a rule or form may not be adopted or amended, or an order issued or amended, unless the commissioner finds that the rule, form, order, or amendment is necessary or appropriate in the public interest or for the protection of investors and is consistent with the purposes intended by this article.

(c) Subject to Section 15(h) of the Securities Exchange Act of 1938 (15 U.S.C. 78o(h)) and Section 222 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-18a), the commissioner may require that a financial statement filed under this article be prepared in accordance with generally accepted accounting principles in the United States and comply with other requirements specified by rule adopted or order issued under this article. A rule adopted or order issued under this article may establish:

(1) subject to Section 15(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(h)) and Section 222 of the Investment Advisors Act of 1940 (15 U.S.C. 80b-18a), the form and content of financial statements required under this article;

(2) whether unconsolidated financial statements must be filed; and

(3) whether required financial statements must be audited by an independent certified public accountant.

(d) The commissioner may provide interpretative opinions or issue determinations that the commissioner will not institute a proceeding or an action under this article against a specified person for engaging in a specified act, practice, or course of business if the determination is consistent with this article. The commissioner shall charge a fee of one hundred dollars ($100) for an interpretive opinion or determination.

(e) A penalty under this article may not be imposed for, and liability does not arise from, conduct that is engaged in or omitted in good faith and reasonably believed to be conforming to a rule, form, or order of the commissioner under this article.

(f) A hearing in an administrative proceeding under this article must be conducted in public unless the commissioner ~~for good cause consistent with this article determines that the hearing will not be so conducted.~~ **finds a statutory basis that would allow the hearing to be closed to the public.**

SECTION 20. IC 23-19-6-7, AS ADDED BY HEA 1555-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) Except as otherwise provided in subsection (b), records obtained by the commissioner or filed under this article, including a record contained in or filed with a registration statement, application, notice filing, or report, are public records and are available for ~~public examination.~~ **inspection and copying.**

(b) The following records are ~~not public records~~ **confidential** and are not available for public ~~examination~~ **inspection and copying** under subsection (a):

(1) A record obtained by the commissioner in connection with an audit or inspection under IC 23-19-4-11(d) or an investigation under section 2 of this chapter.

(2) A part of a record filed in connection with a registration statement under IC 23-19-3-1 and IC 23-19-3-3 through IC 23-19-3-5 or a record under IC 23-19-4-11(d) that contains trade secrets or confidential information if the person filing the registration statement or report has asserted a claim of confidentiality or privilege that is authorized by law and approved by the commissioner.

(3) A record that is not required to be provided to the commissioner or filed under this article and is provided to the commissioner only on the condition that the record will not be subject to public examination or disclosure.

(4) ~~A nonpublic record~~ **Confidential records** received from a person specified in section 8(a) of this chapter.

(5) Any Social Security number, residential address unless used as a business address, and residential telephone number unless used as a business telephone number, contained in a record that is filed.

(6) A record obtained by the commissioner through a designee of the commissioner that a rule or order under this article determines has been:

(A) expunged from the commissioner's records by the designee; or

(B) determined to be ~~nonpublic or nondisclosable~~ **confidential** by that designee if the commissioner finds the determination to be ~~in the public interest and for the protection of investors.~~ **based on statutory authority.**

(c) If disclosure is for the purpose of a civil, administrative, or criminal investigation, action, or proceeding or to a person specified in section 8(a) of this chapter, the commissioner may disclose a record obtained in connection with an audit or inspection under IC 23-19-4-11(d) or a record obtained in connection with an investigation under section 2 of this chapter.

SECTION 21. IC 25-11-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. **(a)** Upon the filing with the secretary of state, by any interested person, of a verified written complaint which charges any licensee hereunder with a specific violation of any of the provisions of this chapter, the secretary of state shall cause an investigation of the complaint to be made. If the investigation shows probable cause for the revocation or suspension of the license, the secretary of state shall send a written notice to such licensee, stating in such notice the alleged grounds for the revocation or suspension and fixing a time and place for the hearing thereof. The hearing shall be held not less than five (5) days nor more than twenty (20) days from the time of the mailing of ~~said~~ **the** notice, **unless the parties consent otherwise.** The secretary of state may subpoena witnesses, books, and records and may administer oaths. The licensee may appear and defend against such charges in person or by counsel. If upon such hearing the secretary of state finds the charges to be true, the secretary of state shall either revoke or suspend the license of the licensee. Suspension shall be for a time certain and in no event for a longer period than one (1) year. No license shall be issued to any person whose license has been revoked for a period of two (2) years from the date of revocation.

Reapplication for a license, after revocation as provided, shall be made in the same manner as provided in this chapter for an original application for a license.

(b) Whenever it appears to the secretary of state that a person has engaged in or is about to engage in an act or practice constituting a violation of this chapter or a rule or order under this chapter, the secretary of state may investigate and may issue, with or without a prior hearing, orders and notices as the secretary of state determines to be in the public interest, including cease and desist orders, orders to show cause, and notices. After notice and hearing, the secretary of state may enter an order of rescission, restitution, or disgorgement, including interest at the rate of eight percent (8%) per year, directed to a person who has violated this chapter or a rule or order under this chapter. In addition to all other remedies, the secretary of state may bring an action in the name of and on behalf of the state against the person and any other person participating in or about to participate in a violation of this chapter, to enjoin the person from continuing or doing an act furthering a violation of this chapter and may obtain the appointment of a receiver or conservator. Upon a proper showing by the secretary of state, the court shall enter an order of the secretary of state directing rescission, restitution, or disgorgement to a person who has violated this chapter or a rule or order under this chapter.

(c) Upon the issuance of an order or a notice by the secretary of state under subsection (b), the secretary of state shall promptly notify the respondent of the following:

(1) That the order or notice has been issued.

(2) The reasons the order or notice has been issued.

(3) That upon the receipt of a written request the matter will be set for a hearing to commence not less than five (5) days and not more than twenty (20) days after the secretary of state receives the request, unless the parties consent otherwise.

If the respondent does not request a hearing and the secretary of state does not order a hearing, the order or notice will remain in effect until it is modified or vacated by the secretary of state. If a hearing is requested or ordered, the secretary of state, after giving notice of the hearing, may modify or vacate the order or extend it until final determination.

(d) In a proceeding in a circuit or superior court under this section, the secretary of state is entitled to recover all costs and expenses of investigation to which the secretary of state would be entitled in an administrative proceeding under IC 23-2-1-16(d), and the court shall include the costs in its final judgment.

(e) For the purpose of any investigation or proceeding under this chapter, the secretary of state may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records that the secretary of state considers material to the inquiry.

(f) Upon order of the secretary of state in any hearing, a deposition may be taken of any witness. A deposition under this chapter shall be:

(1) conducted in the manner prescribed by law for depositions in civil actions; and

(2) made returnable to the secretary of state.

(g) If any person fails to obey a subpoena, the circuit or superior court, upon application by the secretary of state, may issue to the person an order requiring the person to appear before the secretary of state to produce documentary evidence, if so ordered, or to give evidence concerning the matter under investigation.

(h) A person is not excused from:

(1) attending any hearing or testifying before the secretary of state; or

(2) producing any document or record;

in obedience to a subpoena of the secretary of state, or in any proceeding instituted by the secretary of state, on the grounds that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture. However, a person may not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing about which the person is compelled, after validly claiming the person's privilege against self-incrimination, to testify or produce evidence, documentary or otherwise.

SECTION 22. IC 25-11-1-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 14. The secretary of state may delegate any or all of the rights, duties, or obligations of the secretary of state under this chapter to:**

(1) the securities commissioner appointed under IC 23-2-1-15(a); or

(2) any other designee under the supervision and control of the secretary of state.

SECTION 23. IC 25-11-1-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 15. (a) If the secretary of state determines, after notice and opportunity for a hearing, that a person has violated this chapter, the secretary of state may, in addition to or instead of all other remedies, impose a civil penalty upon the person in an amount not to exceed ten thousand dollars ($10,000) for each violation. An appeal from the decision of the secretary of state imposing a civil penalty under this subsection may be taken by an aggrieved party under section 16 of this chapter.**

(b) The secretary of state may bring an action in the circuit or superior court of Marion County to enforce payment of any penalty imposed under subsection (a).

(c) Penalties collected under this section shall be deposited in the securities division enforcement account established under IC 23-2-1-15(c).

SECTION 24. IC 25-11-1-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 16. (a) An appeal may be taken from a final order of the secretary of state under this chapter as follows:**

(1) By an applicant for a license under this chapter, from a final order of the secretary of state concerning the application.

(2) By a licensee, from a final order of the secretary of state affecting the licensee's license under this chapter.

(3) By any person against whom a civil penalty is imposed under section 15 of this chapter, from the final order of the secretary of state imposing the civil penalty.

(4) By any person who is named as a respondent in an investigation or a proceeding under section 9 of this chapter, from a final order of the secretary of state under section 9 of this chapter. An appeal under this subdivision may be taken in:

(A) the circuit or superior court of Marion County; or

(B) the circuit or superior court of the county in which the appellant resides or maintains a place of business.

(b) A person who seeks to appeal an order of the secretary of state under this section must serve the secretary of state with the following not later than twenty (20) days after the entry of the order:

(1) A written notice of the appeal stating:

(A) the court in which the appeal will be taken; and

(B) the grounds on which a reversal of the secretary

of state's final order is sought.

(2) A written demand from the appellant for:

(A) a certified transcript of the record; and

(B) all papers on file in the secretary of state's office; concerning the order from which the appeal is being taken.

(3) A bond in the penal sum of five hundred dollars ($500) payable to the state with sufficient surety to be approved by the secretary of state, conditioned upon:

(A) the faithful prosecution of the appeal to final judgment; and

(B) the payment of all costs that are adjudged against the appellant.

(c) Not later than ten (10) days after the secretary of state is served with the items described in subsection (b), the secretary of state shall make, certify, and deliver to the appellant the transcript described in subsection (b)(2)(A). Not later than five (5) days after the appellant receives the transcript under this subsection, the appellant shall file the transcript and a copy of the notice of appeal with the clerk of the court. The notice of appeal serves as the appellant's complaint. The secretary of state may appear before the court, file any motion or pleading in the matter, and form the issue. The cause shall be entered on the court's calendar to be heard de novo and shall be given precedence over all matters pending in the court.

(d) The court shall receive and consider any pertinent oral or written evidence concerning the order of the secretary of state from which the appeal is taken. If the order of the secretary of state is reversed, the court shall in its mandate specifically direct the secretary of state as to the secretary of state's further action in the matter. The secretary of state is not barred from revoking or altering the order for any proper cause that accrues or is discovered after the order is entered. If the order is affirmed, the appellant may, after thirty (30) days from the date the order is affirmed, file a new application for a license under this chapter if the application is not otherwise barred or limited. During the pendency of the appeal, the order from which the appeal is taken is not suspended but remains in effect unless otherwise ordered by the court. An appeal may be taken from the judgment of the court on the same terms and conditions as an appeal is taken in civil actions.

(e) IC 4-21.5 does not apply to a proceeding under this chapter.

SECTION 25. IC 35-41-1-17, AS AMENDED BY P.L.1-2006, SECTION 530, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. (a) "Law enforcement officer" means:

(1) a police officer, sheriff, constable, marshal, prosecuting attorney, special prosecuting attorney, special deputy prosecuting attorney, **the securities commissioner,** or the inspector general;

(2) a deputy of any of those persons;

(3) an investigator for a prosecuting attorney or for the inspector general;

(4) a conservation officer; ~~or~~

(5) an enforcement officer of the alcohol and tobacco commission; **or**

(6) an enforcement officer of the securities division of the office of the secretary of state.

(b) "Federal enforcement officer" means any of the following:

(1) A Federal Bureau of Investigation special agent.

(2) A United States Marshals Service marshal or deputy.

(3) A United States Secret Service special agent.

(4) A United States Fish and Wildlife Service special agent.

(5) A United States Drug Enforcement Agency agent.

(6) A Bureau of Alcohol, Tobacco, Firearms and Explosives agent.

(7) A United States Forest Service law enforcement officer.

(8) A United States Department of Defense police officer or criminal investigator.

(9) A United States Customs Service agent.

(10) A United States Postal Service investigator.

(11) A National Park Service law enforcement commissioned ranger.

(12) United States Department of Agriculture, Office of Inspector General special agent.

(13) A United States ~~Immigration and Naturalization Service~~ **Citizenship and Immigration Services** special agent.

(14) An individual who is:

(A) an employee of a federal agency; and

(B) authorized to make arrests and carry a firearm in the performance of the individual's official duties.

SECTION 26. [EFFECTIVE JULY 1, 2007]: **Sec. 19. (a) This SECTION applies instead of IC 23-2-5-19. The following persons are exempt from the requirements of sections 4, 5, 6, 9, 17, 18, and 21 of this chapter:**

(1) Any attorney while engaging in the practice of law.

(2) Any certified public accountant, public accountant, or accountant practitioner holding a certificate or registered under IC 25-2.1 while performing the practice of accountancy (as defined by IC 25-2.1-1-10).

(3) Any person licensed as a real estate broker or salesperson under IC 25-34.1 to the extent that the person is rendering loan related services in the ordinary course of a transaction in which a license as a real estate broker or salesperson is required.

(4) Any broker-dealer, agent, or investment advisor registered under IC 23-2-1.

(5) Any person that:

(A) procures;

(B) promises to procure; or

(C) assists in procuring;

a loan that is not subject to the Truth in Lending Act (15 U.S.C. 1601 through 1667e).

(6) Any community development corporation (as defined in IC 4-4-28-2) acting as a subrecipient of funds from the Indiana housing and community development authority established by IC 5-20-1-3.

(7) The Indiana housing and community development authority.

(8) Subject to subsection (e), and except as provided in subsection (f), any person authorized to:

(A) sell and service a loan for the Federal National Mortgage Association or the Federal Home Loan Mortgage Association;

(B) issue securities backed by the Government National Mortgage Association;

(C) make loans insured by the United States Department of Housing and Urban Development or the United States Department of Agriculture Rural Housing Service; or

(D) act as a supervised lender or nonsupervised automatic lender of the United States Department of Veterans Affairs.

(E) act as a correspondent of loans insured by the United States Department of Housing and Urban Development, if the person closes at least twenty-five (25) such insured loans in Indiana during each calendar year.

(9) Any person who is a creditor, or proposed to be a creditor, for any loan.

(b) As used in this chapter, "bona fide third party fee" includes fees for the following:

(1) Credit reports, investigations, and appraisals performed by a person who holds a license or certificate as a real estate appraiser under IC 25-34.1-8.

(2) If the loan is to be secured by real property, title examinations, an abstract of title, title insurance, a property survey, and similar purposes.

(3) The services provided by a loan broker in procuring possible business for a lending institution if the fees are paid by the lending institution.

(c) As used in this section, "successful procurement of a loan" means that a binding commitment from a creditor to advance money has been received and accepted by the borrower.

(d) The burden of proof of any exemption or classification provided in this chapter is on the party claiming the exemption or classification.

(e) A person claiming an exemption under subsection (a)(8) shall, as a condition to receiving or maintaining the exemption, file a notice every twenty-four (24) months on a form acceptable to the commissioner. The notice required under this subsection must:

(1) provide the name and business address of each originator employed by the person to originate loans in Indiana;

(2) include all other information required by the commissioner; and

(3) be accompanied by a fee of two hundred dollars ($200).

If any information included in a notice under this subsection changes after the notice has been submitted, the person shall provide written notice to the commissioner of the change. The commissioner's receipt of a notice under this subsection shall not be considered to be a determination or confirmation by the commissioner of the validity of the claimed exemption.

(f) An exemption described in subsection (a)(8) does not extend to:

(1) a subsidiary of the exempt person; or

(2) an unaffiliated third party.

An exemption that applies to a person under subsection (a)(8)(D) does not extend to a registered United States Department of Veterans Affairs agent.

(g) This SECTION expires June 30, 2008.

SECTION 27. [EFFECTIVE JULY 1, 2007] (a) The definitions in IC 23-2-5, as amended by this act, apply throughout this SECTION.

(b) IC 23-2-5, as amended by this act, applies to a person who applies for an initial:

(1) license as a loan broker;

(2) registration as an originator;

(3) registration as a principal manager; or

(4) exemption under IC 23-2-5-19, as amended by this act;

after June 30, 2007.

(c) Except as otherwise provided in this SECTION, IC 23-2-5, as amended by this act, applies to a person who:

(1) is licensed as a loan broker under IC 23-2-5, before its amendment by this act; or

(2) is registered as an originator under IC 23-2-5, before its amendment by this act;

after December 31, 2007.

(d) A person who:

(1) is licensed as a loan broker under IC 23-2-5, before its amendment by this act; or

(2) qualifies for an exemption under IC 23-2-5-19(a)(8)(E), before its amendment by this act, but does not qualify for an exemption under IC 23-2-5-19(a)(8)(E), after its amendment by this act;

must comply with IC 23-2-5-20.5(b) not later than July 1, 2008.

(e) A person who:

(1) qualifies for an exemption under IC 23-2-5-19(a)(8)(E), before its amendment by this act; but

(2) does not qualify for an exemption under IC 23-2-5-19(a)(8)(E), after its amendment by this act;

must comply with IC 23-2-5-4, as amended by this act, not later than January 1, 2008.

(f) A person who:

(1) qualifies for an exemption under IC 23-2-5-19(a)(8)(A) through IC 23-2-5-19(a)(8)(D), before July 1, 2007; or

(2) qualifies for an exemption under IC 23-2-5-19(a)(8)(E), both before and after its amendment by this act;

must comply with IC 23-2-5-19(e) not later than January 1, 2008.

(g) This SECTION expires January 1, 2009.

SECTION 28. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the department of financial institutions established by IC 28-11-1-1.

(b) The department shall study the feasibility of assuming responsibility for regulating all:

(1) loan brokers;

(2) originators; and

(3) principal managers;

required to be licensed or registered under IC 23-2-5 on the date of enactment of this act.

(c) In conducting the study required under subsection (b), the department shall determine the following:

(1) The costs and benefits of implementing a complaint based regulatory system, including:

(A) the budget and staffing needs of the department;

(B) the time required to take all necessary actions to implement the system; and

(C) a comparison of the costs and benefits of implementing the system described in this subdivision with the costs and benefits of implementing a system described in subdivision (2).

(2) The costs and benefits of implementing an examination based regulatory system, including:

(A) the budget and staffing needs of the department;

(B) the time required to take all necessary actions to implement the system; and

(C) a comparison of the costs and benefits of implementing the system described in this subdivision with the costs and benefits of implementing a system described in subdivision (1).

(d) In addition to conducting the required analyses under subsection (b), the department may study any other issues related to the licensing and regulation of loan brokers, originators, and principal managers that the department considers relevant to the department's ability to undertake the responsibilities described in this SECTION.

(e) The department shall provide:

(1) status reports on the department's progress in conducting the study required by this SECTION; and

(2) any preliminary data gathered or determinations made in conducting the study required by this SECTION;

as may be requested by the interim study committee on mortgage lending practices and home loan foreclosures established under this act.

(f) The department shall report its findings and any recommendations to the legislative council not later than November 1, 2007. The department's report to the legislative council under this subsection must be in an electronic format under IC 5-14-6.

(g) This SECTION expires January 1, 2008.S

ECTION 29. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commissioner" refers to the securities commissioner appointed under IC 23-2-1-15(a).

(b) "Division" refers to the securities division of the office of the secretary of state.

(c) Not later than November 1, 2007, the commissioner shall report to the legislative council on the regulation and:

(1) licensing of loan brokers; and

(2) registration of originators and principal managers; under IC 25-2-5, as amended by this act.

(d) The report required under subsection (c) must include information on the following:

(1) The budget and staffing needs of the division to implement IC 23-2-5, as amended by this act.

(2) Any additional actions needed to implement IC 23-2-5, as amended by this act, and the time needed by the division to complete the actions.

(3) The number of initial licenses and registrations issued by the commissioner under IC 25-2-5, as amended by this act, after June 30, 2007.

(4) Any challenges encountered or anticipated by the commissioner in implementing IC 25-2-5, as amended by this act.

(5) Any additional information that may be requested by:

(A) the legislative council; or

(B) the interim study committee on mortgage lending practices and home loan foreclosures established under this act.

(6) Any recommendations of the commissioner on the implementation of IC 25-2-5, as amended by this act.

(e) The commissioner's report to the legislative council under this SECTION must be in an electronic format under IC 5-14-6.

(f) This SECTION expires January 1, 2008.

SECTION 30. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "committee" refers to the interim study committee on mortgage lending practices and home loan foreclosures established by this SECTION.**

(b) There is established the interim study committee on mortgage lending practices and home loan foreclosures. The committee shall study the following:

(1) The appropriateness of requiring state licensure for all mortgage lenders, loan brokers, originators, settlement service providers, and real estate appraisers.

(2) The appropriate state agency or regulatory body to oversee the regulation of mortgage lenders, loan brokers, originators, settlement service providers, and real estate appraisers.

(3) Other states' approaches to regulating mortgage lenders, loan brokers, originators, settlement service providers, and real estate appraisers. In examining the regulatory approaches of other states under this subdivision, the committee shall attempt to identify those approaches that:

(A) incorporate an efficient or streamlined regulatory framework; or

(B) otherwise represent best practices for state regulation of mortgage lenders, loan brokers, originators, settlement service providers, and real estate appraisers.

(4) The causes of home loan foreclosures in Indiana, including a study of the causes of home loan foreclosures with respect to new home construction in Indiana.

(5) Whether legislative or regulatory solutions exist to:

(A) prevent or reduce the number of home loan foreclosures in Indiana; and

(B) prevent or reduce the occurrence of fraudulent practices in the home loan industry.

(6) Issues concerning the referral of borrowers or potential borrowers to appraisal companies by mortgage lenders, loan brokers, originators, or settlement service providers that have an:

(A) ownership or investment interest in or compensation arrangement with an appraisal company; or

(B) immediate family member that has an ownership or investment interest in or compensation arrangement with an appraisal company.

(7) Issues concerning the referral of settlement service providers by mortgage lenders, loan brokers, or originators that have:

(A) a business relationship or an ownership interest in a settlement service provider; or

(B) an immediate family member that has a business relationship or an ownership interest in a settlement service provider.

(8) The appropriateness of requiring a person licensed under IC 23-2-5 to notify the commissioner if the employment of a person registered under IC 23-2-5 is terminated.

(9) Other topics that the committee considers relevant in:

(A) examining mortgage lending practices and home loan foreclosures in Indiana; and

(B) devising solutions to the problems identified.

(c) The committee shall operate under the policies governing study committees adopted by the legislative council.

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

(e) The committee shall report its findings and any recommendations to the legislative council not later than November 1, 2007. The committee's report to the legislative council under this subsection must be in an electronic format under IC 5-14-6.

(f) This SECTION expires January 1, 2008.

SECTION 31. **An emergency is declared for this act.**

(Reference is to EHB 1717 as reprinted April 3, 2007.)

BARDON	BRAY
BURTON	LANANE
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT

EHB 1678–1; filed April 28, 2007, at 6:40 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 1678 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 and to make an appropriation.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.47-2006, SECTION 2, AS AMENDED BY P.L.91-2006, SECTION 2, AND AS AMENDED BY P.L.123-2006, SECTION 12, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an

emergency rule.
(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.
(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.
(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.
(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.
(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.
(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.
(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.
(9) A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an emergency.
(10) An emergency rule adopted by the Indiana finance authority under IC 8-21-12.
(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.
(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.
(13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:
(A) the variance procedures are included in the rules; and
(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.
(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.
(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.
(16) An emergency rule adopted by the Indiana gaming commission under *IC 4-32.2-3-3(b),* IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.
(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.
(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.
(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.
(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.
(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15 **or IC 12-15-44-19(b).**
(22) An emergency rule adopted by the Indiana state board of animal health under IC 15-2.1-18-21.
(23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.
(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34 **(repealed).**
(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33 **(repealed).**
(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).
(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) **(repealed)** or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) **(repealed)** or IC 6-1.1-22.5-20.
(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.
(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.
(30) A rule adopted by the Indiana finance authority:
(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;
(B) under IC 8-15-2-17.2(a)(10):
(i) establishing enforcement procedures; and
(ii) making assessments for failure to pay required tolls;
(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or
(D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.

(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*~~ *format* of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the ~~*secretary of state*~~ *publisher* for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The ~~*secretary of state*~~ *publisher* shall determine the ~~*number of copies*~~ *format* of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the ~~*secretary of state*~~ *publisher* shall:
(1) accept the rule for filing; and
(2) ~~*file stamp and indicate*~~ *electronically record* 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), *and (l),* a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may not exceed the

period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

SECTION 2. IC 6-7-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) The following taxes are imposed, and shall be collected and paid as provided in this chapter, upon the sale, exchange, bartering, furnishing, giving away, or otherwise disposing of cigarettes within the state of Indiana:

(1) On cigarettes weighing not more than three (3) pounds per thousand (1,000), a tax at the rate of ~~two~~ **four** and ~~seven~~ **nine** hundred seventy-five thousandths ~~of a cent ($0.02775)~~ **cents ($0.04975)** per individual cigarette.

(2) On cigarettes weighing more than three (3) pounds per thousand (1,000), a tax at the rate of ~~three~~ **six** and six ~~thousand eight~~ hundred ~~eighty-one~~ **twelve** ~~ten-thousandths of a cent ($0.036881)~~ **thousandths cents ($0.06612)** per individual cigarette, except that if any cigarettes weighing more than three (3) pounds per thousand (1,000) shall be more than six and one-half (6 ½) inches in length, they shall be taxable at the rate provided in subdivision (1), counting each two and three-fourths (2 3/4) inches (or fraction thereof) as a separate cigarette.

(b) Upon all cigarette papers, wrappers, or tubes, made or prepared for the purpose of making cigarettes, which are sold, exchanged, bartered, given away, or otherwise disposed of within the state of Indiana (other than to a manufacturer of cigarettes for use by him in the manufacture of cigarettes), the following taxes are imposed, and shall be collected and paid as provided in this chapter:

(1) On fifty (50) papers or less, a tax of one-half cent ($0.005).

(2) On more than fifty (50) papers but not more than one hundred (100) papers, a tax of one cent ($0.01).

(3) On more than one hundred (100) papers, one-half cent ($0.005) for each fifty (50) papers or fractional part thereof.

(4) On tubes, one cent ($0.01) for each fifty (50) tubes or fractional part thereof.

SECTION 3. IC 6-7-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. (a) Distributors who hold certificates and retailers shall be agents of the state in the collection of the taxes imposed by this chapter and the amount of the tax levied, assessed, and imposed by this chapter on cigarettes sold, exchanged, bartered, furnished, given away, or otherwise disposed of by distributors or to retailers. Distributors who hold certificates shall be agents of the department to affix the required stamps and shall be entitled to purchase the stamps from the department at a discount of ~~one and two-tenths percent (1.2%) of the amount of the tax stamps purchased,~~ **one and two-tenths cents ($0.012) per individual package of cigarettes** as compensation for their labor and expense.

(b) The department may permit distributors who hold certificates and who are admitted to do business in Indiana to pay for revenue stamps within thirty (30) days after the date of purchase. However, the privilege is extended upon the express condition that:

(1) except as provided in subsection (c), a bond or letter of credit satisfactory to the department, in an amount not less than the sales price of the stamps, is filed with the department; and

(2) proof of payment is made of all local property, state income, and excise taxes for which any such distributor may be liable. The bond or letter of credit, conditioned to secure payment for the stamps, shall be executed by the distributor as principal and by a corporation duly authorized to engage in business as a surety company or financial institution in Indiana.

(c) If a distributor has at least five (5) consecutive years of good credit standing with the state, the distributor shall not be required to post a bond or letter of credit under subsection (b).

SECTION 4. IC 6-7-1-28.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE AUGUST 1, 2007]: Sec. 28.1. The taxes, registration fees, fines, or penalties collected under this chapter shall be deposited in the following manner:

(1) ~~Six~~ **Four** and ~~six-tenths~~ **twenty-two hundredths** percent ~~(6.6%)~~ **(4.22%)** of the money shall be deposited in a fund to be known as the cigarette tax fund.

(2) ~~Ninety-four hundredths~~ **Six-tenths** percent ~~(0.94%)~~ **(0.6%)** of the money shall be deposited in a fund to be known as the mental health centers fund.

(3) ~~Eighty-three~~ **Fifty-three** and ~~ninety-seven~~ **sixty-eight** hundredths percent ~~(83.97%)~~ **(53.68%)** of the money shall be deposited in the state general fund.

(4) ~~Eight~~ **Five** and ~~forty-nine~~ **forty-three** hundredths percent ~~(8.49%)~~ **(5.43%)** of the money shall be deposited into the pension relief fund established in IC 5-10.3-11.

(5) Twenty-seven and five hundredths percent (27.05%) of the money shall be deposited in the Indiana check-up plan trust fund established by IC 12-15-44-17.

(6) Two and forty-six hundredths percent (2.46%) of the money shall be deposited in the state general fund for the purpose of paying appropriations for Medicaid—Current Obligations, for provider reimbursements.

(7) Four and one-tenth percent (4.1%) of the money shall be deposited in the state general fund for the purpose of paying any appropriation for a health initiative.

(8) Two and forty-six hundredths percent (2.46%) of the money shall be deposited in the state general fund for the purpose of reimbursing the state general fund for a tax credit provided under IC 6-3.1-31.

The money in the cigarette tax fund, the mental health centers fund, **the Indiana check-up plan trust fund,** or the pension relief fund at the end of a fiscal year does not revert to the state general fund. However, if in any fiscal year, the amount allocated to a fund under subdivision (1) or (2) is less than the amount received in fiscal year 1977, then that fund shall be credited with the difference between the amount allocated and the amount received in fiscal year 1977, and the allocation for the fiscal year to the fund under subdivision (3) shall be reduced by the amount

of that difference. **Money deposited under subdivisions (6) through (8) may not be used for any purpose other than the purpose stated in the subdivision.**

SECTION 5. IC 6-3.1-31 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]:

Chapter 31. Credit for Offering Health Benefit Plans

Sec. 1. This chapter applies to an employer that does not offer coverage for health care services under a self-funded health benefit plan that complies with the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

Sec. 2. As used in this chapter, "eligible taxpayer" means a taxpayer that did not provide health insurance to the taxpayer's employees in the taxable year immediately preceding the first taxable year for which the taxpayer claims a credit under this chapter.

Sec. 3. As used in this chapter, "full-time employee" means an employee who is normally scheduled to work at least thirty (30) hours each week.

Sec. 4. (a) As used in this chapter, "health benefit plan" means coverage for health care services provided under:

(1) an insurance policy that provides one (1) or more of the types of insurance described in Class 1(b) or Class 2(a) of IC 27-1-5-1; or

(2) a contract with a health maintenance organization for coverage of basic health care services under IC 27-13;

that satisfies the requirements of Section 125 of the Internal Revenue Code.

(b) The term does not include the following:

(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Automobile medical payment insurance.

(4) A specified disease policy issued as an individual policy.

(5) A limited benefit health insurance policy issued as an individual policy.

(6) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(7) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.

(8) Worker's compensation or similar insurance.

(9) A student health insurance policy.

Sec. 5. As used in this chapter, "pass through entity" means a:

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

(2) partnership;

(3) limited liability company; or

(4) limited liability partnership.

Sec. 6. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

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

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

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

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

Sec. 7. As used in this chapter, "taxpayer" means an individual or entity that has state tax liability.

Sec. 8. (a) An eligible taxpayer that, after December 31, 2006, makes health insurance available to the eligible taxpayer's employees and their dependents through at least one (1) health benefit plan is entitled to a credit against the taxpayer's state tax liability for the first two (2) taxable years in which the taxpayer makes the health benefit plan available if the following requirements are met:

(1) An employee's participation in the health benefit plan is at the employee's election.

(2) If an employee chooses to participate in the health benefit plan, the employee may pay the employee's share of the cost of the plan using a wage assignment authorized under IC 22-2-6-2.

(b) The credit allowed in each of the first two (2) taxable years described in subsection (a) equals the lesser of:

(1) two thousand five hundred dollars ($2,500); or

(2) fifty dollars ($50) multiplied by the number of employees enrolled in the health benefit plan during the taxable year.

Sec. 9. (a) An employer may pay or provide reimbursement for all or part of the cost of a health benefit plan made available under section 8 of this chapter.

(b) An employer that pays or provides reimbursement under subsection (a) shall pay or provide reimbursement on an equal basis for all full-time employees who elect to participate in the health benefit plan.

Sec. 10. (a) If the amount determined under section 8 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. A taxpayer is not entitled to a carryback.

(b) A taxpayer is not entitled to a refund of any unused credit.

Sec. 11. If a pass through entity does not have state income tax liability against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

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

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

Sec. 12. 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. The taxpayer must submit to the department all information that the department determines is necessary to calculate the credit provided by this chapter and to determine the taxpayer's eligibility for the credit.

Sec. 13. (a) A taxpayer claiming a credit under this chapter shall continue to make health insurance available to the taxpayer's employees through a health benefit plan for at least twenty-four (24) consecutive months beginning on the day after the last day of the taxable year in which the taxpayer first offers the health benefit plan.

(b) If the taxpayer terminates the health benefit plan before the expiration of the period required under subsection (a), the taxpayer shall repay the department the amount of the credit received under section 8 of this chapter.

SECTION 6. IC 6-3.1-31.2 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007](RETROACTIVE)]:

Chapter 31.2. Small Employer Qualified Wellness Program Tax Credit

Sec. 1. As used in this chapter, "pass through entity" means:

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

(2) a partnership;
(3) a limited liability company; or
(4) a limited liability partnership.

Sec. 2. As used in this chapter, "qualified wellness program" means a wellness program that is certified by the state department of health under IC 16-46-13.

Sec. 3. (a) As used in this chapter, "small employer" means an employer that:
(1) is actively engaged in business;
(2) on at least fifty percent (50%) of the working days of the employer during the preceding calendar year, employed at least two (2) but not more than one hundred (100) eligible employees, the majority of whom work in Indiana.

(b) In determining the number of eligible employees for purposes of subsection (a), employers that are affiliated employers or that are eligible to file a combined tax return for purposes of state taxation are considered one (1) employer.

Sec. 4. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:
(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
(2) IC 6-5.5 (the financial institutions tax); and
(3) IC 27-1-18-2 (the insurance premiums tax);
as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 5. As used in this chapter, "taxpayer" means a small employer that has any state tax liability.

Sec. 6. A taxpayer is entitled to a credit against the taxpayer's state tax liability for a taxable year in an amount equal to fifty percent (50%) of the costs incurred by the taxpayer during the taxable year for providing a qualified wellness program for the taxpayer's employees during the taxable year.

Sec. 7. If a pass through entity is entitled to a credit under section 6 of this chapter but does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:
(1) the tax credit determined for the pass through entity for the taxable year; multiplied by
(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

Sec. 8. (a) If the credit provided by this chapter exceeds the taxpayer's state tax liability for the taxable year for which the credit is first claimed, the excess may be carried forward to succeeding taxable years and used as a credit against the taxpayer's state tax liability during those taxable years. Each time that the credit is carried forward to a succeeding taxable year, the credit is to be reduced by the amount that was used as a credit during the immediately preceding taxable year.

(b) A taxpayer is not entitled to any carryback or refund of any unused credit.

Sec. 9. To receive the credit provided by this chapter, a taxpayer must:
(1) submit to the department with the taxpayer's state tax return or returns a copy of the certificate received from the state department of health under IC 16-46-13; and
(2) claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department.
The taxpayer shall submit to the department all information that the department determines is necessary for the calculation of the credit provided by this chapter.

Sec. 10. Beginning in 2009, the department shall, not later than December 31 of each odd-numbered year, report to the legislative council in an electronic format under IC 5-14-6 concerning use of the credit provided by this chapter. A report required by this section must include:
(1) the number of taxpayers claiming and receiving the credit;
(2) any reports of abuse of the credit; and
(3) other information the department considers necessary concerning the use and effectiveness of the credit;
during the preceding reporting period.

SECTION 7. IC 12-7-2-140.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 140.5. "Plan", for purposes of IC 12-15-44, has the meaning set forth in IC 12-15-44-1.**

SECTION 8. IC 12-7-2-144.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 144.3. "Preventative care services", for purposes of IC 12-15-44, has the meaning set forth in IC 12-15-44-2.**

SECTION 9. IC 12-15-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) A pregnant woman:
(1) who is not described in 42 U.S.C. 1396a(a)(10)(A)(i); and
(2) whose family income does not exceed the income level established in subsection (b);
is eligible to receive Medicaid.

(b) A pregnant woman described in this section is eligible to receive Medicaid, subject to subsections (c) and (d) and 42 U.S.C. 1396a et seq., if her family income does not exceed ~~one~~ **two** hundred ~~fifty~~ percent ~~(150%)~~ **(200%)** of the federal income poverty level for the same size family.

(c) Medicaid made available to a pregnant woman described in this section is limited to medical assistance for services related to pregnancy, including prenatal, delivery, and postpartum services, and to other conditions that may complicate pregnancy.

(d) Medicaid is available to a pregnant woman described in this section for the duration of the pregnancy and for the sixty (60) day postpartum period that begins on the last day of the pregnancy, without regard to any change in income of the family of which she is a member during that time.

(e) The office may apply a resource standard in determining the eligibility of a pregnant woman described in this section.

SECTION 10. IC 12-15-2-15.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 15.8. After an individual who is less than three (3) years of age is determined to be eligible for Medicaid under section 14 of this chapter, the individual is not required to submit eligibility information more frequently than once in a twelve (12) month period until the child becomes three (3) years of age.**

SECTION 11. IC 12-15-15-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.1. (a) This section applies to a hospital that is:
(1) licensed under IC 16-21; and
(2) established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23.

(b) For a state fiscal year ending after June 30, 2003, in addition to reimbursement received under section 1 of this chapter, a hospital is entitled to reimbursement in an amount calculated as follows:
STEP ONE: The office shall identify the aggregate inpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by hospitals established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23.
STEP TWO: For the aggregate inpatient hospital services

identified under STEP ONE, the office shall calculate the aggregate payments made under this article and under the state Medicaid plan to hospitals established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate a reasonable estimate of the amount that would have been paid in the aggregate by the office for the inpatient hospital services described in STEP ONE under Medicare payment principles.

STEP FOUR: Subtract the amount calculated under STEP TWO from the amount calculated under STEP THREE.

STEP FIVE: Subject to subsection (g), from the amount calculated under STEP FOUR, allocate to a hospital established and operated under IC 16-22-8 an amount ~~equal to~~ **not to exceed** one hundred percent (100%) of the difference between:

(A) the total cost for the hospital's provision of inpatient services covered under this article for the hospital's fiscal year ending during the state fiscal year; and

(B) the total payment to the hospital for its provision of inpatient services covered under this article for the hospital's fiscal year ending during the state fiscal year, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP SIX: Subtract the amount calculated under STEP FIVE from the amount calculated under STEP FOUR.

STEP SEVEN: Distribute an amount equal to the amount calculated under STEP SIX to the eligible hospitals established and operated under IC 16-22-2 or IC 16-23 described in subsection (c) in ~~proportion to~~ **an amount not to exceed** each hospital's Medicaid shortfall as defined in subsection (f).

(c) Subject to subsection (e), reimbursement for a state fiscal year under this section consists of payments made after the close of each state fiscal year. ~~Payment for a state fiscal year ending after June 30, 2003, shall be made before December 31 following the state fiscal year's end.~~ A hospital is not eligible for a payment described in this subsection unless an intergovernmental transfer **or certification of expenditures** is made under subsection (d).

(d) Subject to subsection (e):

(1) ~~a hospital may make an intergovernmental transfer under this subsection, or~~ an intergovernmental transfer may be made **by or** on behalf of the hospital; **or**

(2) a certification of expenditures as eligible for federal financial participation may be made;

after the close of each state fiscal year. An intergovernmental transfer under this subsection must be made to the Medicaid indigent care trust fund in an amount equal to a percentage, as determined by the office, of the amount to be distributed to the hospital under ~~STEP SEVEN of subsection (b). In determining the percentage, the office shall apply the same percentage of not more than eighty-five percent (85%) to all hospitals eligible for reimbursement under STEP SEVEN of subsection (b).~~ **this section.** The office shall use the intergovernmental transfer to fund payments made under this section. ~~and as otherwise provided under IC 12-15-20-2(8).~~

(e) A hospital ~~making~~ **that makes a certification of expenditures or makes or has** an intergovernmental transfer **made on the hospital's behalf** under ~~subsection (d)~~ **this section** may appeal under IC 4-21.5 the amount determined by the office to be paid the hospital under ~~STEP SEVEN of~~ subsection (b). The periods described in subsections (c) and (d) for the hospital **or another entity** to make an intergovernmental transfer **or certification of expenditures** are tolled pending the administrative appeal and any judicial review initiated by the hospital under IC 4-21.5. The distribution to other hospitals under ~~STEP SEVEN of~~ subsection (b) may not be delayed due to an administrative appeal or judicial review instituted by a hospital under this subsection. If necessary, the office may make a partial distribution to the other eligible hospitals under ~~STEP SEVEN of~~ subsection (b) pending the completion of a hospital's administrative appeal or judicial review, at which time the remaining portion of the payments due to the eligible hospitals shall be made. A partial distribution may be based upon estimates and trends calculated by the office.

(f) For purposes of this section:

(1) the Medicaid shortfall of a hospital established and operated under IC 16-22-2 or IC 16-23 is calculated as follows:

STEP ONE: The office shall identify the inpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by the hospital.

STEP TWO: For the inpatient hospital services identified under STEP ONE, the office shall calculate the payments made under this article and under the state Medicaid plan to the hospital, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate a reasonable estimate of the amount that would have been paid by the office for the inpatient hospital services described in STEP ONE under Medicare payment principles; and

(2) a hospital's Medicaid shortfall is equal to the amount by which the amount calculated in STEP THREE of subdivision (1) is greater than the amount calculated in STEP TWO of subdivision (1).

(g) The actual distribution of the amount calculated under STEP FIVE of subsection (b) to a hospital established and operated under IC 16-22-8 shall be made under the terms and conditions provided for the hospital in the state plan for medical assistance. Payment to a hospital under STEP FIVE of subsection (b) is not a condition precedent to the tender of payments to hospitals under STEP SEVEN of subsection (b).

SECTION 12. IC 12-15-15-1.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.3. (a) This section applies to a hospital that is:

(1) licensed under IC 16-21; and

(2) established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23.

(b) For a state fiscal year ending after June 30, 2003, in addition to reimbursement received under section 1 of this chapter, a hospital is entitled to reimbursement in an amount calculated as follows:

STEP ONE: The office shall identify the aggregate outpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by hospitals established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23.

STEP TWO: For the aggregate outpatient hospital services identified under STEP ONE, the office shall calculate the aggregate payments made under this article and under the state Medicaid plan to hospitals established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate a reasonable estimate of the amount that would have been paid in the aggregate by the office under Medicare payment principles for the outpatient hospital services described in STEP ONE.

STEP FOUR: Subtract the amount calculated under STEP TWO from the amount calculated under STEP THREE.

STEP FIVE: Subject to subsection (g), from the amount calculated under STEP FOUR, allocate to a hospital established and operated under IC 16-22-8 an amount ~~equal to~~ **not to exceed** one hundred percent (100%) of the

difference between:

(A) the total cost for the hospital's provision of outpatient services covered under this article for the hospital's fiscal year ending during the state fiscal year; and

(B) the total payment to the hospital for its provision of outpatient services covered under this article for the hospital's fiscal year ending during the state fiscal year, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP SIX: Subtract the amount calculated under STEP FIVE from the amount calculated under STEP FOUR.

STEP SEVEN: Distribute an amount equal to the amount calculated under STEP SIX to the eligible hospitals established and operated under IC 16-22-2 or IC 16-23 described in subsection (c) in ~~proportion to~~ **an amount not to exceed** each hospital's Medicaid shortfall as defined in subsection (f).

(c) ~~Subject to subsection (c), the reimbursement for a state fiscal year under this section consists of payments made before December 31 following the end of the state fiscal year.~~ A hospital is not eligible for a payment described in this ~~subsection~~ **section** unless:

(1) an intergovernmental transfer is made ~~under subsection (d).~~ **by the hospital or on behalf of the hospital; or**

(2) the hospital or another entity certifies the hospital's expenditures as eligible for federal financial participation.

(d) Subject to subsection (e):

(1) ~~a hospital may make an intergovernmental transfer under this subsection, or~~ an intergovernmental transfer may be made **by or** on behalf of the hospital; **or**

(2) a certification of expenditures as eligible for federal financial participation may be made;

after the close of each state fiscal year. An intergovernmental transfer under this subsection must be made to the Medicaid indigent care trust fund in an amount equal to a percentage, as determined by the office, of the amount to be distributed to the hospital under ~~STEP SEVEN of~~ subsection (b). ~~In determining the percentage, the office shall apply the same percentage of not more than eighty-five percent (85%) to all hospitals eligible for reimbursement under STEP SEVEN of subsection (b).~~ The office shall use the intergovernmental transfer to fund payments made under this section. ~~and as otherwise provided under IC 12-15-20-2(8).~~

(e) A hospital ~~making~~ **that makes a certification of expenditures or makes or has** an intergovernmental transfer **made on the hospital's behalf** under ~~subsection (d)~~ **this section** may appeal under IC 4-21.5 the amount determined by the office to be paid by the hospital under ~~STEP SEVEN of~~ subsection (b). The periods described in subsections (c) and (d) for the hospital **or other entity** to make an intergovernmental transfer **or certification of expenditures** are tolled pending the administrative appeal and any judicial review initiated by the hospital under IC 4-21.5. The distribution to other hospitals under ~~STEP SEVEN of~~ subsection (b) may not be delayed due to an administrative appeal or judicial review instituted by a hospital under this subsection. If necessary, the office may make a partial distribution to the other eligible hospitals under ~~STEP SEVEN of~~ subsection (b) pending the completion of a hospital's administrative appeal or judicial review, at which time the remaining portion of the payments due to the eligible hospitals must be made. A partial distribution may be calculated by the office based upon estimates and trends.

(f) For purposes of this section:

(1) the Medicaid shortfall of a hospital established and operated under IC 16-22-2 or IC 16-23 is calculated as follows:

STEP ONE: The office shall identify the outpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by the hospital.

STEP TWO: For the outpatient hospital services identified under STEP ONE, the office shall calculate the payments made under this article and under the state Medicaid plan to the hospital, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate a reasonable estimate of the amount that would have been paid by the office for the outpatient hospital services described in STEP ONE under Medicare payment principles; and

(2) a hospital's Medicaid shortfall is equal to the amount by which the amount calculated in STEP THREE of subdivision (1) is greater than the amount calculated in STEP TWO of subdivision (1).

(g) The actual distribution of the amount calculated under STEP FIVE of subsection (b) to a hospital established and operated under IC 16-22-8 shall be made under the terms and conditions provided for the hospital in the state plan for medical assistance. Payment to a hospital under STEP FIVE of subsection (b) is not a condition precedent to the tender of payments to hospitals under STEP SEVEN of subsection (b).

SECTION 13. IC 12-15-15-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.5. (a) This section applies to a hospital that:

(1) is licensed under IC 16-21;

(2) is not a unit of state or local government; and

(3) is not owned or operated by a unit of state or local government.

(b) For a state fiscal year ending after June 30, 2003, **and before July 1, 2007,** in addition to reimbursement received under section 1 of this chapter, a hospital eligible under this section is entitled to reimbursement in an amount calculated as follows:

STEP ONE: The office shall identify the total inpatient hospital services and the total outpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by the hospitals described in subsection (a).

STEP TWO: For the total inpatient hospital services and the total outpatient hospital services identified under STEP ONE, the office shall calculate the aggregate payments made under this article and under the state Medicaid plan to hospitals described in subsection (a), excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate a reasonable estimate of the amount that would have been paid in the aggregate by the office for the inpatient hospital services and the outpatient hospital services identified in STEP ONE under Medicare payment principles.

STEP FOUR: Subtract the amount calculated under STEP TWO from the amount calculated under STEP THREE.

STEP FIVE: Distribute an amount equal to the amount calculated under STEP FOUR to the eligible hospitals described in subsection (a) as follows:

(A) Subject to the availability of funds under IC 12-15-20-2(8)(D) to serve as the non-federal share of such payment, the first ten million dollars ($10,000,000) of the amount calculated under STEP FOUR for a state fiscal year shall be paid to a hospital described in subsection (a) that has more than ~~seventy~~ **sixty** thousand ~~(70,000)~~ **(60,000)** Medicaid inpatient days.

(B) Following the payment to the hospital under clause (A) and subject to the availability of funds under IC 12-15-20-2(8)(D) to serve as the non-federal share of such payments, the remaining amount calculated under STEP FOUR for a state fiscal year shall be paid to all

hospitals described in subsection (a). The payments shall be made on a pro rata basis based on the hospitals' Medicaid inpatient days or other payment methodology approved by the Centers for Medicare and Medicaid Services. **For purposes of this clause, a hospital's Medicaid inpatient days are the hospital's in-state and paid Medicaid fee for service and managed care days for the state fiscal year for which services are identified under STEP ONE, as determined by the office.**

(C) Subject to IC 12-15-20.7, in the event the entirety of the amount calculated under STEP FOUR is not distributed following the payments made under clauses (A) and (B), the remaining amount may be paid to hospitals described in subsection (a) that are eligible under this clause. A hospital is eligible for a payment under this clause only if the non-federal share of the hospital's payment is provided by or on behalf of the hospital. The remaining amount shall be paid to those eligible hospitals:

(i) on a pro rata basis in relation to all hospitals eligible under this clause based on the hospitals' Medicaid inpatient days; or

(ii) other payment methodology **determined by the office and** approved by the Centers for Medicare and Medicaid Services.

~~(D) For purposes of the clauses (A), (B) and (C), a hospital's Medicaid inpatient days are based on the Medicaid inpatient days allowed for the hospital by the office for purposes of the office's most recent determination of eligibility for the Medicaid disproportionate payment program under IC 12-15-16.~~

(c) ~~Reimbursement for a state fiscal year under this section consists of payments made after the close of each state fiscal year. Payment for a state fiscal year ending after June 30, 2003, shall be made before December 31 following the end of the state fiscal year.~~ **As used in this subsection, "Medicaid supplemental payments" means Medicaid payments for hospitals that are in addition to Medicaid fee-for-service payments, Medicaid risk-based managed care payments, and Medicaid disproportionate share payments, and that are included in the Medicaid state plan, including Medicaid safety-net payments, and payments made under sections 1.1, 1.3, 1.5, 9, and 9.5 of this chapter. For a state fiscal year ending after June 30, 2007, in addition to the reimbursement received under section 1 of this chapter, a hospital eligible under this section is entitled to reimbursement in an amount calculated as follows:**

STEP ONE: The office shall identify the total inpatient hospital services and the total outpatient hospital services reimbursable under this article and under the state Medicaid plan that were provided during the state fiscal year for all hospitals described in subsection (a).

STEP TWO: For the total inpatient hospital services and the total outpatient hospital services identified in STEP ONE, the office shall calculate the total payments made under this article and under the state Medicaid plan to all hospitals described in subsection (a). A calculation under this STEP excludes a payment made under the following:

(A) IC 12-15-16.

(B) IC 12-15-17.

(C) IC 12-15-19.

STEP THREE: The office shall calculate, under Medicare payment principles, a reasonable estimate of the total amount that would have been paid by the office for the inpatient hospital services and the outpatient hospital services identified in STEP ONE.

STEP FOUR: Subtract the amount calculated under STEP TWO from the amount calculated under STEP THREE.

STEP FIVE: Distribute an amount equal to the amount calculated under STEP FOUR to the eligible hospitals described in subsection (a) as follows:

(A) As used in this clause, "Medicaid inpatient days" are the hospital's in-state paid Medicaid fee for service and risk-based managed care days for the state fiscal year for which services are identified under STEP ONE, as determined by the office. Subject to the availability of funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(c) and remaining in the Medicaid indigent care trust fund under IC 12-15-20-2(8)(G) to serve as the non-federal share of the payments, the amount calculated under STEP FOUR for a state fiscal year shall be paid to all hospitals described in subsection (a). The payments shall be made on a pro rata basis, based on the hospitals' Medicaid inpatient days or in accordance with another payment methodology determined by the office and approved by the Centers for Medicare and Medicaid Services.

(B) Subject to IC 12-15-20.7, if the entire amount calculated under STEP FOUR is not distributed following the payments made under clause (A), the remaining amount shall be paid as described in clauses (C) and (D) to a hospital that is described in subsection (a) and that is described as eligible under this clause. A hospital is eligible for a payment under clause (C) only if the hospital:

(i) has less than sixty thousand (60,000) Medicaid inpatient days annually;

(ii) was eligible for Medicaid disproportionate share hospital payments in the state fiscal year ending June 30, 1998, or the hospital met the office's Medicaid disproportionate share payment criteria based upon state fiscal year 1998 data and received a Medicaid disproportionate share payment for the state fiscal year ending June 30, 2001; and

(iii) received a Medicaid disproportionate share payment under IC 12-15-19-2.1 for state fiscal years 2001, 2002, 2003, and 2004.

The payment amount under clause (C) for an eligible hospital is subject to the availability of the non-federal share of the hospital's payment being provided by the hospital or on behalf of the hospital.

(C) For state fiscal years ending after June 30, 2007, but before July 1, 2009, payments to eligible hospitals described in clause (B) shall be made as follows:

(i) The payment to an eligible hospital that merged two (2) hospitals under a single Medicaid provider number effective January 1, 2004, shall equal one hundred percent (100%) of the hospital's hospital-specific limit for the state fiscal year ending June 30, 2005, when the payment is combined with any Medicaid disproportionate share payment made under IC 12-15-19-2.1, Medicaid, and other Medicaid supplemental payments, paid or to be paid to the hospital for a state fiscal year.

(ii) The payment to an eligible hospital described in clause (B) other than a hospital described in item (i) shall equal one hundred percent (100%) of the hospital's hospital specific limit for the state fiscal year ending June 30, 2004, when the payment is combined with any Medicaid disproportionate share payment made under IC 12-15-19-2.1, Medicaid, and other Medicaid

supplemental payments, paid or to be paid to the hospital for a state fiscal year.

(D) For state fiscal years beginning after June 30, 2009, payments to an eligible hospital described in clause (B) shall be made in a manner determined by the office.

(E) Subject to IC 12-15-20.7, if the entire amount calculated under STEP FOUR is not distributed following the payments made under clause (A), and clauses (C) or (D), the remaining amount may be paid as described in clause (F) to a hospital described in subsection (a) that is described as eligible under this clause. A hospital is eligible for a payment for a state fiscal year under clause (F) if the hospital:

(i) is eligible to receive Medicaid disproportionate share payments for the state fiscal year for which the Medicaid disproportionate share payment is attributable under IC 12-15-19-2.1, for a state fiscal year ending after June 30, 2007; and

(ii) does not receive a payment under clauses (C) or (D) for the state fiscal year.

A payment to a hospital under this clause is subject to the availability of non-federal matching funds.

(F) Payments to eligible hospitals described in clause (E) shall be made:

(i) to best use federal matching funds available for hospitals that are eligible for Medicaid disproportionate share payments under IC 12-15-19-2.1; and

(ii) by using a methodology that allocates available funding under this clause, Medicaid supplemental payments, and payments under IC 12-15-19-2.1, in a manner in which all hospitals eligible under clause (E) receive payments in a manner that takes into account the situation of eligible hospitals that have historically qualified for Medicaid disproportionate share payments and ensures that payments for eligible hospitals are equitable.

(G) If the Centers for Medicare and Medicaid Services does not approve the payment methodologies in clauses (A) through (F), the office may implement alternative payment methodologies, that are eligible for federal financial participation, to implement a program consistent with the payments for hospitals described in clauses (A) through (F).

(d) A hospital described in subsection (a) may appeal under IC 4-21.5 the amount determined by the office to be paid to the hospital under STEP FIVE of ~~subsection~~ **subsections** (b) **or (c).** The distribution to other hospitals under STEP FIVE of subsection (b) **or (c)** may not be delayed due to an administrative appeal or judicial review instituted by a hospital under this subsection. If necessary, the office may make a partial distribution to the other eligible hospitals under STEP FIVE of subsection (b) **or (c)** pending the completion of a hospital's administrative appeal or judicial review, at which time the remaining portion of the payments due to the eligible hospitals shall be made. A partial distribution may be based on estimates and trends calculated by the office.

SECTION 14. IC 12-15-15-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) For purposes of this section and IC 12-16-7.5-4.5, a payable claim is attributed to a county if the payable claim is submitted to the division by a hospital licensed under IC 16-21-2 for payment under IC 12-16-7.5 for care provided by the hospital to an individual who qualifies for the hospital care for the indigent program under IC 12-16-3.5-1 or IC 12-16-3.5-2 and:

(1) who is a resident of the county;

(2) who is not a resident of the county and for whom the onset of the medical condition that necessitated the care occurred in the county; or

(3) whose residence cannot be determined by the division and for whom the onset of the medical condition that necessitated the care occurred in the county.

(b) For each state fiscal year ending after June 30, 2003, **and before July 1, 2007,** a hospital licensed under IC 16-21-2 that submits to the division during the state fiscal year a payable claim under IC 12-16-7.5 is entitled to a payment under ~~this section.~~ **subsection (c).**

(c) Except as provided in section 9.8 of this chapter and subject to section 9.6 of this chapter, for a state fiscal year, the office shall pay to a hospital referred to in subsection (b) an amount equal to the amount, based on information obtained from the division and the calculations and allocations made under IC 12-16-7.5-4.5, that the office determines for the hospital under STEP SIX of the following STEPS:

STEP ONE: Identify:

(A) each hospital that submitted to the division one (1) or more payable claims under IC 12-16-7.5 during the state fiscal year; and

(B) the county to which each payable claim is attributed.

STEP TWO: For each county identified in STEP ONE, identify:

(A) each hospital that submitted to the division one (1) or more payable claims under IC 12-16-7.5 attributed to the county during the state fiscal year; and

(B) the total amount of all hospital payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year.

STEP THREE: For each county identified in STEP ONE, identify the amount of county funds transferred to the Medicaid indigent care trust fund under ~~STEP FOUR of IC 12-16-7.5-4.5(b).~~ **IC 12-16-7.5-4.5.**

STEP FOUR: For each hospital identified in STEP ONE, with respect to each county identified in STEP ONE, calculate the hospital's percentage share of the county's funds transferred to the Medicaid indigent care trust fund under ~~STEP FOUR of IC 12-16-7.5-4.5(b).~~ **IC 12-16-7.5-4.5.** Each hospital's percentage share is based on the total amount of the hospital's payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year, calculated as a percentage of the total amount of all hospital payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year.

STEP FIVE: Subject to subsection (j), for each hospital identified in STEP ONE, with respect to each county identified in STEP ONE, multiply the hospital's percentage share calculated under STEP FOUR by the amount of the county's funds transferred to the Medicaid indigent care trust fund under ~~STEP FOUR of IC 12-16-7.5-4.5(b).~~ **IC 12-16-7.5-4.5.**

STEP SIX: Determine the sum of all amounts calculated under STEP FIVE for each hospital identified in STEP ONE with respect to each county identified in STEP ONE.

(d) For state fiscal years beginning after June 30, 2007, a hospital that received a payment determined under STEP SIX of subsection (c) for the state fiscal year ending June 30, 2007, shall be paid in an amount equal to the amount determined for the hospital under STEP SIX of subsection (c) for the state fiscal year ending June 30, 2007.

~~(d)~~ **(e)** A hospital's payment under subsection (c) **or (d)** is in the form of a Medicaid ~~add-on~~ **supplemental** payment. The amount of a hospital's ~~add-on~~ **Medicaid supplemental** payment is subject to the availability of funding for the non-federal share of the payment under subsection ~~(c).~~ **(f).** The office shall make the payments under subsection (c) **and (d)** before December 15 that next succeeds the end of the state fiscal year.

~~(e)~~ **(f)** The non-federal share of a payment to a hospital under

subsection (c) **or (d)** is funded from the funds transferred to the Medicaid indigent care trust fund under ~~STEP FOUR of IC 12-16-7.5-4.5(b) of each county to which a payable claim under IC 12-16-7.5 submitted to the division during the state fiscal year by the hospital is attributed.~~ **IC 12-16-7.5-4.5.**

~~(f)~~ **(g)** The amount of a county's transferred funds available to be used to fund the non-federal share of a payment to a hospital under subsection (c) is an amount that bears the same proportion to the total amount of funds of the county transferred to the Medicaid indigent care trust fund under ~~STEP FOUR of IC 12-16-7.5-4.5(b)~~ **IC 12-16-7.5-4.5** that the total amount of the hospital's payable claims under IC 12-16-7.5 attributed to the county submitted to the division during the state fiscal year bears to the total amount of all hospital payable claims under IC 12-16-7.5 attributed to the county submitted to the division during the state fiscal year.

~~(g)~~ **(h)** Any county's funds identified in subsection ~~(f)~~ **(g)** that remain after the non-federal share of a hospital's payment has been funded are available to serve as the non-federal share of a payment to a hospital under section 9.5 of this chapter.

~~(h)~~ **(i)** For purposes of this section, "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b)(1).

~~(i)~~ **(j)** For purposes of ~~this section.~~ **subsection (c):**

(1) the amount of a payable claim is an amount equal to the amount the hospital would have received under the state's fee-for-service Medicaid reimbursement principles for the hospital care for which the payable claim is submitted under IC 12-16-7.5 if the individual receiving the hospital care had been a Medicaid enrollee; and

(2) a payable hospital claim under IC 12-16-7.5 includes a payable claim under IC 12-16-7.5 for the hospital's care submitted by an individual or entity other than the hospital, to the extent permitted under the hospital care for the indigent program.

~~(j)~~ **(k)** The amount calculated under STEP FIVE of subsection (c) for a hospital with respect to a county may not exceed the total amount of the hospital's payable claims attributed to the county during the state fiscal year.

SECTION 15. IC 12-15-15-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9.5. (a) For purposes of this section and IC 12-16-7.5-4.5, a payable claim is attributed to a county if the payable claim is submitted to the division by a hospital licensed under IC 16-21-2 for payment under IC 12-16-7.5 for care provided by the hospital to an individual who qualifies for the hospital care for the indigent program under IC 12-16-3.5-1 or IC 12-16-3.5-2 and;

(1) who is a resident of the county;

(2) who is not a resident of the county and for whom the onset of the medical condition that necessitated the care occurred in the county; or

(3) whose residence cannot be determined by the division and for whom the onset of the medical condition that necessitated the care occurred in the county.

(b) For each state fiscal year ending after June 30, 2003, **but before July 1, 2007,** a hospital licensed under IC 16-21-2:

(1) that submits to the division during the state fiscal year a payable claim under IC 12-16-7.5; and

(2) whose payment under section 9(c) of this chapter was less than the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year;

is entitled to a payment under ~~this section.~~ **subsection (c).**

(c) Except as provided in section 9.8 of this chapter and subject to section 9.6 of this chapter, for a state fiscal year, the office shall pay to a hospital referred to in subsection (b) an amount equal to the amount, based on information obtained from the division and the calculations and allocations made under IC 12-16-7.5-4.5, that the office determines for the hospital under STEP EIGHT of the following STEPS:

STEP ONE: Identify each county whose transfer of funds to the Medicaid indigent care trust fund under ~~STEP FOUR of IC 12-16-7.5-4.5(b)~~ **IC 12-16-7.5-4.5** for the state fiscal year was less than the total amount of all hospital payable claims attributed to the county and submitted to the division during the state fiscal year.

STEP TWO: For each county identified in STEP ONE, calculate the difference between the amount of funds of the county transferred to the Medicaid indigent care trust fund under ~~STEP FOUR of IC 12-16-7.5-4.5(b)~~ **IC 12-16-7.5-4.5** and the total amount of all hospital payable claims attributed to the county and submitted to the division during the state fiscal year.

STEP THREE: Calculate the sum of the amounts calculated for the counties under STEP TWO.

STEP FOUR: Identify each hospital whose payment under section 9(c) of this chapter was less than the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year.

STEP FIVE: Calculate for each hospital identified in STEP FOUR the difference between the hospital's payment under section 9(c) of this chapter and the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year.

STEP SIX: Calculate the sum of the amounts calculated for each of the hospitals under STEP FIVE.

STEP SEVEN: For each hospital identified in STEP FOUR, calculate the hospital's percentage share of the amount calculated under STEP SIX. Each hospital's percentage share is based on the amount calculated for the hospital under STEP FIVE calculated as a percentage of the sum calculated under STEP SIX.

STEP EIGHT: For each hospital identified in STEP FOUR, multiply the hospital's percentage share calculated under STEP SEVEN by the sum calculated under STEP THREE. The amount calculated under this STEP for a hospital may not exceed the amount by which the hospital's total payable claims under IC 12-16-7.5 submitted during the state fiscal year exceeded the amount of the hospital's payment under section 9(c) of this chapter.

(d) For state fiscal years beginning after June 30, 2007, a hospital that received a payment determined under STEP EIGHT of subsection (c) for the state fiscal year ending June 30, 2007, shall be paid an amount equal to the amount determined for the hospital under STEP EIGHT of subsection (c) for the state fiscal year ending June 30, 2007.

~~(d)~~ **(e)** A hospital's payment under subsection (c) **or (d)** is in the form of a Medicaid ~~add-on~~ **supplemental** payment. The amount of the hospital's add-on payment is subject to the availability of funding for the non-federal share of the payment under subsection ~~(c).~~ **(f).** The office shall make the payments under subsection (c) **or (d)** before December 15 that next succeeds the end of the state fiscal year.

~~(e)~~ **(f)** The non-federal share of a payment to a hospital under subsection (c) **or (d)** is derived from funds transferred to the Medicaid indigent care trust fund under ~~STEP FOUR of IC 12-16-7.5-4.5(b)~~ **IC 12-16-7.5-4.5** and not expended under section 9 of this chapter. ~~To the extent possible, the funds shall be derived on a proportional basis from the funds transferred by each county identified in subsection (c), STEP ONE:~~

~~(1) to which at least one (1) payable claim submitted by the hospital to the division during the state fiscal year is attributed; and~~

~~(2) whose funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) were not completely expended under section 9 of this chapter.~~

~~The amount available to be derived from the remaining funds transferred to the Medicaid indigent care trust fund under STEP~~

~~FOUR of IC 12-16-7.5-4.5(b) to serve as the non-federal share of the payment to a hospital under subsection (c) is an amount that bears the same proportion to the total amount of funds transferred by all the counties identified in subsection (c), STEP ONE, that the amount calculated for the hospital under subsection (c), STEP FIVE, bears to the amount calculated under subsection (c), STEP SIX.~~

~~(f)~~ **(g)** Except as provided in subsection ~~(g),~~ **(h),** the office may not make a payment under this section until the payments due under section 9 of this chapter for the state fiscal year have been made.

~~(g)~~ **(h)** If a hospital appeals a decision by the office regarding the hospital's payment under section 9 of this chapter, the office may make payments under this section before all payments due under section 9 of this chapter are made if:

(1) a delay in one (1) or more payments under section 9 of this chapter resulted from the appeal; and

(2) the office determines that making payments under this section while the appeal is pending will not unreasonably affect the interests of hospitals eligible for a payment under this section.

~~(h)~~ **(i)** Any funds transferred to the Medicaid indigent care trust fund under ~~STEP FOUR of IC 12-16-7.5-4.5(b)~~ **IC 12-16-7.5-4.5** remaining after payments are made under this section shall be used as provided in ~~IC 12-15-20-2(8)(D).~~ **IC 12-15-20-2(8).**

(i) For purposes of ~~this section:~~ **subsection (c):**

(1) "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b);

(2) the amount of a payable claim is an amount equal to the amount the hospital would have received under the state's fee-for-service Medicaid reimbursement principles for the hospital care for which the payable claim is submitted under IC 12-16-7.5 if the individual receiving the hospital care had been a Medicaid enrollee; and

(3) a payable hospital claim under IC 12-16-7.5 includes a payable claim under IC 12-16-7.5 for the hospital's care submitted by an individual or entity other than the hospital, to the extent permitted under the hospital care for the indigent program.

SECTION 16. IC 12-15-15-9.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9.6. **For state fiscal years beginning after June 30, 2007,** the total amount of payments to hospitals under sections 9 and 9.5 of this chapter may not exceed the amount ~~transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b).~~ **paid to hospitals under sections 9 and 9.5 of this chapter for the state fiscal year ending June 30, 2007.**

SECTION 17. IC 12-15-15-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) This section applies to a hospital that:

(1) is licensed under IC 16-21; and

(2) qualifies as a provider under **IC 12-15-16, IC 12-15-17, or IC 12-15-19 of** the Medicaid disproportionate share provider program.

(b) The office may, after consulting with affected providers, do one (1) or more of the following:

~~(1) Expand the payment program established under section 1.1(b) of this chapter to include all hospitals described in subsection (a).~~

~~(2)~~ **(1)** Establish a nominal charge hospital payment program.

~~(3)~~ **(2)** Establish any other permissible payment program.

(c) A program expanded or established under this section is subject to the availability of:

(1) intergovernmental transfers; ~~or~~

(2) funds certified as being eligible for federal financial participation; **or**

(3) other permissible sources of non-federal share dollars.

(d) The office may not implement a program under this section until the federal Centers for Medicare and Medicaid Services approves the provisions regarding the program in the amended state plan for medical assistance.

(e) The office may determine not to continue to implement a program established under this section if federal financial participation is not available.

SECTION 18. IC 12-15-19-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.1. (a) For each state fiscal year ending on or after June 30, 2000, the office shall develop a disproportionate share payment methodology that ensures that each hospital qualifying for disproportionate share payments under IC 12-15-16-1(a) timely receives total disproportionate share payments that do not exceed the hospital's hospital specific limit provided under 42 U.S.C. 1396r-4(g). The payment methodology as developed by the office must:

(1) maximize disproportionate share hospital payments to qualifying hospitals to the extent practicable;

(2) take into account the situation of those qualifying hospitals that have historically qualified for Medicaid disproportionate share payments; and

(3) ensure that payments ~~net of intergovernmental transfers made by or on behalf of~~ **for** qualifying hospitals are equitable.

(b) Total disproportionate share payments to a hospital under this chapter shall not exceed the hospital specific limit provided under 42 U.S.C. 1396r-4(g). The hospital specific limit for a state fiscal year shall be determined by the office taking into account data provided by each hospital that is considered reliable by the office based on a system of periodic audits, the use of trending factors, and an appropriate base year determined by the office. The office may require independent certification of data provided by a hospital to determine the hospital's hospital specific limit.

(c) The office shall include a provision in each amendment to the state plan regarding Medicaid disproportionate share payments that the office submits to the federal Centers for Medicare and Medicaid Services that, as provided in 42 CFR 447.297(d)(3), allows the state to make additional disproportionate share expenditures after the end of each federal fiscal year that relate back to a prior federal fiscal year. However, the total disproportionate share payments to:

(1) each individual hospital; and

(2) all qualifying hospitals in the aggregate;

may not exceed the limits provided by federal law and regulation.

~~(d) The office shall, in each state fiscal year, provide sufficient funds for acute care hospitals licensed under IC 16-21 that qualify for disproportionate share payments under IC 12-15-16-1(a). Funds provided under this subsection:~~

~~(1) do not include funds transferred by other governmental units to the Medicaid indigent care trust fund; and~~

~~(2) must be in an amount equal to the amount that results from the following calculation:~~

~~STEP ONE: Multiply twenty-six million dollars ($26,000,000) by the federal medical assistance percentage.~~

~~STEP TWO: Subtract the amount determined under STEP ONE from twenty-six million dollars ($26,000,000).~~

SECTION 19. IC 12-15-19-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The office is not required to make disproportionate share payments under this chapter from the Medicaid indigent care trust fund established by IC 12-15-20-1 until the fund has received sufficient deposits, **including intergovernmental transfers of funds and certifications of expenditures,** to permit the office to make the state's share of the required disproportionate share payments.

(b) **For state fiscal years beginning after June 30, 2006,** if:

(1) sufficient deposits have not been received; **or**

(2) the statewide Medicaid disproportionate share allocation is insufficient to provide federal financial participation for the entirety of all eligible disproportionate share hospitals' hospital-specific limits;

the office shall reduce disproportionate share payments **made under IC 12-15-19-2.1 and Medicaid safety-net payments made in accordance with the Medicaid state plan** to ~~all~~ eligible institutions ~~by the same percentage.~~ **using an equitable methodology consistent with subsection (c).**

(c) For state fiscal years beginning after June 30, 2006, payments reduced under this section shall, in accordance with the Medicaid state plan, be made:

(1) to best utilize federal matching funds available for hospitals eligible for Medicaid disproportionate share payments under IC 12-15-19-2.1; and

(2) by utilizing a methodology that allocates available funding under this subdivision, and Medicaid supplemental payments as defined in IC 12-15-15-1.5, in a manner that all hospitals eligible for Medicaid disproportionate share payments under IC 12-15-19-2.1 receive payments using a methodology that:

(A) takes into account the situation of the eligible hospitals that have historically qualified for Medicaid disproportionate share payments; and

(B) ensures that payments for eligible hospitals are equitable.

(d) The percentage reduction shall be sufficient to ensure that payments do not exceed the **statewide Medicaid disproportionate share allocation or the** amounts that can be financed with:

(1) ~~the state share that is in~~ the **amount transferred from the hospital care for the indigent trust** fund;

(2) other intergovernmental transfers;

(3) certifications of public expenditures; or

(4) any other permissible sources of non-federal match.

SECTION 20. IC 12-15-20-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. The Medicaid indigent care trust fund is established to pay the non-federal share of the following:

(1) Enhanced disproportionate share payments to providers under IC 12-15-19-1.

(2) Subject to subdivision (8), disproportionate share payments to providers under IC 12-15-19-2.1.

(3) Medicaid payments for pregnant women described in IC 12-15-2-13 and infants and children described in IC 12-15-2-14.

(4) Municipal disproportionate share payments to providers under IC 12-15-19-8.

(5) Payments to hospitals under IC 12-15-15-9.

(6) Payments to hospitals under IC 12-15-15-9.5.

(7) Payments, funding, and transfers as otherwise provided in clauses (8)(D), ~~and~~ (8)(F), **and (8)(G).**

(8) Of the intergovernmental transfers deposited into the Medicaid indigent care trust fund, the following apply:

(A) The entirety of the intergovernmental transfers deposited into the Medicaid indigent care trust fund for state fiscal years ending on or before June 30, 2000, shall be used to fund the state's share of the disproportionate share payments to providers under IC 12-15-19-2.1.

(B) Of the intergovernmental transfers deposited into the Medicaid indigent care trust fund for the state fiscal year ending June 30, 2001, an amount equal to one hundred percent (100%) of the total intergovernmental transfers deposited into the Medicaid indigent care trust fund for the state fiscal year beginning July 1, 1998, and ending June 30, 1999, shall be used to fund the state's share of disproportionate share payments to providers under IC 12-15-19-2.1. The remainder of the intergovernmental transfers, if any, for the state fiscal year shall be used to fund the state's share of additional Medicaid payments to hospitals licensed under IC 16-21 pursuant to a methodology adopted by the office.

(C) Of the intergovernmental transfers deposited into the Medicaid indigent care trust fund, for state fiscal years beginning July 1, 2001, and July 1, 2002, an amount equal to:

(i) one hundred percent (100%) of the total intergovernmental transfers deposited into the Medicaid indigent care trust fund for the state fiscal year beginning July 1, 1998; minus

(ii) an amount equal to the amount deposited into the Medicaid indigent care trust fund under IC 12-15-15-9(d) for the state fiscal years beginning July 1, 2001, and July 1, 2002;

shall be used to fund the state's share of disproportionate share payments to providers under IC 12-15-19-2.1. The remainder of the intergovernmental transfers, if any, must be used to fund the state's share of additional Medicaid payments to hospitals licensed under IC 16-21 pursuant to a methodology adopted by the office.

(D) ~~Of~~ The intergovernmental transfers, which shall include amounts transferred under ~~IC 12-16-7.5-4.5(b), STEP FOUR,~~ **IC 12-16-7.5-4.5,** deposited into the Medicaid indigent care trust fund **and the certifications of public expenditures deemed to be made to the medicaid indigent care trust fund,** for **the** state fiscal years ending after June 30, ~~2003,~~ **2005, but before July 1, 2007,** ~~an amount equal to:~~

~~(i) one hundred percent (100%) of the total intergovernmental transfers deposited into the Medicaid indigent care trust fund for the state fiscal year beginning July 1, 1998, and ending June 30, 1999, minus~~

~~(ii) an amount equal to the amount deposited into the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) for the state fiscal year ending after June 30, 2003,~~

shall be used, ~~to fund the non-federal share of disproportionate share payments to providers under IC 12-15-19-2.1. The remainder of the intergovernmental transfers, if any, for the state fiscal years shall be used to fund, in descending order of priority, the non-federal share of payments to hospitals under IC 12-15-15-9, the non-federal share of payments to hospitals under IC 12-15-15-9.5, the amount to be transferred under clause (F), and the non-federal share of payments under clauses (A) and (B) of STEP FIVE of IC 12-15-15-1.5(b).~~ **in descending order of priority, as follows:**

(i) As provided in clause (B) of STEP THREE of IC 12-16-7.5-4.5(b)(1) and clause (B) of STEP THREE of IC 12-16-7.5-4.5(b)(2), to fund the amount to be transferred to the office.

(ii) As provided in clause (C) of STEP THREE of IC 12-16-7.5-4.5(b)(1) and clause (C) of STEP THREE of IC 12-16-7.5-4.5(b)(2), to fund the non-federal share of the payments made under IC 12-15-15-9 and IC 12-15-15-9.5.

(iii) To fund the non-federal share of the payments made under IC 12-15-15-1.1, IC 12-15-15-1.3, and IC 12-15-19-8.

(iv) As provided under clause (A) of STEP THREE of IC 12-16-7.5-4.5(b)(1) and clause (A) of STEP THREE of IC 12-16-7.5-4.5(b)(2), for the payment to be made under clause (A) of STEP

FIVE of IC 12-15-15-1.5(b).

(v) As provided under STEP FOUR of IC 12-16-7.5-4.5(b)(1) and STEP FOUR of IC 12-16-7.5-4.5(b)(2), to fund the payments to be made under clause (B) of STEP FIVE of IC 12-15-15-1.5(b).

(vi) To fund, in an order of priority determined by the office to best use the available non-federal share, the programs listed in clause (H).

(E) **For state fiscal years ending after June 30, 2007,** the total amount of intergovernmental transfers used to fund the non-federal share of payments to hospitals under IC 12-15-15-9 and IC 12-15-15-9.5 shall not exceed the amount ~~calculated under STEP TWO of the following formula:~~

~~STEP ONE: Calculate the total amount of funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b).~~

~~STEP TWO: Multiply the state Medicaid medical assistance percentage for the state fiscal year for which the payments under IC 12-15-15-9 and IC 12-15-15-9.5 are to be made by the amount calculated under STEP ONE.~~ **provided in clause (G)(ii).**

(F) As provided in clause (D), for **the following:**

(i) Each **state** fiscal year ending after June 30, 2003, **but before July 1, 2005,** an amount equal to the amount calculated under STEP THREE of the following formula shall be transferred to the office:

STEP ONE: Calculate the product of thirty-five million dollars ($35,000,000) multiplied by the federal medical assistance percentage for federal fiscal year 2003.

STEP TWO: Calculate the sum of the amounts, if any, reasonably estimated by the office to be transferred or otherwise made available to the office for the state fiscal year, and the amounts, if any, actually transferred or otherwise made available to the office for the state fiscal year, under arrangements whereby the office and a hospital licensed under IC 16-21-2 agree that an amount transferred or otherwise made available to the office by the hospital or on behalf of the hospital shall be included in the calculation under this STEP.

STEP THREE: Calculate the amount by which the product calculated under STEP ONE exceeds the sum calculated under STEP TWO.

(ii) The state fiscal years ending after June 30, 2005, but before July 1, 2007, an amount equal to thirty million dollars ($30,000,000) shall be transferred to the office.

(G) Subject to IC 12-15-20.7-2(b), for each state fiscal year ending after June 30, 2007, the total amount in the Medicaid indigent care trust fund, including the amount of intergovernmental transfers of funds transferred, and the amounts of certifications of expenditures eligible for federal financial participation deemed to be transferred, to the Medicaid indigent care trust fund, shall be used to fund the following:

(i) Thirty million dollars ($30,000,000) transferred to the office for the Medicaid budget.

(ii) An amount not to exceed the non-federal share of payments to hospitals under IC 12-15-15-9 and IC 12-15-15-9.5.

(iii) An amount not to exceed the non-federal share of payments to hospitals made under IC 12-15-15-1.1 and IC 12-15-15-1.3.

(iv) An amount not to exceed the non-federal share of disproportionate share payments to hospitals under IC 12-15-19-8.

(v) An amount not to exceed the non-federal share of payments to hospitals under clause (A) of STEP FIVE of IC 12-15-15-1.5(c).

(vi) An amount not to exceed the non-federal share of Medicaid safety-net payments.

(vii) An amount not to exceed the non-federal share of payments to hospitals made under clauses (C) or (D) of STEP FIVE of IC 12-15-15-1.5(c).

(viii) An amount not to exceed the non-federal share of payments to hospitals made under clause (F) of STEP FIVE of IC 12-15-15-1.5(c).

(ix) An amount not to exceed the non-federal share of disproportionate share payments to hospitals under IC 12-15-19-2.1.

(x) If additional funds are available after making payments under items (i) through (ix), to fund other Medicaid supplemental payments for hospitals approved by the office and included in the Medicaid state plan.

(H) For purposes of clause (D)(vi), the office shall fund the following:

(i) An amount equal to the non-federal share of the payments to the hospital that is eligible under this item, for payments made under clause (C) of STEP FIVE of IC 12-15-15-1.5(b) under an agreement with the office, Medicaid safety-net payments and any payment made under IC 12-15-19-2.1. The amount of the payments to the hospital under this item shall be equal to one hundred percent (100%) of the hospital's hospital-specific limit for state fiscal year 2005, when the payments are combined with payments made under IC 12-15-15-9, IC 12-15-15-9.5, and clause (B) of STEP FIVE of IC 12-15-15-1.5(b) for a state fiscal year. A hospital is eligible under this item if the hospital was eligible for Medicaid disproportionate share hospital payments for the state fiscal year ending June 30, 1998, the hospital received a Medicaid disproportionate share payment under IC 12-15-19-2.1 for state fiscal years 2001, 2002, 2003, and 2004, and the hospital merged two (2) hospitals under a single Medicaid provider number, effective January 1, 2004.

(ii) An amount equal to the non-federal share of payments to hospitals that are eligible under this item, for payments made under clause (C) of STEP FIVE of IC 12-15-15-1.5(b) under an agreement with the office, Medicaid safety-net payments, and any payment made under IC 12-15-19-2.1. The amount of payments to each hospital under this item shall be equal to one hundred percent (100%) of the hospital's hospital-specific limit for state fiscal year 2004, when the payments are combined with payments made to the hospital under IC 12-15-15-9, IC 12-15-15-9.5, and clause (B) of STEP FIVE of IC 12-15-15-1.5(b) for a state fiscal year. A hospital is eligible under this item if the hospital did not receive a payment under item (i), the hospital has less than sixty thousand (60,000) Medicaid inpatient days annually, the hospital either was eligible for Medicaid disproportionate share hospital payments for the state fiscal year ending June 30, 1998 or the hospital met the office's Medicaid disproportionate share payment criteria based on state fiscal year 1998 data and received a Medicaid disproportionate share payment for the state fiscal year ending June 30, 2001, and the hospital received a Medicaid disproportionate share payment under IC 12-15-19-2.1 for state fiscal years 2001, 2002, 2003, and 2004.

(iii) Subject to IC 12-15-19-6, an amount not less than the non-federal share of Medicaid safety-net payments in accordance with the Medicaid state plan.

(iv) An amount not less than the non-federal share of payments made under clause (C) of STEP FIVE of IC 12-15-15-1.5(b) under an agreement with the office to a hospital having sixty thousand (60,000) Medicaid inpatient days annually.

(v) An amount not less than the non-federal share of Medicaid disproportionate share payments for hospitals eligible under this item, and made under IC 12-15-19-6 and the approved Medicaid state plan. A hospital is eligible for a payment under this item if the hospital is eligible for payments under IC 12-15-19-2.1.

(vi) If additional funds remain after the payments made under (i) through (v), payments approved by the office and under the Medicaid state plan, to fund the non-federal share of other Medicaid supplemental payments for hospitals.

SECTION 21. IC 12-15-20.7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. **(a)** For each state fiscal year **ending before July 1, 2005, and** subject to section 3 of this chapter, the office shall make the payments identified in this section in the following order:

(1) First, payments under IC 12-15-15-9 and IC 12-15-15-9.5.

(2) Second, payments under clauses (A) and (B) of STEP FIVE of IC 12-15-15-1.5(b).

(3) Third, Medicaid inpatient payments for safety-net hospitals and Medicaid outpatient payments for safety-net hospitals.

(4) Fourth, payments under IC 12-15-15-1.1 and 12-15-15-1.3.

(5) Fifth, payments under IC 12-15-19-8 for municipal disproportionate share hospitals.

(6) Sixth, payments under IC 12-15-19-2.1 for disproportionate share hospitals.

(7) Seventh, payments under clause (C) of STEP FIVE of IC 12-15-15-1.5(b).

(b) For each state fiscal year ending after June 30, 2007, the office shall make the payments for the programs identified in IC 12-15-20-2(8)(G) in the order of priority that best utilizes available non-federal share, Medicaid supplemental payments, and Medicaid disproportionate share payments, and may change the order or priority at any time as necessary for the proper administration of one (1) or more of the payment programs listed in IC 12-15-20-2(8)(G).

SECTION 22. IC 12-15-44 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 44. Indiana Check-Up Plan

Sec. 1. As used in this chapter, "plan" refers to the Indiana check-up plan established by section 3 of this chapter.

Sec. 2. As used in this chapter, "preventative care services" means care that is provided to an individual to prevent disease, diagnose disease, or promote good health.

Sec. 3. (a) The Indiana check-up plan is established.

(b) The office shall administer the plan.

(c) The department of insurance and the office of the secretary shall provide oversight of the marketing practices of the plan.

(d) The office shall promote the plan and provide information to potential eligible individuals who live in medically underserved rural areas of Indiana.

(e) The office shall, to the extent possible, ensure that enrollment in the plan is distributed throughout Indiana in proportion to the number of individuals throughout Indiana who are eligible for participation in the plan.

(f) The office shall establish standards for consumer protection, including the following:

(1) Quality of care standards.

(2) A uniform process for participant grievances and appeals.

(3) Standardized reporting concerning provider performance, consumer experience, and cost.

(g) A health care provider that provides care to an individual who receives health insurance coverage under the plan shall participate in the Medicaid program under IC 12-15.

(h) The office of the secretary may refer an individual who:

(1) has applied for health insurance coverage under the plan; and

(2) is at high risk of chronic disease;

to the Indiana comprehensive health insurance association for administration of the individual's plan benefits under IC 27-8-10.1.

(i) The following do not apply to the plan:

(1) IC 12-15-6.

(2) IC 12-15-12.

(3) IC 12-15-13.

(4) IC 12-15-14.

(5) IC 12-15-15.

(6) IC 12-15-21.

(7) IC 12-15-26.

(8) IC 12-15-31.1.

(9) IC 12-15-34.

(10) IC 12-15-35.

(11) IC 12-15-35.5.

(12) IC 16-42-22-10.

Sec. 4. (a) The plan must include the following in a manner and to the extent determined by the office:

(1) Mental health care services.

(2) Inpatient hospital services.

(3) Prescription drug coverage.

(4) Emergency room services.

(5) Physician office services.

(6) Diagnostic services.

(7) Outpatient services, including therapy services.

(8) Comprehensive disease management.

(9) Home health services, including case management.

(10) Urgent care center services.

(11) Preventative care services.

(12) Family planning services:

(A) including contraceptives and sexually transmitted disease testing, as described in federal Medicaid law (42 U.S.C. 1396 et seq.); and

(B) not including abortion or abortifacients.

(13) Hospice services.

(14) Substance abuse services.

(b) The plan must do the following:

(1) Offer coverage for dental and vision services to an individual who participates in the plan.

(2) Pay at least fifty percent (50%) of the premium cost of dental and vision services coverage described in subdivision (1).

(c) An individual who receives the dental or vision coverage offered under subsection (b) shall pay an amount determined by the office for the coverage. The office shall limit the payment to not more than five percent (5%) of the individual's annual household income. The payment required under this subsection is in addition to the payment required under section 11(b)(2) of this chapter for coverage under the plan.

(d) Vision services offered by the plan must include services provided by an optometrist.

(e) The plan must comply with any coverage requirements

that apply to an accident and sickness insurance policy issued in Indiana.

(f) The plan may not permit treatment limitations or financial requirements on the coverage of mental health care services or substance abuse services if similar limitations or requirements are not imposed on the coverage of services for other medical or surgical conditions.

Sec. 5. (a) The office shall provide to an individual who participates in the plan a list of health care services that qualify as preventative care services for the age, gender, and preexisting conditions of the individual. The office shall consult with the federal Centers for Disease Control and Prevention for a list of recommended preventative care services.

(b) The plan shall, at no cost to the individual, provide payment for not more than five hundred dollars ($500) of qualifying preventative care services per year for an individual who participates in the plan. Any additional preventative care services covered under the plan and received by the individual during the year are subject to the deductible and payment requirements of the plan.

Sec. 6. The plan has the following per participant coverage limitations:

(1) An annual individual maximum coverage limitation of three hundred thousand dollars ($300,000).

(2) A lifetime individual maximum coverage limitation of one million dollars ($1,000,000).

Sec. 7. The following requirements apply to funds appropriated by the general assembly to the plan:

(1) At least eighty-five percent (85%) of the funds must be used to fund payment for health care services.

(2) An amount determined by the office of the secretary to fund:

(A) administrative costs of; and

(B) any profit made by;

an insurer or a health maintenance organization under a contract with the office to provide health insurance coverage under the plan. The amount determined under this subdivision may not exceed fifteen percent (15%) of the funds.

Sec. 8. The plan is not an entitlement program. The maximum enrollment of individuals who may participate in the plan is dependent on funding appropriated for the plan.

Sec. 9. (a) An individual is eligible for participation in the plan if the individual meets the following requirements:

(1) The individual is at least eighteen (18) years of age and less than sixty-five (65) years of age.

(2) The individual is a United States citizen and has been a resident of Indiana for at least twelve (12) months.

(3) The individual has an annual household income of not more than two hundred percent (200%) of the federal income poverty level.

(4) The individual is not eligible for health insurance coverage through the individual's employer.

(5) The individual has not had health insurance coverage for at least six (6) months.

(b) The following individuals are not eligible for the plan:

(1) An individual who participates in the federal Medicare program (42 U.S.C. 1395 et seq.).

(2) A pregnant woman for purposes of pregnancy related services.

(3) An individual who is eligible for the Medicaid program as a disabled person.

(c) The eligibility requirements specified in subsection (a) are subject to approval for federal financial participation by the United States Department of Health and Human Services.

Sec. 10. (a) An individual who participates in the plan must have a health care account to which payments may be made for the individual's participation in the plan only by the following:

(1) The individual.

(2) An employer.

(3) The state.

(b) The minimum funding amount for a health care account is the amount required under section 11 of this chapter.

(c) An individual's health care account must be used to pay the individual's deductible for health care services under the plan.

(d) An individual may make payments to the individual's health care account as follows:

(1) An employer withholding or causing to be withheld from an employee's wages or salary, after taxes are deducted from the wages or salary, the individual's contribution under this chapter and distributed equally throughout the calendar year.

(2) Submission of the individual's contribution under this chapter to the office to deposit in the individual's health care account in a manner prescribed by the office.

(3) Another method determined by the office.

(e) An employer may make, from funds not payable by the employer to the employee, not more than fifty percent (50%) of an individual's required payment to the individual's health care account.

Sec. 11. (a) An individual's participation in the plan does not begin until an initial payment is made for the individual's participation in the plan. A required payment to the plan for the individual's participation may not exceed one-twelfth (1/12) of the annual payment required under subsection (b).

(b) To participate in the plan, an individual shall do the following:

(1) Apply for the plan on a form prescribed by the office. The office may develop and allow a joint application for a household.

(2) If the individual is approved by the office to participate in the plan, contribute to the individual's health care account the lesser of the following:

(A) One thousand one hundred dollars ($1,100) per year, less any amounts paid by the individual under the:

(i) Medicaid program under IC 12-15;

(ii) children's health insurance program under IC 12-17.6; and

(iii) Medicare program (42 U.S.C. 1395 et seq.);

as determined by the office.

(B) Not more than the following applicable percentage of the individual's annual household income per year, less any amounts paid by the individual under the Medicaid program under IC 12-15, the children's health insurance program under IC 12-17.6, and the Medicare program (42 U.S.C. 1395 et seq.) as determined by the office:

(i) two percent (2%) of the individual's annual household income per year if the individual has an annual household income of not more than one hundred percent (100%);

(ii) three percent (3%) of the individual's annual household income per year if the individual has an annual household income of more than one hundred percent (100%) and not more than one hundred twenty-five percent (125%);

(iii) four percent (4%) of the individual's annual household income per year if the individual has an annual household income of more than one hundred twenty-five percent (125%) and not more than one hundred fifty percent (150%); or

(iv) five percent (5%) of the individual's annual

household income per year if the individual has an annual household income of more than one hundred fifty percent (150%) and not more than two hundred percent (200%);

of the federal income poverty level.

(c) The state shall contribute the difference to the individual's account if the individual's payment required under subsection (b)(2) is less than one thousand one hundred dollars ($1,100).

(d) If an individual's required payment to the plan is not made within sixty (60) days after the required payment date, the individual may be terminated from participation in the plan. The individual must receive written notice before the individual is terminated from the plan.

(e) After termination from the plan under subsection (d), the individual may not reapply to participate in the plan for twelve (12) months.

Sec. 12. (a) An individual who is approved to participate in the plan is eligible for a twelve (12) month plan period. An individual who participates in the plan may not be refused renewal of participation in the plan for the sole reason that the plan has reached the plan's maximum enrollment.

(b) If the individual chooses to renew participation in the plan, the individual shall complete a renewal application and any necessary documentation, and submit to the office the documentation and application on a form prescribed by the office.

(c) If the individual chooses not to renew participation in the plan, the individual may not reapply to participate in the plan for at least twelve (12) months.

(d) Any funds remaining in the health care account of an individual who renews participation in the plan at the end of the individual's twelve (12) month plan period must be used to reduce the individual's payments for the subsequent plan period. However, if the individual did not, during the plan period, receive all qualified preventative services recommended as provided in section 5 of this chapter, the state's contribution to the health care account may not be used to reduce the individual's payments for the subsequent plan period.

(e) If an individual is no longer eligible for the plan, does not renew participation in the plan at the end of the plan period, or is terminated from the plan for nonpayment of a required payment, the office shall, not more than sixty (60) days after the last date of participation in the plan, refund to the individual the amount determined under subsection (f) of any funds remaining in the individual's health care account as follows:

(1) An individual who is no longer eligible for the plan or does not renew participation in the plan at the end of the plan period shall receive the amount determined under STEP FOUR of subsection (f).

(2) An individual who is terminated from the plan due to nonpayment of a required payment shall receive the amount determined under STEP FIVE of subsection (f).

(f) The office shall determine the amount payable to an individual described in subsection (e) as follows:

STEP ONE: Determine the total amount paid into the individual's health care account under section 10(d) of this chapter.

STEP TWO: Determine the total amount paid into the individual's health care account from all sources.

STEP THREE: Divide STEP ONE by STEP TWO.

STEP FOUR: Multiply the ratio determined in STEP THREE by the total amount remaining in the individual's health care account.

STEP FIVE: Multiply the amount determined under STEP FOUR by seventy-five hundredths (0.75).

Sec. 13. Subject to appeal to the office, an individual may be held responsible under the plan for receiving nonemergency services in an emergency room setting, including prohibiting the individual from using funds in the individual's health care account to pay for the nonemergency services. However, an individual may not be prohibited from using funds in the individual's health care account to pay for nonemergency services provided in an emergency room setting for a medical condition that arises suddenly and unexpectedly and manifests itself by acute symptoms of such severity, including severe pain, that the absence of immediate medical attention could reasonably be expected by a prudent lay person who possesses an average knowledge of health and medicine to:

(1) place an individual's health in serious jeopardy;

(2) result in serious impairment to the individual's bodily functions; or

(3) result in serious dysfunction of a bodily organ or part of the individual.

Sec. 14. (a) An insurer or health maintenance organization that contracts with the office to provide health insurance coverage, dental coverage, or vision coverage to an individual that participates in the plan:

(1) is responsible for the claim processing for the coverage;

(2) shall reimburse providers at a reimbursement rate of:

(A) not less than the federal Medicare reimbursement rate for the service provided; or

(B) at a rate of one hundred thirty percent (130%) of the Medicaid reimbursement rate for a service that does not have a Medicare reimbursement rate; and

(3) may not deny coverage to an eligible individual who has been approved by the office to participate in the plan, unless the individual has met the coverage limitations described in section 6 of this chapter.

(b) An insurer or a health maintenance organization that contracts with the office to provide health insurance coverage under the plan must incorporate cultural competency standards established by the office. The standards must include standards for non-English speaking, minority, and disabled populations.

Sec. 15. (a) An insurer or a health maintenance organization that contracts with the office to provide health insurance coverage under the plan or an affiliate of an insurer or a health maintenance organization that contracts with the office to provide health insurance coverage under the plan shall offer to provide the same health insurance coverage to an individual who:

(1) has not had health insurance coverage during the previous six (6) months; and

(2) meets the eligibility requirements specified in section 9 of this chapter for participation in the plan but is not enrolled because the plan has reached maximum enrollment.

(b) The insurance underwriting and rating practices applied to health insurance coverage offered under subsection (a) must not be different from underwriting and rating practices used for the health insurance coverage provided under the plan.

(c) The state does not provide funding for health insurance coverage received under this section.

Sec. 16. (a) An insurer or a health maintenance organization that contracts with the office to provide health insurance coverage under the plan or an affiliate of an insurer or a health maintenance organization that contracts with the office to provide health insurance coverage under the plan shall offer to provide the same health insurance coverage to an individual who:

(1) has not had health insurance coverage during the previous six (6) months; and

(2) does not meet the eligibility requirements specified

in section 9 of this chapter for participation in the plan.

(b) An insurer, a health maintenance organization, or an affiliate described in subsection (a) may apply to health insurance coverage offered under subsection (a) the insurer's, health maintenance organization's, or affiliate's standard individual or small group insurance underwriting and rating practices.

(c) The state does not provide funding for health insurance coverage received under this section.

Sec. 17. (a) The Indiana check-up plan trust fund is established for the following purposes:

(1) Administering a plan created by the general assembly to provide health insurance coverage for low income residents of the state under this chapter.

(2) Providing copayments, preventative care services, and premiums for individuals enrolled in the plan.

(3) Funding tobacco use prevention and cessation programs, childhood immunization programs, and other health care initiatives designed to promote the general health and well being of Indiana residents.

The fund is separate from the state general fund.

(b) The fund shall be administered by the office of the secretary of family and social services.

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

(d) The fund shall consist of the following:

(1) Cigarette tax revenues designated by the general assembly to be part of the fund.

(2) Other funds designated by the general assembly to be part of the fund.

(3) Federal funds available for the purposes of the fund.

(4) Gifts or donations to the fund.

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

(f) Money must be appropriated before funds are available for use.

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

(h) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

Sec. 18. (a) The office may not:

(1) enroll applicants;

(2) approve any contracts with vendors to provide services or administer the plan;

(3) incur costs other than costs necessary to study and plan for the implementation of the plan; or

(4) create financial obligations for the state;

unless both of the conditions of subsection (b) are satisfied.

(b) The office may not take any action described in subsection (a) unless:

(1) there is a specific appropriation from the general assembly to implement the plan; and

(2) after review by the budget committee, the budget agency approves an actuarial analysis that reflects a determination that sufficient funding is reasonably estimated to be available to operate the plan for at least the following five (5) years.

The actuarial analysis approved under subdivision (2) must clearly indicate the cost and revenue assumptions used in reaching the determination.

(c) The office may not operate the plan in a manner that would obligate the state to financial participation beyond the level of state appropriations authorized for the plan.

Sec. 19. (a) The office may adopt rules under IC 4-22-2 necessary to implement this chapter.

(b) The office may adopt emergency rules under IC 4-22-2-37.1 to implement the plan on an emergency basis.

(c) Notwithstanding IC 12-8-1-9 and IC 12-8-3, rules adopted under this section before January 1, 2009, are not subject to review or approval by the family and social services committee established by IC 12-8-3-2. This subsection expires December 31, 2009.

Sec. 20. (a) The office may establish a health insurance coverage premium assistance program for individuals who:

(1) have an annual household income of not more than two hundred percent (200%) of the federal income poverty level; and

(2) are eligible for health insurance coverage through an employer but can not afford the health insurance coverage premiums.

(b) A program established under this section must:

(1) contain eligibility requirements that are similar to the eligibility requirements of the plan;

(2) include a health care account as a component; and

(3) provide that an individual's payment:

(A) to a health care account; or

(B) for a health insurance coverage premium;

may not exceed five percent (5%) of the individual's annual income.

Sec. 21. A denial of federal approval and federal financial participation that applies to any part of this chapter does not prohibit the office from implementing any other part of this chapter that:

(1) is federally approved for federal financial participation; or

(2) does not require federal approval or federal financial participation.

SECTION 23. IC 12-16-3.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. A ~~hospital shall~~ **provider may** provide a patient, and if the patient is not able to understand the statement, the patient's representative, with a statement of the eligibility and benefit standards adopted by the division if at least one (1) of the following occurs:

(1) The ~~hospital~~ **provider** has reason to believe that the patient may be indigent.

(2) The patient requests a statement of the standards.

SECTION 24. IC 12-16-4.5-1, AS AMENDED BY P.L.145-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) To receive assistance under the hospital care for the indigent 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 25. IC 12-16-4.5-2, AS AMENDED BY P.L.145-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. A ~~hospital, physician, or transportation~~ provider must file the application with the division not more than forty-five (45) days after the person has been released or discharged from the hospital, unless

the person is medically unable and the next of kin or legal representative is unavailable.

SECTION 26. IC 12-16-4.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) A patient must sign an application if the patient is medically able to sign.

(b) If a patient is medically unable to sign an application, the patient's next of kin or a legal representative, if available, may sign the application.

(c) If no person under subsections (a) and (b) is able to sign the application to file a timely application, a ~~hospital~~ **provider's** representative may sign the application instead of the patient.

SECTION 27. IC 12-16-4.5-8.5, AS ADDED BY P.L.145-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: 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 28. IC 12-16-5.5-1, AS AMENDED BY P.L.145-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: 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,~~ **provider,** 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~~ **provider** regarding the person:

(1) Income.
(2) Resources.
(3) Place of residence.
(4) Medical condition.
~~(5) Hospital care.~~
~~(6)~~ **(5)** Physician care.
~~(7)~~ **(6)** Transportation to and from the hospital.

The division may rely on the ~~hospital's~~ **provider'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 29. IC 12-16-5.5-1.2, AS ADDED BY P.L.145-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: 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,~~ **an eligible provider;** 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 30. IC 12-16-5.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The ~~hospital providing~~ **provider of** medical care to a patient shall provide information the ~~hospital~~ **provider** has that would assist in the verification of indigency of a patient.

(b) A ~~hospital~~ **provider** that provides information under subsection (a) is immune from civil and criminal liability for divulging the information.

SECTION 31. IC 12-16-5.5-3, AS AMENDED BY P.L.145-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: 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;
(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 32. IC 12-16-5.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. The division shall notify in writing the person and the ~~hospital~~ **provider** of the following:

(1) A decision concerning eligibility.
(2) The reasons for a denial of eligibility.
(3) That either party has the right to appeal the decision.

SECTION 33. IC 12-16-6.5-1, AS AMENDED BY P.L.145-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. If the division determines that a person is not eligible for 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 to the last known address of the person ~~physician, hospital,~~ or ~~transportation~~ provider.

SECTION 34. IC 12-16-6.5-1.2, AS ADDED BY P.L.145-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: 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~~ **or** 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 35. IC 12-16-6.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. A notice of the hearing shall be served upon all persons interested in the matter, including any affected ~~physician, hospital, or transportation~~ provider, at least twenty (20) days before the time fixed for the hearing.

SECTION 36. IC 12-16-7.5-1.2, AS ADDED BY P.L.145-2005, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: 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~~ **Hospitals** 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. **Hospitals shall not file claims for payments under IC 12-15-15-9 and IC 12-15-15-9.5 for payments attributable to state fiscal years beginning after June 30, 2007.**

(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 37. IC 12-16-7.5-2.5, AS AMENDED BY P.L.1-2006, SECTION 189, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: 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, "payable claim" refers to the following:

(1) Subject to subdivision (2), 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.

This subdivision applies for the state fiscal year ending June 30, 2004.

(2) For state fiscal years ending after June 30, 2004, **and before July 1, 2007,** 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).

(3) For state fiscal years beginning after June 30, 2007, a claim for payment for physician 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) be necessary 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 outcomes described 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 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 outcomes 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.

(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 claim to the division is considered to have submitted the claim during the state fiscal

year during which the 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.

(e) The division shall determine the amount of a claim under IC 12-16-5.5-1.2(b).

SECTION 38. IC 12-16-7.5-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4.5. (a) Not later than October 31 following the end of each state fiscal year, the division shall:

(1) calculate for each county the total amount of payable claims submitted to the division during the state fiscal year attributed to:

(A) patients who were residents of the county; and

(B) patients:

(i) who were not residents of Indiana;

(ii) whose state of residence could not be determined by the division; and

(iii) who were residents of Indiana but whose county of residence in Indiana could not be determined by the division;

and whose medical condition that necessitated the care or service occurred in the county;

(2) notify each county of the amount of payable claims attributed to the county under the calculation made under subdivision (1); and

(3) with respect to payable claims attributed to a county under subdivision (1):

(A) calculate the total amount of payable claims submitted during the state fiscal year for:

(i) each hospital;

(ii) each physician; and

(iii) each transportation provider; and

(B) determine the amount of each payable claim for each hospital, physician, and transportation provider listed in clause (A).

(b) **For the state fiscal years beginning after June 30, 2005, but before July 1, 2007, and** before November 1 following the end of a state fiscal year, the division shall allocate the funds transferred from a county's hospital care for the indigent fund to the state hospital care for the indigent fund under IC 12-16-14 during or for the **following** state fiscal ~~year.~~ **years:**

(1) For the state fiscal year ending June 30, 2006, as required under the following STEPS:

STEP ONE: Determine the total amount of funds transferred from all counties' hospital care for the indigent funds by the counties to the state hospital care for the indigent fund under IC 12-16-14 during or for the state fiscal year.

STEP TWO: Of the total amount of payable claims submitted to the division during the state fiscal year from all counties under subsection (a), determine the amount that is the lesser of:

(A) the amount of total physician payable claims and total transportation provider payable claims; or

(B) three million dollars ($3,000,000).

The amount determined under this STEP shall be used by the division to make payments under section 5 of this chapter.

STEP THREE: Transfer an amount equal to the sum of:

(A) the non-federal share of the payments made under clause (A) of STEP FIVE of IC 12-15-15-1.5(b);

(B) the amount transferred under IC 12-15-20-2(8)(F); and

(C) the non-federal share of the payments made under IC 12-15-15-9 and IC 12-15-15-9.5;

to the Medicaid indigent care trust fund for funding the transfer to the office and the non-federal share of the payments identified in this STEP.

STEP FOUR: Transfer an amount equal to sixty-one million dollars ($61,000,000) less the sum of:

(A) the amount determined in STEP TWO; and

(B) the amount transferred under STEP THREE;

to the Medicaid indigent care trust fund for funding the non-federal share of payments under clause (B) of STEP FIVE of IC 12-15-15-1.5(b).

STEP FIVE: Transfer to the Medicaid indigent care trust fund for the programs referenced at IC 12-15-20-2(8)(D)(vi) and funded in accordance with IC 12-15-20-2(8)(H) the amount determined under STEP ONE, less the sum of the amount:

(A) determined in STEP TWO;

(B) transferred in STEP THREE; and

(C) transferred in STEP FOUR.

(2) For the state fiscal year ending June 30, 2007, as required under the following steps:

STEP ONE: Determine the total amount of funds transferred from all counties' hospital care for the indigent funds by the counties to the state hospital care for the indigent fund under IC 12-16-14 during or for the state fiscal year.

STEP TWO: Of the total amount of payable claims submitted to the division during the state fiscal year from all counties under subsection (a), determine the amount that is the lesser of:

(A) the amount of total physician payable claims and total transportation provider payable claims; or

(B) three million dollars ($3,000,000).

The amount determined under this STEP shall be used by the division for making payments under section 5 of this chapter or for the non-federal share of Medicaid payments for physicians and transportation providers, as determined by the office.

STEP THREE: Transfer an amount equal to the sum of:

(A) the non-federal share of five million dollars ($5,000,000) for the payment made under clause (A) of STEP FIVE of IC 12-15-15-1.5(b);

(B) the amount transferred under IC 12-15-20-2(8)(F); and

(C) the non-federal share of the payments made under IC 12-15-15-9 and IC 12-15-15-9.5;

to the Medicaid indigent care trust fund for funding the transfer to the office and the non-federal share of the payments identified in this STEP.

STEP FOUR: Transfer an amount equal to the amount determined under STEP ONE less the sum of:

(A) the amount determined in STEP TWO; and

(B) the amount transferred under STEP THREE;

to the Medicaid indigent care trust fund for funding the non-federal share of payments under clause (B) of STEP FIVE of IC 12-15-15-1.5(b).

(c) For the state fiscal years beginning after June 30, 2007, before November 1 following the end of the state fiscal year, the division shall allocate the funds transferred from a county's hospital care for the indigent fund to the state hospital care for the indigent fund under IC 12-16-14 during or for the state fiscal year as required under the following STEPS:

STEP ONE: Determine the total amount of funds transferred from a county's hospital care for the indigent fund by the county to the state hospital care for the indigent fund under IC 12-16-14 during or for the state fiscal year.

STEP TWO: Of the total amount of payable claims

submitted to the division during the state fiscal year attributed to the county under subsection (a), determine the amount of total ~~hospital payable claims, total~~ physician payable claims, and total transportation provider payable claims. Of the amounts determined for physicians and transportation providers, calculate the sum of those amounts as a percentage of an amount equal to the sum of the total payable physician claims and total payable transportation provider claims attributed to all the counties submitted to the division during the state fiscal year.

STEP THREE: Multiply three million dollars ($3,000,000) by the percentage calculated under STEP TWO.

STEP FOUR: Transfer to the Medicaid indigent care trust fund for purposes of ~~IC 12-15-20-2(8)(D)~~ **IC 12-15-20-2(8)(G)** an amount equal to the amount calculated under STEP ONE, minus an amount equal to the amount calculated under STEP THREE.

STEP FIVE: The division shall retain an amount equal to the amount remaining in the state hospital care for the indigent fund after the transfer in STEP FOUR for purposes of making payments under section 5 of this chapter **or for the non-federal share of Medicaid payments for physicians and transportation providers, as determined by the office.**

~~(c)~~ **(d)** The costs of administering the hospital care for the indigent program, including the processing of claims, shall be paid from the funds transferred to the state hospital care for the indigent fund.

SECTION 39. IC 12-16-7.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. Before December 15 following the end of each state fiscal year, the division shall, from the amounts combined from the counties' hospital care for the indigent funds and retained under section 4.5(b) ~~STEP FIVE~~ **or 4.5(c)** of this chapter, pay each physician and transportation provider a pro rata part of that amount. The total payments available under this section may not exceed three million dollars ($3,000,000).

SECTION 40. IC 12-16-14-3, AS AMENDED BY P.L.246-2005, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) ~~For purposes of this section, "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b)(1).~~

~~(b)~~ For taxes first due and payable in 2003, each county shall impose a hospital care for the indigent property tax levy equal to the product of:

(1) the county's hospital care for the indigent property tax levy for taxes first due and payable in 2002; multiplied by

(2) the county's assessed value growth quotient determined under IC 6-1.1-18.5-2 for taxes first due and payable in 2003.

~~(c)~~ **(b)** For taxes first due and payable in 2004, ~~2005, 2006, 2007, and 2008,~~ **and each year after 2004,** each county shall impose a hospital care for the indigent property tax levy equal to the ~~product of:~~ **hospital care for the indigent program property tax levy for taxes first due and payable in the preceding calendar year, multiplied by the statewide average assessed value growth quotients determined under IC 6-1.1-18.5-2, for the year in which the tax levy under this subsection is first due and payable.**

~~(1) the county's hospital care for the indigent property tax levy for taxes first due and payable in the preceding year, multiplied by~~

~~(2) the assessed value growth quotient determined in the last STEP of the following STEPS:~~

~~STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.~~

~~STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth) of the county's total assessed value of all taxable property in the particular calendar year, divided by the county's total assessed value of all taxable property in the calendar year immediately preceding the particular calendar year.~~

~~STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).~~

~~(d) Except as provided in subsection (e):~~

~~(1) for taxes first due and payable in 2009, each county shall impose a hospital care for the indigent property tax levy equal to the average of the annual amount of payable claims attributed to the county under IC 12-16-7.5-4.5 during the state fiscal years beginning:~~

~~(A) July 1, 2005,~~

~~(B) July 1, 2006, and~~

~~(C) July 1, 2007, and~~

~~(2) for all subsequent annual levies under this section, the average annual amount of payable claims attributed to the county under IC 12-16-7.5-4.5 during the three (3) most recently completed state fiscal years.~~

~~(e) A county may not impose an annual levy under subsection (d) in an amount greater than the product of:~~

~~(1) The greater of:~~

~~(A) the county's hospital care for the indigent property tax levy for taxes first due and payable in 2008, or~~

~~(B) the amount of the county's maximum hospital care for the indigent property tax levy determined under this subsection for taxes first due and payable in the immediately preceding year, multiplied by~~

~~(2) the assessed value growth quotient determined in the last STEP of the following STEPS:~~

~~STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.~~

~~STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth) of the county's total assessed value of all taxable property in the particular calendar year, divided by the county's total assessed value of all taxable property in the calendar year immediately preceding the particular calendar year.~~

~~STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).~~

SECTION 41. IC 12-17.6-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) To be eligible to enroll in the program, a child must meet the following requirements:

(1) The child is less than nineteen (19) years of age.

(2) The child is a member of a family with an annual income of:

(A) more than one hundred fifty percent (150%); and

(B) not more than ~~two~~ **three** hundred percent ~~(200%);~~ **(300%);**

of the federal income poverty level.

(3) The child is a resident of Indiana.

(4) The child meets all eligibility requirements under Title XXI of the federal Social Security Act.

(5) The child's family agrees to pay any cost sharing amounts required by the office.

(b) The office may adjust eligibility requirements based on available program resources under rules adopted under IC 4-22-2.

SECTION 42. IC 12-17.6-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Subject to ~~subsection~~ **subsections** (b) **and (c),** a child who is eligible for the program shall receive services from the program until the earlier of the following:

(1) The child becomes financially ineligible.
(2) The child becomes nineteen (19) years of age.

(b) Subsection (a) applies only if the child and the child's family comply with enrollment requirements.

(c) After a child who is less than three (3) years of age is determined to be eligible for the program, the child is not required to submit eligibility information more frequently than once in a twelve (12) month period until the child becomes three (3) years of age.

SECTION 43. IC 16-18-2-331.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 331.8. "Small employer", for purposes of IC 16-46-13 has the meaning set forth in IC 16-3.1-31.2-3.**

SECTION 44. IC 16-46-13 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 13. Small Employer Wellness Programs

Sec. 1. (a) The state department shall adopt rules under IC 4-22-2 to establish:

(1) minimum standards for use by a small employer in establishing a wellness program to improve the health of employees of the small employer; and

(2) criteria and a process for certification of a small employer's wellness program that meets the minimum standards established under subdivision (1) as a qualified wellness program for purposes of IC 6-3.1-31.2.

(b) The minimum standards established under subsection (a) must include a requirement that a wellness program provide rewards for employee:

(1) appropriate weight loss;

(2) smoking cessation; and

(3) pursuit of preventative health care services.

Sec. 2. (a) A small employer may submit to the state department for certification a wellness program developed by the small employer.

(b) The state department shall review and, based on the criteria established under section 1 of this chapter, make a determination of whether to certify a wellness program submitted under subsection (a) as a qualified wellness program.

(c) If a wellness program is certified by the state department, the state department shall provide to the small employer a certificate reflecting that the wellness program is a qualified wellness program for purposes of IC 6-3.1-31.2.

SECTION 45. IC 27-8-5-2, AS AMENDED BY SEA 94-2007, SECTION 194, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) No individual policy of accident and sickness insurance shall be delivered or issued for delivery to any person in this state unless it complies with each of the following:

(1) The entire money and other considerations for the policy are expressed in the policy.

(2) The time at which the insurance takes effect and terminates is expressed in the policy.

(3) The policy purports to insure only one (1) person, except that a policy ~~may~~ **must** insure, originally or by subsequent amendment, upon the application of any member of a family who shall be deemed the policyholder and who is at least eighteen (18) years of age, any two (2) or more eligible members of that family, including husband, wife, dependent children, or any children ~~under a specified age, which shall not exceed nineteen (19)~~ **who are less than twenty-four (24)** years **of age,** and any other person dependent upon the policyholder.

(4) The style, arrangement, and overall appearance of the policy give no undue prominence to any portion of the text, and unless every printed portion of the text of the policy and of any endorsements or attached papers is plainly printed in lightface type of a style in general use, the size of which shall be uniform and not less than ten point with a lower-case unspaced alphabet length not less than one hundred and twenty point (the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description if any, and captions and subcaptions).

(5) The exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in section 3 of this chapter, are printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as "EXCEPTIONS", or "EXCEPTIONS AND REDUCTIONS", provided that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies.

(6) Each such form of the policy, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page of the policy.

(7) The policy contains no provision purporting to make any portion of the charter, rules, constitution, or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of or reference to a statement of rates or classification of risks, or short-rate table filed with the commissioner.

(8) If an individual accident and sickness insurance policy or hospital service plan contract or medical service plan contract provides that hospital or medical expense coverage of a dependent child terminates upon attainment of the limiting age for dependent children specified in such policy or contract, the policy or contract must also provide that attainment of such limiting age does not operate to terminate the hospital and medical coverage of such child while the child is and continues to be both:

(A) incapable of self-sustaining employment by reason of mental retardation or mental or physical disability; and

(B) chiefly dependent upon the policyholder for support and maintenance.

Proof of such incapacity and dependency must be furnished to the insurer by the policyholder within thirty-one (31) days of the child's attainment of the limiting age. The insurer may require at reasonable intervals during the two (2) years following the child's attainment of the limiting age subsequent proof of the child's disability and dependency. After such two (2) year period, the insurer may require subsequent proof not more than once each year. The foregoing provision shall not require an insurer to insure a dependent who is a child who has mental retardation or a mental or physical disability where such dependent does not satisfy the conditions of the policy provisions as may be stated in the policy or contract required for coverage thereunder to take effect. In any such case the terms of the policy or contract shall apply with regard to the coverage or exclusion from coverage of such dependent. This subsection applies only to policies or contracts delivered or issued for delivery in this state more than one hundred twenty (120) days after August 18, 1969.

(b) If any policy is issued by an insurer domiciled in this state for delivery to a person residing in another state, and if the official having responsibility for the administration of the insurance laws of such other state shall have advised the commissioner that any such policy is not subject to approval or disapproval by such official, the commissioner may by ruling require that such policy meet the standards set forth in subsection (a) and in section 3 of this chapter.

(c) An insurer may issue a policy described in this section in

electronic or paper form. However, the insurer shall:

(1) inform the insured that the insured may request the policy in paper form; and

(2) issue the policy in paper form upon the request of the insured.

SECTION 46. IC 27-8-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. Except as provided in sections 17 and 24 of this chapter, no policy of group accident and sickness insurance may be delivered or issued for delivery to a group that has a legal situs in Indiana unless it conforms to one (1) of the following descriptions:

(1) A policy issued to an employer or to the trustees of a fund established by an employer (which employer or trustees must be deemed the policyholder) to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

(A) The employees eligible for insurance under the policy must be all of the employees of the employer, or all of any class or classes of employees. The policy may provide that the term "employees" includes the employees of one (1) or more subsidiary corporations and the employees, individual proprietors, members, and partners of one (1) or more affiliated corporations, proprietorships, limited liability companies, or partnerships if the business of the employer and of the affiliated corporations, proprietorships, limited liability companies, or partnerships is under common control. The policy may provide that the term "employees" includes retired employees, former employees, and directors of a corporate employer. A policy issued to insure the employees of a public body may provide that the term "employees" includes elected or appointed officials.

(B) The premium for the policy must be paid either from the employer's funds, from funds contributed by the insured employees, or from both sources of funds. Except as provided in clause (C), a policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, except those who reject the coverage in writing.

(C) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

(2) A policy issued to a creditor or its parent holding company or to a trustee or trustees or agent designated by two (2) or more creditors (which creditor, holding company, affiliate, trustee, trustees, or agent must be deemed the policyholder) to insure debtors of the creditor, or creditors, subject to the following requirements:

(A) The debtors eligible for insurance under the policy must be all of the debtors of the creditor or creditors, or all of any class or classes of debtors. The policy may provide that the term "debtors" includes:

(i) borrowers of money or purchasers or lessees of goods, services, or property for which payment is arranged through a credit transaction;

(ii) the debtors of one (1) or more subsidiary corporations; and

(iii) the debtors of one (1) or more affiliated corporations, proprietorships, limited liability companies, or partnerships if the business of the policyholder and of the affiliated corporations, proprietorships, limited liability companies, or partnerships is under common control.

(B) The premium for the policy must be paid either from the creditor's funds, from charges collected from the insured debtors, or from both sources of funds. Except as provided in clause (C), a policy on which no part of the premium is to be derived from the funds contributed by insured debtors specifically for their insurance must insure all eligible debtors.

(C) An insurer may exclude any debtors as to whom evidence of individual insurability is not satisfactory to the insurer.

(D) The amount of the insurance payable with respect to any indebtedness may not exceed the greater of the scheduled or actual amount of unpaid indebtedness to the creditor. The insurer may exclude any payments that are delinquent on the date the debtor becomes disabled as defined in the policy.

(E) The insurance may be payable to the creditor or any successor to the right, title, and interest of the creditor. Each payment under this clause must reduce or extinguish the unpaid indebtedness of the debtor to the extent of the payment, and any excess of the insurance must be payable to the insured or the estate of the insured.

(F) Notwithstanding clauses (A) through (E), insurance on agricultural credit transaction commitments may be written up to the amount of the loan commitment on a nondecreasing or level term plan, and insurance on educational credit transaction commitments may be written up to the amount of the loan commitment less the amount of any repayments made on the loan.

(3) A policy issued to a labor union or similar employee organization (which must be deemed to be the policyholder) to insure members of the union or organization for the benefit of persons other than the union or organization or any of its officials, representatives, or agents, subject to the following requirements:

(A) The members eligible for insurance under the policy must be all of the members of the union or organization, or all of any class or classes of members.

(B) The premium for the policy must be paid either from funds of the union or organization, from funds contributed by the insured members specifically for their insurance, or from both sources of funds. Except as provided in clause (C), a policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, except those who reject the coverage in writing.

(C) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

(4) A policy issued to a trust or to one (1) or more trustees of a fund established or adopted by two (2) or more employers, or by one (1) or more labor unions or similar employee organizations, or by one (1) or more employers and one (1) or more labor unions or similar employee organizations (which trust or trustees must be deemed the policyholder) to insure employees of the employers or members of the unions or organizations for the benefit of persons other than the employers or the unions or organizations, subject to the following requirements:

(A) The persons eligible for insurance must be all of the employees of the employers or all of the members of the unions or organizations, or all of any class or classes of employees or members. The policy may provide that the term "employees" includes the employees of one (1) or more subsidiary corporations and the employees, individual proprietors, and partners of one (1) or more affiliated corporations, proprietorships, limited liability companies, or partnerships if the business of the employer and of the affiliated corporations, proprietorships, limited liability companies, or partnerships is under common control. The policy may

provide that the term "employees" includes retired employees, former employees, and directors of a corporate employer. The policy may provide that the term "employees" includes the trustees or their employees, or both, if their duties are principally connected with the trusteeship.

(B) The premium for the policy must be paid from funds contributed by the employer or employers of the insured persons, by the union or unions or similar employee organizations, or by both, or from funds contributed by the insured persons or from both the insured persons and one (1) or more employers, unions, or similar employee organizations. Except as provided in clause (C), a policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons, except those who reject the coverage in writing.

(C) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

(5) A policy issued to an association or to a trust or to one (1) or more trustees of a fund established, created, or maintained for the benefit of members of one (1) or more associations. The association or associations must have at the outset a minimum of one hundred (100) persons, must have been organized and maintained in good faith for purposes other than that of obtaining insurance, must have been in active existence for at least one (1) year, and must have a constitution and bylaws that provide that the association or associations hold regular meetings not less than annually to further purposes of the members, that, except for credit unions, the association or associations collect dues or solicit contributions from members, and that the members have voting privileges and representation on the governing board and committees. The policy must be subject to the following requirements:

(A) The policy may insure members or employees of the association or associations, employees of members, one (1) or more of the preceding, or all of any class or classes of members, employees, or employees of members for the benefit of persons other than the employee's employer.

(B) The premium for the policy must be paid from funds contributed by the association or associations, by employer members, or by both, from funds contributed by the covered persons, or from both the covered persons and the association, associations, or employer members.

(C) Except as provided in clause (D), a policy on which no part of the premium is to be derived from funds contributed by the covered persons specifically for the insurance must insure all eligible persons, except those who reject such coverage in writing.

(D) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

(6) A policy issued to a credit union, or to one (1) or more trustees or an agent designated by two (2) or more credit unions (which credit union, trustee, trustees, or agent must be deemed the policyholder) to insure members of the credit union or credit unions for the benefit of persons other than the credit union or credit unions, trustee, trustees, or agent, or any of their officials, subject to the following requirements:

(A) The members eligible for insurance must be all of the members of the credit union or credit unions, or all of any class or classes of members.

(B) The premium for the policy shall be paid by the policyholder from the credit union's funds and, except as provided in clause (C), must insure all eligible members.

(C) An insurer may exclude or limit the coverage on any member as to whom evidence of individual insurability is not satisfactory to the insurer.

(7) A policy issued to cover persons in a group specifically described by another law of Indiana as a group that may be covered for group life insurance. The provisions of the group life insurance law relating to eligibility and evidence of insurability apply to a group health policy to which this subdivision applies.

(8) A policy issued to a trustee or agent designated by two (2) or more small employers (as defined in IC 27-8-15-14) as determined by the commissioner under rules adopted under IC 4-22-2.

SECTION 47. IC 27-8-5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. (a) A group accident and sickness insurance policy shall not be delivered or issued for delivery in Indiana to a group that is not described in section 16(1)(A), 16(2)(A), 16(3)(A), 16(4)(A), 16(5)(A), 16(6)(A), ~~or~~ 16(7), **or 16(8)** of this chapter unless the commissioner finds that:

(1) the issuance of the policy is not contrary to the best interest of the public;

(2) the issuance of the policy would result in economies of acquisition or administration; and

(3) the benefits of the policy are reasonable in relation to the premiums charged.

(b) Except as otherwise provided in this chapter, an insurer may exclude or limit the coverage under a policy described in subsection (a) on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

SECTION 48. IC 27-8-5-28 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 28. A policy of accident and sickness insurance may not be issued, delivered, amended, or renewed unless the policy provides for coverage of a child of the policyholder or certificate holder, upon request of the policyholder or certificate holder, until the date that the child becomes twenty-four (24) years of age.**

SECTION 49. IC 27-8-10.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 10.1. High Risk Indiana Check-Up Plan Participants

Sec. 1. As used in this chapter, "association" means the Indiana comprehensive health insurance association established by IC 27-8-10-2.1.

Sec. 2. As used in this chapter, "participant" means an individual entitled to coverage under the plan.

Sec. 3. As used in this chapter, "plan" refers to the Indiana check-up plan established by IC 12-15-44-3.

Sec. 4. (a) The association shall administer the plan for participants who are referred to the association by the office of the secretary of family and social services.

(b) Coverage under the plan is separate from the coverage provided under IC 27-8-10.

(c) The following apply to the administration of the plan under this chapter:

(1) Only participants referred by the office of the secretary of family and social services are eligible for plan coverage administered under this chapter.

(2) Plan coverage administered under this chapter must provide medical management services.

(d) A participant who is referred to the association under subsection (a) shall participate in medical management services provided under this chapter.

SECTION 50. IC 27-13-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) A contract referred to in section 1 of this chapter must clearly state the following:

(1) The name and address of the health maintenance organization.
(2) Eligibility requirements.
(3) Benefits and services within the service area.
(4) Emergency care benefits and services.
(5) Any out-of-area benefits and services.
(6) Copayments, deductibles, and other out-of-pocket costs.
(7) Limitations and exclusions.
(8) Enrollee termination provisions.
(9) Any enrollee reinstatement provisions.
(10) Claims procedures.
(11) Enrollee grievance procedures.
(12) Continuation of coverage provisions.
(13) Conversion provisions.
(14) Extension of benefit provisions.
(15) Coordination of benefit provisions.
(16) Any subrogation provisions.
(17) A description of the service area.
(18) The entire contract provisions.
(19) The term of the coverage provided by the contract.
(20) Any right of cancellation of the group or individual contract holder.
(21) Right of renewal provisions.
(22) Provisions regarding reinstatement of a group or an individual contract holder.
(23) Grace period provisions.
(24) A provision on conformity with state law.
(25) A provision or provisions that comply with the:
(A) guaranteed renewability; and
(B) group portability;
requirements of the federal Health Insurance Portability and Accountability Act of 1996 (26 U.S.C. 9801(c)(1)).
(26) That the contract provides, upon request of the subscriber, coverage for a child of the subscriber until the date the child becomes twenty-four (24) years of age.

(b) For purposes of subsection (a), an evidence of coverage which is filed with a contract may be considered part of the contract.

SECTION 51. IC 34-30-2-45.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 45.7. IC 12-16-5.5-2 (Concerning ~~hospitals~~ **providers** for providing information verifying indigency of patient).

SECTION 52. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2007]: IC 12-15-15-9.8; IC 12-15-20.7-3; IC 12-16-2.5-6.5; IC 12-16-8.5; IC 12-16-12.5.

SECTION 53. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] **IC 6-3.1-31 and IC 6-3.1-31.2, both as added by this act, apply only to taxable years beginning after December 31, 2006.**

SECTION 54. [EFFECTIVE JULY 1, 2007] **Notwithstanding IC 6-7-1-14, revenue stamps paid for before July 1, 2007, and in the possession of a distributor may be used after June 30, 2007, only if the full amount of the tax imposed by IC 6-7-1-12, as effective after June 30, 2007, and as amended by this act, is remitted to the department of state revenue under the procedures prescribed by the department.**

SECTION 55. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.**

(b) The office shall apply to the United States Department of Health and Human Services for any amendment to the state Medicaid plan or demonstration waiver that is needed to provide for presumptive eligibility for a pregnant woman described in IC 12-15-2-13, as amended by this act.

(c) The office may not implement the amendment or waiver until the office files an affidavit with the governor attesting that the amendment or waiver applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not more than five (5) days after the office is notified that the amendment or waiver is approved.

(d) If the office receives approval for the amendment or waiver under this SECTION from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (c), the office shall implement the amendment or waiver not more than sixty (60) days after the governor receives the affidavit.

(e) The office may adopt rules under IC 4-22-2 to implement this SECTION.

SECTION 56. [EFFECTIVE JULY 1, 2007] **(a) IC 27-8-5-2, as amended by this act, and IC 27-8-5-28, as added by this act, apply to a policy of accident and sickness insurance that is issued, delivered, amended, or renewed after June 30, 2007.**

(b) IC 27-13-7-3, as amended by this act, applies to a health maintenance organization contract that is entered into, delivered, amended, or renewed after June 30, 2007.

SECTION 57. [EFFECTIVE JULY 1, 2007] **(a) The definitions in IC 12-15-44, as added by this act, apply to this SECTION.**

(b) As used in this SECTION, "task force" refers to the Indiana check-up plan task force established by subsection (c).

(c) The Indiana check-up plan task force is established to:
(1) study, monitor, provide guidance, and make recommendations to the state concerning the Indiana check-up plan;
(2) develop methods to increase availability of affordable coverage for health care services for all Indiana residents;
(3) develop an education and orientation program for individuals participating in the plan; and
(4) make recommendations to the legislative council.

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

(e) The office of Medicaid policy and planning established by IC 12-8-6-1 shall staff the task force.

(f) The task force consists of the following voting members:
(1) Four (4) members described in subsection (g)(1) through (g)(4) appointed by the speaker of the house of representatives, two (2) of whom are appointed based on the recommendation of the minority leader of the house of representatives and none of whom are legislators.
(2) Four (4) members described in subsection (g)(5) through (g)(8) appointed by the president pro tempore of the senate, two (2) of whom are appointed based on the recommendation of the minority leader of the senate and none of whom are legislators.
(3) Four (4) members described in subsection (g)(9) through (g)(12) appointed by the governor, not more than two (2) of whom are members of the same political party.

(g) The members appointed under subsection (f) must represent the following interests:
(1) Hospitals.
(2) Insurance companies.
(3) Primary care providers.
(4) Health professionals who are not primary care providers.
(5) Minority health concern experts.
(6) Business.
(7) Organized labor.
(8) Consumers.
(9) Children's health issues.
(10) Adult health issues.

(11) Mental health issues.

(12) Pharmaceutical industry.

(h) The secretary of the office of the secretary of family and social services shall call the first meeting of the task force, at which the members shall elect the chairperson of the task force.

(i) The task force shall report findings and make recommendations to the governor and to the legislative council in an electronic format under IC 5-14-6 as follows:

(1) A report not later than November 1, 2008.

(2) A final report not later than November 1, 2009.

(j) The task force members are not eligible for per diem reimbursement or reimbursement for expenses incurred for travel to and from task force meetings.

(k) This SECTION expires December 31, 2009.

SECTION 58. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.**

(b) The office shall apply to the United States Department of Health and Human Services for approval of a Section 1115 demonstration waiver or a Medicaid state plan amendment to develop and implement the following:

(1) Health insurance coverage program to cover individuals who meet the following requirements:

(A) The individual is at least eighteen (18) years of age and less than sixty-five (65) years of age.

(B) The individual is a United States citizen and has been a resident of Indiana for at least twelve (12) months.

(C) The individual has an annual household income of not more than two hundred percent (200%) of the federal income poverty level.

(D) The individual is not eligible for health insurance coverage through the individual's employer.

(E) The individual has been without health insurance coverage for at least six (6) months or is without health insurance coverage because of a change in employment.

(2) A premium assistance program described in IC 12-15-44-20, as added by this act.

(c) The office shall include in the waiver application or state plan amendment a request to fund the program in part by using:

(1) enhanced federal financial participation; and

(2) hospital care for the indigent dollars, upper payment limit dollars, or disproportionate share hospital dollars.

(d) The office may not implement the waiver or state plan amendment until the office:

(1) files an affidavit with the governor attesting that the federal waiver or amendment applied for under this SECTION is in effect; and

(2) has sufficient funding for the program.

The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the waiver or amendment is approved.

(e) The office may adopt rules under IC 4-22-2 necessary to implement this SECTION.

(f) This SECTION expires December 31, 2013.

SECTION 59. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.**

(b) The office shall apply to the United States Department of Health and Human Services for approval of an amendment to the state's Medicaid plan that is necessary to do the following:

(1) Amend the state's upper payment limit program.

(2) Make changes to the state's disproportionate share hospital program.

(c) The office may not implement an approved amendment to the state plan until the office files an affidavit with the governor attesting that the state plan amendment applied for under subsection (b)(1) or (b)(2) of 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 state plan amendment is approved.

(d) The office may adopt rules under IC 4-22-2 necessary to implement this SECTION.

(e) This SECTION expires December 31, 2013.

SECTION 60. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "commission" refers to the health finance commission established by IC 2-5-23-3.**

(b) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(c) The office shall report to the commission during the 2007 interim, updating the commission on the status of the development and implementation of the Indiana check-up plan established by IC 12-15-44-3, as added by this act.

(d) The commission shall, during the 2007 interim of the general assembly, study the following:

(1) Whether the acute care hospital in Gary, Indiana, should be converted from a private corporation to a county hospital, a municipal hospital, or other governmental hospital. In considering whether a conversion should occur, the commission shall consider the following:

(A) Whether the conversion would result in better quality care that would be sufficient to meet the needs of the community.

(B) Whether the hospital's finances would be improved.

(C) The legal requirements to convert the hospital.

(2) Ways in which the state and other entities can encourage physicians to practice in rural and county hospitals.

(3) The manner in which a not-for-profit hospital can be converted into a county or municipal hospital.

(4) Federal guidelines concerning county hospitals and intergovernmental transfers.

(5) A prohibition against smoking in public places in Indiana.

(6) Mechanisms for providing programs to provide health care coverage for uninsured individuals in Indiana.

(7) Review of the use of sources of funding for Medicaid reimbursement and implications for the uses of the funding sources.

(e) This SECTION expires December 31, 2008.

SECTION 61. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "small employer" means any person, firm, corporation, limited liability company, partnership, or association actively engaged in business who, on at least fifty percent (50%) of the working days of the employer during the preceding calendar year, employed at least two (2) but not more than fifty (50) eligible employees, the majority of whom work in Indiana. In determining the number of eligible employees, companies that are affiliated companies or that are eligible to file a combined tax return for purposes of state taxation are considered one (1) employer.**

(b) The commissioner of the department of insurance and the office of the secretary of family and social services may implement a program to allow two (2) or more small employers to join together to purchase health insurance, as described in IC 27-8-5-16(8), as amended by this act.

(c) The commissioner shall adopt rules under IC 4-22-2 necessary to implement this SECTION.

SECTION 62. [EFFECTIVE JULY 1, 2007] **(a) There is annually transferred from the state general fund to the**

Indiana tobacco use prevention and cessation trust fund established by IC 4-12-4-10 one million two hundred thousand dollars ($1,200,000) on a schedule determined by the office of management and budget. The transfer shall be treated as part of the amount described in IC 6-7-1-28.1(7), as added by this act. There is annually appropriated to the Indiana tobacco use prevention and cessation executive board one million two hundred thousand dollars ($1,200,000) from the state general fund for the purpose of tobacco education, prevention, and use control. The appropriation under this subsection is in addition to any other appropriation made by the general assembly to the Indiana tobacco use prevention and cessation executive board.

(b) There is appropriated from the Indiana check-up plan trust fund established by IC 12-15-44-17, as added by this act, for the period beginning July 1, 2007, and ending June 30, 2008, eleven million dollars ($11,000,000) to the state department of health for use in childhood immunization programs. On June 30, 2008, the state department shall transfer to the Indiana check-up plan trust fund any unexpended funds appropriated to the state department under this subsection.

(c) There is appropriated from the Indiana check-up plan trust fund established by IC 12-15-44-17, as added by this act, for the period beginning July 1, 2008, and ending June 30, 2009, eleven million dollars ($11,000,000) to the state department of health for use in childhood immunization programs. On June 30, 2009, the state department shall transfer to the Indiana check-up plan trust fund any unexpended funds appropriated to the state department under this subsection.

(d) The money in the Indiana check-up plan trust fund established by IC 12-15-44-17, as added by this act, is appropriated to the office of the secretary of family and social services for the period beginning July 1, 2007, and ending June 30, 2009, for the purposes of the fund.

Section 63. **An emergency is declared for this act.**

(Reference is to EHB 1678 as printed March 23, 2007.)

C. BROWN	MILLER
T. BROWN	SIMPSON
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1237–1; filed April 28, 2007, at 6:43 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 1237 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:

Page 3, after line 37, begin a new paragraph and insert:

"SECTION 8. IC 9-19-10-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 3.1. (a) Except as provided in subsection (b), a vehicle may be stopped to determine compliance with this chapter. However, a vehicle, the contents of a vehicle, the driver of a vehicle, or a passenger in a vehicle may not be inspected, searched, or detained solely because of a violation of this chapter.**

(b) A law enforcement agency may not use a safety belt checkpoint to detect and issue a citation for a person's failure to comply with this chapter.

SECTION 9. IC 9-19-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) Failure to comply with section 1, 2, ~~3,~~ **3.1(a),** or 4 of this chapter does not constitute fault under IC 34-51-2 and does not limit the liability of an insurer.

(b) Except as provided in subsection (c), evidence of the failure to comply with section 1, 2, ~~3,~~ **3.1(a),** or 4 of this chapter may not be admitted in a civil action to mitigate damages.

(c) Evidence of a failure to comply with this chapter may be admitted in a civil action as to mitigation of damages in a product liability action involving a motor vehicle restraint or supplemental restraint system. The defendant in such an action has the burden of proving noncompliance with this chapter and that compliance with this chapter would have reduced injuries, and the extent of the reduction.

SECTION 10. IC 9-19-10-3 IS REPEALED [EFFECTIVE JULY 1, 2007].".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1237 as printed March 13, 2007.)

WELCH	WYSS
L. LAWSON	ROGERS
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 10:15 p.m. with the Speaker in the Chair.

Representative Frizzell was excused for the rest of the day.

The Speaker ordered the roll of the House to be called to determine the presence or absence of a quorum. all 654: 90 present. The Speaker declared a quorum present.

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 Bill 1821.

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 463.

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 Senate Bill 559.

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 54 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

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
ESB 503–1; filed April 28, 2007, at 7:38 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 503 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 concerning health care.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 12-15-15-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.1. (a) This section applies to a hospital that is:

(1) licensed under IC 16-21; and

(2) established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23.

(b) For a state fiscal year ending after June 30, 2003, in addition to reimbursement received under section 1 of this chapter, a hospital is entitled to reimbursement in an amount calculated as follows:

STEP ONE: The office shall identify the aggregate inpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by hospitals established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23.

STEP TWO: For the aggregate inpatient hospital services identified under STEP ONE, the office shall calculate the aggregate payments made under this article and under the state Medicaid plan to hospitals established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate a reasonable estimate of the amount that would have been paid in the aggregate by the office for the inpatient hospital services described in STEP ONE under Medicare payment principles.

STEP FOUR: Subtract the amount calculated under STEP TWO from the amount calculated under STEP THREE.

STEP FIVE: Subject to subsection (g), from the amount calculated under STEP FOUR, allocate to a hospital established and operated under IC 16-22-8 an amount ~~equal to~~ **not to exceed** one hundred percent (100%) of the difference between:

(A) the total cost for the hospital's provision of inpatient services covered under this article for the hospital's fiscal year ending during the state fiscal year; and

(B) the total payment to the hospital for its provision of inpatient services covered under this article for the hospital's fiscal year ending during the state fiscal year, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP SIX: Subtract the amount calculated under STEP FIVE from the amount calculated under STEP FOUR.

STEP SEVEN: Distribute an amount equal to the amount calculated under STEP SIX to the eligible hospitals established and operated under IC 16-22-2 or IC 16-23 described in subsection (c) in ~~proportion to~~ **an amount not to exceed** each hospital's Medicaid shortfall as defined in subsection (f).

(c) Subject to subsection (e), reimbursement for a state fiscal year under this section consists of payments made after the close of each state fiscal year. ~~Payment for a state fiscal year ending after June 30, 2003, shall be made before December 31 following the state fiscal year's end.~~ A hospital is not eligible for a payment described in this subsection unless an intergovernmental transfer **or certification of expenditures** is made under subsection (d).

(d) Subject to subsection (e):

~~a hospital may make an intergovernmental transfer under this subsection, or~~ **(1)** an intergovernmental transfer may be made **by or** on behalf of the hospital; **or**

(2) a certification of expenditures as eligible for federal financial participation may be made;

after the close of each state fiscal year. An intergovernmental transfer under this subsection must be made to the Medicaid indigent care trust fund in an amount equal to a percentage, as determined by the office, of the amount to be distributed to the hospital under ~~STEP SEVEN of subsection (b). In determining the percentage, the office shall apply the same percentage of not more than eighty-five percent (85%) to all hospitals eligible for reimbursement under STEP SEVEN of subsection (b).~~ **this section.** The office shall use the intergovernmental transfer to fund payments made under this section. ~~and as otherwise provided under IC 12-15-20-2(8).~~

(e) A hospital ~~making~~ **that makes a certification of expenditures or makes or has** an intergovernmental transfer **made on the hospital's behalf** under ~~subsection (d)~~ **this section** may appeal under IC 4-21.5 the amount determined by the office to be paid the hospital under ~~STEP SEVEN of~~ subsection (b). The periods described in subsections (c) and (d) for the hospital **or another entity** to make an intergovernmental transfer **or certification of expenditures** are tolled pending the administrative appeal and any judicial review initiated by the hospital under IC 4-21.5. The distribution to other hospitals under ~~STEP SEVEN of~~ subsection (b) may not be delayed due to an administrative appeal or judicial review instituted by a hospital under this subsection. If necessary, the office may make a partial distribution to the other eligible hospitals under ~~STEP SEVEN of~~ subsection (b) pending the completion of a hospital's administrative appeal or judicial review, at which time the remaining portion of the payments due to the eligible hospitals shall be made. A partial distribution may be based upon estimates and trends calculated by the office.

(f) For purposes of this section:

(1) the Medicaid shortfall of a hospital established and operated under IC 16-22-2 or IC 16-23 is calculated as follows:

STEP ONE: The office shall identify the inpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by the hospital.

STEP TWO: For the inpatient hospital services identified under STEP ONE, the office shall calculate the payments made under this article and under the state Medicaid plan to the hospital, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate a reasonable estimate of the amount that would have been paid by the office for the inpatient hospital services described in STEP ONE under Medicare payment principles; and

(2) a hospital's Medicaid shortfall is equal to the amount by which the amount calculated in STEP THREE of subdivision (1) is greater than the amount calculated in STEP TWO of subdivision (1).

(g) The actual distribution of the amount calculated under STEP FIVE of subsection (b) to a hospital established and operated under IC 16-22-8 shall be made under the terms and

conditions provided for the hospital in the state plan for medical assistance. Payment to a hospital under STEP FIVE of subsection (b) is not a condition precedent to the tender of payments to hospitals under STEP SEVEN of subsection (b).

SECTION 2. IC 12-15-15-1.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.3. (a) This section applies to a hospital that is:

(1) licensed under IC 16-21; and

(2) established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23.

(b) For a state fiscal year ending after June 30, 2003, in addition to reimbursement received under section 1 of this chapter, a hospital is entitled to reimbursement in an amount calculated as follows:

STEP ONE: The office shall identify the aggregate outpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by hospitals established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23.

STEP TWO: For the aggregate outpatient hospital services identified under STEP ONE, the office shall calculate the aggregate payments made under this article and under the state Medicaid plan to hospitals established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate a reasonable estimate of the amount that would have been paid in the aggregate by the office under Medicare payment principles for the outpatient hospital services described in STEP ONE.

STEP FOUR: Subtract the amount calculated under STEP TWO from the amount calculated under STEP THREE.

STEP FIVE: Subject to subsection (g), from the amount calculated under STEP FOUR, allocate to a hospital established and operated under IC 16-22-8 an amount ~~equal to~~ **not to exceed** one hundred percent (100%) of the difference between:

(A) the total cost for the hospital's provision of outpatient services covered under this article for the hospital's fiscal year ending during the state fiscal year; and

(B) the total payment to the hospital for its provision of outpatient services covered under this article for the hospital's fiscal year ending during the state fiscal year, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP SIX: Subtract the amount calculated under STEP FIVE from the amount calculated under STEP FOUR.

STEP SEVEN: Distribute an amount equal to the amount calculated under STEP SIX to the eligible hospitals established and operated under IC 16-22-2 or IC 16-23 described in subsection (c) in ~~proportion to~~ **an amount not to exceed** each hospital's Medicaid shortfall as defined in subsection (f).

(c) ~~Subject to subsection (c), the reimbursement for a state fiscal year under this section consists of payments made before December 31 following the end of the state fiscal year.~~ A hospital is not eligible for a payment described in this ~~subsection~~ **section** unless:

(1) an intergovernmental transfer is made ~~under subsection (d).~~ **by the hospital or on behalf of the hospital; or**

(2) the hospital or another entity certifies the hospital's expenditures as eligible for federal financial participation.

(d) Subject to subsection (e):

~~a hospital may make an intergovernmental transfer under this subsection, or~~ **(1)** an intergovernmental transfer may be made **by or** on behalf of the hospital; **or**

(2) a certification of expenditures as eligible for federal financial participation may be made;

after the close of each state fiscal year. An intergovernmental transfer under this subsection must be made to the Medicaid indigent care trust fund in an amount equal to a percentage, as determined by the office, of the amount to be distributed to the hospital under ~~STEP SEVEN of~~ subsection (b). ~~In determining the percentage, the office shall apply the same percentage of not more than eighty-five percent (85%) to all hospitals eligible for reimbursement under STEP SEVEN of subsection (b).~~ The office shall use the intergovernmental transfer to fund payments made under this section. ~~and as otherwise provided under IC 12-15-20-2(8).~~

(e) A hospital ~~making~~ **that makes a certification of expenditures or makes or has** an intergovernmental transfer **made on the hospital's behalf** under ~~subsection (d)~~ **this section** may appeal under IC 4-21.5 the amount determined by the office to be paid by the hospital under ~~STEP SEVEN of~~ subsection (b). The periods described in subsections (c) and (d) for the hospital **or other entity** to make an intergovernmental transfer **or certification of expenditures** are tolled pending the administrative appeal and any judicial review initiated by the hospital under IC 4-21.5. The distribution to other hospitals under ~~STEP SEVEN of~~ subsection (b) may not be delayed due to an administrative appeal or judicial review instituted by a hospital under this subsection. If necessary, the office may make a partial distribution to the other eligible hospitals under ~~STEP SEVEN of~~ subsection (b) pending the completion of a hospital's administrative appeal or judicial review, at which time the remaining portion of the payments due to the eligible hospitals must be made. A partial distribution may be calculated by the office based upon estimates and trends.

(f) For purposes of this section:

(1) the Medicaid shortfall of a hospital established and operated under IC 16-22-2 or IC 16-23 is calculated as follows:

STEP ONE: The office shall identify the outpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by the hospital.

STEP TWO: For the outpatient hospital services identified under STEP ONE, the office shall calculate the payments made under this article and under the state Medicaid plan to the hospital, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate a reasonable estimate of the amount that would have been paid by the office for the outpatient hospital services described in STEP ONE under Medicare payment principles; and

(2) a hospital's Medicaid shortfall is equal to the amount by which the amount calculated in STEP THREE of subdivision (1) is greater than the amount calculated in STEP TWO of subdivision (1).

(g) The actual distribution of the amount calculated under STEP FIVE of subsection (b) to a hospital established and operated under IC 16-22-8 shall be made under the terms and conditions provided for the hospital in the state plan for medical assistance. Payment to a hospital under STEP FIVE of subsection (b) is not a condition precedent to the tender of payments to hospitals under STEP SEVEN of subsection (b).

SECTION 3. IC 12-15-15-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.5. (a) This section applies to a hospital that:

(1) is licensed under IC 16-21;

(2) is not a unit of state or local government; and

(3) is not owned or operated by a unit of state or local government.

(b) For a state fiscal year ending after June 30, 2003, **and before July 1, 2007,** in addition to reimbursement received

under section 1 of this chapter, a hospital eligible under this section is entitled to reimbursement in an amount calculated as follows:

STEP ONE: The office shall identify the total inpatient hospital services and the total outpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by the hospitals described in subsection (a).

STEP TWO: For the total inpatient hospital services and the total outpatient hospital services identified under STEP ONE, the office shall calculate the aggregate payments made under this article and under the state Medicaid plan to hospitals described in subsection (a), excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate a reasonable estimate of the amount that would have been paid in the aggregate by the office for the inpatient hospital services and the outpatient hospital services identified in STEP ONE under Medicare payment principles.

STEP FOUR: Subtract the amount calculated under STEP TWO from the amount calculated under STEP THREE.

STEP FIVE: Distribute an amount equal to the amount calculated under STEP FOUR to the eligible hospitals described in subsection (a) as follows:

(A) Subject to the availability of funds under IC 12-15-20-2(8)(D) to serve as the non-federal share of such payment, the first ten million dollars ($10,000,000) of the amount calculated under STEP FOUR for a state fiscal year shall be paid to a hospital described in subsection (a) that has more than ~~seventy~~ **sixty** thousand ~~(70,000)~~ **(60,000)** Medicaid inpatient days.

(B) Following the payment to the hospital under clause (A) and subject to the availability of funds under IC 12-15-20-2(8)(D) to serve as the non-federal share of such payments, the remaining amount calculated under STEP FOUR for a state fiscal year shall be paid to all hospitals described in subsection (a). The payments shall be made on a pro rata basis based on the hospitals' Medicaid inpatient days or other payment methodology approved by the Centers for Medicare and Medicaid Services. **For purposes of this clause, a hospital's Medicaid inpatient days are the hospital's in-state and paid Medicaid fee for service and managed care days for the state fiscal year for which services are identified under STEP ONE, as determined by the office.**

(C) Subject to IC 12-15-20.7, in the event the entirety of the amount calculated under STEP FOUR is not distributed following the payments made under clauses (A) and (B), the remaining amount may be paid to hospitals described in subsection (a) that are eligible under this clause. A hospital is eligible for a payment under this clause only if the non-federal share of the hospital's payment is provided by or on behalf of the hospital. The remaining amount shall be paid to those eligible hospitals:

(i) on a pro rata basis in relation to all hospitals eligible under this clause based on the hospitals' Medicaid inpatient days; or

(ii) other payment methodology **determined by the office and** approved by the Centers for Medicare and Medicaid Services.

~~(D) For purposes of the clauses (A), (B) and (C), a hospital's Medicaid inpatient days are based on the Medicaid inpatient days allowed for the hospital by the office for purposes of the office's most recent determination of eligibility for the Medicaid disproportionate payment program under IC 12-15-16.~~

(c) ~~Reimbursement for a state fiscal year under this section consists of payments made after the close of each state fiscal year. Payment for a state fiscal year ending after June 30, 2003, shall be made before December 31 following the end of the state fiscal year.~~ **As used in this subsection, "Medicaid supplemental payments" means Medicaid payments for hospitals that are in addition to Medicaid fee-for-service payments, Medicaid risk-based managed care payments, and Medicaid disproportionate share payments, and that are included in the Medicaid state plan, including Medicaid safety-net payments, and payments made under sections 1.1, 1.3, 1.5, 9, and 9.5 of this chapter. For a state fiscal year ending after June 30, 2007, in addition to the reimbursement received under section 1 of this chapter, a hospital eligible under this section is entitled to reimbursement in an amount calculated as follows:**

STEP ONE: The office shall identify the total inpatient hospital services and the total outpatient hospital services reimbursable under this article and under the state Medicaid plan that were provided during the state fiscal year for all hospitals described in subsection (a).

STEP TWO: For the total inpatient hospital services and the total outpatient hospital services identified in STEP ONE, the office shall calculate the total payments made under this article and under the state Medicaid plan to all hospitals described in subsection (a). A calculation under this STEP excludes a payment made under the following:

(A) IC 12-15-16.

(B) IC 12-15-17.

(C) IC 12-15-19.

STEP THREE: The office shall calculate, under Medicare payment principles, a reasonable estimate of the total amount that would have been paid by the office for the inpatient hospital services and the outpatient hospital services identified in STEP ONE.

STEP FOUR: Subtract the amount calculated under STEP TWO from the amount calculated under STEP THREE.

STEP FIVE: Distribute an amount equal to the amount calculated under STEP FOUR to the eligible hospitals described in subsection (a) as follows:

(A) As used in this clause, "Medicaid inpatient days" are the hospital's in-state paid Medicaid fee for service and risk-based managed care days for the state fiscal year for which services are identified under STEP ONE, as determined by the office. Subject to the availability of funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(c) and remaining in the Medicaid indigent care trust fund under IC 12-15-20-2(8)(G) to serve as the non-federal share of the payments, the amount calculated under STEP FOUR for a state fiscal year shall be paid to all hospitals described in subsection (a). The payments shall be made on a pro rata basis, based on the hospitals' Medicaid inpatient days or in accordance with another payment methodology determined by the office and approved by the Centers for Medicare and Medicaid Services.

(B) Subject to IC 12-15-20.7, if the entire amount calculated under STEP FOUR is not distributed following the payments made under clause (A), the remaining amount shall be paid as described in clauses (C) and (D) to a hospital that is described in subsection (a) and that is described as eligible under this clause. A hospital is eligible for a payment under clause (C) only if the hospital:

(i) has less than sixty thousand (60,000) Medicaid inpatient days annually;

(ii) was eligible for Medicaid disproportionate share hospital payments in the state fiscal year ending June 30, 1998, or the hospital met the office's Medicaid disproportionate share payment criteria based upon state fiscal year 1998 data and received a Medicaid disproportionate share payment for the state fiscal year ending June 30, 2001; and

(iii) received a Medicaid disproportionate share payment under IC 12-15-19-2.1 for state fiscal years 2001, 2002, 2003, and 2004.

The payment amount under clause (C) for an eligible hospital is subject to the availability of the non-federal share of the hospital's payment being provided by the hospital or on behalf of the hospital.

(C) For state fiscal years ending after June 30, 2007, but before July 1, 2009, payments to eligible hospitals described in clause (B) shall be made as follows:

(i) The payment to an eligible hospital that merged two (2) hospitals under a single Medicaid provider number effective January 1, 2004, shall equal one hundred percent (100%) of the hospital's hospital-specific limit for the state fiscal year ending June 30, 2005, when the payment is combined with any Medicaid disproportionate share payment made under IC 12-15-19-2.1, Medicaid, and other Medicaid supplemental payments, paid or to be paid to the hospital for a state fiscal year.

(ii) The payment to an eligible hospital described in clause (B) other than a hospital described in item (i) shall equal one hundred percent (100%) of the hospital's hospital specific limit for the state fiscal year ending June 30, 2004, when the payment is combined with any Medicaid disproportionate share payment made under IC 12-15-19-2.1, Medicaid, and other Medicaid supplemental payments, paid or to be paid to the hospital for a state fiscal year.

(D) For state fiscal years beginning after June 30, 2009, payments to an eligible hospital described in clause (B) shall be made in a manner determined by the office.

(E) Subject to IC 12-15-20.7, if the entire amount calculated under STEP FOUR is not distributed following the payments made under clause (A), and clauses (C) or (D), the remaining amount may be paid as described in clause (F) to a hospital described in subsection (a) that is described as eligible under this clause. A hospital is eligible for a payment for a state fiscal year under clause (F) if the hospital:

(i) is eligible to receive Medicaid disproportionate share payments for the state fiscal year for which the Medicaid disproportionate share payment is attributable under IC 12-15-19-2.1, for a state fiscal year ending after June 30, 2007; and

(ii) does not receive a payment under clauses (C) or (D) for the state fiscal year.

A payment to a hospital under this clause is subject to the availability of non-federal matching funds.

(F) Payments to eligible hospitals described in clause (E) shall be made:

(i) to best utilize federal matching funds available for hospitals that are eligible for Medicaid disproportionate share payments under IC 12-15-19-2.1; and

(ii) by using a methodology that allocates available funding under this clause, Medicaid supplemental payments, and payments under IC 12-15-19-2.1, in a manner in which all hospitals eligible under clause (E) receive payments in a manner that takes into account the situation of eligible hospitals that have historically qualified for Medicaid disproportionate share payments and ensures that payments for eligible hospitals are equitable.

(G) If the Centers for Medicare and Medicaid Services does not approve the payment methodologies in clauses (A) through (F), the office may implement alternative payment methodologies, that are eligible for federal financial participation, to implement a program consistent with the payments for hospitals described in clauses (A) through (F).

(d) A hospital described in subsection (a) may appeal under IC 4-21.5 the amount determined by the office to be paid to the hospital under STEP FIVE of ~~subsection~~ **subsections** (b) **or (c).** The distribution to other hospitals under STEP FIVE of subsection (b) **or (c)** may not be delayed due to an administrative appeal or judicial review instituted by a hospital under this subsection. If necessary, the office may make a partial distribution to the other eligible hospitals under STEP FIVE of subsection (b) **or (c)** pending the completion of a hospital's administrative appeal or judicial review, at which time the remaining portion of the payments due to the eligible hospitals shall be made. A partial distribution may be based on estimates and trends calculated by the office.

SECTION 4. IC 12-15-15-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) For purposes of this section and IC 12-16-7.5-4.5, a payable claim is attributed to a county if the payable claim is submitted to the division by a hospital licensed under IC 16-21-2 for payment under IC 12-16-7.5 for care provided by the hospital to an individual who qualifies for the hospital care for the indigent program under IC 12-16-3.5-1 or IC 12-16-3.5-2 and:

(1) who is a resident of the county;

(2) who is not a resident of the county and for whom the onset of the medical condition that necessitated the care occurred in the county; or

(3) whose residence cannot be determined by the division and for whom the onset of the medical condition that necessitated the care occurred in the county.

(b) For each state fiscal year ending after June 30, 2003, **and before July 1, 2007,** a hospital licensed under IC 16-21-2 that submits to the division during the state fiscal year a payable claim under IC 12-16-7.5 is entitled to a payment under ~~this section.~~ **subsection (c).**

(c) Except as provided in section 9.8 of this chapter and subject to section 9.6 of this chapter, for a state fiscal year, the office shall pay to a hospital referred to in subsection (b) an amount equal to the amount, based on information obtained from the division and the calculations and allocations made under IC 12-16-7.5-4.5, that the office determines for the hospital under STEP SIX of the following STEPS:

STEP ONE: Identify:

(A) each hospital that submitted to the division one (1) or more payable claims under IC 12-16-7.5 during the state fiscal year; and

(B) the county to which each payable claim is attributed.

STEP TWO: For each county identified in STEP ONE, identify:

(A) each hospital that submitted to the division one (1) or more payable claims under IC 12-16-7.5 attributed to the county during the state fiscal year; and

(B) the total amount of all hospital payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year.

STEP THREE: For each county identified in STEP ONE, identify the amount of county funds transferred to the

Medicaid indigent care trust fund under ~~STEP FOUR of IC 12-16-7.5-4.5(b).~~ **IC 12-16-7.5-4.5.**

STEP FOUR: For each hospital identified in STEP ONE, with respect to each county identified in STEP ONE, calculate the hospital's percentage share of the county's funds transferred to the Medicaid indigent care trust fund under ~~STEP FOUR of IC 12-16-7.5-4.5(b).~~ **IC 12-16-7.5-4.5.** Each hospital's percentage share is based on the total amount of the hospital's payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year, calculated as a percentage of the total amount of all hospital payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year.

STEP FIVE: Subject to subsection (j), for each hospital identified in STEP ONE, with respect to each county identified in STEP ONE, multiply the hospital's percentage share calculated under STEP FOUR by the amount of the county's funds transferred to the Medicaid indigent care trust fund under ~~STEP FOUR of IC 12-16-7.5-4.5(b).~~ **IC 12-16-7.5-4.5.**

STEP SIX: Determine the sum of all amounts calculated under STEP FIVE for each hospital identified in STEP ONE with respect to each county identified in STEP ONE.

(d) For state fiscal years beginning after June 30, 2007, a hospital that received a payment determined under STEP SIX of subsection (c) for the state fiscal year ending June 30, 2007, shall be paid in an amount equal to the amount determined for the hospital under STEP SIX of subsection (c) for the state fiscal year ending June 30, 2007.

~~(d)~~ **(e)** A hospital's payment under subsection (c) **or (d)** is in the form of a Medicaid ~~add-on~~ **supplemental** payment. The amount of a hospital's ~~add-on~~ **Medicaid supplemental** payment is subject to the availability of funding for the non-federal share of the payment under subsection ~~(c).~~ **(f).** The office shall make the payments under subsection (c) **and (d)** before December 15 that next succeeds the end of the state fiscal year.

~~(e)~~ **(f)** The non-federal share of a payment to a hospital under subsection (c) **or (d)** is funded from the funds transferred to the Medicaid indigent care trust fund under ~~STEP FOUR of IC 12-16-7.5-4.5(b) of each county to which a payable claim under IC 12-16-7.5 submitted to the division during the state fiscal year by the hospital is attributed.~~ **IC 12-16-7.5-4.5.**

~~(f)~~ **(g)** The amount of a county's transferred funds available to be used to fund the non-federal share of a payment to a hospital under subsection (c) is an amount that bears the same proportion to the total amount of funds of the county transferred to the Medicaid indigent care trust fund under ~~STEP FOUR of IC 12-16-7.5-4.5(b)~~ **IC 12-16-7.5-4.5** that the total amount of the hospital's payable claims under IC 12-16-7.5 attributed to the county submitted to the division during the state fiscal year bears to the total amount of all hospital payable claims under IC 12-16-7.5 attributed to the county submitted to the division during the state fiscal year.

~~(g)~~ **(h)** Any county's funds identified in subsection ~~(f)~~ **(g)** that remain after the non-federal share of a hospital's payment has been funded are available to serve as the non-federal share of a payment to a hospital under section 9.5 of this chapter.

~~(h)~~ **(i)** For purposes of this section, "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b)(1).

~~(i)~~ **(j)** For purposes of ~~this section.~~ **subsection (c):**

(1) the amount of a payable claim is an amount equal to the amount the hospital would have received under the state's fee-for-service Medicaid reimbursement principles for the hospital care for which the payable claim is submitted under IC 12-16-7.5 if the individual receiving the hospital care had been a Medicaid enrollee; and

(2) a payable hospital claim under IC 12-16-7.5 includes a payable claim under IC 12-16-7.5 for the hospital's care submitted by an individual or entity other than the hospital, to the extent permitted under the hospital care for the indigent program.

~~(j)~~ **(k)** The amount calculated under STEP FIVE of subsection (c) for a hospital with respect to a county may not exceed the total amount of the hospital's payable claims attributed to the county during the state fiscal year.

SECTION 5. IC 12-15-15-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9.5. (a) For purposes of this section and IC 12-16-7.5-4.5, a payable claim is attributed to a county if the payable claim is submitted to the division by a hospital licensed under IC 16-21-2 for payment under IC 12-16-7.5 for care provided by the hospital to an individual who qualifies for the hospital care for the indigent program under IC 12-16-3.5-1 or IC 12-16-3.5-2 and;

(1) who is a resident of the county;

(2) who is not a resident of the county and for whom the onset of the medical condition that necessitated the care occurred in the county; or

(3) whose residence cannot be determined by the division and for whom the onset of the medical condition that necessitated the care occurred in the county.

(b) For each state fiscal year ending after June 30, 2003, **but before July 1, 2007,** a hospital licensed under IC 16-21-2:

(1) that submits to the division during the state fiscal year a payable claim under IC 12-16-7.5; and

(2) whose payment under section 9(c) of this chapter was less than the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year;

is entitled to a payment under ~~this section.~~ **subsection (c).**

(c) Except as provided in section 9.8 of this chapter and subject to section 9.6 of this chapter, for a state fiscal year, the office shall pay to a hospital referred to in subsection (b) an amount equal to the amount, based on information obtained from the division and the calculations and allocations made under IC 12-16-7.5-4.5, that the office determines for the hospital under STEP EIGHT of the following STEPS:

STEP ONE: Identify each county whose transfer of funds to the Medicaid indigent care trust fund under ~~STEP FOUR of IC 12-16-7.5-4.5(b)~~ **IC 12-16-7.5-4.5** for the state fiscal year was less than the total amount of all hospital payable claims attributed to the county and submitted to the division during the state fiscal year.

STEP TWO: For each county identified in STEP ONE, calculate the difference between the amount of funds of the county transferred to the Medicaid indigent care trust fund under ~~STEP FOUR of IC 12-16-7.5-4.5(b)~~ **IC 12-16-7.5-4.5** and the total amount of all hospital payable claims attributed to the county and submitted to the division during the state fiscal year.

STEP THREE: Calculate the sum of the amounts calculated for the counties under STEP TWO.

STEP FOUR: Identify each hospital whose payment under section 9(c) of this chapter was less than the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year.

STEP FIVE: Calculate for each hospital identified in STEP FOUR the difference between the hospital's payment under section 9(c) of this chapter and the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year.

STEP SIX: Calculate the sum of the amounts calculated for each of the hospitals under STEP FIVE.

STEP SEVEN: For each hospital identified in STEP FOUR, calculate the hospital's percentage share of the amount calculated under STEP SIX. Each hospital's percentage share is based on the amount calculated for the

hospital under STEP FIVE calculated as a percentage of the sum calculated under STEP SIX.

STEP EIGHT: For each hospital identified in STEP FOUR, multiply the hospital's percentage share calculated under STEP SEVEN by the sum calculated under STEP THREE. The amount calculated under this STEP for a hospital may not exceed the amount by which the hospital's total payable claims under IC 12-16-7.5 submitted during the state fiscal year exceeded the amount of the hospital's payment under section 9(c) of this chapter.

(d) For state fiscal years beginning after June 30, 2007, a hospital that received a payment determined under STEP EIGHT of subsection (c) for the state fiscal year ending June 30, 2007, shall be paid an amount equal to the amount determined for the hospital under STEP EIGHT of subsection (c) for the state fiscal year ending June 30, 2007.

~~(d)~~ **(e)** A hospital's payment under subsection (c) **or (d)** is in the form of a Medicaid ~~add-on~~ **supplemental** payment. The amount of the hospital's add-on payment is subject to the availability of funding for the non-federal share of the payment under subsection ~~(c).~~ **(f).** The office shall make the payments under subsection (c) **or (d)** before December 15 that next succeeds the end of the state fiscal year.

~~(e)~~ **(f)** The non-federal share of a payment to a hospital under subsection (c) **or (d)** is derived from funds transferred to the Medicaid indigent care trust fund under ~~STEP FOUR of IC 12-16-7.5-4.5(b)~~ **IC 12-16-7.5-4.5** and not expended under section 9 of this chapter. ~~To the extent possible, the funds shall be derived on a proportional basis from the funds transferred by each county identified in subsection (c), STEP ONE:~~

~~(1) to which at least one (1) payable claim submitted by the hospital to the division during the state fiscal year is attributed; and~~

~~(2) whose funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) were not completely expended under section 9 of this chapter.~~

~~The amount available to be derived from the remaining funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) to serve as the non-federal share of the payment to a hospital under subsection (c) is an amount that bears the same proportion to the total amount of funds transferred by all the counties identified in subsection (c), STEP ONE, that the amount calculated for the hospital under subsection (c), STEP FIVE, bears to the amount calculated under subsection (c), STEP SIX.~~

~~(f)~~ **(g)** Except as provided in subsection ~~(g),~~ **(h),** the office may not make a payment under this section until the payments due under section 9 of this chapter for the state fiscal year have been made.

~~(g)~~ **(h)** If a hospital appeals a decision by the office regarding the hospital's payment under section 9 of this chapter, the office may make payments under this section before all payments due under section 9 of this chapter are made if:

(1) a delay in one (1) or more payments under section 9 of this chapter resulted from the appeal; and

(2) the office determines that making payments under this section while the appeal is pending will not unreasonably affect the interests of hospitals eligible for a payment under this section.

~~(h)~~ **(i)** Any funds transferred to the Medicaid indigent care trust fund under ~~STEP FOUR of IC 12-16-7.5-4.5(b)~~ **IC 12-16-7.5-4.5** remaining after payments are made under this section shall be used as provided in ~~IC 12-15-20-2(8)(D).~~ **IC 12-15-20-2(8).**

(i) For purposes of ~~this section:~~ **subsection (c):**

(1) "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b);

(2) the amount of a payable claim is an amount equal to the amount the hospital would have received under the state's fee-for-service Medicaid reimbursement principles for the hospital care for which the payable claim is submitted under IC 12-16-7.5 if the individual receiving the hospital care had been a Medicaid enrollee; and

(3) a payable hospital claim under IC 12-16-7.5 includes a payable claim under IC 12-16-7.5 for the hospital's care submitted by an individual or entity other than the hospital, to the extent permitted under the hospital care for the indigent program.

SECTION 6. IC 12-15-15-9.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9.6. **For state fiscal years beginning after June 30, 2007,** the total amount of payments to hospitals under sections 9 and 9.5 of this chapter may not exceed the amount ~~transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b).~~ **paid to hospitals under sections 9 and 9.5 of this chapter for the state fiscal year ending June 30, 2007.**

SECTION 7. IC 12-15-15-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) This section applies to a hospital that:

(1) is licensed under IC 16-21; and

(2) qualifies as a provider under **IC 12-15-16, IC 12-15-17, or IC 12-15-19 of** the Medicaid disproportionate share provider program.

(b) The office may, after consulting with affected providers, do one (1) or more of the following:

~~(1) Expand the payment program established under section 1.1(b) of this chapter to include all hospitals described in subsection (a).~~

~~(2)~~ **(1)** Establish a nominal charge hospital payment program.

~~(3)~~ **(2)** Establish any other permissible payment program.

(c) A program expanded or established under this section is subject to the availability of:

(1) intergovernmental transfers; ~~or~~

(2) funds certified as being eligible for federal financial participation; **or**

(3) other permissible sources of non-federal share dollars.

(d) The office may not implement a program under this section until the federal Centers for Medicare and Medicaid Services approves the provisions regarding the program in the amended state plan for medical assistance.

(e) The office may determine not to continue to implement a program established under this section if federal financial participation is not available.

SECTION 8. IC 12-15-19-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.1. (a) For each state fiscal year ending on or after June 30, 2000, the office shall develop a disproportionate share payment methodology that ensures that each hospital qualifying for disproportionate share payments under IC 12-15-16-1(a) timely receives total disproportionate share payments that do not exceed the hospital's hospital specific limit provided under 42 U.S.C. 1396r-4(g). The payment methodology as developed by the office must:

(1) maximize disproportionate share hospital payments to qualifying hospitals to the extent practicable;

(2) take into account the situation of those qualifying hospitals that have historically qualified for Medicaid disproportionate share payments; and

(3) ensure that payments ~~net of intergovernmental transfers made by or on behalf of~~ **for** qualifying hospitals are equitable.

(b) Total disproportionate share payments to a hospital under this chapter shall not exceed the hospital specific limit provided under 42 U.S.C. 1396r-4(g). The hospital specific limit for a state fiscal year shall be determined by the office taking into account data provided by each hospital that is considered reliable by the office based on a system of periodic audits, the use of trending

factors, and an appropriate base year determined by the office. The office may require independent certification of data provided by a hospital to determine the hospital's hospital specific limit.

(c) The office shall include a provision in each amendment to the state plan regarding Medicaid disproportionate share payments that the office submits to the federal Centers for Medicare and Medicaid Services that, as provided in 42 CFR 447.297(d)(3), allows the state to make additional disproportionate share expenditures after the end of each federal fiscal year that relate back to a prior federal fiscal year. However, the total disproportionate share payments to:

(1) each individual hospital; and

(2) all qualifying hospitals in the aggregate;

may not exceed the limits provided by federal law and regulation.

~~(d) The office shall, in each state fiscal year, provide sufficient funds for acute care hospitals licensed under IC 16-21 that qualify for disproportionate share payments under IC 12-15-16-1(a). Funds provided under this subsection:~~

~~(1) do not include funds transferred by other governmental units to the Medicaid indigent care trust fund; and~~

~~(2) must be in an amount equal to the amount that results from the following calculation:~~

~~STEP ONE: Multiply twenty-six million dollars ($26,000,000) by the federal medical assistance percentage.~~

~~STEP TWO: Subtract the amount determined under STEP ONE from twenty-six million dollars ($26,000,000).~~

SECTION 9. IC 12-15-19-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The office is not required to make disproportionate share payments under this chapter from the Medicaid indigent care trust fund established by IC 12-15-20-1 until the fund has received sufficient deposits, **including intergovernmental transfers of funds and certifications of expenditures,** to permit the office to make the state's share of the required disproportionate share payments.

(b) **For state fiscal years beginning after June 30, 2006,** if:

(1) sufficient deposits have not been received; **or**

(2) the statewide Medicaid disproportionate share allocation is insufficient to provide federal financial participation for the entirety of all eligible disproportionate share hospitals' hospital-specific limits;

the office shall reduce disproportionate share payments **made under IC 12-15-19-2.1 and Medicaid safety-net payments made in accordance with the Medicaid state plan** to ~~all~~ eligible institutions ~~by the same percentage.~~ **using an equitable methodology consistent with subsection (c).**

(c) For state fiscal years beginning after June 30, 2006, payments reduced under this section shall, in accordance with the Medicaid state plan, be made:

(1) to best utilize federal matching funds available for hospitals eligible for Medicaid disproportionate share payments under IC 12-15-19-2.1; and

(2) by utilizing a methodology that allocates available funding under this subdivision, and Medicaid supplemental payments as defined in IC 12-15-15-1.5, in a manner that all hospitals eligible for Medicaid disproportionate share payments under IC 12-15-19-2.1 receive payments using a methodology that:

(A) takes into account the situation of the eligible hospitals that have historically qualified for Medicaid disproportionate share payments; and

(B) ensures that payments for eligible hospitals are equitable.

(d) The percentage reduction shall be sufficient to ensure that payments do not exceed the **statewide Medicaid disproportionate share allocation or the** amounts that can be financed with:

(1) ~~the state share that is in~~ the **amount transferred from the hospital care for the indigent trust** fund;

(2) other intergovernmental transfers;

(3) certifications of public expenditures; or

(4) any other permissible sources of non-federal match.

SECTION 10. IC 12-15-20-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. The Medicaid indigent care trust fund is established to pay the non-federal share of the following:

(1) Enhanced disproportionate share payments to providers under IC 12-15-19-1.

(2) Subject to subdivision (8), disproportionate share payments to providers under IC 12-15-19-2.1.

(3) Medicaid payments for pregnant women described in IC 12-15-2-13 and infants and children described in IC 12-15-2-14.

(4) Municipal disproportionate share payments to providers under IC 12-15-19-8.

(5) Payments to hospitals under IC 12-15-15-9.

(6) Payments to hospitals under IC 12-15-15-9.5.

(7) Payments, funding, and transfers as otherwise provided in clauses (8)(D), ~~and~~ (8)(F), **and (8)(G).**

(8) Of the intergovernmental transfers deposited into the Medicaid indigent care trust fund, the following apply:

(A) The entirety of the intergovernmental transfers deposited into the Medicaid indigent care trust fund for state fiscal years ending on or before June 30, 2000, shall be used to fund the state's share of the disproportionate share payments to providers under IC 12-15-19-2.1.

(B) Of the intergovernmental transfers deposited into the Medicaid indigent care trust fund for the state fiscal year ending June 30, 2001, an amount equal to one hundred percent (100%) of the total intergovernmental transfers deposited into the Medicaid indigent care trust fund for the state fiscal year beginning July 1, 1998, and ending June 30, 1999, shall be used to fund the state's share of disproportionate share payments to providers under IC 12-15-19-2.1. The remainder of the intergovernmental transfers, if any, for the state fiscal year shall be used to fund the state's share of additional Medicaid payments to hospitals licensed under IC 16-21 pursuant to a methodology adopted by the office.

(C) Of the intergovernmental transfers deposited into the Medicaid indigent care trust fund, for state fiscal years beginning July 1, 2001, and July 1, 2002, an amount equal to:

(i) one hundred percent (100%) of the total intergovernmental transfers deposited into the Medicaid indigent care trust fund for the state fiscal year beginning July 1, 1998; minus

(ii) an amount equal to the amount deposited into the Medicaid indigent care trust fund under IC 12-15-15-9(d) for the state fiscal years beginning July 1, 2001, and July 1, 2002;

shall be used to fund the state's share of disproportionate share payments to providers under IC 12-15-19-2.1. The remainder of the intergovernmental transfers, if any, must be used to fund the state's share of additional Medicaid payments to hospitals licensed under IC 16-21 pursuant to a methodology adopted by the office.

(D) ~~Of~~ The intergovernmental transfers, which shall include amounts transferred under ~~IC 12-16-7.5-4.5(b), STEP FOUR,~~ **IC 12-16-7.5-4.5,** deposited into the Medicaid indigent care trust fund **and the certifications of public expenditures deemed to be made to the medicaid indigent care trust fund,** for **the** state fiscal years ending after June 30, ~~2003,~~ **2005, but before July**

1, 2007, ~~an amount equal to:~~

~~(i) one hundred percent (100%) of the total intergovernmental transfers deposited into the Medicaid indigent care trust fund for the state fiscal year beginning July 1, 1998, and ending June 30, 1999, minus~~

~~(ii) an amount equal to the amount deposited into the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) for the state fiscal year ending after June 30, 2003,~~

shall be used, ~~to fund the non-federal share of disproportionate share payments to providers under IC 12-15-19-2.1. The remainder of the intergovernmental transfers, if any, for the state fiscal years shall be used to fund, in descending order of priority, the non-federal share of payments to hospitals under IC 12-15-15-9, the non-federal share of payments to hospitals under IC 12-15-15-9.5, the amount to be transferred under clause (F), and the non-federal share of payments under clauses (A) and (B) of STEP FIVE of IC 12-15-15-1.5(b).~~ **in descending order of priority, as follows:**

(i) As provided in clause (B) of STEP THREE of IC 12-16-7.5-4.5(b)(1) and clause (B) of STEP THREE of IC 12-16-7.5-4.5(b)(2), to fund the amount to be transferred to the office.

(ii) As provided in clause (C) of STEP THREE of IC 12-16-7.5-4.5(b)(1) and clause (C) of STEP THREE of IC 12-16-7.5-4.5(b)(2), to fund the non-federal share of the payments made under IC 12-15-15-9 and IC 12-15-15-9.5.

(iii) To fund the non-federal share of the payments made under IC 12-15-15-1.1, IC 12-15-15-1.3, and IC 12-15-19-8.

(iv) As provided under clause (A) of STEP THREE of IC 12-16-7.5-4.5(b)(1) and clause (A) of STEP THREE of IC 12-16-7.5-4.5(b)(2), for the payment to be made under clause (A) of STEP FIVE of IC 12-15-15-1.5(b).

(v) As provided under STEP FOUR of IC 12-16-7.5-4.5(b)(1) and STEP FOUR of IC 12-16-7.5-4.5(b)(2), to fund the payments to be made under clause (B) of STEP FIVE of IC 12-15-15-1.5(b).

(vi) To fund, in an order of priority determined by the office to best utilize the available non-federal share, the programs listed in clause (H).

(E) **For state fiscal years ending after June 30, 2007,** the total amount of intergovernmental transfers used to fund the non-federal share of payments to hospitals under IC 12-15-15-9 and IC 12-15-15-9.5 shall not exceed the amount ~~calculated under STEP TWO of the following formula:~~

~~STEP ONE: Calculate the total amount of funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b).~~

~~STEP TWO: Multiply the state Medicaid medical assistance percentage for the state fiscal year for which the payments under IC 12-15-15-9 and IC 12-15-15-9.5 are to be made by the amount calculated under STEP ONE.~~ **provided in clause (G)(ii).**

(F) As provided in clause (D), for **the following:**

(i) Each **state** fiscal year ending after June 30, 2003, **but before July 1, 2005,** an amount equal to the amount calculated under STEP THREE of the following formula shall be transferred to the office:

STEP ONE: Calculate the product of thirty-five million dollars ($35,000,000) multiplied by the federal medical assistance percentage for federal fiscal year 2003.

STEP TWO: Calculate the sum of the amounts, if any, reasonably estimated by the office to be transferred or otherwise made available to the office for the state fiscal year, and the amounts, if any, actually transferred or otherwise made available to the office for the state fiscal year, under arrangements whereby the office and a hospital licensed under IC 16-21-2 agree that an amount transferred or otherwise made available to the office by the hospital or on behalf of the hospital shall be included in the calculation under this STEP.

STEP THREE: Calculate the amount by which the product calculated under STEP ONE exceeds the sum calculated under STEP TWO.

(ii) The state fiscal years ending after June 30, 2005, but before July 1, 2007, an amount equal to thirty million dollars ($30,000,000) shall be transferred to the office.

(G) Subject to IC 12-15-20.7-2(b), for each state fiscal year ending after June 30, 2007, the total amount in the Medicaid indigent care trust fund, including the amount of intergovernmental transfers of funds transferred, and the amounts of certifications of expenditures eligible for federal financial participation deemed to be transferred, to the Medicaid indigent care trust fund, shall be used to fund the following:

(i) Thirty million dollars ($30,000,000) transferred to the office for the Medicaid budget.

(ii) An amount not to exceed the non-federal share of payments to hospitals under IC 12-15-15-9 and IC 12-15-15-9.5.

(iii) An amount not to exceed the non-federal share of payments to hospitals made under IC 12-15-15-1.1 and IC 12-15-15-1.3.

(iv) An amount not to exceed the non-federal share of disproportionate share payments to hospitals under IC 12-15-19-8.

(v) An amount not to exceed the non-federal share of payments to hospitals under clause (A) of STEP FIVE of IC 12-15-15-1.5(c).

(vi) An amount not to exceed the non-federal share of Medicaid safety-net payments.

(vii) An amount not to exceed the non-federal share of payments to hospitals made under clauses (C) or (D) of STEP FIVE of IC 12-15-15-1.5(c).

(viii) An amount not to exceed the non-federal share of payments to hospitals made under clause (F) of STEP FIVE of IC 12-15-15-1.5(c).

(ix) An amount not to exceed the non-federal share of disproportionate share payments to hospitals under IC 12-15-19-2.1.

(x) If additional funds are available after making payments under items (i) through (ix), to fund other Medicaid supplemental payments for hospitals approved by the office and included in the Medicaid state plan.

(H) For purposes of clause (D)(vi), the office shall fund the following:

(i) An amount equal to the non-federal share of the payments to the hospital that is eligible under this item, for payments made under clause (C) of STEP FIVE of IC 12-15-15-1.5(b) under an agreement with the office, Medicaid safety-net payments and any payment made under IC 12-15-19-2.1. The amount of the payments to the hospital under this item shall be equal to one hundred percent (100%) of the hospital's hospital-specific limit for state fiscal year 2005, when the payments are combined with payments made under IC 12-15-15-9, IC 12-15-15-9.5, and

clause (B) of STEP FIVE of IC 12-15-15-1.5(b) for a state fiscal year. A hospital is eligible under this item if the hospital was eligible for Medicaid disproportionate share hospital payments for the state fiscal year ending June 30, 1998, the hospital received a Medicaid disproportionate share payment under IC 12-15-19-2.1 for state fiscal years 2001, 2002, 2003, and 2004, and the hospital merged two (2) hospitals under a single Medicaid provider number, effective January 1, 2004.

(ii) An amount equal to the non-federal share of payments to hospitals that are eligible under this item, for payments made under clause (C) of STEP FIVE of IC 12-15-15-1.5(b) under an agreement with the office, Medicaid safety-net payments, and any payment made under IC 12-15-19-2.1. The amount of payments to each hospital under this item shall be equal to one hundred percent (100%) of the hospital's hospital-specific limit for state fiscal year 2004, when the payments are combined with payments made to the hospital under IC 12-15-15-9, IC 12-15-15-9.5, and clause (B) of STEP FIVE of IC 12-15-15-1.5(b) for a state fiscal year. A hospital is eligible under this item if the hospital did not receive a payment under item (i), the hospital has less than sixty thousand (60,000) Medicaid inpatient days annually, the hospital either was eligible for Medicaid disproportionate share hospital payments for the state fiscal year ending June 30, 1998 or the hospital met the office's Medicaid disproportionate share payment criteria based on state fiscal year 1998 data and received a Medicaid disproportionate share payment for the state fiscal year ending June 30, 2001, and the hospital received a Medicaid disproportionate share payment under IC 12-15-19-2.1 for state fiscal years 2001, 2002, 2003, and 2004.

(iii) Subject to IC 12-15-19-6, an amount not less than the non-federal share of Medicaid safety-net payments in accordance with the Medicaid state plan.

(iv) An amount not less than the non-federal share of payments made under clause (C) of STEP FIVE of IC 12-15-15-1.5(b) under an agreement with the office to a hospital having sixty thousand (60,000) Medicaid inpatient days annually.

(v) An amount not less than the non-federal share of Medicaid disproportionate share payments for hospitals eligible under this item, and made under IC 12-15-19-6 and the approved Medicaid state plan. A hospital is eligible for a payment under this item if the hospital is eligible for payments under IC 12-15-19-2.1.

(vi) If additional funds remain after the payments made under (i) through (v), payments approved by the office and under the Medicaid state plan, to fund the non-federal share of other Medicaid supplemental payments for hospitals.

SECTION 11. IC 12-15-20.7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. **(a)** For each state fiscal year **ending before July 1, 2005, and** subject to section 3 of this chapter, the office shall make the payments identified in this section in the following order:

(1) First, payments under IC 12-15-15-9 and IC 12-15-15-9.5.

(2) Second, payments under clauses (A) and (B) of STEP FIVE of IC 12-15-15-1.5(b).

(3) Third, Medicaid inpatient payments for safety-net hospitals and Medicaid outpatient payments for safety-net hospitals.

(4) Fourth, payments under IC 12-15-15-1.1 and 12-15-15-1.3.

(5) Fifth, payments under IC 12-15-19-8 for municipal disproportionate share hospitals.

(6) Sixth, payments under IC 12-15-19-2.1 for disproportionate share hospitals.

(7) Seventh, payments under clause (C) of STEP FIVE of IC 12-15-15-1.5(b).

(b) For each state fiscal year ending after June 30, 2007, the office shall make the payments for the programs identified in IC 12-15-20-2(8)(G) in the order of priority that best utilizes available non-federal share, Medicaid supplemental payments, and Medicaid disproportionate share payments, and may change the order or priority at any time as necessary for the proper administration of one (1) or more of the payment programs listed in IC 12-15-20-2(8)(G).

SECTION 12. IC 12-16-3.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. A ~~hospital shall~~ **provider may** provide a patient, and if the patient is not able to understand the statement, the patient's representative, with a statement of the eligibility and benefit standards adopted by the division if at least one (1) of the following occurs:

(1) The ~~hospital~~ **provider** has reason to believe that the patient may be indigent.

(2) The patient requests a statement of the standards.

SECTION 13. IC 12-16-4.5-1, AS AMENDED BY P.L.145-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) To receive assistance under the hospital care for the indigent 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 14. IC 12-16-4.5-2, AS AMENDED BY P.L.145-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. A ~~hospital, physician, or transportation~~ provider must file the application with the division not more than forty-five (45) days after the person has been released or discharged from the hospital, unless the person is medically unable and the next of kin or legal representative is unavailable.

SECTION 15. IC 12-16-4.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) A patient must sign an application if the patient is medically able to sign.

(b) If a patient is medically unable to sign an application, the patient's next of kin or a legal representative, if available, may sign the application.

(c) If no person under subsections (a) and (b) is able to sign the application to file a timely application, a ~~hospital~~ **provider's** representative may sign the application instead of the patient.

SECTION 16. IC 12-16-4.5-8.5, AS ADDED BY P.L.145-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: 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 17. IC 12-16-5.5-1, AS AMENDED BY P.L.145-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: 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,~~ **provider,** 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~~ **provider** regarding the person:

(1) Income.
(2) Resources.
(3) Place of residence.
(4) Medical condition.
~~(5) Hospital care.~~
~~(6)~~ **(5)** Physician care.
~~(7)~~ **(6)** Transportation to and from the hospital.

The division may rely on the ~~hospital's~~ **provider'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 18. IC 12-16-5.5-1.2, AS ADDED BY P.L.145-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: 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,~~ **an eligible provider;** 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 19. IC 12-16-5.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The ~~hospital providing~~ **provider of** medical care to a patient shall provide information the ~~hospital~~ **provider** has that would assist in the verification of indigency of a patient.

(b) A ~~hospital~~ **provider** that provides information under subsection (a) is immune from civil and criminal liability for divulging the information.

SECTION 20. IC 12-16-5.5-3, AS AMENDED BY P.L.145-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: 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;
(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 21. IC 12-16-5.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. The division shall notify in writing the person and the ~~hospital~~ **provider** of the following:

(1) A decision concerning eligibility.
(2) The reasons for a denial of eligibility.
(3) That either party has the right to appeal the decision.

SECTION 22. IC 12-16-6.5-1, AS AMENDED BY P.L.145-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. If the division determines that a person is not eligible for 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 to the last known address of the person ~~physician, hospital,~~ or ~~transportation~~ provider.

SECTION 23. IC 12-16-6.5-1.2, AS ADDED BY P.L.145-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: 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~~ **or** 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 24. IC 12-16-6.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. A notice of the hearing shall be served upon all persons interested in the matter, including any affected ~~physician, hospital, or transportation~~ provider, at least twenty (20) days before the time fixed for the hearing.

SECTION 25. IC 12-16-7.5-1.2, AS ADDED BY P.L.145-2005, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: 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~~ **Hospitals** 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. **Hospitals shall not file claims for payments under IC 12-15-15-9 and IC 12-15-15-9.5 for payments attributable to state fiscal years beginning after June 30, 2007.**

(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 26. IC 12-16-7.5-2.5, AS AMENDED BY P.L.1-2006, SECTION 189, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: 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, "payable claim" refers to the following:

(1) Subject to subdivision (2), 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.

This subdivision applies for the state fiscal year ending June 30, 2004.

(2) For state fiscal years ending after June 30, 2004, **and before July 1, 2007,** 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).

(3) For state fiscal years beginning after June 30, 2007, a claim for payment for physician 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) be necessary 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 outcomes described 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 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 outcomes 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.

(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 claim to the division is considered to have submitted the claim during the state fiscal year during which the 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.

(e) The division shall determine the amount of a claim under IC 12-16-5.5-1.2(b).

SECTION 27. IC 12-16-7.5-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4.5. (a) Not later than October 31 following the end of each state fiscal year, the division shall:

(1) calculate for each county the total amount of payable

claims submitted to the division during the state fiscal year attributed to:

(A) patients who were residents of the county; and

(B) patients:

(i) who were not residents of Indiana;

(ii) whose state of residence could not be determined by the division; and

(iii) who were residents of Indiana but whose county of residence in Indiana could not be determined by the division;

and whose medical condition that necessitated the care or service occurred in the county;

(2) notify each county of the amount of payable claims attributed to the county under the calculation made under subdivision (1); and

(3) with respect to payable claims attributed to a county under subdivision (1):

(A) calculate the total amount of payable claims submitted during the state fiscal year for:

(i) each hospital;

(ii) each physician; and

(iii) each transportation provider; and

(B) determine the amount of each payable claim for each hospital, physician, and transportation provider listed in clause (A).

(b) **For the state fiscal years beginning after June 30, 2005, but before July 1, 2007, and** before November 1 following the end of a state fiscal year, the division shall allocate the funds transferred from a county's hospital care for the indigent fund to the state hospital care for the indigent fund under IC 12-16-14 during or for the **following** state fiscal ~~year.~~ **years:**

(1) For the state fiscal year ending June 30, 2006, as required under the following STEPS:

STEP ONE: Determine the total amount of funds transferred from all counties' hospital care for the indigent funds by the counties to the state hospital care for the indigent fund under IC 12-16-14 during or for the state fiscal year.

STEP TWO: Of the total amount of payable claims submitted to the division during the state fiscal year from all counties under subsection (a), determine the amount that is the lesser of:

(A) the amount of total physician payable claims and total transportation provider payable claims; or

(B) three million dollars ($3,000,000).

The amount determined under this STEP shall be used by the division to make payments under section 5 of this chapter.

STEP THREE: Transfer an amount equal to the sum of:

(A) the non-federal share of the payments made under clause (A) of STEP FIVE of IC 12-15-15-1.5(b);

(B) the amount transferred under IC 12-15-20-2(8)(F); and

(C) the non-federal share of the payments made under IC 12-15-15-9 and IC 12-15-15-9.5;

to the Medicaid indigent care trust fund for funding the transfer to the office and the non-federal share of the payments identified in this STEP.

STEP FOUR: Transfer an amount equal to sixty-one million dollars ($61,000,000) less the sum of:

(A) the amount determined in STEP TWO; and

(B) the amount transferred under STEP THREE;

to the Medicaid indigent care trust fund for funding the non-federal share of payments under clause (B) of STEP FIVE of IC 12-15-15-1.5(b).

STEP FIVE: Transfer to the Medicaid indigent care trust fund for the programs referenced at IC 12-15-20-2(8)(D)(vi) and funded in accordance with IC 12-15-20-2(8)(H) the amount determined under STEP ONE, less the sum of the amount:

(A) determined in STEP TWO;

(B) transferred in STEP THREE; and

(C) transferred in STEP FOUR.

(2) For the state fiscal year ending June 30, 2007, as required under the following steps:

STEP ONE: Determine the total amount of funds transferred from all counties' hospital care for the indigent funds by the counties to the state hospital care for the indigent fund under IC 12-16-14 during or for the state fiscal year.

STEP TWO: Of the total amount of payable claims submitted to the division during the state fiscal year from all counties under subsection (a), determine the amount that is the lesser of:

(A) the amount of total physician payable claims and total transportation provider payable claims; or

(B) three million dollars ($3,000,000).

The amount determined under this STEP shall be used by the division for making payments under section 5 of this chapter or for the non-federal share of Medicaid payments for physicians and transportation providers, as determined by the office.

STEP THREE: Transfer an amount equal to the sum of:

(A) the non-federal share of five million dollars ($5,000,000) for the payment made under clause (A) of STEP FIVE of IC 12-15-15-1.5(b);

(B) the amount transferred under IC 12-15-20-2(8)(F); and

(C) the non-federal share of the payments made under IC 12-15-15-9 and IC 12-15-15-9.5;

to the Medicaid indigent care trust fund for funding the transfer to the office and the non-federal share of the payments identified in this STEP.

STEP FOUR: Transfer an amount equal to the amount determined under STEP ONE less the sum of:

(A) the amount determined in STEP TWO; and

(B) the amount transferred under STEP THREE;

to the Medicaid indigent care trust fund for funding the non-federal share of payments under clause (B) of STEP FIVE of IC 12-15-15-1.5(b).

(c) For the state fiscal years beginning after June 30, 2007, before November 1 following the end of the state fiscal year, the division shall allocate the funds transferred from a county's hospital care for the indigent fund to the state hospital care for the indigent fund under IC 12-16-14 during or for the state fiscal year as required under the following STEPS:

STEP ONE: Determine the total amount of funds transferred from a county's hospital care for the indigent fund by the county to the state hospital care for the indigent fund under IC 12-16-14 during or for the state fiscal year.

STEP TWO: Of the total amount of payable claims submitted to the division during the state fiscal year attributed to the county under subsection (a), determine the amount of total ~~hospital payable claims, total~~ physician payable claims, and total transportation provider payable claims. Of the amounts determined for physicians and transportation providers, calculate the sum of those amounts as a percentage of an amount equal to the sum of the total payable physician claims and total payable transportation provider claims attributed to all the counties submitted to the division during the state fiscal year.

STEP THREE: Multiply three million dollars ($3,000,000)

by the percentage calculated under STEP TWO.

STEP FOUR: Transfer to the Medicaid indigent care trust fund for purposes of ~~IC 12-15-20-2(8)(D)~~ **IC 12-15-20-2(8)(G)** an amount equal to the amount calculated under STEP ONE, minus an amount equal to the amount calculated under STEP THREE.

STEP FIVE: The division shall retain an amount equal to the amount remaining in the state hospital care for the indigent fund after the transfer in STEP FOUR for purposes of making payments under section 5 of this chapter **or for the non-federal share of Medicaid payments for physicians and transportation providers, as determined by the office.**

~~(c)~~ **(d)** The costs of administering the hospital care for the indigent program, including the processing of claims, shall be paid from the funds transferred to the state hospital care for the indigent fund.

SECTION 28. IC 12-16-7.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. Before December 15 following the end of each state fiscal year, the division shall, from the amounts combined from the counties' hospital care for the indigent funds and retained under section 4.5(b) ~~STEP FIVE~~ **or 4.5(c)** of this chapter, pay each physician and transportation provider a pro rata part of that amount. The total payments available under this section may not exceed three million dollars ($3,000,000).

SECTION 29. IC 12-16-14-3, AS AMENDED BY P.L.246-2005, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) ~~For purposes of this section, "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b)(1).~~

~~(b)~~ For taxes first due and payable in 2003, each county shall impose a hospital care for the indigent property tax levy equal to the product of:

(1) the county's hospital care for the indigent property tax levy for taxes first due and payable in 2002; multiplied by

(2) the county's assessed value growth quotient determined under IC 6-1.1-18.5-2 for taxes first due and payable in 2003.

~~(c)~~ **(b)** For taxes first due and payable in 2004, ~~2005, 2006, 2007, and 2008,~~ **and each year after 2004,** each county shall impose a hospital care for the indigent property tax levy equal to the ~~product of:~~ **hospital care for the indigent program property tax levy for taxes first due and payable in the preceding calendar year, multiplied by the statewide average assessed value growth quotients determined under IC 6-1.1-18.5-2, for the year in which the tax levy under this subsection is first due and payable.**

~~(1) the county's hospital care for the indigent property tax levy for taxes first due and payable in the preceding year, multiplied by~~

~~(2) the assessed value growth quotient determined in the last STEP of the following STEPS:~~

~~STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.~~

~~STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth) of the county's total assessed value of all taxable property in the particular calendar year, divided by the county's total assessed value of all taxable property in the calendar year immediately preceding the particular calendar year.~~

~~STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).~~

~~(d) Except as provided in subsection (e):~~

~~(1) for taxes first due and payable in 2009, each county shall impose a hospital care for the indigent property tax levy equal to the average of the annual amount of payable claims attributed to the county under IC 12-16-7.5-4.5 during the state fiscal years beginning:~~

~~(A) July 1, 2005;~~

~~(B) July 1, 2006; and~~

~~(C) July 1, 2007; and~~

~~(2) for all subsequent annual levies under this section, the average annual amount of payable claims attributed to the county under IC 12-16-7.5-4.5 during the three (3) most recently completed state fiscal years.~~

~~(e) A county may not impose an annual levy under subsection (d) in an amount greater than the product of:~~

~~(1) The greater of:~~

~~(A) the county's hospital care for the indigent property tax levy for taxes first due and payable in 2008; or~~

~~(B) the amount of the county's maximum hospital care for the indigent property tax levy determined under this subsection for taxes first due and payable in the immediately preceding year; multiplied by~~

~~(2) the assessed value growth quotient determined in the last STEP of the following STEPS:~~

~~STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.~~

~~STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth) of the county's total assessed value of all taxable property in the particular calendar year, divided by the county's total assessed value of all taxable property in the calendar year immediately preceding the particular calendar year.~~

~~STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).~~

SECTION 30. IC 34-30-2-45.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 45.7. IC 12-16-5.5-2 (Concerning ~~hospitals~~ **providers** for providing information verifying indigency of patient).

SECTION 31. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2007]: IC 12-15-15-9.8; IC 12-15-20.7-3; IC 12-16-2.5-6.5; IC 12-16-8.5; IC 12-16-12.5.

SECTION 32. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.**

(b) The office shall apply to the United States Department of Health and Human Services for approval of an amendment to the state's Medicaid plan that is necessary to do the following:

(1) Amend the state's upper payment limit program.

(2) Make changes to the state's disproportionate share hospital program.

(c) The office may not implement an approved amendment to the state plan until the office files an affidavit with the governor attesting that the state plan amendment applied for under subsection (b)(1) or (b)(2) of 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 state plan amendment is approved.

(d) The office may adopt rules under IC 4-22-2 necessary to implement this SECTION.

(e) This SECTION expires December 31, 2013.

SECTION 33. [EFFECTIVE UPON PASSAGE] **(a) Not later than November 1, 2008, the department of insurance and the office of the secretary of family and social services shall study and make a final recommendation to the legislative council, in an electronic format under IC 5-14-6, concerning the following:**

(1) A plan to provide health insurance coverage to individuals who:

(A) have a family income that is more than two

hundred percent (200%) of the federal income poverty level; and

(B) are uninsured.

(2) A health insurance program that would require local government employers, school corporations, and other public employers to join together to purchase employee health insurance coverage.

(b) Not later than November 1, 2008, each accident and sickness insurer and each health maintenance organization doing business in Indiana shall provide the following information to the department of insurance:

(1) Reimbursement rates for providers.

(2) Premium costs.

(c) The department of insurance shall compile and provide the information provided under subsection (b) in a report to the legislative council in an electronic format under IC 5-14-6.

(d) The report required under subsection (c) may not identify an accident and sickness insurer or a health maintenance organization. Any information provided under this SECTION that identifies an accident and sickness insurer or a health maintenance organization is confidential.

(e) This SECTION expires December 31, 2008.

SECTION 34. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "commission" refers to the health finance commission established by IC 2-5-23-3.**

(b) The commission shall study during the 2007 legislative interim the following concerning the Indiana tobacco use prevention and cessation program:

(1) The effectiveness of the program.

(2) Whether the program should be transferred to the state department of health.

(c) This SECTION expires December 31, 2007.

SECTION 35. [EFFECTIVE UPON PASSAGE] **(a) Not later than November 1, 2008, the office of the secretary of family and social services shall study and make a final recommendation to the legislative council, in an electronic format under IC 5-14-6, concerning the viability of keeping members of a family who are eligible for:**

(1) Medicaid;

(2) the children's health insurance program; or

(3) other state health care assistance plans;

together under the same health care plan by using health care accounts, market-based contributions by the recipients, assignment of Medicaid patients to private health insurance, or other health care plans.

(b) This SECTION expires December 31, 2008.

SECTION 36. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.**

(b) The office shall apply to the United States Department of Health and Human Services for approval of a Section 1115 demonstration waiver or a Medicaid state plan amendment to develop and implement a health insurance program to cover individuals who meet the following requirements:

(1) The individual is at least eighteen (18) years of age and less than sixty-five (65) years of age.

(2) The individual is a United States citizen and has been a resident of Indiana for at least twelve (12) months.

(3) The individual has an annual household income of not more than two hundred percent (200%) of the federal income poverty level.

(4) The individual is not eligible for health insurance coverage through the individual's employer.

(5) The individual has been without health insurance coverage for at least six (6) months or is without health insurance coverage because of a change in employment.

(c) The office shall include in the waiver application or Medicaid state plan amendment a request to fund the program in part by using:

(1) enhanced federal financial participation; and

(2) hospital care for the indigent dollars, upper payment limit dollars, or disproportionate share hospital dollars.

(d) The office may not implement the waiver or Medicaid state plan amendment until the office:

(1) files an affidavit with the governor attesting that the federal waiver or amendment applied for under this SECTION is in effect; and

(2) has sufficient funding for the program.

The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the waiver or amendment is approved.

(e) The office may adopt rules under IC 4-22-2 necessary to implement this SECTION.

(f) This SECTION expires December 31, 2013.

SECTION 37. **An emergency is declared for this act.**

(Reference is to ESB 503 as reprinted April 10, 2007.)

MILLER	C. BROWN
SIMPSON	T. BROWN
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT

ESB 500–1; filed April 28, 2007, at 7:39 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 500 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 5-20-4-7, AS AMENDED BY P.L.1-2006, SECTION 114, AND AS AMENDED BY P.L.181-2006, SECTION 31, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) There is established the *affordable* housing ~~*trust*~~ *and community development* fund. The fund shall be administered by the ~~*Indiana housing and community development*~~ authority under the direction of the ~~*Indiana housing and community development*~~ authority's board.

(b) The fund consists of the following resources:

(1) Appropriations from the general assembly.

(2) Gifts, ~~*and*~~ grants, ~~*to the fund.*~~ *and donations of any tangible or intangible property from public or private sources.*

(3) Investment income earned on the fund's assets.

(4) Repayments of loans from the fund.

(5) Funds borrowed from the board for depositories insurance fund (IC 5-13-12-7).

(6) Money deposited in the fund under IC 36-2-7-10.

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

(d) The money remaining in the fund at the end of a fiscal year does not revert to the state general fund.

(e) Interest earned on the fund may be used by the ~~*Indiana housing and community development*~~ authority to pay expenses incurred in the administration of the fund.

SECTION 2. IC 5-20-4-8, AS AMENDED BY P.L.181-2006, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) The money in the fund shall be used to provide financial assistance in the form of:

(1) grants;
~~(2) rent supplements;~~
~~(3)~~ **(2)** loans; and
~~(4)~~ **(3)** loan guarantees.

In addition, money from the fund may be used to provide technical assistance to nonprofit developers of low income housing.

(b) The financial assistance described in subsection (a) shall be used for:

(1) the acquisition, construction, rehabilitation, development, operation, and insurance of, and education concerning, affordable housing and community economic development; or

(2) other programs considered appropriate to meet the affordable housing and community development needs of lower income families and very low income families, including lower income elderly, persons with disabilities, and homeless individuals.

(c) At least fifty percent (50%) of the dollars allocated must be used to serve very low income households.

SECTION 3. IC 5-20-5-15.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15.5. (a) The governing body of an eligible entity that receives a grant under this chapter shall, by resolution, establish an affordable housing fund to be administered, subject to the terms of the resolution, by a department, a division, or an agency designated by the governing body.

(b) The affordable housing fund consists of:

(1) payments in lieu of taxes deposited in the fund under IC 36-1-8-14.2;

(2) gifts and grants to the fund;

(3) investment income earned on the fund's assets; ~~and~~

(4) money deposited in the fund under IC 36-2-7-10; and

~~(4)~~ **(5)** other funds from sources approved by the commission.

(c) The governing body shall, by resolution, establish uses for the affordable housing fund. However, the uses must be limited to:

(1) providing financial assistance to those individuals and families whose income is at or below eighty percent (80%) of the county's median income for individuals and families, respectively, to enable those individuals and families to purchase or lease residential units within the county;

(2) paying expenses of administering the fund;

(3) making grants, loans, and loan guarantees for the development, rehabilitation, or financing of affordable housing for individuals and families whose income is at or below eighty percent (80%) of the county's median income for individuals and families, respectively, including the elderly, persons with disabilities, and homeless individuals and families; and

(4) providing technical assistance to nonprofit developers of affordable housing.

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

SECTION 4. IC 5-22-16-4, AS AMENDED BY P.L.246-2005, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) An offeror that is a foreign corporation must be registered with the secretary of state to do business in Indiana in order to be considered responsible.

(b) This subsection applies to a purchase of ~~supplies or services~~ **tangible personal property** for a state agency under a contract entered into or purchase order sent to an offeror (in the absence of a contract) after June 30, ~~2003,~~ **2007,** including a purchase described in IC 5-22-8-2 or IC 5-22-8-3. A state agency may not purchase **tangible personal** property ~~or services~~ from a person that is delinquent in the payment of amounts due from the person under IC 6-2.5 (gross retail and use tax) unless the person provides a statement from the department of state revenue that the person's delinquent tax liability:

(1) has been satisfied; or

(2) has been released under IC 6-8.1-8-2.

(c) The purchasing agent may award a contract to an offeror pending the offeror's registration with the secretary of state. If, in the judgment of the purchasing agent, the offeror has not registered within a reasonable period, the purchasing agent shall cancel the contract. An offeror has no cause of action based on the cancellation of a contract under this subsection.

SECTION 5. IC 6-1.1-45-9, AS AMENDED BY P.L.154-2006, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) Subject to subsection (c), a taxpayer that makes a qualified investment is entitled to a deduction from the assessed value of the taxpayer's enterprise zone property located at the enterprise zone location for which the taxpayer made the qualified investment. The amount of the deduction is equal to the remainder of:

(1) the total amount of the assessed value of the taxpayer's enterprise zone property assessed at the enterprise zone location on a particular assessment date; minus

(2) the total amount of the base year assessed value for the enterprise zone location.

(b) To receive the deduction allowed under subsection (a) for a particular year, a taxpayer must comply with the conditions set forth in this chapter.

(c) A taxpayer that makes a qualified investment in an enterprise zone established under IC 5-28-15-11 that is under the jurisdiction of a military base reuse authority board created under IC 36-7-14.5 or IC 36-7-30-3 is entitled to a deduction under this section only if the deduction is approved by the military base reuse authority board.

(d) Except as provided in subsection (c), a taxpayer that makes a qualified investment at an enterprise zone location that is located within an allocation area, as defined by IC 12-19-1.5-1, is entitled to a deduction under this section only if the deduction is approved by the governing body of the allocation area.

SECTION 6. IC 6-1.1-45-10, AS ADDED BY P.L.214-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) A taxpayer that desires to claim the deduction provided by section 9 of this chapter for a particular year shall file a certified application, on forms prescribed by the department of local government finance, with the auditor of the county where the property for which the deduction is claimed was located on the assessment date. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. **Except as provided in subsections (c) and (d),** the application must be filed before May ~~10~~ **15** of the assessment year to obtain the deduction.

(b) A taxpayer shall include on an application filed under this section all information that the department of local government finance and the corporation require to determine eligibility for the deduction provided under this chapter.

(c) The county auditor may grant a taxpayer an extension of not more than thirty (30) days to file the taxpayer's application if:

(1) the taxpayer submits a written application for an extension before May 15 of the assessment year; and

(2) the taxpayer is prevented from filing a timely application because of sickness, absence from the county, or any other good and sufficient reason.

(d) An urban enterprise association created under IC 5-28-15-13 may by resolution waive failure to file a:

(1) timely; or

(2) complete;

deduction application under this section. Before adopting a waiver under this section, the urban enterprise association shall conduct a public hearing on the waiver.

SECTION 7. IC 6-1.1-45-12, AS ADDED BY P.L.214-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2007 (RETROACTIVE)]: Sec. 12. **(a) Subject to subsection (b), a taxpayer may claim a deduction under this chapter for property other than property located in a consolidated city for an assessment date that occurs after the expiration of the enterprise zone in which the enterprise zone property for which the taxpayer made the qualified investment is located.**

(b) A taxpayer may not claim a deduction under this chapter for more than ten (10) years.

SECTION 8. IC 6-2.3-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 16, 2007]: Sec. 1. (a) Except as provided in subsections (c) through (e), a taxpayer shall file utility receipts tax returns with, and pay the taxpayer's utility receipts tax liability to, the department by the due date of the estimated return. A taxpayer who uses a taxable year that ends on December 31 shall file the taxpayer's estimated utility receipts tax returns and pay the tax to the department on or before April 20, June 20, September 20, and December 20 of the taxable year. If a taxpayer uses a taxable year which does not end on December 31, the due dates for filing estimated utility receipts tax returns and paying the tax are on or before the twentieth day of the fourth, sixth, ninth, and twelfth months of the taxpayer's taxable year.

(b) With each return filed, with each payment by cashier's check, certified check, or money order delivered in person or by overnight courier, and with each electronic funds transfer made, a taxpayer shall pay to the department twenty-five percent (25%) of the estimated or the exact amount of utility receipts tax that is due.

(c) If a taxpayer's estimated annual utility receipts tax liability does not exceed ~~one~~ **two** thousand **five hundred** dollars ~~($1,000),~~ **($2,500)** the taxpayer is not required to file an estimated utility receipts tax return.

(d) If the department determines that a taxpayer's:

(1) estimated quarterly utility receipts tax liability for the current year; or

(2) average estimated quarterly utility receipts tax liability for the preceding year;

exceeds ~~ten~~ **five** thousand dollars ~~($10,000),~~ **($5,000),** the taxpayer shall pay the estimated utility receipts taxes due by electronic funds transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

(e) If a taxpayer's utility receipts tax payment is made by electronic funds transfer, the taxpayer is not required to file an estimated utility receipts tax return.

(f) The penalty prescribed by IC 6-8.1-10-2.1(b) shall be assessed by the department on taxpayers failing to make payments as required in subsection (b) or (d). However, a penalty may not be assessed as to any estimated payments of utility receipts tax that equal or exceed:

(1) twenty percent (20%) of the final tax liability for the taxable year; or

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

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

SECTION 9. IC 6-2.5-3-2, AS AMENDED BY P.L.162-2006, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) An excise tax, known as the use tax, is imposed on the storage, use, or consumption of tangible personal property in Indiana if the property was acquired in a retail transaction, regardless of the location of that transaction or of the retail merchant making that transaction.

(b) The use tax is also imposed on the storage, use, or consumption of a vehicle, an aircraft, or a watercraft, if the vehicle, aircraft, or watercraft:

(1) is acquired in a transaction that is an isolated or occasional sale; and

(2) is required to be titled, licensed, or registered by this state for use in Indiana.

(c) The use tax is imposed on the addition of tangible personal property to a structure or facility, if, after its addition, the property becomes part of the real estate on which the structure or facility is located. However, the use tax does not apply to additions of tangible personal property described in this subsection, if:

(1) the state gross retail or use tax has been previously imposed on the sale or use of that property; or

(2) the ultimate purchaser or recipient of that property would have been exempt from the state gross retail and use taxes if that purchaser or recipient had directly purchased the property from the supplier for addition to the structure or facility.

(d) The use tax is imposed on a person who:

(1) manufactures, fabricates, or assembles tangible personal property from materials either within or outside Indiana; and

(2) uses, stores, distributes, or consumes tangible personal property in Indiana.

(e) Notwithstanding any other provision of this section, the use tax is not imposed on the keeping, retaining, or exercising of any right or power over tangible personal property, if:

(1) the property is delivered into Indiana by or for the purchaser of the property;

(2) the property is delivered in Indiana for the sole purpose of being processed, printed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property; and

(3) the property is subsequently transported out of state for use solely outside Indiana.

(f) As used in this subsection, "prepurchase evaluation" means an examination of an aircraft by a potential purchaser for the purpose of obtaining information relevant to the potential purchase of the aircraft. Notwithstanding any other provision of this section, the use tax is not imposed on the keeping, retaining, or exercising of any right or power over an aircraft, if:

(1) the aircraft is titled, registered, or based (as defined in IC 6-6-6.5-1(m)) in another state or country;

(2) the aircraft is delivered to Indiana by or for a nonresident owner or purchaser of the aircraft;

(3) the aircraft is delivered to Indiana for the sole purpose of being repaired, refurbished, remanufactured, or subjected to a prepurchase evaluation; and

(4) after completion of the repair, refurbishment, remanufacture, or prepurchase evaluation, the aircraft is transported to a destination outside Indiana.

SECTION 10. IC 6-2.5-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) A person who acquires tangible personal property from a retail merchant for delivery in Indiana is presumed to have acquired the property for storage, use, or consumption in Indiana. **However,** ~~unless~~ the person or the retail merchant can produce evidence to rebut that presumption.

(b) A retail merchant is not required to produce evidence of

nontaxability under subsection (a) if the retail merchant receives from the person who acquired the property an exemption certificate which certifies, in the form prescribed by the department, that the acquisition is exempt from the use tax.

(c) A retail merchant that sells tangible personal property to a person that purchases the tangible personal property for use or consumption in providing public transportation under IC 6-2.5-5-27 may verify the exemption by obtaining the person's:

(1) name;

(2) address; and

(3) motor carrier number, United States Department of Transportation number, or any other identifying number authorized by the department.

The person engaged in public transportation shall provide a signature to affirm under penalties of perjury that the information provided to the retail merchant is correct and that the tangible personal property is being purchased for an exempt purpose.

SECTION 11. IC 6-2.5-4-14, AS AMENDED BY SEA 526-2007, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. The department of administration and each purchasing agent for a state educational institution shall provide the department with a list of every person who desires to enter into a contract to sell **tangible personal** property ~~or services~~ to an agency (as defined in IC 4-13-2-1) or a state educational institution. The department shall notify the department of administration or the purchasing agent of the state educational institution if a person on the list does not have a registered retail merchant certificate or is delinquent in remitting or paying amounts due to the department under this article.

SECTION 12. IC 6-2.5-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) For purposes of this section:

(1) the retreading of tires shall be treated as the processing of tangible personal property; and

(2) commercial printing shall be treated as the production and manufacture of tangible personal property.

(b) **Except as provided in subsection (c),** transactions involving manufacturing machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for direct use in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property.

(c) The exemption provided in subsection (b) does not apply to transactions involving distribution equipment or transmission equipment acquired by a public utility engaged in generating electricity.

SECTION 13. IC 6-2.5-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) As used in this section, "new motor vehicle" has the meaning set forth in IC 9-13-2-111.

(b) Transactions involving tangible personal property other than a new motor vehicle are exempt from the state gross retail tax if the person acquiring the property acquires it for resale, rental, or leasing in the ordinary course of the person's business without changing the form of the property.

(c) The following transactions involving a new motor vehicle are exempt from the state gross retail tax:

(1) A transaction in which a person that has a franchise in effect at the time of the transaction for the vehicle trade name, trade or service mark, or related characteristics acquires a new motor vehicle for resale, rental, or leasing in the ordinary course of the person's business.

(2) A transaction in which a person that is a franchisee appointed by a manufacturer or converter manufacturer licensed under IC 9-23 acquires a new motor vehicle that has at least one (1) trade name, service mark, or related characteristic as a result of modification or further manufacture by the manufacturer or converter manufacturer for resale, rental, or leasing in the ordinary course of the person's business.

(3) A transaction in which a person acquires a new motor vehicle for rental or leasing in the ordinary course of the person's business.

(d) The rental or leasing of accommodations to a promoter by a political subdivision (including a capital improvement board) or the state fair commission is not exempt from the state gross retail tax, if the rental or leasing of the property by the promoter is exempt under IC 6-2.5-4-4.

(e) A transaction in which a person acquires an aircraft for rental or leasing in the ordinary course of the person's business is not exempt from the state gross retail tax unless the person establishes, under guidelines adopted by the department in the manner provided in IC 4-22-2-37.1 for the adoption of emergency rules, that the annual amount of the lease revenue derived from leasing the aircraft is equal to or greater than:

(1) ten percent (10%) of the greater of the original cost or the book value of the aircraft, if the original cost of the aircraft was less than one million dollars ($1,000,000); or

(2) seven and five-tenths percent (7.5%) of the greater of the original cost or the book value of the aircraft, if the original cost of the aircraft was at least one million dollars ($1,000,000).

SECTION 14. IC 6-2.5-5-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 35. **(a) Except as provided in subsection (b),** transactions involving tangible personal property are exempt from the state gross retail tax if:

(1) the:

(A) person acquires the property to facilitate the service or consumption of food and food ingredients that is not exempted from the state gross retail tax under section 20 of this chapter; and

(B) property is:

(i) used, consumed, or removed in the service or consumption of the food and food ingredients; and

(ii) made unusable for further service or consumption of food and food ingredients after the property's first use for service or consumption of food and food ingredients; or

(2) the:

(A) person acquiring the property is engaged in the business of renting or furnishing rooms, lodgings, or accommodations in a commercial hotel, motel, inn, tourist camp, or tourist cabin; and

(B) ~~the~~ property acquired is:

(i) used up, removed, or otherwise consumed during the occupation of the rooms, lodgings, or accommodations by a guest; or

(ii) rendered nonreusable by the property's first use by a guest during the occupation of the rooms, lodgings, or accommodations.

(b) The exemption provided by subsection (a) does not apply to transactions involving electricity, water, gas, or steam.

SECTION 15. IC 6-2.5-5-39, AS AMENDED BY P.L.92-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 39. (a) As used in this section, "cargo trailer" means a vehicle:

(1) without motive power;

(2) designed for carrying property;

(3) designed for being drawn by a motor vehicle; and

(4) having a gross vehicle weight rating of at least two thousand two hundred (2,200) pounds.

(b) As used in this section, "recreational vehicle" means a vehicle with or without motive power equipped exclusively for living quarters for persons traveling upon the highways. The term includes a travel trailer, a motor home, a truck camper with a floor and facilities enabling it to be used as a dwelling, and a fifth wheel trailer.

(c) A transaction involving a cargo trailer **or** a recreational vehicle ~~or an aircraft~~ is exempt from the state gross retail tax if:

(1) the purchaser is a nonresident;

(2) upon receiving delivery of the cargo trailer **or** recreational vehicle, ~~or aircraft,~~ the person transports it within thirty (30) days to a destination outside Indiana;

(3) the cargo trailer **or** recreational vehicle ~~or aircraft~~ will be titled or registered for use in another state or country;

(4) the cargo trailer **or** recreational vehicle ~~or aircraft~~ will not be titled or registered for use in Indiana; and

(5) ~~in the case of a transaction involving a cargo trailer or recreational vehicle,~~ the cargo trailer or recreational vehicle will be titled or registered in a state or country that provides an exemption from sales, use, or similar taxes imposed on a cargo trailer or recreational vehicle that is purchased in that state or country by an Indiana resident and will be titled or registered in Indiana.

A transaction involving a cargo trailer or recreational vehicle that does not meet the requirements of subdivision (5) is not exempt from the state gross retail tax.

(d) A purchaser must claim an exemption under this section by submitting to the retail merchant an affidavit stating the purchaser's intent to:

(1) transport the cargo trailer **or** recreational vehicle ~~or aircraft~~ to a destination outside Indiana within thirty (30) days after delivery; and

(2) title or register the cargo trailer **or** recreational vehicle ~~or aircraft~~ for use in another state or country.

The department shall prescribe the form of the affidavit, which must include an affirmation by the purchaser under the penalties for perjury that the information contained in the affidavit is true. The affidavit must identify the state or country in which the cargo trailer **or** recreational vehicle ~~or aircraft~~ will be titled or registered.

(e) The department shall provide the information necessary to determine a purchaser's eligibility for an exemption claimed under this section to retail merchants in the business of selling cargo trailers or recreational vehicles.

SECTION 16. IC 6-2.5-5-42 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 42. (a) A transaction involving an aircraft is exempt from the state gross retail tax if:**

(1) the purchaser is a nonresident;

(2) the purchaser transports the aircraft to a destination outside Indiana within thirty (30) days after:

(A) accepting delivery of the aircraft; or

(B) a repair, refurbishment, or remanufacture of the aircraft is completed, if the aircraft remains in Indiana after the purchaser accepts delivery for the purpose of accomplishing the repair, refurbishment, or remanufacture of the aircraft;

(3) the aircraft will be:

(A) titled or registered in another state or country; or

(B) based (as defined in IC 6-6-6.5-1(m)) in that state or country, if a state or country does not require a title or registration for aircraft; and

(4) the aircraft will not be titled or registered in Indiana.

(b) A purchaser must claim an exemption under subsection (a) by submitting to the seller an affidavit affirming the elements required by subsection (a). In addition, the affidavit must identify the state or country in which the aircraft will be titled, registered, or based.

(c) Within sixty (60) days after:

(1) a purchaser who claims an exemption under this section accepts delivery of the aircraft; or

(2) a repair, refurbishment, or remanufacture of the aircraft subject to an exemption under this section is completed, if the aircraft remains in Indiana after the purchaser accepts delivery for the purpose of accomplishing the repair, refurbishment, or remanufacture of the aircraft;

the purchaser shall provide the seller with a copy of the purchaser's title or registration of the aircraft outside Indiana. If the state or country in which the aircraft is based does not require the aircraft to be titled or registered, the purchaser shall provide the seller with a copy of the aircraft registration application for the aircraft as filed with the Federal Aviation Administration.

(d) The department shall prescribe the form of the affidavit required by subsection (b).

SECTION 17. IC 6-2.5-6-1, AS AMENDED BY P.L.153-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 1. (a) Except as otherwise provided in this section, each person liable for collecting the state gross retail or use tax shall file a return for each calendar month and pay the state gross retail and use taxes that the person collects during that month. A person shall file the person's return for a particular month with the department and make the person's tax payment for that month to the department not more than thirty (30) days after the end of that month, if that person's average monthly liability for collections of state gross retail and use taxes under this section as determined by the department for the preceding calendar year did not exceed one thousand dollars ($1,000). If a person's average monthly liability for collections of state gross retail and use taxes under this section as determined by the department for the preceding calendar year exceeded one thousand dollars ($1,000), that person shall file the person's return for a particular month and make the person's tax payment for that month to the department not more than twenty (20) days after the end of that month.

(b) If a person files a combined sales and withholding tax report and either this section or IC 6-3-4-8.1 requires sales or withholding tax reports to be filed and remittances to be made within twenty (20) days after the end of each month, then the person shall file the combined report and remit the sales and withholding taxes due within twenty (20) days after the end of each month.

(c) Instead of the twelve (12) monthly reporting periods required by subsection (a), the department may permit a person to divide a year into a different number of reporting periods. The return and payment for each reporting period is due not more than twenty (20) days after the end of the period.

(d) Instead of the reporting periods required under subsection (a), the department may permit a retail merchant to report and pay the merchant's state gross retail and use taxes for a period covering:

(1) a calendar year, if the retail merchant's average monthly state gross retail and use tax liability in the previous calendar year does not exceed ten dollars ($10);

(2) a calendar half year, if the retail merchant's average monthly state gross retail and use tax liability in the previous calendar year does not exceed twenty-five dollars ($25); or

(3) a calendar quarter, if the retail merchant's average monthly state gross retail and use tax liability in the previous calendar year does not exceed seventy-five dollars ($75).

A retail merchant using a reporting period allowed under this

subsection must file the merchant's return and pay the merchant's tax for a reporting period not later than the last day of the month immediately following the close of that reporting period.

(e) If a retail merchant reports the merchant's adjusted gross income tax, or the tax the merchant pays in place of the adjusted gross income tax, over a fiscal year or fiscal quarter not corresponding to the calendar year or calendar quarter, the merchant may, without prior departmental approval, report and pay the merchant's state gross retail and use taxes over the merchant's fiscal period that corresponds to the calendar period the merchant is permitted to use under subsection (d). However, the department may, at any time, require the retail merchant to stop using the fiscal reporting period.

(f) If a retail merchant files a combined sales and withholding tax report, the reporting period for the combined report is the shortest period required under:

(1) this section;

(2) IC 6-3-4-8; or

(3) IC 6-3-4-8.1.

(g) If the department determines that a person's:

(1) estimated monthly gross retail and use tax liability for the current year; or

(2) average monthly gross retail and use tax liability for the preceding year;

exceeds ~~ten~~ **five** thousand dollars ~~($10,000),~~ **($5,000),** the person shall pay the monthly gross retail and use taxes due by electronic funds transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

(h) If a person's gross retail and use tax payment is made by electronic funds transfer, the taxpayer is not required to file a monthly gross retail and use tax return. However, the person shall file a quarterly gross retail and use tax return before the twentieth day after the end of each calendar quarter.

(i) A person:

(1) who has voluntarily registered as a seller under the Streamlined Sales and Use Tax Agreement;

(2) who is not a Model 1, Model 2, or Model 3 seller (as defined in the Streamlined Sales and Use Tax Agreement); and

(3) whose liability for collections of state gross retail and use taxes under this section for the preceding calendar year as determined by the department does not exceed one thousand dollars ($1,000);

is not required to file a monthly gross retail and use tax return.

SECTION 18. IC 6-2.5-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) In order to compensate retail merchants for collecting and timely remitting the state gross retail tax and the state use tax, every retail merchant, except a retail merchant referred to in subsection (c), is entitled to deduct and retain from the amount of those taxes otherwise required to be remitted under IC 6-2.5-7-5 or under this chapter, if timely remitted, a retail merchant's collection allowance.

(b) The allowance equals ~~eighty-three hundredths percent (0.83%)~~ **a percentage** of the retail merchant's state gross retail and use tax liability accrued during a ~~reporting period.~~ **calendar year, specified as follows:**

(1) Eighty-three hundredths percent (0.83%), if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year did not exceed sixty thousand dollars ($60,000).

(2) Six-tenths percent (0.6%), if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year:

(A) was greater than sixty thousand dollars ($60,000); and

(B) did not exceed six hundred thousand dollars ($600,000).

(3) Three-tenths percent (0.3%), if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year was greater than six hundred thousand dollars ($600,000).

(c) A retail merchant described in IC 6-2.5-4-5 or IC 6-2.5-4-6 is not entitled to the allowance provided by this section.

SECTION 19. IC 6-3-1-3.5, AS AMENDED BY P.L.184-2006, SECTION 3, AND AS AMENDED BY P.L.162-2006, SECTION 24, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

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

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

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

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

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

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

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

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

(5) Subtract:

(A) *for taxable years beginning after December 31, 2004,* one thousand five hundred dollars ($1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code ~~*for taxable years beginning after December 31, 1996*~~ *(as effective January 1, 2004);* and

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

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

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

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

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

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

(8) Subtract any amounts included in federal adjusted gross

income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.
(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).
(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.
(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.
(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.
(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.
(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.
(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.
(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.
(17) Subtract an amount equal to the lesser of:
(A) for a taxable year:
(i) including any part of 2004, the amount determined under subsection (f); and
(ii) beginning after December 31, 2004, two thousand five hundred dollars ($2,500); or
(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.
(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.
(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.
(21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).
(22) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:
(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.
(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.
(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.
(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.
(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).
(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.
(9) Add to the extent required by IC 6-3-2-20 the amount of intangible expenses (as defined in IC 6-3-2-20) and any directly related intangible interest expenses (as defined in IC 6-3-2-20) for the taxable year that reduced the corporation's taxable income (as defined in Section 63 of the Internal Revenue Code) for federal income tax purposes.
(10) Add an amount equal to any deduction for dividends paid (as defined in Section 561 of the Internal Revenue Code) to shareholders of a captive real estate investment trust (as defined in section 34.5 of this chapter).

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.
(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.
(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.
(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.
(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).
(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:
(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.
(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.
(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.
(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.
(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).
(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:
(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.
(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.
(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).
(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:
STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.
STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.
STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.
STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars ($2,500).
STEP FIVE: Determine the sum of the STEP FOUR amount and two thousand five hundred dollars ($2,500).

SECTION 20. IC 6-3-1-34.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 34.5. (a) Except as provided in subsection (b), "captive real estate investment trust" means a corporation, a trust, or an association:**

(1) that is considered a real estate investment trust for the taxable year under Section 856 of the Internal Revenue Code;
(2) that is not regularly traded on an established securities market; and
(3) in which more than fifty percent (50%) of the:
(A) voting power;
(B) beneficial interests; or
(C) shares;
are owned or controlled, directly or constructively, by a single entity that is subject to Subchapter C of Chapter 1 of the Internal Revenue Code.

(b) The term does not include a corporation, a trust, or an association in which more than fifty percent (50%) of the entity's voting power, beneficial interests, or shares are owned by a single entity described in subsection (a)(3) that is owned or controlled, directly or constructively, by:
(1) a corporation, a trust, or an association that is considered a real estate investment trust under Section 856 of the Internal Revenue Code;
(2) a person exempt from taxation under Section 501 of the Internal Revenue Code; or
(3) a real estate investment trust that:
(A) is intended to become regularly traded on an established securities market; and
(B) satisfies the requirements of Section 856(a)(5) and Section 856(a)(6) of the Internal Revenue Code under Section 856(h) of the Internal Revenue Code.

(c) For purposes of this section, the constructive ownership rules of Section 318 of the Internal Revenue Code, as modified by Section 856(d)(5) of the Internal Revenue Code, apply to the determination of the ownership of stock, assets, or net profits of any person.

SECTION 21. IC 6-3-2-20, AS ADDED BY P.L.162-2006, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. (a) The following definitions apply throughout this section:
(1) "Affiliated group" has the meaning provided in Section 1504 of the Internal Revenue Code, except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty percent (50%) instead of eighty percent (80%).
(2) "Directly related intangible interest expenses" means interest expenses that are paid to, or accrued or incurred as a liability to, a recipient if:
(A) the amounts represent, in the hands of the recipient, income from making one (1) or more loans; and
(B) the funds loaned were originally received by the recipient from the payment of intangible expenses by any of the following:
(i) The taxpayer.
(ii) A member of the same affiliated group as the taxpayer.
(iii) A foreign corporation.
(3) "Foreign corporation" means a corporation that is organized under the laws of a country other than the United States and would be a member of the same affiliated group as the taxpayer if the corporation were organized under the laws of the United States.
(4) "Intangible expenses" means the following amounts to the extent these amounts are allowed as deductions in determining taxable income under Section 63 of the Internal Revenue Code before the application of any net operating loss deduction and special deductions for the taxable year:
(A) Expenses, losses, and costs directly for, related to, or in connection with the acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property.
(B) Royalty, patent, technical, and copyright fees.
(C) Licensing fees.
(D) Other substantially similar expenses and costs.
(5) "Intangible property" means patents, patent applications, trade names, trademarks, service marks, copyrights, trade secrets, and substantially similar types of intangible assets.
(6) "Interest expenses" means amounts that are allowed as deductions under Section 163 of the Internal Revenue Code in determining taxable income under Section 63 of the Internal Revenue Code before the application of any net operating loss deductions and special deductions for the taxable year.
(7) "Makes a disclosure" means a taxpayer provides the following information regarding a transaction with a member of the same affiliated group or a foreign corporation involving an intangible expense and any directly related intangible interest expense with the taxpayer's tax return on the forms prescribed by the department:
(A) The name of the recipient.
(B) The state or country of domicile of the recipient.
(C) The amount paid to the recipient.
(D) A copy of federal Form 851, Affiliation Schedule, as filed with the taxpayer's federal consolidated tax return.
(E) The information needed to determine the taxpayer's status under the exceptions listed in subsection (c).
(8) "Recipient" means:
(A) a member of the same affiliated group as the taxpayer; or
(B) a foreign corporation;
to which is paid an item of income that corresponds to an intangible expense or any directly related intangible interest expense.
(9) "Unrelated party" means a person that, with respect to the taxpayer, is not a member of the same affiliated group or a foreign corporation.

(b) Except as provided in subsection (c), in determining its adjusted gross income under IC 6-3-1-3.5(b), a corporation subject to the tax imposed by IC 6-3-2-1 shall add to its taxable income under Section 63 of the Internal Revenue Code:
(1) intangible expenses; and
(2) any directly related intangible interest expenses;
paid, accrued, or incurred with one (1) or more members of the same affiliated group or with one (1) or more foreign corporations.

(c) The addition of intangible expenses or any directly related intangible interest expenses otherwise required in a taxable year under subsection (b) is not required if one (1) or more of the following apply to the taxable year:
(1) The taxpayer and the recipient are both included in the same consolidated tax return filed under IC 6-3-4-14 or in the same combined return filed under IC 6-3-2-2(q) for the taxable year.
(2) The taxpayer makes a disclosure and, at the request of the department, can establish by a preponderance of the evidence that:
(A) the item of income corresponding to the intangible expenses and any directly related intangible interest expenses was included within the recipient's income that is subject to tax in:
(i) a state or possession of the United States; or
(ii) a country other than the United States;
that is the recipient's commercial domicile and that imposes a net income tax, a franchise tax measured, in whole or in part, by net income, or a value added tax;
(B) the transaction giving rise to the intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient was made at a

commercially reasonable rate and at terms comparable to an arm's length transaction; and

(C) the transactions giving rise to the intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient did not have Indiana tax avoidance as a principal purpose.

(3) The taxpayer makes a disclosure and, at the request of the department, can establish by a preponderance of the evidence that:

(A) the recipient regularly engages in transactions involving intangible property with one (1) or more unrelated parties on terms substantially similar to those of the subject transaction; and

(B) the transaction giving rise to the intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient did not have Indiana tax avoidance as a principal purpose.

(4) The taxpayer makes a disclosure and, at the request of the department, can establish by a preponderance of the evidence that:

(A) the payment was received from a person or entity that is an unrelated party, and on behalf of that unrelated party, paid that amount to the recipient in an arm's length transaction; and

(B) the transaction giving rise to the intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient did not have Indiana tax avoidance as a principal purpose.

(5) The taxpayer makes a disclosure and, at the request of the department, can establish by a preponderance of the evidence that:

(A) the recipient paid, accrued, or incurred a liability to an unrelated party during the taxable year for an equal or greater amount that was directly for, related to, or in connection with the same intangible property giving rise to the intangible expenses; and

(B) the transactions giving rise to the intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient did not have Indiana tax avoidance as a principal purpose.

(6) The taxpayer makes a disclosure and, at the request of the department, can establish by a preponderance of the evidence that:

(A) the recipient is engaged in:

(i) substantial business activities from the acquisition, use, licensing, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property; or

(ii) other substantial business activities separate and apart from the business activities described in item (i);

as evidenced by the maintenance of a permanent office space and an adequate number of full-time, experienced employees;

(B) the transactions giving rise to the intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient did not have Indiana tax avoidance as a principal purpose; and

(C) the transactions were made at a commercially reasonable rate and at terms comparable to an arm's length transaction.

(7) The taxpayer and the department agree, in writing, to the application or use of an alternative method of allocation or ~~appointment~~ **apportionment** under section 2(l) or 2(m) of this chapter.

(8) Upon request by the taxpayer, the department determines that the adjustment otherwise required by this section is unreasonable.

(d) For purposes of this section, intangible expenses or directly related intangible interest expenses shall be considered to be at a commercially reasonable rate or at terms comparable to an arm's length transaction if the intangible expenses or directly related intangible interest expenses meet the arm's length standards of United States Treasury Regulation 1.482-1(b).

(e) If intangible expenses or directly related intangible expenses are determined not to be at a commercially reasonable rate or at terms comparable to an arm's length transaction for purposes of this section, the adjustment required by subsection (b) shall be made only to the extent necessary to cause the intangible expenses or directly related intangible interest expenses to be at a commercially reasonable rate and at terms comparable to an arm's length transaction.

(f) For purposes of this section, transactions giving rise to intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient shall be considered as having Indiana tax avoidance as the principal purpose if:

(1) there is not one (1) or more valid business purposes that independently sustain the transaction notwithstanding any tax benefits associated with the transaction; and

(2) the principal purpose of tax avoidance exceeds any other valid business purpose.

SECTION 22. IC 6-3-3-12, AS ADDED BY P.L.192-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: Sec. 12.

(a) As used in this section, "account" has the meaning set forth in IC 21-9-2-2.

(b) As used in this section, "account beneficiary" has the meaning set forth in IC 21-9-2-3.

(c) As used in this section, "account owner" has the meaning set forth in IC 21-9-2-4.

~~(a)~~ **(d)** As used in this section, "college choice 529 education savings plan" refers to a college choice 529 investment plan established under IC 21-9.

(e) As used in this section, "non-qualified withdrawal" means a withdrawal or distribution from a college choice 529 education savings plan that is not a qualified withdrawal.

(f) As used in this section, "qualified higher education expenses" has the meaning set forth in IC 21-9-2-19.5.

(g) As used in this section, "qualified withdrawal" means a withdrawal or distribution from a college choice 529 education savings plan that is made:

(1) to pay for qualified higher education expenses, excluding any withdrawals or distributions used to pay for qualified higher education expenses if the withdrawals or distributions are made from an account of a college choice 529 education savings plan that is terminated within twelve (12) months after the account is opened;

(2) as a result of the death or disability of an account beneficiary;

(3) because an account beneficiary received a scholarship that paid for all or part of the qualified higher education expenses of the account beneficiary, to the extent that the withdrawal or distribution does not exceed the amount of the scholarship; or

(4) by a college choice 529 education savings plan as the result of a transfer of funds by a college choice 529 education savings plan from one (1) third party custodian to another.

A qualified withdrawal does not include a rollover distribution or transfer of assets from a college choice 529 education savings plan to any other qualified tuition program under Section 529 of the Internal Revenue Code that is not a college choice 529 education savings plan.

~~(b)~~ **(h)** As used in this section, "taxpayer" means:

(1) an individual filing a single return; or

(2) a married couple filing a joint return.

~~(c)~~ **(i)** A taxpayer is entitled to a credit against the taxpayer's

adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a taxable year equal to the least of the following:

(1) Twenty percent (20%) of the amount of ~~each contribution~~ **the total contributions** made by the taxpayer to **an account or accounts of** a college choice 529 education savings plan during the taxable year.

(2) One thousand dollars ($1,000).

(3) The amount of the taxpayer's adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3-1 through IC 6-3-7.

~~(d)~~ **(j)** A taxpayer is not entitled to a carryback, carryover, or refund of an unused credit.

~~(e)~~ **(k)** A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this section.

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

(m) An account owner of an account of a college choice 529 education savings plan must repay all or a part of the credit in a taxable year in which any non-qualified withdrawal is made from the account. The amount the taxpayer must repay is equal to the lesser of:

(1) twenty percent (20%) of the total amount of non-qualified withdrawals made during the taxable year from the account; or

(2) the excess of:

(A) the cumulative amount of all credits provided by this section that are claimed by any taxpayer with respect to the taxpayer's contributions to the account for all prior taxable years beginning on or after January 1, 2007; over

(B) the cumulative amount of repayments paid by the account owner under this subsection for all prior taxable years beginning on or after January 1, 2008.

(n) Any required repayment under subsection (m) shall be reported by the account owner on the account owner's annual state income tax return for any taxable year in which a non-qualified withdrawal is made.

(o) The executive director of the Indiana education savings authority shall submit or cause to be submitted to the department a copy of all information returns or statements issued to account owners, account beneficiaries, and other taxpayers for each taxable year with respect to:

(1) non-qualified withdrawals made from accounts of a college choice 529 education savings plan for the taxable year; or

(2) account closings for the taxable year.

SECTION 23. IC 6-3-4-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.5. If a professional preparer files more than one hundred (100) returns in a calendar year for persons described in section 1(1) or 1(2) of this chapter, in the immediately following calendar year the professional preparer shall file returns for persons described in section 1(1) or 1(2) of this chapter in an electronic format specified by the department.**

SECTION 24. IC 6-3-4-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 16, 2007]: Sec. 4.1. ~~(a) This section applies to taxable years beginning after December 31, 1993.~~

~~(b)~~ **(a)** Any individual required by the Internal Revenue Code to file estimated tax returns and to make payments on account of such estimated tax shall file estimated tax returns and make payments of the tax imposed by this article to the department at the time or times and in the installments as provided by Section 6654 of the Internal Revenue Code. However, in applying Section 6654 of the Internal Revenue Code for the purposes of this article, "estimated tax" means the amount which the individual estimates as the amount of the adjusted gross income tax imposed by this article for the taxable year, minus the amount which the individual estimates as the sum of any credits against the tax provided by IC 6-3-3.

~~(c)~~ **(b)** Every individual who has adjusted gross income subject to the tax imposed by this article and from which tax is not withheld under the requirements of section 8 of this chapter shall make a declaration of estimated tax for the taxable year. However, no such declaration shall be required if the estimated tax can reasonably be expected to be less than ~~four hundred dollars ($400).~~ **one thousand dollars ($1,000).** In the case of an underpayment of the estimated tax as provided in Section 6654 of the Internal Revenue Code, there shall be added to the tax a penalty in an amount prescribed by IC 6-8.1-10-2.1(b).

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

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

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

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

~~(e)~~ **(d)** The penalty prescribed by IC 6-8.1-10-2.1(b) shall be assessed by the department on corporations failing to make payments as required in subsection ~~(d)~~ **(c)** or ~~(g).~~ **(f).** However, no penalty shall be assessed as to any estimated payments of adjusted gross income tax which equal or exceed:

(1) ~~twenty percent (20%) of the final tax liability for such taxable year;~~ **the annualized income installment calculated under subsection (c);** or

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

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

~~(f)~~ **(e)** The provisions of subsection ~~(d)~~ **(c)** requiring the reporting and estimated payment of adjusted gross income tax shall be applicable only to corporations having an adjusted gross income tax liability which, after application of the credit allowed by IC 6-3-3-2 (repealed), shall exceed ~~one thousand dollars ($1,000)~~ **two thousand five hundred dollars ($2,500)** for its taxable year.

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

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

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

exceeds ~~before January 1, 1998, twenty thousand dollars ($20,000), and, after December 31, 1997, ten~~ **five** thousand dollars ~~($10,000),~~ **($5,000),** after the credit allowed by IC 6-3-3-2 (repealed), the corporation shall pay the estimated adjusted gross income taxes due by electronic funds transfer (as

defined in IC 4-8.1-2-7) or by delivering in person or overnight by courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

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

SECTION 25. IC 6-3-4-8.1, AS AMENDED BY P.L.111-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 8.1. (a) Any entity that is required to file a monthly return and make a monthly remittance of taxes under sections 8, 12, 13, and 15 of this chapter shall file those returns and make those remittances twenty (20) days (rather than thirty (30) days) after the end of each month for which those returns and remittances are filed, if that entity's average monthly remittance for the immediately preceding calendar year exceeds one thousand dollars ($1,000).

(b) The department may require any entity to make the entity's monthly remittance and file the entity's monthly return twenty (20) days (rather than thirty (30) days) after the end of each month for which a return and payment are made if the department estimates that the entity's average monthly payment for the current calendar year will exceed one thousand dollars ($1,000).

(c) If the department determines that a withholding agent is not withholding, reporting, or remitting an amount of tax in accordance with this chapter, the department may require the withholding agent:

(1) to make periodic deposits during the reporting period; and

(2) to file an informational return with each periodic deposit.

(d) If a person files a combined sales and withholding tax report and either this section or IC 6-2.5-6-1 requires the sales or withholding tax report to be filed and remittances to be made within twenty (20) days after the end of each month, then the person shall file the combined report and remit the sales and withholding taxes due within twenty (20) days after the end of each month.

(e) If the department determines that an entity's:

(1) estimated monthly withholding tax remittance for the current year; or

(2) average monthly withholding tax remittance for the preceding year;

exceeds ~~ten~~ **five** thousand dollars ~~($10,000),~~ **($5,000),** the entity shall remit the monthly withholding taxes due by electronic fund transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the remittance is due.

(f) If an entity's withholding tax remittance is made by electronic fund transfer, the entity is not required to file a monthly withholding tax return.

SECTION 26. IC 6-3-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 12. (a) Every partnership shall, at the time that the partnership pays or credits amounts to any of its nonresident partners on account of their distributive shares of partnership income, for a taxable year of the partnership, deduct and retain therefrom the amount prescribed in the withholding instructions referred to in section 8 of this chapter. Such partnership so paying or crediting any nonresident partner:

(1) shall be liable to the state of Indiana for the payment of the tax required to be deducted and retained under this section and shall not be liable to such partner for the amount deducted from such payment or credit and paid over in compliance or intended compliance with this section; and

(2) shall make return of and payment to the department monthly whenever the amount of tax due under IC 6-3 and IC 6-3.5 exceeds an aggregate amount of fifty dollars ($50) per month with such payment due on the thirtieth day of the following month, unless an earlier date is specified by section 8.1 of this chapter.

Where the aggregate amount due under IC 6-3 and IC 6-3.5 does not exceed fifty dollars ($50) per month, then such partnership shall make return and payment to the department quarterly, on such dates and in such manner as the department shall prescribe, of the amount of tax which, under IC 6-3 and IC 6-3.5, it is required to withhold.

(b) Every partnership shall, at the time of each payment made by it to the department pursuant to this section, deliver to the department a return upon such form as shall be prescribed by the department showing the total amounts paid or credited to its nonresident partners, the amount deducted therefrom in accordance with the provisions of this section, and such other information as the department may require. Every partnership making the deduction and retention provided in this section shall furnish to its nonresident partners annually, but not later than thirty (30) days after the end of its taxable year, a record of the amount of tax deducted and retained from such partners on forms to be prescribed by the department.

(c) All money deducted and retained by the partnership, as provided in this section, shall immediately upon such deduction be the money of the state of Indiana and every partnership which deducts and retains any amount of money under the provisions of IC 6-3 shall hold the same in trust for the state of Indiana and for payment thereof to the department in the manner and at the times provided in IC 6-3. Any partnership may be required to post a surety bond in such sum as the department shall determine to be appropriate to protect the state of Indiana with respect to money deducted and retained pursuant to this section.

(d) The provisions of IC 6-8.1 relating to additions to tax in case of delinquency and penalties shall apply to partnerships subject to the provisions of this section, and for these purposes any amount deducted, or required to be deducted and remitted to the department under this section, shall be considered to be the tax of the partnership, and with respect to such amount it shall be considered the taxpayer.

(e) Amounts deducted from payments or credits to a nonresident partner during any taxable year of the partnership in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such nonresident partner for his taxable year within or with which the partnership's taxable year ends. A return made by the partnership under subsection (b) shall be accepted by the department as evidence in favor of the nonresident partner of the amount so deducted for his distributive share.

(f) This section shall in no way relieve any nonresident partner from his obligations of filing a return or returns at the time required under IC 6-3 or IC 6-3.5, and any unpaid tax shall be paid at the time prescribed by section 5 of this chapter.

(g) Instead of the reporting periods required under subsection (a), the department may permit a partnership to file one (1) return and payment each year if the partnership pays or credits amounts to its nonresident partners only one (1) time each year. The return and payment are due not more than thirty (30) days after the end of the year.

(h) A partnership shall file a composite adjusted gross income tax return on behalf of all nonresident individual partners. The composite return must include each nonresident individual partner regardless of whether or not the nonresident individual partner has other Indiana source income.

(i) If a partnership does not include all nonresident partners in the composite return, the partnership is subject to the penalty imposed under IC 6-8.1-10-2.1(j).

SECTION 27. IC 6-3-4-13 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 13. (a) Every corporation which is exempt from tax under IC 6-3 pursuant to IC 6-3-2-2.8(2) shall, at the time that it pays or credits amounts to any of its nonresident shareholders as dividends or as their share of the corporation's undistributed taxable income, withhold the amount prescribed by the department. Such corporation so paying or crediting any nonresident shareholder:

(1) shall be liable to the state of Indiana for the payment of the tax required to be withheld under this section and shall not be liable to such shareholder for the amount withheld and paid over in compliance or intended compliance with this section; and

(2) when the aggregate amount due under IC 6-3 and IC 6-3.5 exceeds one hundred fifty dollars ($150) per quarter, then such corporation shall make return and payment to the department quarterly, on such dates and in such manner as the department shall prescribe, of the amount of tax which, under IC 6-3 and IC 6-3.5, it is required to withhold.

(b) Every corporation shall, at the time of each payment made by it to the department pursuant to this section, deliver to the department a return upon such form as shall be prescribed by the department showing the total amounts paid or credited to its nonresident shareholders, the amount withheld in accordance with the provisions of this section, and such other information as the department may require. Every corporation withholding as provided in this section shall furnish to its nonresident shareholders annually, but not later than the fifteenth day of the third month after the end of its taxable year, a record of the amount of tax withheld on behalf of such shareholders on forms to be prescribed by the department.

(c) All money withheld by a corporation, pursuant to this section, shall immediately upon being withheld be the money of the state of Indiana and every corporation which withholds any amount of money under the provisions of this section shall hold the same in trust for the state of Indiana and for payment thereof to the department in the manner and at the times provided in IC 6-3. Any corporation may be required to post a surety bond in such sum as the department shall determine to be appropriate to protect the state of Indiana with respect to money withheld pursuant to this section.

(d) The provisions of IC 6-8.1 relating to additions to tax in case of delinquency and penalties shall apply to corporations subject to the provisions of this section, and for these purposes any amount withheld, or required to be withheld and remitted to the department under this section, shall be considered to be the tax of the corporation, and with respect to such amount it shall be considered the taxpayer.

(e) Amounts withheld from payments or credits to a nonresident shareholder during any taxable year of the corporation in accordance with the provisions of this section shall be considered to be a part payment of the tax imposed on such nonresident shareholder for his taxable year within or with which the corporation's taxable year ends. A return made by the corporation under subsection (b) shall be accepted by the department as evidence in favor of the nonresident shareholder of the amount so withheld from the shareholder's distributive share.

(f) This section shall in no way relieve any nonresident shareholder from the shareholder's obligation of filing a return or returns at the time required under IC 6-3 or IC 6-3.5, and any unpaid tax shall be paid at the time prescribed by section 5 of this chapter.

(g) Instead of the reporting periods required under subsection (a), the department may permit a corporation to file one (1) return and payment each year if the corporation pays or credits amounts to its nonresident shareholders only one (1) time each year. The withholding return and payment are due on or before the fifteenth day of the third month after the end of the taxable year of the corporation.

(h) If a distribution will be made with property other than money or a gain is realized without the payment of money, the corporation shall not release the property or credit the gain until it has funds sufficient to enable it to pay the tax required to be withheld under this section. If necessary, the corporation shall obtain such funds from the shareholders.

(i) If a corporation fails to withhold and pay any amount of tax required to be withheld under this section and thereafter the tax is paid by the shareholders, such amount of tax as paid by the shareholders shall not be collected from the corporation but it shall not be relieved from liability for interest or penalty otherwise due in respect to such failure to withhold under IC 6-8.1-10.

(j) A corporation described in subsection (a) ~~may~~ **shall** file a composite adjusted gross income tax return on behalf of ~~some or~~ all nonresident shareholders. ~~if it complies with the requirements prescribed by the department for filing a~~ **The** composite return **must include each nonresident individual shareholder regardless of whether or not the nonresident individual shareholder has other Indiana source income.**

(k) If a corporation described in subsection (a) does not include all nonresident shareholders in the composite return, the corporation is subject to the penalty imposed under IC 6-8.1-10-2.1(j).

SECTION 28. IC 6-3.1-24-9, AS AMENDED BY P.L.193-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) The total amount of tax credits that may be allowed under this chapter in a particular calendar year for qualified investment capital provided during that calendar year may not exceed twelve million five hundred thousand dollars ($12,500,000). The Indiana economic development corporation may not certify a proposed investment plan under section 12.5 of this chapter if the proposed investment would result in the total amount of the tax credits certified for the calendar year exceeding twelve million five hundred thousand dollars ($12,500,000). An amount of an unused credit carried over by a taxpayer from a previous calendar year may not be considered in determining the amount of proposed investments that the Indiana economic development corporation may certify under this chapter.

(b) Notwithstanding the other provisions of this chapter, a taxpayer is not entitled to a credit for providing qualified investment capital to a qualified Indiana business after December 31, ~~2008.~~ **2012.** However, this subsection may not be construed to prevent a taxpayer from carrying over to a taxable year beginning after December 31, ~~2008,~~ **2012,** an unused tax credit attributable to an investment occurring before January 1, ~~2009.~~ **2013.**

SECTION 29. IC 6-3.1-31.5-13, AS ADDED BY HEA 1722-2007, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 13. **(a)** The total amount of tax credits allowed under this chapter may not exceed one million dollars ($1,000,000) in a state fiscal year.

(b) A taxpayer may not be awarded a credit under this chapter for taxable years beginning after December 31, 2010.

SECTION 30. IC 6-3.5-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this chapter:

"Branch office" means a branch office of the bureau of motor vehicles.

"Bus" has the meaning set forth in IC 9-13-2-17(a).

"Commercial motor vehicle" has the meaning set forth in IC 6-6-5.5-1(c).

"County council" includes the city-county council of a county that contains a consolidated city of the first class.

"In-state miles" has the meaning set forth in IC 6-6-5.5-1(i).

"Political subdivision" has the meaning set forth in IC 34-6-2-110.

"Recreational vehicle" has the meaning set forth in IC 9-13-2-150.

"Semitrailer" has the meaning set forth in IC 9-13-2-164(a).

"State agency" has the meaning set forth in ~~IC 34-4-16.5-2.~~ **IC 34-6-2-141.**

"Tractor" has the meaning set forth in IC 9-13-2-180.

"Trailer" has the meaning set forth in IC 9-13-2-184(a).

"Truck" has the meaning set forth in IC 9-13-2-188(a).

"Wheel tax" means the tax imposed under this chapter.

SECTION 31. IC 6-3.5-5-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 9.5. (a) This section applies to a wheel tax adopted after June 30, 2007.**

(b) An owner of one (1) or more commercial vehicles paying an apportioned registration to the state under the International Registration Plan that is required to pay a wheel tax shall pay an apportioned wheel tax calculated by dividing in-state actual miles by total fleet miles generated during the preceding year. If in-state miles are estimated for purposes of proportional registration, these miles are divided by total actual and estimated fleet miles. The apportioned wheel tax under this section shall be paid at the same time and in the same manner as the commercial motor vehicle excise tax under IC 6-6-5.5.

(c) A voucher from the department of state revenue showing payment of the wheel tax may be accepted by the bureau of motor vehicles in lieu of the payment required under section 9 of this chapter.

SECTION 32. IC 6-3.5-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. **(a)** If the wheel tax is collected directly by the bureau of motor vehicles, instead of at a branch office, the commissioner of the bureau shall:

(1) remit the wheel tax to, and file a wheel tax collections report with, the appropriate county treasurer; and

(2) file a wheel tax collections report with the county auditor;

in the same manner and at the same time that a branch office manager is required to remit and report under section 11 of this chapter.

(b) If the wheel tax for a commercial vehicle is collected directly by the department of state revenue, the commissioner of the department of state revenue shall:

(1) remit the wheel tax to, and file a wheel tax collections report with, the appropriate county treasurer; and

(2) file a wheel tax collections report with the county auditor;

in the same manner and at the same time that a branch office manager is required to remit and report under section 11 of this chapter.

SECTION 33. IC 6-4.1-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) A person may file with the department of state revenue a claim for the refund of inheritance or Indiana estate tax which has been erroneously or illegally collected. Except as provided in section 2 of this chapter, the person must file the claim within three (3) years after the tax is paid or within one (1) year after the tax is finally determined, whichever is later.

(b) The amount of the refund that a person is entitled to receive under this chapter equals the amount of the erroneously or illegally collected tax, plus interest ~~at the rate of six percent (6%) per annum computed from the date the tax was paid to the date it is refunded.~~ **calculated as specified in subsection (c).**

(c) If a tax payment that has been erroneously or illegally collected is not refunded within ninety (90) days after the date on which the refund claim is filed with the department of state revenue, interest accrues at the rate of six percent (6%) per annum computed from the date the refund claim is filed until the tax payment is refunded.

SECTION 34. IC 6-5.5-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 3. (a) Each taxpayer subject to taxation under this article shall report and pay quarterly an estimated tax equal to twenty-five percent (25%) of the taxpayer's total estimated tax liability imposed by this article for the taxable year. A taxpayer that uses a taxable year that ends on December 31 shall file the taxpayer's estimated quarterly financial institutions tax return and pay the tax to the department on or before April 20, June 20, September 20, and December 20 of the taxable year, without assessment or notice and demand from the department. If a taxpayer uses a taxable year that does not end on December 31, the due dates for filing the estimated quarterly financial institutions tax return and paying the tax are on or before the twentieth day of the fourth, sixth, ninth, and twelfth months of the taxpayer's taxable year. The department shall prescribe the manner and furnish the forms for reporting and payment.

(b) Subsection (a) is applicable only to taxpayers having a tax liability imposed under this article that exceeds ~~one~~ **two** thousand **five hundred** dollars ~~($1,000)~~ **($2,500)** for the taxable year.

(c) If the department determines that a taxpayer's:

(1) estimated quarterly financial institutions tax liability for the current year; or

(2) average quarterly financial institutions tax payment for the preceding year;

exceeds ~~ten~~ **five** thousand dollars ~~($10,000),~~ **($5,000),** the taxpayer shall pay the quarterly financial institutions taxes due by electronic fund transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

(d) If a taxpayer's financial institutions tax payment is made by electronic fund transfer, the taxpayer is not required to file a quarterly financial institutions tax return.

SECTION 35. IC 6-6-1.1-502 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 502. (a) Except as provided in subsection (b), at the time of filing each monthly report, each distributor shall pay to the administrator the full amount of tax due under this chapter for the preceding calendar month, computed as follows:

(1) Enter the total number of invoiced gallons of gasoline received during the preceding calendar month.

(2) Subtract the number of gallons for which deductions are provided by sections 701 through 705 of this chapter from the number of gallons entered under subdivision (1).

(3) Subtract the number of gallons reported under section 501(3) of this chapter.

(4) Multiply the number of invoiced gallons remaining after making the computation in subdivisions (2) and (3) by the tax rate prescribed by section 201 of this chapter to compute that part of the gasoline tax to be deposited in the highway, road, and street fund under section 802(2) of this chapter or in the motor fuel tax fund under section 802(3) of this chapter.

(5) Multiply the number of gallons subtracted under subdivision (3) by the tax rate prescribed by section 201 of this chapter to compute that part of the gasoline tax to be deposited in the fish and wildlife fund under section 802(1) of this chapter.

(b) If the department determines that a distributor's:

(1) estimated monthly gasoline tax liability for the current year; or

(2) average monthly gasoline tax liability for the preceding year;

exceeds ~~ten~~ **five** thousand dollars ~~($10,000),~~ **($5,000),** the distributor shall pay the monthly gasoline taxes due by electronic

fund transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

SECTION 36. IC 6-7-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. (a) Distributors who hold certificates and retailers shall be agents of the state in the collection of the taxes imposed by this chapter and the amount of the tax levied, assessed, and imposed by this chapter on cigarettes sold, exchanged, bartered, furnished, given away, or otherwise disposed of by distributors or to retailers. Distributors who hold certificates shall be agents of the department to affix the required stamps and shall be entitled to purchase the stamps from the department at a discount of ~~one and two-tenths percent (1.2%) of the amount of the tax stamps purchased,~~ **one and two-tenths cents ($0.012) per individual package of cigarettes** as compensation for their labor and expense.

(b) The department may permit distributors who hold certificates and who are admitted to do business in Indiana to pay for revenue stamps within thirty (30) days after the date of purchase. However, the privilege is extended upon the express condition that:

(1) except as provided in subsection (c), a bond or letter of credit satisfactory to the department, in an amount not less than the sales price of the stamps, is filed with the department; and

(2) proof of payment is made of all local property, state income, and excise taxes for which any such distributor may be liable. The bond or letter of credit, conditioned to secure payment for the stamps, shall be executed by the distributor as principal and by a corporation duly authorized to engage in business as a surety company or financial institution in Indiana.

(c) If a distributor has at least five (5) consecutive years of good credit standing with the state, the distributor shall not be required to post a bond or letter of credit under subsection (b).

SECTION 37. IC 6-7-1-17.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 17.5. (a) Except as otherwise provided in this section, in determining the amount to pay for stamps purchased under this chapter, a distributor is entitled to a credit against the cost of stamps purchased in an amount equal to the distributor's receivables that:**

(1) are attributable to stamps purchased by the distributor under this chapter and affixed to cigarettes that were transferred to a retailer;

(2) resulted from a transfer of cigarettes to a retailer in which the distributor did not collect the tax imposed by this chapter from the retailer; and

(3) were written off as an uncollectible debt for federal tax purposes under Section 166 of the Internal Revenue Code after December 31, 2006.

(b) If a distributor claims a credit under subsection (a) and subsequently collects all of the associated receivable, the distributor shall remit the entire amount of the credit previously claimed under subsection (a) to the department within thirty (30) days of collection.

(c) If a distributor claims a credit under subsection (a) and subsequently collects part of the associated receivable, the distributor shall remit the amount determined under STEP SIX of the following formula to the department within thirty (30) days after collection:

STEP ONE: Determine the part of the associated receivable before collection that is attributable to the taxable price of the products subject to the tax imposed by this chapter.

STEP TWO: Determine the part of the associated receivable before collection that is attributable to the amount paid by the distributor for the stamps affixed to the products that were transferred to the retailer.

STEP THREE: Determine the sum of:

(A) the STEP ONE result; plus

(B) the STEP TWO result.

STEP FOUR: Determine the lesser of:

(A) the amount collected; or

(B) the STEP THREE result.

STEP FIVE: Divide:

(A) the STEP TWO result; by

(B) the STEP THREE result.

STEP SIX: Multiply:

(A) the STEP FOUR result; by

(B) the STEP FIVE result.

(d) If the amount of the credit to which a distributor is entitled under subsection (a) exceeds the cost of the stamps that the distributor seeks to purchase, the remainder of the credit may be applied to future purchases of stamps by the distributor. For any uncollectible receivable used to establish a credit under subsection (a), the amount of the credit that is available to be applied to a purchase of stamps is the total amount of the credit determined under subsection (a) reduced by the sum of partial credits applied by the distributor to previous purchases of stamps.

(e) As used in this subsection, "affiliated group" means any combination of the following:

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

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

The right to a credit under this section is not assignable to an individual or entity that is not part of the same affiliated group as the assignor.

SECTION 38. IC 6-7-2-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 14.5. (a) In determining the amount of tax imposed by this chapter that a distributor must remit under section 12 of this chapter, the distributor shall, subject to subsections (c) and (d), deduct from the distributor's wholesale income subject to the tax imposed by this chapter that is derived from wholesale transactions made during a particular reporting period an amount equal to the distributor's receivables that:**

(1) resulted from wholesale transactions on which the distributor has previously paid the tax imposed by this chapter to the department; and

(2) were written off as an uncollectible debt for federal tax purposes under Section 166 of the Internal Revenue Code during the particular reporting period.

(b) If a distributor deducts a receivable under subsection (a) and subsequently collects all or part of that receivable, the distributor shall, subject to subsection (d)(5), include the amount collected as part of the distributor's wholesale income subject to the tax imposed by this chapter for the particular reporting period in which the distributor makes the collection.

(c) As used in this subsection, "affiliated group" means any combination of the following:

(1) An affiliated group within the meaning provided in Section 1504 of the Internal Revenue Code (except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty

percent (50%) instead of eighty percent (80%)) or a relationship described in Section 267(b)(11) of the Internal Revenue Code.

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

The right to a deduction under this section is not assignable to an individual or entity that is not part of the same affiliated group as the assignor.

(d) The following provisions apply to a deduction for a receivable treated as uncollectible debt under subsection (a):

(1) The deduction does not include interest.

(2) The amount of the deduction shall be determined in the manner provided by Section 166 of the Internal Revenue Code for bad debts but shall be adjusted to exclude:

(A) financing charges or interest;

(B) uncollectible amounts on property that remain in the possession of the distributor until the full purchase price is paid;

(C) expenses incurred in attempting to collect any debt; and

(D) repossessed property.

(3) The deduction shall be claimed on the return for the period during which the receivable is written off as uncollectible in the claimant's books and records and is eligible to be deducted for federal income tax purposes. For purposes of this subdivision, a claimant who is not required to file federal income tax returns may deduct an uncollectible receivable on a return filed for the period in which the receivable is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant were required to file a federal income tax return.

(4) If the amount of uncollectible receivables claimed as a deduction by a distributor for a particular reporting period exceeds the amount of the distributor's taxable wholesale sales for that reporting period, the distributor may file a refund claim under IC 6-8.1-9. However, the deadline for the refund claim shall be measured from the due date of the return for the reporting period on which the deduction for the uncollectible receivables could first be claimed.

(5) For purposes of reporting a payment received on a previously claimed uncollectible receivable, any payments made on a debt or account shall be applied first proportionally to the taxable wholesale price of the property and the part of the receivable attributable to the tax imposed by this chapter, and secondly to interest, service charges, and any other charges.

SECTION 39. IC 6-8-12 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 12. Eligible Event; Exemption from Taxation

Sec. 1. As used in this chapter, "eligible entity" means the National Football League and its affiliates as defined in the National Football League document titled "SUPER BOWL XLV HOST CITY BID SPECIFICATIONS & REQUIREMENTS" dated October 2006.

Sec. 2. As used in this chapter, "eligible event" means an event known as the Super Bowl that is conducted by an eligible entity described in section 1 of this chapter.

Sec. 3. All property owned by an eligible entity, revenues of an eligible entity, and expenditures and transactions of an eligible entity:

(1) in connection with an eligible event; and

(2) resulting from holding an eligible event in Indiana or making preparatory advance visits to Indiana in connection with an eligible event;

are exempt from taxation in Indiana for all purposes.

Sec. 4. The excise tax under IC 6-9-13 does not apply to an eligible event.

Sec. 5. The general assembly finds that:

(1) this chapter has been enacted as a requirement to host an eligible event in Indiana and that an eligible event would not be held in Indiana without the exemptions provided in this chapter;

(2) notwithstanding the exemptions provided in this chapter, an eligible event held in Indiana would generate a significant economic impact for Indiana and additional revenues from taxes affected by this chapter; and

(3) the exemptions provided in this chapter will not reduce or adversely affect the levy and collection of taxes pledged to the payment of bonds, notes, leases, or subleases payable from those taxes.

SECTION 40. IC 6-8.1-3-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.5. The department may not

~~(1)~~ include the amount of revenue collected or tax liability assessed in the evaluation of an employee. ~~or~~

~~(2) impose or suggest production quotas or goals for employees based on the number of cases closed.~~

SECTION 41. IC 6-8.1-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 3. (a) A document, including a form, a return, a payment, or a writing of any type, which must be filed with the department by a prescribed date, is considered filed:

(1) in cases where it is mailed through the United States mail, on the date displayed on the post office cancellation mark stamped on the document's wrapper;

(2) in cases where it is delivered to the department in any manner other than through the United States mail, on the date on which the department physically receives the document; or

(3) in cases where a payment is made by an electronic fund transfer, on the date the ~~taxpayer's bank account is charged.~~ **taxpayer issues the payment order for the electronic fund transfer.**

(b) If a document is sent through the United States mail by registered mail, certified mail, or certificate of mailing, then the date of the registration, certification, or certificate, as evidenced by any record authenticated by the United States Post Office, is considered the postmark date.

(c) If a document is mailed to the department through the United States mail and is physically received after the appropriate due date without a legible correct postmark, the person who mailed the document will be considered to have filed the document on or before the due date if the person can show by reasonable evidence to the department that the document was deposited in the United States mail on or before the due date.

(d) If a document is mailed to, but not received by, the department, the person who mailed the document will be considered to have filed the document on or before the due date if the person can show by reasonable evidence to the department that the document was deposited in the United States mail on or before the due date and if the person files with the department a duplicate document within thirty (30) days after the date the department sends notice that the document was not received.

SECTION 42. IC 6-8.1-9-1, AS AMENDED BY P.L.2-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department. Except as provided in subsections (f) and (g), in

order to obtain the refund, the person must file the claim with the department within three (3) years after the latter of the following:

(1) The due date of the return.

(2) The date of payment.

For purposes of this section, the due date for a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax is the end of the calendar year which contains the taxable period for which the return is filed. The claim must set forth the amount of the refund to which the person is entitled and the reasons that the person is entitled to the refund.

(b) When the department receives a claim for refund, the department shall consider the claim for refund and ~~may~~ **shall, if the taxpayer requests,** hold a hearing on the claim for refund to obtain and consider additional evidence. After considering the claim and all evidence relevant to the claim, the department shall issue a decision on the claim, stating the part, if any, of the refund allowed and containing a statement of the reasons for any part of the refund that is denied. The department shall mail a copy of the decision to the person who filed the claim. If the department allows the full amount of the refund claim, a warrant for the payment of the claim is sufficient notice of the decision.

(c) If the person disagrees with any part of the department's decision, the person may appeal the decision, regardless of whether or not ~~he~~ **the person** protested the tax payment or whether or not the person has accepted a refund. The person must file the appeal with the tax court. The tax court does not have jurisdiction to hear a refund appeal suit, if:

(1) the appeal is filed more than three (3) years after the date the claim for refund was filed with the department;

(2) the appeal is filed more than ninety (90) days after the date the department mails the decision of denial to the person; or

(3) the appeal is filed both before the decision is issued and before the one hundred eighty-first day after the date the person files the claim for refund with the department.

(d) The tax court shall hear the appeal de novo and without a jury, and after the hearing may order or deny any part of the appealed refund. The court may assess the court costs in any manner that it feels is equitable. The court may enjoin the collection of any of the listed taxes under IC 33-26-6-2. The court may also allow a refund of taxes, interest, and penalties that have been paid to and collected by the department.

(e) With respect to the motor vehicle excise tax, this section applies only to penalties and interest paid on assessments of the motor vehicle excise tax. Any other overpayment of the motor vehicle excise tax is subject to IC 6-6-5.

(f) If a taxpayer's federal income tax liability for a taxable year is modified by the Internal Revenue Service, and the modification would result in a reduction of the tax legally due, the due date by which the taxpayer must file a claim for refund with the department is the later of:

(1) the date determined under subsection (a); or

(2) the date that is six (6) months after the date on which the taxpayer is notified of the modification by the Internal Revenue Service.

(g) If an agreement to extend the assessment time period is entered into under IC 6-8.1-5-2(f), the period during which a person may file a claim for a refund under subsection (a) is extended to the same date to which the assessment time period is extended.

SECTION 43. IC 6-8.1-10-1, AS AMENDED BY P.L.1-2006, SECTION 147, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) If a person fails to file a return for any of the listed taxes, fails to pay the full amount of tax shown on the person's return by the due date for the return or the payment, or incurs a deficiency upon a determination by the department, the person is subject to interest on the nonpayment.

(b) The interest for a failure described in subsection (a) is the adjusted rate established by the commissioner under subsection (c), from the due date for payment. The interest applies to:

(1) the full amount of the unpaid tax due if the person failed to file the return;

(2) the amount of the tax that is not paid, if the person filed the return but failed to pay the full amount of tax shown on the return; or

(3) the amount of the deficiency.

(c) The commissioner shall establish an adjusted rate of interest for a failure described in subsection (a) and for an excess tax payment on or before November 1 of each year. For purposes of subsection (b), the adjusted rate of interest shall be the percentage rounded to the nearest whole number that equals two (2) percentage points above the average investment yield on state money for the state's previous fiscal year, excluding pension fund investments, as ~~published in the auditor of state's comprehensive annual financial report.~~ **determined by the treasurer of state on or before October 1 of each year and reported to the commissioner.** For purposes of IC 6-8.1-9-2(c), the adjusted rate of interest for an excess tax payment ~~is the percentage rounded to the nearest whole number that equals the average investment yield on state money for the state's previous fiscal year, excluding pension fund investments, as published in the auditor of state's comprehensive annual financial report.~~ **must be the same as the adjusted rate of interest determined under this subsection for a failure described in subsection (a).** The adjusted rates of interest established under this subsection shall take effect on January 1 of the immediately succeeding year.

(d) For purposes of this section, the filing of a substantially blank or unsigned return does not constitute a return.

(e) Except as provided by IC 6-8.1-3-17(c) and IC 6-8.1-5-2, the department may not waive the interest imposed under this section.

(f) Subsections (a) through (c) do not apply to a motor carrier fuel tax return.

SECTION 44. IC 6-8.1-10-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 2.1. (a) If a person:

(1) fails to file a return for any of the listed taxes;

(2) fails to pay the full amount of tax shown on the person's return on or before the due date for the return or payment;

(3) incurs, upon examination by the department, a deficiency that is due to negligence;

(4) fails to timely remit any tax held in trust for the state; or

(5) is required to make a payment by electronic funds transfer (as defined in IC 4-8.1-2-7), overnight courier, or personal delivery and the payment is not received by the department by the due date in funds acceptable to the department;

the person is subject to a penalty.

(b) Except as provided in subsection (g), the penalty described in subsection (a) is ten percent (10%) of:

(1) the full amount of the tax due if the person failed to file the return;

(2) the amount of the tax not paid, if the person filed the return but failed to pay the full amount of the tax shown on the return;

(3) the amount of the tax held in trust that is not timely remitted;

(4) the amount of deficiency as finally determined by the department; or

(5) the amount of tax due if a person failed to make payment by electronic funds transfer, overnight courier, or personal delivery by the due date.

(c) For purposes of this section, the filing of a substantially blank or unsigned return does not constitute a return.

(d) If a person subject to the penalty imposed under this section can show that the failure to file a return, pay the full

amount of tax shown on the person's return, timely remit tax held in trust, or pay the deficiency determined by the department was due to reasonable cause and not due to willful neglect, the department shall waive the penalty.

(e) A person who wishes to avoid the penalty imposed under this section must make an affirmative showing of all facts alleged as a reasonable cause for the person's failure to file the return, pay the amount of tax shown on the person's return, pay the deficiency, or timely remit tax held in trust, in a written statement containing a declaration that the statement is made under penalty of perjury. The statement must be filed with the return or payment within the time prescribed for protesting departmental assessments. A taxpayer may also avoid the penalty imposed under this section by obtaining a ruling from the department before the end of a particular tax period on the amount of tax due for that tax period.

(f) The department shall adopt rules under IC 4-22-2 to prescribe the circumstances that constitute reasonable cause and negligence for purposes of this section.

(g) A person who fails to file a return for a listed tax that shows no tax liability for a taxable year, other than an information return (as defined in section 6 of this chapter), on or before the due date of the return shall pay a penalty of ten dollars ($10) for each day that the return is past due, up to a maximum of two hundred fifty dollars ($250).

(h) A corporation which otherwise qualifies under IC 6-3-2-2.8(2) but fails to withhold and pay any amount of tax required to be withheld under IC 6-3-4-13 shall pay a penalty equal to twenty percent (20%) of the amount of tax required to be withheld under IC 6-3-4-13. This penalty shall be in addition to any penalty imposed by section 6 of this chapter.

(i) Subsections (a) through (c) do not apply to a motor carrier fuel tax return.

(j) If a partnership or an S corporation fails to include all nonresidential individual partners or nonresidential individual shareholders in a composite return as required by IC 6-3-4-12(h) or IC 6-3-4-13(j), a penalty of five hundred dollars ($500) per partnership or S corporation is imposed on the partnership or S corporation.

SECTION 45. IC 6-9-2-2, AS AMENDED BY P.L.168-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: 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 the promotion fund ~~thirty-five~~ **thirty-six** percent ~~(35%)~~ **(36%)** of the first one million two hundred **fifty** thousand dollars ~~($1,200,000)~~ **($1,250,000)** 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 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 **fifty** thousand dollars ~~($1,200,000)~~ **($1,250,000)** 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~~ **forty-two** and ~~thirty-three~~ **seventy-seven** hundredths percent ~~(44.33%)~~ **(42.77%)** 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 **fifty** thousand dollars ~~($1,200,000)~~ **($1,250,000)** 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 **and sixty-eight hundredths** percent ~~(9%)~~ **(9.68%)** 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~~ **Nine** percent ~~(10%)~~ **(9%)** 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~~ **Nine** percent ~~(10%)~~ **(9%)** 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~~ **Nine** percent ~~(10%)~~ **(9%)** 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 **remaining** revenue ~~covered by~~ **that must be allocated among the cities and towns located in the county under** this subsection shall be transferred **in equal amounts** 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 **fifty** thousand dollars ~~($1,200,000)~~ **($1,250,000)** 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~~ **eight and eighty-eight hundredths** percent ~~(9%)~~ **(8.88%)** 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 **fifty** thousand dollars ~~($1,200,000)~~ **($1,250,000)** 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 **fifty** thousand dollars ~~($1,200,000).~~ **($1,250,000).** 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 46. IC 20-49-8.2 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 8.2. Shortfall Loan

Sec. 1. As used in this chapter, "eligible school corporation" refers to a school corporation located in a county that has been reassessed under IC 6-1.1-4-32.

Sec. 2. As used in this chapter, "fund" refers to the common school fund in the custody of the treasurer of state.

Sec. 3. As used in this chapter, "loan" means a loan made from the fund under the provisions this chapter.

Sec. 4. The state board may loan money to an eligible school corporation that has experienced a shortfall of at least five percent (5%) in the collection of property tax levies in the current year or the preceding years for the eligible school corporation's general fund as a result of any of the following:

(1) Erroneous assessed valuation amounts provided to the eligible school corporation.

(2) Erroneous figures used to determine the eligible school corporation's general fund property tax rate.

(3) A change in the assessed valuation of property as the result of appeals under IC 6-1.1 or IC 6-1.5.

(4) The payment of refunds that resulted from appeals under IC 6-1.1 or IC 6-1.5.

Sec. 5. An eligible school corporation that desires to obtain a loan under this chapter must submit an application to the state board on forms prescribed by the state board after consulting with the department and the state budget agency.

Sec. 6. (a) Subject to subsection (b), the state board shall determine the terms of a loan after consulting with the department. The state budget agency must approve the terms of a loan before the loan is made.

(b) An eligible school corporation receiving a loan under this chapter must be repay the loan within thirty-six (36) months of the date on which the loan is made.

Sec. 7. An eligible school corporation that obtains a loan under this chapter may annually levy a tax in the debt service fund to repay the loan.

Sec. 8. If the state board recommends that an eligible school corporation receive a loan under this chapter, the eligible school corporation may not request an excessive tax levy for the same amount.

Sec. 9. This chapter may not be construed to prohibit an eligible school corporation from repaying a loan under this chapter before the date specified in section 6(b) of this chapter.

Sec. 10. This chapter expires December 31, 2010.

SECTION 47. IC 36-2-7-10, AS AMENDED BY SEA 526-2007, SECTION 384, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) The county recorder shall tax and collect the fees prescribed by this section for recording, filing, copying, and other services the recorder renders, and shall pay them into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other recording fees required by law to be charged for services rendered by the county recorder.

(b) The county recorder shall charge the following:

(1) Six dollars ($6) for the first page and two dollars ($2) for each additional page of any document the recorder records if the pages are not larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(2) Fifteen dollars ($15) for the first page and five dollars ($5) for each additional page of any document the recorder records, if the pages are larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(3) For attesting to the release, partial release, or assignment of any mortgage, judgment, lien, or oil and gas lease contained on a multiple transaction document, the fee for each transaction after the first is the amount provided in subdivision (1) plus the amount provided in subdivision (4) and one dollar ($1) for marginal mortgage assignments or marginal mortgage releases.

(4) One dollar ($1) for each cross-reference of a recorded document.

(5) One dollar ($1) per page not larger than eight and one-half (8 1/2) inches by fourteen (14) inches for furnishing copies of records and two dollars ($2) per page that is larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(6) Five dollars ($5) for acknowledging or certifying to a document.

(7) Five dollars ($5) for each deed the recorder records, in addition to other fees for deeds, for the county surveyor's corner perpetuation fund for use as provided in IC 21-47-3-3 or IC 36-2-12-11(e).

(8) A fee in an amount authorized under IC 5-14-3-8 for transmitting a copy of a document by facsimile machine.
(9) A fee in an amount authorized by an ordinance adopted by the county legislative body for duplicating a computer tape, a computer disk, an optical disk, microfilm, or similar media. This fee may not cover making a handwritten copy or a photocopy or using xerography or a duplicating machine.
(10) A supplemental fee of three dollars ($3) for recording a document that is paid at the time of recording. The fee under this subdivision is in addition to other fees provided by law for recording a document.
(11) Three dollars ($3) for each mortgage on real estate recorded, in addition to other fees required by this section, distributed as follows:
(A) Fifty cents ($0.50) is to be deposited in the recorder's record perpetuation fund.
(B) Two dollars and fifty cents ($2.50) is to be distributed to the auditor of state on or before June 20 and December 20 of each year as provided in IC 24-9-9-3.
(12) This subdivision applies in a county only if at least one (1) unit in the county has established an affordable housing fund under IC 5-20-5-15.5 and the county fiscal body adopts an ordinance authorizing the fee described in this subdivision. An ordinance adopted under this subdivision may authorize the county recorder to charge a fee of:
(A) two dollars and fifty cents ($2.50) for the first page; and
(B) one dollar ($1) for each additional page;
of each document the recorder records.
(13) This subdivision applies in a county containing a consolidated city that has established a housing trust fund under IC 36-7-15.1-35.5(e). The county fiscal body may adopt an ordinance authorizing the fee described in this subdivision. An ordinance adopted under this subdivision may authorize the county recorder to charge a fee of:
(A) two dollars and fifty cents ($2.50) for the first page; and
(B) one dollar ($1) for each additional page;
of each document the recorder records.

(c) The county recorder shall charge a two dollar ($2) county identification security protection fee for recording or filing a document. This fee shall be deposited under IC 36-2-7.5-6.

(d) The county treasurer shall establish a recorder's records perpetuation fund. All revenue received under subsection (b)(5), (b)(8), (b)(9), and (b)(10), and fifty cents ($0.50) from revenue received under subsection (b)(11), shall be deposited in this fund. The county recorder may use any money in this fund without appropriation for the preservation of records and the improvement of record keeping systems and equipment.

(e) As used in this section, "record" or "recording" includes the functions of recording, filing, and filing for record.

(f) The county recorder shall post the fees set forth in subsection (b) in a prominent place within the county recorder's office where the fee schedule will be readily accessible to the public.

(g) The county recorder may not tax or collect any fee for:
(1) recording an official bond of a public officer, a deputy, an appointee, or an employee; or
(2) performing any service under any of the following:
(A) IC 6-1.1-22-2(c).
(B) IC 8-23-7.
(C) IC 8-23-23.
(D) IC 10-17-2-3.
(E) IC 10-17-3-2.
(F) IC 12-14-13.
(G) IC 12-14-16.

(h) The state and its agencies and instrumentalities are required to pay the recording fees and charges that this section prescribes.

(i) This subsection applies to a county other than a county containing a consolidated city. The county treasurer shall distribute money collected by the county recorder under subsection (b)(12) as follows:
(1) Sixty percent (60%) of the money collected by the county recorder under subsection (b)(12) shall be distributed to the units in the county that have established an affordable housing fund under IC 5-20-5-15.5 for deposit in the fund. The amount to be distributed to a unit is the amount available for distribution multiplied by a fraction. The numerator of the fraction is the population of the unit. The denominator of the fraction is the population of all units in the county that have established an affordable housing fund. The population to be used for a county that establishes an affordable housing fund is the population of the county outside any city or town that has established an affordable housing fund.
(2) Forty percent (40%) of the money collected by the county recorder under subsection (b)(12) shall be distributed to the treasurer of state for deposit in the affordable housing and community development fund established under IC 5-20-4-7 for the purposes of the fund.
Money shall be distributed under this subsection before the sixteenth day of the month following the month in which the money is collected from the county recorder.

(j) This subsection applies to a county described in subsection (b)(13). The county treasurer shall distribute money collected by the county recorder under subsection (b)(13) as follows:
(1) Sixty percent (60%) of the money collected by the county recorder under subsection (b)(13) shall be deposited in the housing trust fund established under IC 36-7-15.1-35.5(e) for the purposes of the fund.
(2) Forty percent (40%) of the money collected by the county recorder under subsection (b)(13) shall be distributed to the treasurer of state for deposit in the affordable housing and community development fund established under IC 5-20-4-7 for the purposes of the fund.
Money shall be distributed under this subsection before the sixteenth day of the month following the month in which the money is collected from the county recorder.

SECTION 48. IC 36-7-15.1-35.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 35.5. (a) The general assembly finds the following:
(1) Federal law permits the sale of a multiple family housing project that is or has been covered, in whole or in part, by a contract for project based assistance from the United States Department of Housing and Urban Development without requiring the continuation of that project based assistance.
(2) Such a sale displaces the former residents of a multiple family housing project described in subdivision (1) and increases the shortage of safe and affordable housing for persons of low and moderate income within the county.
(3) The displacement of families and individuals from affordable housing requires increased expenditures of public funds for crime prevention, public health and safety, fire and accident prevention, and other public services and facilities.
(4) The establishment of a supplemental housing program under this section will do the following:
(A) Benefit the health, safety, morals, and welfare of the county and the state.
(B) Serve to protect and increase property values in the

county and the state.

(C) Benefit persons of low and moderate income by making affordable housing available to them.

(5) The establishment of a supplemental housing program under this section and sections 32 through 35 of this chapter is:

(A) necessary in the public interest; and

(B) a public use and purpose for which public money may be spent and private property may be acquired.

(b) In addition to its other powers with respect to a housing program under sections 32 through 35 of this chapter, the commission may establish a supplemental housing program. Except as provided by this section, the commission has the same powers and duties with respect to the supplemental housing program that the commission has under sections 32 through 35 of this chapter with respect to the housing program.

(c) One (1) allocation area may be established for the supplemental housing program. The commission is not required to make the findings required under section 34(5) through 34(8) of this chapter with respect to the allocation area. However, the commission must find that the property contained within the boundaries of the allocation area consists solely of one (1) or more multiple family housing projects that are or have been covered, in whole or in part, by a contract for project based assistance from the United States Department of Housing and Urban Development or have been owned at one time by a public housing agency. The allocation area need not be contiguous. The definition of "base assessed value" set forth in section 35(a) of this chapter applies to the special fund established under section 26(b) of this chapter for the allocation area.

(d) The special fund established under section 26(b) of this chapter for the allocation area established under this section may be used only for the following purposes:

(1) Subject to subdivision (2), on January 1 and July 1 of each year the balance of the special fund shall be transferred to the housing trust fund established under subsection (e).

(2) The commission may provide each taxpayer in the allocation area a credit for property tax replacement in the manner provided by section 35(b)(7) of this chapter. Transfers made under subdivision (1) shall be reduced by the amount necessary to provide the credit.

(e) The commission shall, by resolution, establish a housing trust fund to be administered, subject to the terms of the resolution, by:

(1) the housing division of the consolidated city; or

(2) the department, division, or agency that has been designated to perform the public housing function by an ordinance adopted under IC 36-7-18-1.

(f) The housing trust fund consists of:

(1) amounts transferred to the fund under subsection (d);

(2) payments in lieu of taxes deposited in the fund under IC 36-3-2-11;

(3) gifts and grants to the fund;

(4) investment income earned on the fund's assets; ~~and~~

(5) money deposited in the fund under IC 36-2-7-10(j); and

~~(5)~~ **(6)** other funds from sources approved by the commission.

(g) The commission shall, by resolution, establish uses for the housing trust fund. However, the uses must be limited to:

(1) providing financial assistance to those individuals and families whose income is at or below eighty percent (80%) of the county's median income for individuals and families, respectively, to enable those individuals and families to purchase or lease residential units within the county;

(2) paying expenses of administering the fund;

(3) making grants, loans, and loan guarantees for the development, rehabilitation, or financing of affordable housing for individuals and families whose income is at or below eighty percent (80%) of the county's median income for individuals and families, respectively, including the elderly, persons with disabilities, and homeless individuals and families; and

(4) providing technical assistance to nonprofit developers of affordable housing.

(h) At least fifty percent (50%) of the dollars allocated for production, rehabilitation, or purchase of housing must be used for units to be occupied by individuals and families whose income is at or below fifty percent (50%) of the county's area median income for individuals and families, respectively.

(i) The low income housing trust fund advisory committee is established. The low-income housing trust fund advisory committee consists of eleven (11) members. The membership of the low income housing trust fund advisory committee is comprised of:

(1) one (1) member appointed by the mayor, to represent the interests of low income families;

(2) one (1) member appointed by the mayor, to represent the interests of owners of subsidized, multifamily housing communities;

(3) one (1) member appointed by the mayor, to represent the interests of banks and other financial institutions;

(4) one (1) member appointed by the mayor, of the department of metropolitan development;

(5) three (3) members representing the community at large appointed by the commission, from nominations submitted to the commission as a result of a general call for nominations from neighborhood associations, community based organizations, and other social services agencies;

(6) one (1) member appointed by and representing the Coalition for Homeless Intervention and Prevention of Greater Indianapolis;

(7) one (1) member appointed by and representing the Local Initiatives Support Corporation;

(8) one (1) member appointed by and representing the Indianapolis Coalition for Neighborhood Development; and

(9) one (1) member appointed by and representing the Indianapolis Neighborhood Housing Partnership.

Members of the low income housing trust fund advisory committee serve for a term of four (4) years, and are eligible for reappointment. If a vacancy exists on the committee, the appointing authority who appointed the former member whose position has become vacant shall appoint an individual to fill the vacancy. A committee member may be removed at any time by the appointing authority who appointed the committee member.

(j) The low income housing trust fund advisory committee shall make recommendations to the commission regarding:

(1) the development of policies and procedures for the uses of the low income housing trust fund; and

(2) long term sources of capital for the low income housing trust fund, including:

(A) revenue from:

(i) development ordinances;

(ii) fees; or

(iii) taxes;

(B) financial market based income;

(C) revenue derived from private sources; and

(D) revenue generated from grants, gifts, donations, or income in any other form, from a:

(i) government program;

(ii) foundation; or

(iii) corporation.

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

SECTION 49. IC 6-2.5-8-10 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 50. [EFFECTIVE UPON PASSAGE] **(a) The commissioner of the department of state revenue shall revise any schedule specifying the adjusted rate of interest for excess tax payments as necessary to comply with IC 6-8.1-10-1, as amended by this act. A schedule revised under this SECTION takes effect July 1, 2007.**

(b) This SECTION expires December 31, 2007.

SECTION 51. [EFFECTIVE JULY 1, 2007] **IC 6-7-1-17, as amended by this act, applies only to cigarette stamps purchased by distributors after June 30, 2007.**

SECTION 52. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] **IC 6-3-3-12, as amended by this act, applies to taxable years beginning after December 31, 2006.**

SECTION 53. [EFFECTIVE JULY 1, 2007] **IC 6-2.3-6-1 and IC 6-3-4-4.1, both as amended by this act, apply to taxable years beginning after December 15, 2007.**

SECTION 54. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] **(a) As used in this SECTION, "department" refers to the department of state revenue.**

(b) A retail merchant that sold tangible personal property to a person that used or consumed the tangible personal property in providing public transportation under IC 6-2.5-5-27 may verify that the sale was exempt from taxation under IC 6-2.5 by using the information contained in form ST-135 for the transaction.

(c) If a retail merchant provides the department with the information from form ST-135 to verify that a sale described in subsection (b) is exempt from taxation under IC 6-2.5, the retail merchant may request:

(1) a refund of gross retail tax plus any penalties and interest paid to the department; or

(2) that the department satisfy any outstanding gross retail tax liabilities, including any penalties and interest for tax liabilities;

for the tangible personal property used or consumed in providing public transportation.

(d) This SECTION expires December 31, 2008.

SECTION 55. [EFFECTIVE JANUARY 1, 2008] **IC 6-3-1-3.5, as amended by this act, applies to taxable years beginning after December 31, 2007.**

SECTION 56. [EFFECTIVE JULY 1, 2007] **(a) IC 6-2.5-6-10, as amended by this act, applies to reporting periods beginning after June 30, 2007.**

(b) The amount of a retail merchant's state gross retail and use tax liability under IC 6-2.5 accrued during the period beginning after December 31, 2006, and ending before July 1, 2007, must be used to determine the applicable percentage applied under IC 6-2.5-6-10(b), as amended by this act, for a reporting period beginning after June 30, 2007, and ending before January 1, 2008.

SECTION 57. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] **IC 6-1.1-45-12, as amended by this act, applies to assessment dates occurring after February 28, 2007, for property taxes first due and payable after December 31, 2007.**

SECTION 58. [EFFECTIVE JANUARY 1, 2008] **IC 6-3-4-12, IC 6-3-4-13, and IC 6-8.1-10-2.1, all as amended by this act, apply to taxable years beginning after December 31, 2007.**

SECTION 59. **An emergency is declared for this act.**

(Reference is to ESB 500 as reprinted April 10, 2007.)

KENLEY	KUZMAN
MRVAN	CRAWFORD
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT

ESB 105–1; filed April 28, 2007, at 8:53 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 105 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 2-5-28 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 28. Joint Study Committee on Mass Transit and Transportation Alternatives

Sec. 1. As used in this chapter, "committee" refers to the joint study committee on mass transit and transportation alternatives.

Sec. 2. The joint study committee on mass transit and transportation alternatives is established.

Sec. 3. The committee has the following membership:

(1) The members of the standing senate committee on homeland security, transportation, and veterans affairs.

(2) The members of the house of representatives standing committee on roads and transportation.

Sec. 4. The chairs of the standing committees specified in section 3(1) and 3(2) of this chapter shall serve as co-chairs of the committee.

Sec. 5. The committee shall do the following:

(1) Review Indiana department of transportation studies regarding mass transit that have been conducted by the department.

(2) Review federal legislative activity regarding development and expansion of mass transit as well as revenue streams on the federal level.

(3) Review mass transit initiatives of other states.

Sec. 6. The committee shall report on and make recommendations concerning the following issues:

(1) The need to use mass transit to mitigate traffic congestion.

(2) Ways to address the demand for workforce transportation that are reliable and secure.

(3) Ways to eliminate barriers to investment in mass transit created by the current structure of transportation funding.

(4) Existing barriers to private investment in mass transit facilities, including tax inequities.

(5) Effective ways of leveraging funding under federal programs to supplement state funding of mass transit.

(6) The relationship between land use and investment in mass transit infrastructure.

(7) The role that mass transit plays in promoting economic growth, improving the environment, and sustaining the quality of life.

Sec. 7. The legislative services agency and the Indiana department of transportation shall provide support staff for the committee.

Sec. 8. The committee shall operate under the policies governing study committees adopted by the legislative council.

SECTION 2. IC 8-14-14-5, AS ADDED BY P.L.47-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) The major moves construction fund is established for the purpose of:

(1) funding projects, **other than passenger or freight railroad systems as described in IC 8-15.7-2-14(a)(4),**

under IC 8-15.7 or IC 8-15-3;

(2) funding other projects in the department's transportation plan; and

(3) funding distributions under sections 6 and 7 of this chapter.

(b) The fund shall be administered by the department.

(c) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees' retirement fund under IC 5-10.3-5. However, the treasurer of state may not invest the money in the fund in equity securities. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the investment of the fund and may pay the state expenses incurred under those contracts from the fund. Interest that accrues from these investments shall be deposited in the fund.

(d) The fund consists of the following:

(1) Distributions to the fund from the toll road fund under IC 8-15.5-11.

(2) Distributions to the fund from the next generation trust fund under IC 8-14-15.

(3) Appropriations to the fund.

(4) Gifts, grants, loans, bond proceeds, and other money received for deposit in the fund.

(5) Revenues arising from:

(A) a tollway under IC 8-15-3 or IC 8-23-7-22; or

(B) a toll road under IC 8-15-2 or IC 8-23-7-23;

that the department designates as part of, and deposits in, the fund.

(6) Payments, **other than payments for passenger or freight railroad systems as described in IC 8-15.7-2-14(a)(4),** made to the authority or the department from operators under IC 8-15.7.

(7) Interest, premiums, or other earnings on the fund.

(e) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

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

(g) Money in the fund must be appropriated by the general assembly to be available for expenditure.

SECTION 3. IC 8-14-14-7, AS ADDED BY P.L.47-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. **(a)** In addition to any distributions required by section 6 of this chapter, money in the fund may be used for any of the following purposes:

(1) **Except as provided in subsection (b),** the payment of any obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15-2, IC 8-15-3, IC 8-15.5, or IC 8-15.7 in connection with the execution and performance of a public-private agreement under IC 8-15.5 or IC 8-15.7, including establishing reserves.

(2) Lease payments to the authority, if money for those payments is specifically appropriated by the general assembly.

(3) Distributions to the treasurer of state for deposit in the state highway fund, for the funding of any project in the department's transportation plan.

(b) Money in the fund may not be used for the payment of an obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15.7 in connection with a public-private agreement under IC 8-15.7 concerning a passenger or freight railroad system as described in IC 8-15.7-2-14(a)(4).

SECTION 4. IC 8-14-17 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 17. Alternative Transportation Construction Fund

Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority established by IC 4-4-11-4.

Sec. 2. As used in this chapter, "department" refers to the Indiana department of transportation.

Sec. 3. As used in this chapter, "fund" refers to the alternative transportation construction fund established by section 4 of this chapter.

Sec. 4. (a) The alternative transportation construction fund is established for the purpose of:

(1) funding projects under IC 8-15.7 for passenger and freight railroad systems as described in IC 8-15.7-2-14(a)(4); and

(2) funding distributions under section 5 of this chapter.

(b) The fund shall be administered by the department.

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

(d) The fund consists of the following:

(1) Appropriations to the fund.

(2) Gifts, grants, loans, bond proceeds, and other money received for deposit in the fund.

(3) Payments made to the authority or the department from operators under IC 8-15.7 concerning passenger and freight railroad systems as described in IC 8-15.7-2-14(a)(4).

(4) Interest, premiums, or other earnings on the fund.

(e) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

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

(g) Money in the fund must be appropriated by the general assembly to be available for expenditure.

Sec. 5. Money in the fund may be used for any of the following purposes:

(1) The payment of any obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15.7 in connection with the execution and performance of a public-private agreement under IC 8-15.7 for a passenger or freight railroad system as described in IC 8-15.7-2-14(a)(4).

(2) Lease payments to the authority, if money for those payments is specifically appropriated by the general assembly.

SECTION 5. IC 8-15.7-1-5, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) This article contains full and complete authority for agreements and leases with private entities to carry out the activities described in this article. Except as provided in this article, no procedure, proceeding, publication, notice, consent, approval, order, or act by the authority, the department, or any other state or local agency or official is required to enter into an agreement or lease, and no law to the contrary affects, limits, or diminishes the authority for agreements and leases with private entities, except as provided by this article.

(b) Notwithstanding any other law, the department, the authority, or an operator may not carry out any of the following activities under this article unless the general assembly enacts a

statute authorizing that activity:

(1) Issuing a request for proposals for, or entering into, a public-private agreement concerning a project other than Interstate Highway 69 between Interstate Highway 465 and Interstate Highway 64.

(2) Carrying out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).

(3) Imposing user fees on motor vehicles for use of the part of an interstate highway that connects a consolidated city and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

(c) Notwithstanding subsection (b) or any other law, the department or the authority may enter into a public-private agreement concerning a project consisting of a passenger or freight railroad system described in IC 8-15.7-2-14(a)(4). Such an agreement is subject to review and appropriation by the general assembly. However, this subsection does not prohibit the department from:

(1) conducting preliminary studies that the department considers necessary to determine the feasibility of such a project; or

(2) issuing a request for qualifications or a request for proposals, or both, under IC 8-15.7-4 for such a project.

SECTION 6. IC 8-15.7-2-14, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. **(a)** Subject to IC 8-15.7-1-5, "project" means all or part of the following:

(1) A limited access facility (as defined in IC 8-23-1-28).

(2) A tollway.

(3) Roads and bridges.

(4) Passenger and freight railroad systems, including:

(A) the costs of environmental impact studies;

(B) property, equipment, and appurtenances necessary to operate a railroad, including lines, routes, roads, rights-of-way, easements, licenses, permits, track upgrades, rail grade crossings, locomotives, passenger cars, freight cars, and other railroad cars of any type or class; and

(C) other costs that the department determines are necessary to develop a passenger or freight railroad system in Indiana.

~~(4)~~ **(5)** All or part of a bridge, tunnel, overpass, underpass, interchange, structure, ramp, access road, service road, entrance plaza, approach, tollhouse, utility corridor, toll gantry, rest stop, service area, or administration, storage, or other building or facility, including temporary facilities and buildings or facilities and structures that will not be tolled, that the department determines is appurtenant, necessary, or desirable for the development, financing, or operation of the facilities described in subdivisions (1) ~~(2), and (3).~~ **through (4).**

~~(5)~~ **(6)** An improvement, betterment, enlargement, extension, or reconstruction of all or part of any of the facilities described in this section, including a nontolled part, that is separately designated by name or number.

(b) The term does not include a passenger railroad system that is operated by a commuter transportation district established under IC 8-5-15.

SECTION 7. IC 8-15.7-5-5, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. To the extent that the department receives any payment or compensation under the public-private agreement other than repayment of a loan or grant or reimbursement for services provided by the department to the operator, the payment or compensation shall be distributed at the direction of the department to the:

(1) major moves construction fund established under IC 8-14-14;

(2) department for deposit in the state highway fund established by IC 8-23-9-54; ~~or~~

(3) alternative transportation construction fund established under IC 8-14-17; or

~~(3)~~ **(4)** operator or the authority for debt reduction.

SECTION 8. IC 8-23-27 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 27. Illiana Expressway

Sec. 1. As used in this chapter, "committee" refers to the Illiana expressway proposal review committee established by section 4 of this chapter.

Sec. 2. As used in this chapter, "Illiana expressway" refers to a new interstate quality highway connecting Interstate Highway 57 in Illinois to Interstate Highway 65 in Indiana.

Sec. 3. As used in this chapter, "study" refers to the study described in section 14 of this chapter.

Sec. 4. The Illiana expressway proposal review committee is established.

Sec. 5. (a) The committee consists of eight (8) voting members appointed as follows:

(1) Four (4) members of the senate, not more than two (2) of whom may be from the same political party, to be appointed by the president pro tempore of the senate.

(2) Four (4) members of the house of representatives, not more than two (2) of whom may be from the same political party, to be appointed by the speaker of the house of representatives.

(b) At least two (2) of the members appointed under subsection (a)(1) and at least two (2) of the members appointed under subsection (a)(2) must represent a district that encompasses all or part of Lake County.

(c) A vacancy on the committee shall be filled by the appointing authority.

(d) Initial appointments to the committee must be made before July 1, 2007.

Sec. 6. (a) The president pro tempore of the senate shall appoint a member of the committee to serve as chairperson of the committee from January 1 through December 31 of odd-numbered years.

(b) The speaker of the house of representatives shall appoint a member of the committee to serve as chairperson of the committee from January 1 through December 31 of even-numbered years.

Sec. 7. The committee shall do the following:

(1) Take and review the study presented to the committee under section 14 of this chapter, testimony, and other information provided to the committee by the Indiana department of transportation, other state agencies or federal agencies, and the public concerning the proposed Illiana expressway project.

(2) Prepare a report to be submitted to the governor and to the legislative council in an electronic format under IC 5-14-6 regarding the committee's determination of whether the proposed Illiana expressway project is recommended by the committee.

Sec. 8. The committee shall meet at the call of the chairperson.

Sec. 9. (a) Except as provided in subsection (b), the committee shall operate under the policies governing study committees adopted by the legislative council, including the requirement of filing an annual report in an electronic format under IC 5-14-6.

(b) The committee may meet at any time during the calendar year.

Sec. 10. (a) Five (5) members of the committee constitute a quorum.

(b) 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.

Sec. 11. The legislative services agency shall provide staff support for the committee.

Sec. 12. Each member of the committee appointed under this chapter is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on legislative study committees established by the legislative council.

Sec. 13. Representatives of the Indiana department of transportation shall testify before the committee upon request of the chairperson.

Sec. 14. The department shall conduct an independent study to:

(1) perform a needs assessment of an Illiana expressway; and

(2) identify a highway alignment corridor for an Illiana expressway.

The department may use any part of a study conducted before April 29, 2007, to comply with this section.

Sec. 15. (a) Before July 1, 2009, the department shall present a report to:

(1) the members of the committee in an electronic format under IC 5-14-6; and

(2) the governor;

that presents the findings of the study conducted under section 14 of this chapter and includes sufficient background for the members of the committee and the governor to evaluate the findings presented in the study.

(b) The report required by subsection (a) must include at least the following:

(1) A description of the need for an Illiana expressway.

(2) An evaluation concerning the feasibility of an Illiana expressway, including the following:

(A) Projections for acquisition costs and eminent domain issues.

(B) Expected use of the proposed expressway and any toll revenues.

(C) Expected construction costs.

(D) Expected operating and maintenance costs.

(E) Options for funding acquisition, construction, operation, and maintenance costs.

(3) A description of the department's recommended route for an Illiana expressway, including the following:

(A) Traffic projections showing expected use and relief of traffic congestion.

(B) Alternative routes.

(C) Economic impact studies on the proposed route and affected areas.

(4) Any other information that is necessary or appropriate to assist the general assembly in evaluating the Illiana expressway project.

Sec. 16. The department may pay for the study conducted under section 14 of this chapter from any funds available to the department. The amount expended for the study may not exceed one million dollars ($1,000,000).

SECTION 9. [EFFECTIVE JULY 1, 2007] (a) The definitions in IC 8-15.7-2, as amended by this act, apply throughout this SECTION.

(b) The department shall submit an annual report to the legislative council in an electronic format under IC 5-14-6. The report under this subsection must include detailed information on the department's efforts concerning:

(1) the development;

(2) the financing;

(3) the operation; or

(4) any combination of the development, financing, and operation;

of passenger or freight railroad systems as described in IC 8-15.7-2-14(a)(4), as amended by this act, through public-private agreements.

(c) This SECTION expires July 1, 2012.

SECTION 10. [EFFECTIVE JULY 1, 2007] (a) As used in this SECTION, "department" refers to the Indiana department of transportation established by IC 8-23-2-1.

(b) Before December 1, 2007, the department shall commission six (6) studies concerning mass transit in each of the following regions:

(1) Central Indiana, consisting of the following counties:

(A) Boone.

(B) Delaware.

(C) Hamilton.

(D) Hancock.

(E) Hendricks.

(F) Johnson.

(G) Madison.

(H) Marion.

(I) Monroe.

(J) Morgan.

(K) Shelby.

(2) Northwest Indiana.

(3) Northeast Indiana.

(4) South central Indiana, including Monroe County.

(5) Southwest Indiana.

(6) Southeast Indiana.

(c) Each of the studies specified in subsection (b) must analyze the following aspects of mass transit systems:

(1) The need to use public transportation to mitigate traffic congestion on a statewide basis.

(2) Ways to address the demand for workforce transportation that are reliable and secure.

(3) Ways to eliminate barriers to investment in public transportation created by the current structure of transportation funding.

(4) Existing barriers to private investment in public transportation facilities, including tax inequities.

(5) Effective ways of leveraging federal programs to supplement state funding of public transportation.

(6) The relationship between land use and investment in public transportation infrastructure on a statewide basis.

(7) The role that public transportation plays in promoting economic growth, improving the environment, and sustaining the quality of life.

(8) Policies required to develop a mass transit system to support a growing population and the state's economy for the foreseeable future.

(9) Transit oriented development.

(10) Impact of mass transit on projected demographic patterns, including age populations.

(11) Current and future commuter patterns in the identified counties.

(12) Current trends in mass transit on a statewide basis.

(13) A review of federal activities in the area of mass transit on a statewide basis.

(14) Funding options for pilot mass transit and alternative transit systems.

(d) The department shall require winning bidders for the studies required by subsection (b) to submit final reports by January 1, 2009.

(e) The department shall transmit the results of the studies required by subsection (b) to the public and, in an electronic format under IC 5-14-6, to the general assembly and governor on or about January 1, 2009. If a winning bidder produces intermediate reports in the course of conducting a study, the department shall also transmit in a timely manner the results of those intermediate reports to the public and, in an electronic format under IC 5-14-6, to the general

assembly and the governor.

(f) The department shall pay for the studies required by subsection (b) from money under the department's control, including money held in the following funds or accounts:

(1) Federal highway account.

(2) Federal transit account.

(3) State planning and research fund.

(4) State's portion of the public mass transit fund.

(g) This SECTION expires December 31, 2009.

SECTION 11. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "department" refers to the Indiana department of transportation.**

(b) The department shall commission a study of the feasibility and implementation of a commuter rail system with service from Muncie to Indianapolis and from Indianapolis to Bloomington. The study:

(1) must address the feasibility and implementation of stops in Anderson, Noblesville, Fishers, Indianapolis, and Bloomington; and

(2) may address the feasibility and implementation of additional stops.

(c) The study required by this SECTION must include the following information:

(1) Potential routes for the commuter rail system.

(2) An estimate of costs associated with implementing the commuter rail system.

(3) An estimate of the number of potential riders.

(4) An estimate of the effect on existing transportation systems.

(5) Any other relevant issues that may affect the implementation of a commuter rail system.

(d) The department may apply for any grants or enter into agreements with the Federal Transit Administration in accordance with 49 U.S.C. 5301 et seq. to complete the study.

(e) The department shall submit, not later than August 30, 2008, a copy of the results of the study in an electronic format under IC 5-14-6 to the executive director of the legislative services agency for distribution to the members of the general assembly.

(f) This SECTION expires December 31, 2008.

SECTION 12. **An emergency is declared for this act.**

(Reference is to ESB 105 as reprinted April 6, 2007.)

KENLEY	AUSTIN
LANANE	SOLIDAY
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT

ESB 287–1; filed April 28, 2007, at 9:27 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 287 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 3-8-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 23. **(a) Subject to subsection (b),** a candidate for the office of county assessor must:

(1) have resided in the county for at least one (1) year before the election, as provided in Article 6, Section 4 of the Constitution of the State of Indiana; and

(2) own real property located in the county upon taking office.

(b) A candidate for the office of county assessor who runs in an election after June 30, 2008, must have attained the certification of a level two assessor-appraiser under IC 6-1.1-35.5.

SECTION 2. IC 3-8-1-23.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 23.5. (a) A person who runs in an election after June 30, 2008, for the office of township assessor under IC 36-6-5-1 must have attained the certification of a level two assessor-appraiser under IC 6-1.1-35.5 before taking office.**

(b) A person who runs in an election after June 30, 2008, for the office of township trustee who performs all the duties and has all the rights and powers of a township assessor under IC 36-6-5-1 must have attained the certification of a level two assessor-appraiser under IC 6-1.1-35.5 before taking office to qualify to perform those duties and to assume those rights and powers.

(c) A person who runs successfully under subsection (b) but has not attained the certification of a level two assessor-appraiser under IC 6-1.1-35.5 before taking office:

(1) may perform in office only duties other than the duties of a township assessor under IC 36-6-5-1; and

(2) has only the rights and powers of the trustee other than the rights and powers of a township assessor under IC 36-6-5-1.

The restrictions listed in this subsection apply to the entire term for which the person takes office, regardless of whether the person attains the certification of a level two assessor-appraiser under IC 6-1.1-35.5 during the term of office.

SECTION 3. IC 4-21.5-2-4, AS AMENDED BY SEA 526-2007, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) This article does not apply to any of the following agencies:

(1) The governor.

(2) The state board of accounts.

(3) The state educational institutions.

(4) The department of workforce development.

(5) The unemployment insurance review board of the department of workforce development.

(6) The worker's compensation board of Indiana.

(7) The military officers or boards.

(8) The Indiana utility regulatory commission.

(9) The department of state revenue (excluding an agency action related to the licensure of private employment agencies).

(10) The department of local government finance.

(11) The Indiana board of tax review.

(b) This article does not apply to action related to railroad rate and tariff regulation by the Indiana department of transportation.

SECTION 4. IC 4-21.5-2-6, AS AMENDED BY P.L.234-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: 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 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 5. IC 4-21.5-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The following have standing to obtain judicial review of an agency action:

(1) A person to whom the agency action is specifically directed.

(2) A person who was a party to the agency proceedings that led to the agency action.

(3) A person eligible for standing under a law applicable to the agency action.

(4) A person otherwise aggrieved or adversely affected by the agency action.

~~(5) The department of local government finance with respect to judicial review of a final determination of the Indiana board of tax review in an action in which the department has intervened under IC 6-1.1-15-5(b).~~

(b) A person has standing under subsection (a)(4) only if:

(1) the agency action has prejudiced or is likely to prejudice the interests of the person;

(2) the person:

(A) was eligible for an initial notice of an order or proceeding under this article, was not notified of the order or proceeding in substantial compliance with this article, and did not have actual notice of the order or proceeding before the last date in the proceeding that the person could object or otherwise intervene to contest the agency action; or

(B) was qualified to intervene to contest an agency action under IC 4-21.5-3-21(a), petitioned for intervention in the proceeding, and was denied party status;

(3) the person's asserted interests are among those that the agency was required to consider when it engaged in the agency action challenged; and

(4) a judgment in favor of the person would substantially eliminate or redress the prejudice to the person caused or likely to be caused by the agency action.

SECTION 6. IC 4-21.5-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) ~~Except as provided in subsection (c),~~ Venue is in the judicial district where:

(1) the petitioner resides or maintains a principal place of business;

(2) the agency action is to be carried out or enforced; or

(3) the principal office of the agency taking the agency action is located.

(b) If more than one (1) person may be aggrieved by the agency action, only one (1) proceeding for review may be had, and the court in which a petition for review is first properly filed has jurisdiction.

(c) The rules of procedure governing civil actions in the courts govern pleadings and requests under this chapter for a change of judge or change of venue to another judicial district described in subsection (a).

(d) Each person who was a party to the proceeding before the agency is a party to the petition for review.

~~(e) Venue with respect to judicial review of an action of the Indiana board of tax review is in the tax court.~~

SECTION 7. IC 4-22-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. Where under the provisions of any statute, the department of local government finance or the Indiana board of tax review (referred to as "the Indiana board" in this section) is required to conduct a hearing, the commissioner of the department or a member or members of the Indiana board need not be present or preside at such hearing, but the commissioner or the Indiana board shall have the power, by an order in writing, to appoint to so preside hearing officers whose duties shall be prescribed in the order. In the discharge of their duties, the hearing officers shall have all the powers to investigate and to require evidence granted to the department or the Indiana board. The department or the Indiana board may conduct any number of hearings contemporaneously through different hearing officers. ~~At the conclusion of a hearing, the hearing officer shall make a written report thereof. After receipt of the report the department or the Indiana board may take further evidence or hold further hearings. The decisions of the department or the Indiana board shall be based upon the report, additional evidence, and records as the department or Indiana board deems pertinent.~~

SECTION 8. IC 5-1-18-6, AS ADDED BY P.L.199-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. A political subdivision that issues bonds or enters into a lease after December 31, 2005, shall supply the department with information concerning the bond issue or lease ~~within twenty (20) days after the issuance of~~ **not later than December 31 of the year in which** the bonds ~~or execution of~~ **are issued or** the lease **is executed.**

SECTION 9. IC 6-1.1-1-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 24. If a transfer from a township assessor to the county assessor of the assessment duties prescribed by this article results from the failure of a person elected to the office of township assessor to attain the certification of a level two assessor-appraiser as provided in IC 3-8-1-23.5, as described in IC 36-2-15-5(e), a reference to the township assessor in this article is considered to be a reference to the county assessor.**

SECTION 10. IC 6-1.1-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 10. (a) If a taxpayer owns, holds, possesses, or controls personal property which is located in two (2) or more townships, ~~he~~ **the taxpayer** shall file any additional returns with the ~~department of local government finance~~ **county assessor** which the department of local government finance may require by regulation.

(b) If a taxpayer owns, holds, possesses, or controls personal property which is located in two (2) or more taxing districts within the same township, ~~he~~ **the taxpayer** shall file a separate personal property return covering the property in each taxing district.

SECTION 11. IC 6-1.1-3-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 18. (a) Each township assessor of a county shall periodically report to the county assessor and the county auditor with respect to the returns and properties of taxpayers which the township assessor has examined. The township assessor shall submit these reports in the form and on the dates prescribed by the department of local government finance.

(b) Each year, on or before the time prescribed by the department of local government finance, each township assessor of a county shall deliver to the county assessor a copy of each business personal property return which the taxpayer is required to file in duplicate under section 7(c) of this chapter and a copy of any supporting data supplied by the taxpayer with the return. **Each year, the county assessor:**

(1) shall review and may audit those returns; and

(2) shall determine the returns in which the assessment appears to be improper.

SECTION 12. IC 6-1.1-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 11. (a) If a substantial amount of real and personal property in a township has been partially or totally destroyed as a result of a disaster, the ~~department of local government finance~~ **county assessor** shall:

(1) cause a survey to be made of the area or areas in which the property has been destroyed; and

(2) order a reassessment of the destroyed property;

if a person petitions the ~~department~~ **county assessor** to take that

action. The ~~department of local government finance~~ **county assessor** shall specify in ~~its~~ **the assessor's** order the time within which the reassessment must be completed and the date on which the reassessment will become effective. However, the reassessed value and the corresponding adjustment of tax due, past due, or already paid is effective as of the date the disaster occurred, without penalty.

(b) The petition for reassessment of destroyed property, the reassessment order, and the tax adjustment order may not be made after December 31st of the year in which the taxes which would first be affected by the reassessment are payable.

SECTION 13. IC 6-1.1-4-27.5, AS AMENDED BY P.L.228-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: 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 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.

(c) With respect to a general reassessment of real property that is to commence on July 1, 2014, and each 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 four (4) years preceding that year, levy against all the taxable property in the county an amount equal to one-fifth (1/5) of the estimated costs of the general reassessment under section 28.5 of this chapter.

(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.

(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; or

(2) making annual adjustments under section 4.5 of this chapter;

has changed.

(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:

(A) the county assessor; **or**

(B) township assessors;

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 14. IC 6-1.1-4-28.5, AS AMENDED BY P.L.1-2006, SECTION 131, AND AS AMENDED BY P.L.154-2006, SECTION 2, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: 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;

(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:

(A) the county assessor; **or**

(B) township assessors;

under IC 6-1.1-5.5-3.

Money in a property tax reassessment fund may not be transferred or reassigned to any other fund and may not be used for any purposes other than those set forth in this section.

(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 15. IC 6-1.1-4-31.7, AS ADDED BY P.L.228-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: 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 **or level three** 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 16. IC 6-1.1-5.5-3, AS AMENDED BY P.L.228-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) For purposes of this section, "party" includes:

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

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

from property taxes under IC 6-1.1-10.

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

(1) Complete and sign a sales disclosure form as prescribed by the department of local government finance under section 5 of this chapter. All the parties may sign one (1) form, or if all the parties do not agree on the information to be included on the completed form, each party may sign and file a separate form.

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

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

(B) the form:

(i) substantially conforms to the sales disclosure form prescribed by the department of local government finance under section 5 of this chapter; and

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

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

(c) Except as provided in subsection (d), the auditor shall 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.

(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.

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

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

SECTION 17. IC 6-1.1-8-30, AS AMENDED BY P.L.154-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 30. (a) A public utility company may initiate an appeal of the final assessment of the company's distributable property by filing a petition with the Indiana board not later than forty-five (45) days after:

(1) the public utility company receives notice of the tentative assessment under section 28(a) of this chapter if the final assessment becomes final under section 28(d) of this chapter; or

(2) the department of local government finance gives the public utility company notice of the final determination under section 29(a) of this chapter.

(b) A public utility company may petition for judicial review of the Indiana board's final determination to the tax court under ~~IC 4-21.5-5.~~ **IC 6-1.1-15-5.** However, the company must:

(1) file a ~~verified~~ petition for judicial review; and

(2) mail to the county auditor of each county in which the public utility company's distributable property is located:

(A) a notice that the ~~complaint~~ **petition** was filed; and

(B) instructions for obtaining a copy of the ~~complaint;~~ **petition;**

not later than forty-five (45) days after the date of the notice of the Indiana board's final determination.

SECTION 18. IC 6-1.1-8.7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Before January 1, 2003, two hundred fifty (250) or more owners of real property in a township may petition the department ~~of local government finance~~ to assess the real property of an industrial facility in the township for the 2004 assessment date.

(b) Before January 1 of each year that a general reassessment commences under IC 6-1.1-4-4, two hundred fifty (250) or more owners of real property in a township may petition the department ~~of local government finance~~ to assess the real property of an industrial facility in the township for that general reassessment.

(c) An industrial company may at any time petition the department ~~of local government finance~~ to assess **the real property of** an industrial facility owned or used by the company.

(d) Before January 1 of any year, the county assessor of the county in which an industrial facility is located may petition the department to assess the real property of the industrial facility for the assessment date in that year.

SECTION 19. IC 6-1.1-8.7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. The department ~~of local government finance~~ may assess the real property of an industrial facility pursuant to a petition filed under section 3 of this chapter.

SECTION 20. IC 6-1.1-8.7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) If the department determines to assess an industrial facility pursuant to a petition filed under section 3(a), ~~or~~ 3(c), **or 3(d)** of this chapter, the department shall schedule the assessment not later than six (6) months after receiving the petition.

(b) If the department determines to assess an industrial facility pursuant to a petition filed under section 3(b) of this chapter, the department shall schedule the assessment not later than three (3) months after the assessment date for which the petition was filed.

SECTION 21. IC 6-1.1-8.7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) The industrial company that owns or uses the industrial facility assessed under this chapter, a taxpayer that petitioned for assessment of an industrial facility assessed under this chapter, or the county assessor of the county in which the industrial facility is located may appeal an assessment by the department made under this chapter to the ~~department.~~ **Indiana board. An appeal under this section shall be conducted in the same manner as an appeal under IC 6-1.1-15-4 through IC 6-1.1-15-8.** An assessment made under this chapter that is not appealed under this section is a final unappealable order of the department.

(b) The ~~department~~ **Indiana board** shall hold a hearing on the appeal and issue an order within one (1) year of the date the appeal is filed.

SECTION 22. IC 6-1.1-8.7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The department ~~shall~~ **may** adopt rules to provide just valuations of industrial facilities under this chapter.

SECTION 23. IC 6-1.1-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. If a township assessor, county assessor, or county property tax assessment board of appeals believes that any taxable tangible property has been omitted from or undervalued on the assessment rolls or the tax duplicate for any year or years, the official or board shall give written notice under IC 6-1.1-3-20 or IC 6-1.1-4-22 of the assessment or increase in assessment. The notice shall contain a general description of the property and a statement describing the taxpayer's right to a ~~preliminary conference and to a~~ review with the county property tax assessment board of appeals under IC 6-1.1-15-1.

SECTION 24. IC 6-1.1-11-3, AS AMENDED BY P.L.154-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: Sec. 3. (a) Subject to subsections (e), (f), and (g), an owner of tangible property who wishes to obtain an exemption from property taxation shall file a certified application in duplicate with the county assessor of the county in which the property that is the subject of the exemption is located. The application must be filed annually **on or** before May 15 on forms prescribed by the department of local government finance. Except as provided in sections 1, 3.5, and 4 of this chapter, the application applies only for the taxes imposed for the year for which the application is filed.

(b) The authority for signing an exemption application may not be delegated by the owner of the property to any other person except by an executed power of attorney.

(c) An exemption application which is required under this chapter shall contain the following information:

(1) A description of the property claimed to be exempt in sufficient detail to afford identification.

(2) A statement showing the ownership, possession, and use of the property.

(3) The grounds for claiming the exemption.

(4) The full name and address of the applicant.

(5) For the year that ends on the assessment date of the property, identification of:

(A) each part of the property used or occupied; and

(B) each part of the property not used or occupied;

for one (1) or more exempt purposes under IC 6-1.1-10 during the time the property is used or occupied.

(6) Any additional information which the department of

local government finance may require.

(d) A person who signs an exemption application shall attest in writing and under penalties of perjury that, to the best of the person's knowledge and belief, a predominant part of the property claimed to be exempt is not being used or occupied in connection with a trade or business that is not substantially related to the exercise or performance of the organization's exempt purpose.

(e) An owner must file with an application for exemption of real property under subsection (a) or section 5 of this chapter a copy of the township assessor's record kept under IC 6-1.1-4-25(a) that shows the calculation of the assessed value of the real property for the assessment date for which the exemption is claimed. Upon receipt of the exemption application, the county assessor shall examine that record and determine if the real property for which the exemption is claimed is properly assessed. If the county assessor determines that the real property is not properly assessed, the county assessor shall direct the township assessor of the township in which the real property is located to:

(1) properly assess the real property; and

(2) notify the county assessor and county auditor of the proper assessment.

(f) If the county assessor determines that the applicant has not filed with an application for exemption a copy of the record referred to in subsection (e), the county assessor shall notify the applicant in writing of that requirement. The applicant then has thirty (30) days after the date of the notice to comply with that requirement. The county property tax assessment board of appeals shall deny an application described in this subsection if the applicant does not comply with that requirement within the time permitted under this subsection.

(g) This subsection applies whenever a law requires an exemption to be claimed on or in an application accompanying a personal property tax return. The claim or application may be filed on or with a personal property tax return not more than thirty (30) days after the filing date for the personal property tax return, regardless of whether an extension of the filing date has been granted under IC 6-1.1-3-7.

SECTION 25. IC 6-1.1-12-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2007 (RETROACTIVE)]: Sec. 9. (a) An individual may obtain a deduction from the assessed value of the individual's real property, or mobile home or manufactured home which is not assessed as real property, if:

(1) the individual is at least sixty-five (65) years of age on or before December 31 of the calendar year preceding the year in which the deduction is claimed;

(2) the combined adjusted gross income (as defined in Section 62 of the Internal Revenue Code) of:

(A) the individual and the individual's spouse; or

(B) the individual and all other individuals with whom:

(i) the individual shares ownership; or

(ii) the individual is purchasing the property under a contract;

as joint tenants or tenants in common;

for the calendar year preceding the year in which the deduction is claimed did not exceed twenty-five thousand dollars ($25,000);

(3) the individual has owned the real property, mobile home, or manufactured home for at least one (1) year before claiming the deduction; or the individual has been buying the real property, mobile home, or manufactured home under a contract that provides that the individual is to pay the property taxes on the real property, mobile home, or manufactured home for at least one (1) year before claiming the deduction, and the contract or a memorandum of the contract is recorded in the county recorder's office;

(4) the individual and any individuals covered by subdivision (2)(B) reside on the real property, mobile home, or manufactured home;

(5) the assessed value of the real property, mobile home, or manufactured home does not exceed one hundred ~~forty-four~~ **eighty-two** thousand **four hundred thirty** dollars ~~($144,000),~~ **($182,430);** and

(6) the individual receives no other property tax deduction for the year in which the deduction is claimed, except the deductions provided by sections 1, 37, and 38 of this chapter.

(b) Except as provided in subsection (h), in the case of real property, an individual's deduction under this section equals the lesser of:

(1) one-half (½) of the assessed value of the real property; or

(2) twelve thousand four hundred eighty dollars ($12,480).

(c) Except as provided in subsection (h) and section 40.5 of this chapter, in the case of a mobile home that is not assessed as real property or a manufactured home which is not assessed as real property, an individual's deduction under this section equals the lesser of:

(1) one-half (½) of the assessed value of the mobile home or manufactured home; or

(2) twelve thousand four hundred eighty dollars ($12,480).

(d) An individual may not be denied the deduction provided under this section because the individual is absent from the real property, mobile home, or manufactured home while in a nursing home or hospital.

(e) For purposes of this section, if real property, a mobile home, or a manufactured home is owned by:

(1) tenants by the entirety;

(2) joint tenants; or

(3) tenants in common;

only one (1) deduction may be allowed. However, the age requirement is satisfied if any one (1) of the tenants is at least sixty-five (65) years of age.

(f) A surviving spouse is entitled to the deduction provided by this section if:

(1) the surviving spouse is at least sixty (60) years of age on or before December 31 of the calendar year preceding the year in which the deduction is claimed;

(2) the surviving spouse's deceased husband or wife was at least sixty-five (65) years of age at the time of a death;

(3) the surviving spouse has not remarried; and

(4) the surviving spouse satisfies the requirements prescribed in subsection (a)(2) through (a)(6).

(g) An individual who has sold real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property may not claim the deduction provided under this section against that real property.

(h) In the case of tenants covered by subsection (a)(2)(B), if all of the tenants are not at least sixty-five (65) years of age, the deduction allowed under this section shall be reduced by an amount equal to the deduction multiplied by a fraction. The numerator of the fraction is the number of tenants who are not at least sixty-five (65) years of age, and the denominator is the total number of tenants.

SECTION 26. IC 6-1.1-12-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2007 (RETROACTIVE)]: Sec. 14. (a) Except as provided in subsection (c) and except as provided in section 40.5 of this chapter, an individual may have the sum of twelve thousand four hundred eighty dollars ($12,480) deducted from the assessed value of the tangible property that the individual owns (or the real property, mobile home not assessed as real property, or manufactured home not assessed as real property that the individual is buying under a contract that provides that the individual is to pay property taxes on the real property, mobile home, or manufactured home if the contract or a memorandum

of the contract is recorded in the county recorder's office) if:

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

(2) the individual received an honorable discharge;

(3) the individual either:

(A) is totally disabled; or

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

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

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

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

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

(c) No one is entitled to the deduction provided by this section if the assessed value of the individual's tangible property, as shown by the tax duplicate, exceeds one hundred ~~thirteen~~ **forty-three** thousand **one hundred sixty** dollars ~~($113,000).~~ **($143,160).**

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

SECTION 27. IC 6-1.1-12-17.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2007 (RETROACTIVE)]: Sec. 17.4. (a) Except as provided in section 40.5 of this chapter, a World War I veteran who is a resident of Indiana is entitled to have the sum of eighteen thousand seven hundred twenty dollars ($18,720) deducted from the assessed valuation of the real property (including a mobile home that is assessed as real property), mobile home that is not assessed as real property, or manufactured home that is not assessed as real property the veteran owns or is buying under a contract that requires the veteran to pay property taxes on the real property, if the contract or a memorandum of the contract is recorded in the county recorder's office, if:

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

(2) the assessed valuation of the real property, mobile home, or manufactured home does not exceed ~~one hundred sixty-three~~ **two hundred six** thousand **five hundred** dollars ~~($163,000);~~ **($206,500);** and

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

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

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

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

SECTION 28. IC 6-1.1-12.1-1, AS AMENDED BY P.L.154-2006, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: 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 tangible personal property that a deduction applicant:

(A) installs after February 28, 1983, and on or before 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) uses 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;

(C) acquires **for use as described in clause (B):**

(i) in an arms length transaction from an entity that is not an affiliate of the deduction applicant, ~~for use as described in clause (B); and~~ **if the tangible personal property has been previously used in Indiana before the installation described in clause (A); or (ii) in any manner, if the tangible personal property has never been previously used in Indiana before the installation described in clause (A); and**

(D) **has** never used for any purpose in Indiana before the installation described in clause (A).

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:
(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;
(B) the application filed in accordance with section 5.4 of this chapter by a person who desires to obtain the deduction provided by section 4.5 of this chapter; or
(C) the application filed in accordance with section 5.3 of this chapter by a property owner that desires to obtain the deduction provided by section 4.8 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) a deduction applicant installs after June 30, 2000, and on or before 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) the deduction applicant uses 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;
(D) the deduction applicant acquires **for purposes described in this subdivision:**
(i) in an arms length transaction from an entity that is not an affiliate of the deduction applicant, ~~for purposes described in this subdivision; and~~ **if the tangible personal property has been previously used in Indiana before the installation described in clause (A); or**
(ii) in any manner, if the tangible personal property has never been previously used in Indiana before the installation described in clause (A); and
(E) the deduction applicant **has** never used for any purpose in Indiana before the installation described in clause (A).
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) a deduction applicant installs after June 30, 2004, and on or before 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) 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) the deduction applicant acquires **for the storage or distribution of goods, services, or information:**
(i) in an arms length transaction from an entity that is not an affiliate of the deduction applicant, ~~and uses for the storage or distribution of goods, services, or information; and~~ **if the tangible personal property has been previously used in Indiana before the installation described in clause (A); and**
(ii) in any manner, if the tangible personal property has never been previously used in Indiana before the installation described in clause (A); and
(D) the deduction applicant **has** never used for any purpose in Indiana before the installation described in clause (A).
(14) "New information technology equipment" means tangible personal property that:
(A) a deduction applicant installs after June 30, 2004, and on or before 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 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;
(C) the deduction applicant acquires in an arms length transaction from an entity that is not an affiliate of the deduction applicant; and
(D) the deduction applicant never used for any purpose in Indiana before the installation described in clause (A).
(15) "Deduction applicant" means an owner of tangible personal property who makes a deduction application.
(16) "Affiliate" means an entity that effectively controls or is controlled by a deduction applicant or is associated with a deduction applicant under common ownership or control, whether by shareholdings or other means.
(17) "Eligible vacant building" means a building that:
(A) is zoned for commercial or industrial purposes; and
(B) is unoccupied for at least one (1) year before the owner of the building or a tenant of the owner occupies the building, as evidenced by a valid certificate of occupancy, paid utility receipts, executed lease agreements, or any other evidence of occupation that the department of local government finance requires.

SECTION 29. IC 6-1.1-12.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) Except as provided in section 2(i)(4) of this chapter, **and subject to section 15 of this chapter,** the amount of the deduction which the property owner is entitled to receive under section 3 of this chapter for a particular year equals the product of:

(1) the increase in the assessed value resulting from the rehabilitation or redevelopment; multiplied by

(2) the percentage prescribed in the table set forth in subsection (d).

(b) The amount of the deduction determined under subsection (a) shall be adjusted in accordance with this subsection in the following circumstances:

(1) If a general reassessment of real property occurs within the particular period of the deduction, the amount determined under subsection (a)(1) shall be adjusted to reflect the percentage increase or decrease in assessed valuation that resulted from the general reassessment.

(2) If an appeal of an assessment is approved that results in a reduction of the assessed value of the redeveloped or rehabilitated property, the amount of any deduction shall be adjusted to reflect the percentage decrease that resulted from the appeal.

The department of local government finance shall adopt rules under IC 4-22-2 to implement this subsection.

(c) Property owners who had an area designated an urban development area pursuant to an application filed prior to January 1, 1979, are only entitled to the deduction for the first through the fifth years as provided in subsection (d)(10). In addition, property owners who are entitled to a deduction under this chapter pursuant to an application filed after December 31, 1978, and before January 1, 1986, are entitled to a deduction for the first through the tenth years, as provided in subsection (d)(10).

(d) The percentage to be used in calculating the deduction under subsection (a) is as follows:

(1) For deductions allowed over a one (1) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%

(2) For deductions allowed over a two (2) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	50%

(3) For deductions allowed over a three (3) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	66%
3rd	33%

(4) For deductions allowed over a four (4) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	75%
3rd	50%
4th	25%

(5) For deductions allowed over a five (5) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	80%
3rd	60%
4th	40%
5th	20%

(6) For deductions allowed over a six (6) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	66%
4th	50%
5th	34%
6th	17%

(7) For deductions allowed over a seven (7) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	71%
4th	57%
5th	43%
6th	29%
7th	14%

(8) For deductions allowed over an eight (8) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	75%
4th	63%
5th	50%
6th	38%
7th	25%
8th	13%

(9) For deductions allowed over a nine (9) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	77%
4th	66%
5th	55%
6th	44%
7th	33%
8th	22%
9th	11%

(10) For deductions allowed over a ten (10) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	95%
3rd	80%
4th	65%
5th	50%
6th	40%
7th	30%
8th	20%
9th	10%
10th	5%

SECTION 30. IC 6-1.1-12.1-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4.1. (a) Section 4 of this chapter applies to economic revitalization areas that are not residentially distressed areas.

(b) This subsection applies to economic revitalization areas that are residentially distressed areas. **Subject to section 15 of this chapter,** the amount of the deduction that a property owner is entitled to receive under section 3 of this chapter for a particular year equals the lesser of:

(1) the assessed value of the improvement to the property after the rehabilitation or redevelopment has occurred; or

(2) the following amount:

TYPE OF DWELLING	AMOUNT
One (1) family dwelling	$74,880
Two (2) family dwelling	$106,080
Three (3) unit multifamily dwelling	$156,000
Four (4) unit multifamily dwelling	$199,680

SECTION 31. IC 6-1.1-12.1-4.5, AS AMENDED BY P.L.154-2006, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4.5. (a) For purposes of this section, "personal property" means personal property other than inventory (as defined in IC 6-1.1-3-11(a)).

(b) An applicant must provide a statement of benefits to the designating body. The applicant must provide the completed statement of benefits form to the designating body before the hearing specified in section 2.5(c) of this chapter or before the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment for which the person desires to claim a deduction under this chapter. The department of local government finance shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment that the person proposes to acquire.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment, new logistical distribution equipment, or new information technology equipment;

an estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment and an estimate of the annual salaries of these individuals.

(3) An estimate of the cost of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, an estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products by the new manufacturing equipment.

The statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(c) The designating body must review the statement of benefits required under subsection (b). The designating body shall determine whether an area should be designated an economic revitalization area or whether the deduction shall be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the cost of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment is reasonable for equipment of that type.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment, new logistical distribution equipment, or new information technology equipment;

whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, whether the estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products can be reasonably expected to result from the installation of the new manufacturing equipment.

(5) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(6) Whether the totality of benefits is sufficient to justify the deduction.

The designating body may not designate an area an economic revitalization area or approve the deduction unless it makes the findings required by this subsection in the affirmative.

(d) Except as provided in subsection (h), and subject to subsection (i) **and section 15 of this chapter,** an owner of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment whose statement of benefits is approved after June 30, 2000, is entitled to a deduction from the assessed value of that equipment for the number of years determined by the designating body under subsection (g). Except as provided in subsection (f) and in section 2(i)(3) of this chapter, and subject to subsection (i) **and section 15 of this chapter,** the amount of the deduction that an owner is entitled to for a particular year equals the product of:

(1) the assessed value of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment in the year of deduction under the appropriate table set forth in subsection (e); multiplied by

(2) the percentage prescribed in the appropriate table set forth in subsection (e).

(e) The percentage to be used in calculating the deduction under subsection (d) is as follows:

(1) For deductions allowed over a one (1) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd and thereafter	0%

(2) For deductions allowed over a two (2) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	50%
3rd and thereafter	0%

(3) For deductions allowed over a three (3) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	66%
3rd	33%
4th and thereafter	0%

(4) For deductions allowed over a four (4) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	75%
3rd	50%
4th	25%
5th and thereafter	0%

(5) For deductions allowed over a five (5) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	80%
3rd	60%
4th	40%
5th	20%
6th and thereafter	0%

(6) For deductions allowed over a six (6) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	66%

4th	50%
5th	34%
6th	25%
7th and thereafter	0%

(7) For deductions allowed over a seven (7) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	71%
4th	57%
5th	43%
6th	29%
7th	14%
8th and thereafter	0%

(8) For deductions allowed over an eight (8) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	75%
4th	63%
5th	50%
6th	38%
7th	25%
8th	13%
9th and thereafter	0%

(9) For deductions allowed over a nine (9) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	77%
4th	66%
5th	55%
6th	44%
7th	33%
8th	22%
9th	11%
10th and thereafter	0%

(10) For deductions allowed over a ten (10) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	90%
3rd	80%
4th	70%
5th	60%
6th	50%
7th	40%
8th	30%
9th	20%
10th	10%
11th and thereafter	0%

(f) With respect to new manufacturing equipment and new research and development equipment installed before March 2, 2001, the deduction under this section is the amount that causes the net assessed value of the property after the application of the deduction under this section to equal the net assessed value after the application of the deduction under this section that results from computing:

(1) the deduction under this section as in effect on March 1, 2001; and

(2) the assessed value of the property under 50 IAC 4.2, as in effect on March 1, 2001, or, in the case of property subject to IC 6-1.1-8, 50 IAC 5.1, as in effect on March 1, 2001.

(g) For an economic revitalization area designated before July 1, 2000, the designating body shall determine whether a property owner whose statement of benefits is approved after April 30, 1991, is entitled to a deduction for five (5) or ten (10) years. For an economic revitalization area designated after June 30, 2000, the designating body shall determine the number of years the deduction is allowed. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

(1) as part of the resolution adopted under section 2.5 of this chapter; or

(2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor.

A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

(h) The owner of new manufacturing equipment that is directly used to dispose of hazardous waste is not entitled to the deduction provided by this section for a particular assessment year if during that assessment year the owner:

(1) is convicted of a violation under IC 13-7-13-3 (repealed), IC 13-7-13-4 (repealed), or IC 13-30-6; or

(2) is subject to an order or a consent decree with respect to property located in Indiana based on a violation of a federal or state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate potential for harm.

(i) For purposes of subsection (d), the assessed value of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment that is part of an owner's assessable depreciable personal property in a single taxing district subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 is the product of:

(1) the assessed value of the equipment determined without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9; multiplied by

(2) the quotient of:

(A) the amount of the valuation limitation determined under 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 for all of the owner's depreciable personal property in the taxing district; divided by

(B) the total true tax value of all of the owner's depreciable personal property in the taxing district that is subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 determined:

(i) under the depreciation schedules in the rules of the department of local government finance before any adjustment for abnormal obsolescence; and

(ii) without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9.

SECTION 32. IC 6-1.1-12.1-4.8, AS ADDED BY P.L.154-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4.8. (a) A property owner that is an applicant for a deduction under this section must provide a statement of benefits to the designating body.

(b) If the designating body requires information from the property owner for the designating body's use in deciding whether to designate an economic revitalization area, the property owner must provide the completed statement of benefits form to the designating body before the hearing required by section 2.5(c) of this chapter. Otherwise, the property owner must submit the completed statement of benefits form to the designating body before the occupation of the eligible vacant building for which the property owner desires to claim a deduction.

(c) The department of local government finance shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the eligible vacant building that the property owner or a tenant of the property owner will occupy.

(2) An estimate of the number of individuals who will be employed or whose employment will be retained by the property owner or the tenant as a result of the occupation of the eligible vacant building, and an estimate of the annual salaries of those individuals.

(3) Information regarding efforts by the owner or a previous owner to sell, lease, or rent the eligible vacant building during the period the eligible vacant building was unoccupied.

(4) Information regarding the amount for which the eligible vacant building was offered for sale, lease, or rent by the owner or a previous owner during the period the eligible vacant building was unoccupied.

(d) With the approval of the designating body, the statement of benefits may be incorporated in a designation application. A statement of benefits is a public record that may be inspected and copied under IC 5-14-3.

(e) The designating body must review the statement of benefits required by subsection (a). The designating body shall determine whether an area should be designated an economic revitalization area or whether a deduction should be allowed, after the designating body has made the following findings:

(1) Whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed occupation of the eligible vacant building.

(2) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed occupation of the eligible vacant building.

(3) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed occupation of the eligible vacant building.

(4) Whether the occupation of the eligible vacant building will increase the tax base and assist in the rehabilitation of the economic revitalization area.

(5) Whether the totality of benefits is sufficient to justify the deduction.

A designating body may not designate an area an economic revitalization area or approve a deduction under this section unless the findings required by this subsection are made in the affirmative.

(f) Except as otherwise provided in this section, the owner of an eligible vacant building located in an economic revitalization area is entitled to a deduction from the assessed value of the building if the property owner or a tenant of the property owner occupies the eligible vacant building and uses it for commercial or industrial purposes. The property owner is entitled to the deduction:

(1) for the first year in which the property owner or a tenant of the property owner occupies the eligible vacant building and uses it for commercial or industrial purposes; and

(2) for subsequent years determined under subsection (g).

(g) The designating body shall determine the number of years for which a property owner is entitled to a deduction under this section. However, **subject to section 15 of this chapter,** the deduction may not be allowed for more than two (2) years. This determination shall be made:

(1) as part of the resolution adopted under section 2.5 of this chapter; or

(2) by a resolution adopted not more than sixty (60) days after the designating body receives a copy of the property owner's deduction application from the county auditor.

A certified copy of a resolution under subdivision (2) shall be sent to the county auditor, who shall make the deduction as provided in section 5.3 of this chapter. A determination concerning the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by using the procedure under subdivision (2).

(h) Except as provided in section 2(i)(5) of this chapter and subsection (k), **and subject to section 15 of this chapter,** the amount of the deduction the property owner is entitled to receive under this section for a particular year equals the product of:

(1) the assessed value of the building or part of the building that is occupied by the property owner or a tenant of the property owner; multiplied by

(2) the percentage set forth in the table in subsection (i).

(i) The percentage to be used in calculating the deduction under subsection (h) is as follows:

(1) For deductions allowed over a one (1) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%

(2) For deductions allowed over a two (2) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	50%

(j) The amount of the deduction determined under subsection (h) shall be adjusted in accordance with this subsection in the following circumstances:

(1) If a general reassessment of real property occurs within the period of the deduction, the amount of the assessed value determined under subsection (h)(1) shall be adjusted to reflect the percentage increase or decrease in assessed valuation that resulted from the general reassessment.

(2) If an appeal of an assessment is approved and results in a reduction of the assessed value of the property, the amount of a deduction under this section shall be adjusted to reflect the percentage decrease that resulted from the appeal.

(k) The maximum amount of a deduction under this section may not exceed the lesser of:

(1) the annual amount for which the eligible vacant building was offered for lease or rent by the owner or a previous owner during the period the eligible vacant building was unoccupied; or

(2) an amount, as determined by the designating body in its discretion, that is equal to the annual amount for which similar buildings in the county or contiguous counties were leased or rented or offered for lease or rent during the period the eligible vacant building was unoccupied.

(l) The department of local government finance may adopt rules under IC 4-22-2 to implement this section.

SECTION 33. IC 6-1.1-12.1-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 15. (a) If:**

(1) as the result of an error by a taxpayer the county auditor applies a deduction under this chapter for a particular assessment date in an amount that is less than the amount to which the taxpayer is entitled under this chapter; and

(2) the taxpayer is entitled to a correction of the error under this article;

the county auditor shall apply the correction of the error as provided in this section.

(b) With respect to a deduction based on an increase in the assessed value of real property, the county auditor shall apply a deduction from the assessed value of the real property:

(1) except as provided in subsection (d), for the assessment date that next succeeds the last assessment date for which a deduction under this chapter would apply without regard to this section based on that increase; and

(2) except as provided in subsection (c), in the amount of the lesser of:

(A) the remainder of:

(i) the amount of the deduction to which the

taxpayer is entitled under this chapter for the particular assessment date under subsection (a); minus

(ii) the amount of the deduction that was applied for that assessment date; or

(B) the assessed value of the real property for the assessment date for which the correction applies.

(c) If the county auditor applies an incorrect deduction as described in subsection (a) for more than one (1) assessment date, the county auditor shall:

(1) combine the amounts of deduction corrections determined under subsection (b)(2)(A) for all of the assessment dates for which incorrect deductions were applied; and

(2) except as provided in subsection (d), apply that combined amount as a deduction for the assessment date referred to in subsection (b)(1) in the manner described in subsection (b)(2).

(d) If:

(1) the remainder determined under subsection (b)(2)(A); or

(2) the combined amount of deduction corrections under subsection (c)(1);

exceeds the assessed value referred to in subsection (b)(2)(B), the county auditor shall carry the excess over as assessed value deductions for the immediately succeeding assessment date or dates.

(e) With respect to a deduction based on an increase in the assessed value of personal property, the county auditor shall apply deduction corrections in the manner provided in subsections (a) through (d), except that the assessed value and deduction determinations apply to the taxpayer's personal property return.

(f) A taxpayer is not required to file an application for a deduction under this section.

SECTION 34. IC 6-1.1-12.4-2, AS ADDED BY P.L.193-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) For purposes of this section, an increase in the assessed value of real property is determined in the same manner that an increase in the assessed value of real property is determined for purposes of IC 6-1.1-12.1.

(b) This subsection applies only to a development, redevelopment, or rehabilitation that is first assessed after March 1, 2005, and before March 2, 2009. Except as provided in subsection (h) and sections 4, 5, and 8 of this chapter, an owner of real property that:

(1) develops, redevelops, or rehabilitates the real property; and

(2) creates or retains employment from the development, redevelopment, or rehabilitation;

is entitled to a deduction from the assessed value of the real property.

(c) **Subject to section 14 of this chapter,** the deduction under this section is first available in the year in which the increase in assessed value resulting from the development, redevelopment, or rehabilitation occurs and continues for the following two (2) years. The amount of the deduction that a property owner may receive with respect to real property located in a county for a particular year equals the lesser of:

(1) two million dollars ($2,000,000); or

(2) the product of:

(A) the increase in assessed value resulting from the development, rehabilitation, or redevelopment; multiplied by

(B) the percentage from the following table:

YEAR OF DEDUCTION	PERCENTAGE
1st	75%
2nd	50%
3rd	25%

(d) A property owner that qualifies for the deduction under this section must file a notice to claim the deduction in the manner prescribed by the department of local government finance under rules adopted by the department of local government finance under IC 4-22-2 to implement this chapter. The township assessor shall:

(1) inform the county auditor of the real property eligible for the deduction as contained in the notice filed by the taxpayer under this subsection; and

(2) inform the county auditor of the deduction amount.

(e) The county auditor shall:

(1) make the deductions; and

(2) notify the county property tax assessment board of appeals of all deductions approved;

under this section.

(f) The amount of the deduction determined under subsection (c)(2) is adjusted to reflect the percentage increase or decrease in assessed valuation that results from:

(1) a general reassessment of real property under IC 6-1.1-4-4; or

(2) an annual adjustment under IC 6-1.1-4-4.5.

(g) If an appeal of an assessment is approved that results in a reduction of the assessed value of the real property, the amount of the deduction under this section is adjusted to reflect the percentage decrease that results from the appeal.

(h) The deduction under this section does not apply to a facility listed in IC 6-1.1-12.1-3(e).

SECTION 35. IC 6-1.1-12.4-3, AS AMENDED BY P.L.154-2006, SECTION 37, AND AS AMENDED BY P.L.169-2006, SECTION 7, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) For purposes of this section, an increase in the assessed value of personal property is determined in the same manner that an increase in the assessed value of new manufacturing equipment is determined for purposes of IC 6-1.1-12.1.

(b) This subsection applies only to personal property that the owner purchases after March 1, 2005, and before March 2, 2009. Except as provided in sections 4, 5, and 8 of this chapter, an owner that purchases personal property other than inventory (as defined in 50 IAC 4.2-5-1, as in effect on January 1, 2005) that:

(1) was never before used by its owner for any purpose in Indiana; and

(2) creates or retains employment;

is entitled to a deduction from the assessed value of the personal property.

(c) **Subject to section 14 of this chapter,** the deduction under this section is first available in the year in which the increase in assessed value resulting from the purchase of the personal property occurs and continues for the following two (2) years. The amount of the deduction that a property owner may receive with respect to personal property located in a county for a particular year equals the lesser of:

(1) two million dollars ($2,000,000); or

(2) the product of:

(A) the increase in assessed value resulting from the purchase of the personal property; multiplied by

(B) the percentage from the following table:

YEAR OF DEDUCTION	PERCENTAGE
1st	75%
2nd	50%
3rd	25%

(d) If an appeal of an assessment is approved that results in a reduction of the assessed value of the personal property, the amount of the deduction is adjusted to reflect the percentage decrease that results from the appeal.

(e) A property owner must claim the deduction under this section on the owner's annual personal property tax return. The township assessor shall:

(1) identify the personal property eligible for the deduction to the county auditor; and

(2) inform the county auditor of the deduction amount.

(f) The county auditor shall:

(1) make the deductions; and

(2) notify the county property tax assessment board of appeals of all deductions approved;

under this section.

(g) The deduction under this section does not apply to *personal property at* a facility listed in IC 6-1.1-12.1-3(e).

SECTION 36. IC 6-1.1-12.4-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 14. If:**

(1) as the result of an error the county auditor applies a deduction under this chapter for a particular assessment date in an amount that is less than the amount to which the taxpayer is entitled under this chapter; and

(2) the taxpayer is entitled to a correction of the error under this article;

the county auditor shall apply the correction of the error in the manner that corrections are applied under IC 6-1.1-12.1-15.

SECTION 37. IC 6-1.1-15-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.5. As used in this chapter, "county board" means the county property tax assessment board of appeals.**

SECTION 38. IC 6-1.1-15-1, AS AMENDED BY P.L.162-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) A taxpayer may obtain a review by the county ~~property tax assessment~~ board ~~of appeals~~ of a county or township official's action with respect to the assessment of the taxpayer's tangible property if the official's action requires the giving of notice to the taxpayer. At the time that notice is given to the taxpayer, the taxpayer shall also be informed in writing of:

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

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

(b) In order to ~~appeal~~ **obtain a review of** an assessment effective for the assessment date ~~that applies to property taxes first due and payable in the current calendar year~~ **to which the notice referred to in subsection (a) applies,**

~~(1)~~ the taxpayer must ~~request~~ **file a notice** in writing ~~a preliminary conference~~ with the county or township official referred to in subsection (a) not later than forty-five (45) days after **the date of the** notice ~~of a change in the assessment for the current calendar year is given to the taxpayer; or (2) If the current~~ **referred to in subsection (a).**

(c) A taxpayer may obtain a review by the county board of the assessment of the taxpayer's tangible property effective for an assessment date for which a notice of assessment is not given as described in subsection (a). To obtain the review, the taxpayer must file a notice in writing with the township assessor of the township in which the property is subject to assessment. The right of a taxpayer to obtain a review under this subsection for an assessment date for which a notice of assessment is not given does not relieve an assessing official of the duty to provide the taxpayer with the notice of assessment as otherwise required by this article. For an assessment date in a year ~~is (A)~~ before ~~2010 and a notice of a change in assessment is not given to the taxpayer;~~ **2009,** the ~~taxpayer~~ **notice** must ~~request in writing a preliminary conference with the county or township official referred to in subsection (a)~~ **be filed** on or before May 10 of the year. ~~in which the assessment date occurs; and (B) If the current calendar~~ **For an assessment date in a** year ~~is a calendar year~~ after ~~2009,~~ **2008, the notice must be filed** not later than **the later of:**

(1) May 10 of the year; or

(2) forty-five (45) days after ~~notice of~~ the **date of the** statement **mailed by the county auditor** under ~~IC 6-1.1-17-3. The preliminary conference required under this subsection is a prerequisite to a review by the county property tax assessment board of appeals under subsection (i).~~ **IC 6-1.1-17-3(b).**

~~(c)~~ **(d)** A change in an assessment made as a result of ~~an appeal~~ **a notice for review** filed ~~(1) in the same year that notice of a change in the assessment is given to the taxpayer; and (2)~~ **by a taxpayer under subsection (c)** after the time prescribed in subsection ~~(b);~~ **(c)** becomes effective for the next assessment date. **A change in an assessment made as a result of a notice for review filed by a taxpayer under subsection (b) or (c) remains in effect from the assessment date for which the change is made until the next assessment date for which the assessment is changed under this article.**

~~(d) A taxpayer may appeal a current real property assessment in a year even if the taxpayer has not received a notice of assessment in the year. If an appeal is filed on or before May 10 of a year in which the taxpayer has not received notice of assessment, a change in the assessment resulting from the appeal is effective for the most recent assessment date. If the appeal is filed after May 10, the change becomes effective for the next assessment date.~~

(e) The written ~~request for a preliminary conference that is required~~ **notice filed by a taxpayer** under subsection (b) **or (c)** must include the following information:

(1) The name of the taxpayer.

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

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

~~(f) The county or township official referred to in subsection (a) shall, not later than thirty (30) days after the receipt of a written request for a preliminary conference, attempt to hold a preliminary conference with the taxpayer to resolve as many issues as possible by:~~

~~(1) discussing the specifics of the taxpayer's reassessment;~~

~~(2) reviewing the taxpayer's property record card;~~

~~(3) explaining to the taxpayer how the reassessment was determined;~~

~~(4) providing to the taxpayer information about the statutes, rules, and guidelines that govern the determination of the reassessment;~~

~~(5) noting and considering objections of the taxpayer;~~

~~(6) considering all errors alleged by the taxpayer; and~~

~~(7) otherwise educating the taxpayer about:~~

~~(A) the taxpayer's reassessment;~~

~~(B) the reassessment process; and~~

~~(C) the reassessment appeal process.~~

~~Not later than ten (10) days after the conference, the county or township official referred to in subsection (a) shall forward to the county auditor and the county property tax assessment board of appeals the results of the conference on a form prescribed by the department of local government finance that must be completed and signed by the taxpayer and the official. The official and the taxpayer shall each retain a copy of the form for their records.~~

~~(g) The form submitted to the county property tax assessment board of appeals under subsection (f) must specify the following:~~

~~(1) The physical characteristics of the property in issue that bear on the assessment determination.~~

~~(2) All other facts relevant to the assessment determination.~~

~~(3) A list of the reasons the taxpayer believes that the assessment determination by the county or township official referred to in subsection (a) is incorrect.~~

~~(4) An indication of the agreement or disagreement by the~~

~~official with each item listed under subdivision (3).~~

~~(5) The reasons the official believes that the assessment determination is correct.~~

~~(h) If after the conference there are no items listed on the form submitted to the county property tax assessment board of appeals under subsection (f) on which there is disagreement:~~

~~(1) the county or township official referred to in subsection (a) shall give notice to the taxpayer, the county property tax assessment board of appeals, and the county assessor of the assessment in the amount agreed to by the taxpayer and the official; and~~

~~(2) the county property tax assessment board of appeals may reserve the right to change the assessment under IC 6-1.1-13.~~

~~(i) If after the conference there are items listed in the form submitted under subsection (f) on which there is disagreement, the county property tax assessment board of appeals shall hold a hearing. The taxpayer and county or township official whose original determination is under review are parties to the proceeding before the board of appeals. Except as provided in subsections (k) and (l), the hearing must be held not later than ninety (90) days after the official's receipt of the taxpayer's written request for a preliminary conference under subsection (b). The taxpayer may present the taxpayer's reasons for disagreement with the assessment. The county or township official referred to in subsection (a) must present the basis for the assessment decision on these items to the board of appeals at the hearing and the reasons the taxpayer's appeal should be denied on those items. The board of appeals shall have a written record of the hearing and prepare a written statement of findings and a decision on each item not later than sixty (60) days after the hearing, except as provided in subsections (k) and (l).~~

~~(j) If the township assessor does not attempt to hold a preliminary conference, the taxpayer may file a request in writing with the county assessor for a hearing before the property tax assessment board of appeals. If the board determines that the county or township official referred to in subsection (a) did not attempt to hold a preliminary conference, the board shall hold a hearing. The taxpayer and the county or township official whose original determination is under review are parties to the proceeding before the board of appeals. The hearing must be held not later than ninety (90) days after the receipt by the board of appeals of the taxpayer's hearing request under this subsection. The requirements of subsection (i) with respect to:~~

~~(1) participation in the hearing by the taxpayer and the township assessor or county assessor; and~~

~~(2) the procedures to be followed by the county board,~~

~~apply to a hearing held under this subsection.~~

~~(k) This subsection applies to a county having a population of more than three hundred thousand (300,000). In the case of a petition filed after December 31, 2000, the county property tax assessment board of appeals shall:~~

~~(1) hold its hearing not later than one hundred eighty (180) days instead of ninety (90) days after the filing of the petition; and~~

~~(2) have a written record of the hearing and prepare a written statement of findings and a decision on each item not later than one hundred twenty (120) days after the hearing.~~

~~(l) This subsection applies to a county having a population of three hundred thousand (300,000) or less. With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the county property tax assessment board of appeals shall:~~

~~(1) hold its hearing not later than one hundred eighty (180) days instead of ninety (90) days after the filing of the petition; and~~

~~(2) have a written record of the hearing and prepare a written statement of findings and a decision on each item not later than one hundred twenty (120) days after the hearing.~~

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

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

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

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

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

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

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

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

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

(A) the basis for the assessment decision; and

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

~~(m)~~ **(j)** The county ~~property tax assessment~~ board ~~of appeals:~~

~~(1)~~ may not require a taxpayer to file documentary evidence or summaries of statements of testimonial evidence before the hearing required under subsection ~~(i) or (j); and~~

~~(2) may amend the form submitted under subsection (f) if the board determines that the amendment is warranted.~~ **(g).**

~~(n) Upon receiving a request for a preliminary conference under subsection (b), the county or township official referred to in subsection (a) shall notify the county auditor in writing that the assessment is under appeal. With respect to an appeal of the assessment of real property or personal property filed after June 30, 2005, the notice must include the appellant's name and address, the assessed value of the appealed items for the assessment date immediately preceding the assessment date for which the appeal was filed, and the assessed value of the appealed items on the most recent assessment date. If the county auditor determines that the assessed value of the appealed items constitutes at least one percent (1%) of the total gross certified assessed value of a particular taxing unit for the assessment date immediately preceding the assessment date for which the appeal was filed, the county auditor shall send a copy of the notice to the affected taxing unit. Failure of the county auditor to send a copy of the notice to the affected taxing unit does not affect the validity of the appeal or delay the appeal.~~

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

county assessor, and the township assessor.

(l) If the maximum time elapses:

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

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

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

SECTION 39. IC 6-1.1-15-3, AS AMENDED BY P.L.199-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) A taxpayer may obtain a review by the Indiana board of a county ~~property tax assessment board of appeals~~ **board's** action with respect to **the following:**

(1) The assessment of that taxpayer's tangible property if the county ~~property tax assessment board of appeals'~~ **board's** action requires the giving of notice to the taxpayer. ~~A township assessor,~~

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

(b) The county assessor ~~member of a county property tax assessment board of appeals, or county property tax assessment board of appeals that made the original determination under appeal under this section~~ is ~~a~~ **the** party to the review under this section to defend the determination **of the county board.** At the time ~~that~~ **the** notice **of that determination** is given to the taxpayer, the taxpayer shall also be informed in writing of:

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

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

~~(b)~~ **(c)** A ~~township assessor or~~ county assessor **who dissents from the determination of an assessment or an exemption by the county board** may obtain a review **of the assessment or the exemption** by the Indiana board. ~~of any assessment which the township assessor or the county assessor has made, upon which the township assessor or the county assessor has passed, or which has been made over the township assessor's or the county assessor's protest.~~

~~(c)~~ **(d)** In order to obtain a review by the Indiana board under this section, the party must, ~~file a petition for review with the appropriate county assessor~~ not later than ~~thirty (30)~~ **forty-five (45)** days after the **date of the** notice **given to the party or parties of the determination** of the county ~~property tax assessment~~ board: ~~of appeals action is given to the taxpayer.~~

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

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

~~(d)~~ **(e)** The Indiana board shall prescribe the form of the petition for review of an assessment determination **or an exemption** by the county ~~property tax assessment~~ board. ~~of appeals.~~ The Indiana board shall issue instructions for completion of the form. The form and the instructions must be clear, simple, and understandable to the average individual. ~~An appeal~~ **A petition for review** of such a determination must be made on the form prescribed by the Indiana board. The form must require the petitioner to specify the ~~following:~~

~~(1) If the county or township official held a preliminary conference under section 1(f) of this chapter, the items listed in section 1(g)(1) and 1(g)(2) of this chapter.~~

~~(2) The~~ reasons why the petitioner believes that the assessment determination **or the exemption determination** by the county ~~property tax assessment~~ board ~~of appeals~~ is erroneous.

~~(e) The county assessor shall transmit the petition for review to the Indiana board not later than ten (10) days after it is filed.~~

~~(f) If a township assessor or a member of the county property tax assessment board of appeals files a petition for review under this section concerning the assessment of a taxpayer's property, the county assessor must send a copy of the petition to the taxpayer. The county assessor shall transmit the petition for review to the Indiana board not later than ten (10) days after the petition is filed.~~

SECTION 40. IC 6-1.1-15-4, AS AMENDED BY P.L.154-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) After receiving a petition for review which is filed under section 3 of this chapter, the Indiana board shall conduct a hearing at its earliest opportunity. The Indiana board may

~~(1) assign:~~

~~(A) full;~~

~~(B) limited; or~~

~~(C) no;~~

~~evidentiary value to the assessed valuation of tangible property determined by stipulation submitted as evidence of a comparable sale; and~~

~~(2)~~ correct any errors that may have been made and adjust the assessment **or exemption** in accordance with the correction.

(b) If the Indiana board conducts a site inspection of the property as part of its review of the petition, the Indiana board shall give notice to all parties of the date and time of the site inspection. The Indiana board is not required to assess the property in question. The Indiana board shall give notice of the date fixed for the hearing, by mail, to the taxpayer and to the ~~appropriate township assessor,~~ county assessor. ~~and county auditor. With respect to an appeal of the assessment of real property or personal property filed after June 30, 2005, the notice must include the following:~~

~~(1) The action of the county property tax assessment board of appeals with respect to the appealed items.~~

~~(2) A statement that a taxing unit receiving the notice from the county auditor under subsection (c) may:~~

~~(A) attend the hearing; and~~

~~(B) offer testimony.~~

The Indiana board shall give these notices at least thirty (30) days before the day fixed for the hearing **unless the parties agree to a shorter period. With respect to a petition for review filed by a county assessor,** the ~~property tax assessment~~ **county** board ~~of appeals~~ that made the determination under ~~appeal~~ **review** under this section may ~~with the approval of the county executive,~~ file an amicus curiae brief in the review proceeding under this section. The expenses incurred by the ~~property tax assessment~~ **county** board ~~of appeals~~ in filing the amicus curiae brief shall be paid from the property reassessment fund under IC 6-1.1-4-27.5. The executive of a taxing unit may file an amicus curiae brief in the review proceeding under this section if the property whose assessment **or exemption** is under appeal is subject to assessment by that taxing unit.

~~(c) If, after receiving notice of a hearing under subsection (b), the county auditor determines that the assessed value of the appealed items constitutes at least one percent (1%) of the total gross certified assessed value of a particular taxing unit for the assessment date immediately preceding the assessment date for which the appeal was filed, the county auditor shall send a copy of the notice to the affected taxing unit. A taxing unit that receives a notice from the county auditor under this subsection is not a party to the appeal. Failure of the county auditor to send a copy of the notice to the affected taxing unit does not affect the validity of the appeal or delay the appeal.~~

~~(d)~~ **(c)** If a petition for review does not comply with the Indiana board's instructions for completing the form prescribed under section 3 of this chapter, the Indiana board shall return the petition to the petitioner and include a notice describing the defect in the petition. The petitioner then has thirty (30) days from the date on the notice to cure the defect and file a corrected

petition. The Indiana board shall deny a corrected petition for review if it does not substantially comply with the Indiana board's instructions for completing the form prescribed under section 3 of this chapter.

~~(c) The Indiana board shall prescribe a form for use in processing petitions for review of actions by the county property tax assessment board of appeals. The Indiana board shall issue instructions for completion of the form. The form must require the Indiana board to indicate agreement or disagreement with each item that is:~~

~~(1) if the county or township official held a preliminary conference under section 1(f) of this chapter, indicated on the petition submitted under that section by the taxpayer and the official; and~~

~~(2) included in the county property tax assessment board of appeals' findings, record, and determination under section 2.1(d) of this chapter.~~

~~The form must also require the Indiana board to indicate the issues in dispute and its reasons in support of its resolution of those issues.~~

~~(f)~~ **(d)** After the hearing, the Indiana board shall give the ~~petitioner, the township assessor,~~ **taxpayer,** the county assessor, and ~~the county auditor.~~ **any entity that filed an amicus curiae brief:**

(1) notice, by mail, of its final determination;

~~(2) a copy of the form completed under subsection (c);~~ and

~~(3)~~ **(2) for parties entitled to appeal the final determination,** notice of the procedures they must follow in order to obtain court review under section 5 of this chapter.

~~The county auditor shall provide copies of the documents described in subdivisions (1) through (3) to the taxing units entitled to notice under subsection (c).~~

~~(g)~~ **(e)** Except as provided in subsection ~~(h),~~ **(f),** the Indiana board shall conduct a hearing not later than nine (9) months after a petition in proper form is filed with the Indiana board, excluding any time due to a delay reasonably caused by the petitioner.

~~(h)~~ **(f)** With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the Indiana board shall conduct a hearing not later than one (1) year after a petition in proper form is filed with the Indiana board, excluding any time due to a delay reasonably caused by the petitioner.

~~(i)~~ **(g)** Except as provided in subsection ~~(j),~~ **(h),** the Indiana board shall make a determination not later than the later of:

(1) ninety (90) days after the hearing; or

(2) the date set in an extension order issued by the Indiana board.

~~(j)~~ **(h)** With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the Indiana board shall make a determination not later than the later of:

(1) one hundred eighty (180) days after the hearing; or

(2) the date set in an extension order issued by the Indiana board.

~~(k)~~ **(i)** The Indiana board may not extend the final determination date under subsection ~~(i)~~ **(g)** or ~~(j)~~ **(h)** by more than one hundred eighty (180) days. If the Indiana board fails to make a final determination within the time allowed by this section, ~~after a hearing,~~ the entity that initiated the petition may:

(1) take no action and wait for the Indiana board to make a final determination; or

(2) petition for judicial review under section ~~5(g)~~ **5** of this chapter.

~~(l)~~ **(j)** A final determination must include separately stated findings of fact for all aspects of the determination. Findings of ultimate fact must be accompanied by a concise statement of the underlying basic facts of record to support the findings. Findings must be based exclusively upon the evidence on the record in the proceeding and on matters officially noticed in the proceeding. Findings must be based upon a preponderance of the evidence.

~~(m)~~ **(k)** The Indiana board may limit the scope of the appeal to the issues raised in the petition and the evaluation of the evidence presented to the county ~~property tax assessment~~ board ~~of appeals~~ in support of those issues only if all ~~persons~~ **parties** participating in the hearing required under subsection (a) agree to the limitation. A ~~person~~ **party** participating in the hearing required under subsection (a) is entitled to introduce evidence that is otherwise proper and admissible without regard to whether that evidence has previously been introduced at a hearing before the county ~~property tax assessment~~ board. ~~of appeals.~~

~~(n)~~ **(l)** The Indiana board **may require the parties to the appeal:**

(1) ~~may require the parties to the appeal~~ to file not more than five (5) business days before the date of the hearing required under subsection (a) documentary evidence or summaries of statements of testimonial evidence; and

(2) ~~may require the parties to the appeal~~ to file not more than fifteen (15) business days before the date of the hearing required under subsection (a) lists of witnesses and exhibits to be introduced at the hearing.

~~(o)~~ **(m)** A party to a proceeding before the Indiana board shall provide to ~~another party~~ **all other parties** to the proceeding the information described in subsection ~~(n)~~ **(l)** if the other party requests the information in writing at least ten (10) days before the deadline for filing of the information under subsection ~~(n).~~ **(l).**

~~(p) The county assessor may:~~

~~(1) appear as an additional party if the notice of appearance is filed before the review proceeding; or~~

~~(2) with the approval of the township assessor, represent the township assessor;~~

~~in a review proceeding under this section.~~

~~(q)~~ **(n)** The Indiana board may base its final determination on a stipulation between the respondent and the petitioner. If the final determination is based on a stipulated assessed valuation of tangible property, the Indiana board may order the placement of a notation on the permanent assessment record of the tangible property that the assessed valuation was determined by stipulation. The Indiana board may:

(1) order that a final determination under this subsection has no precedential value; or

(2) specify a limited precedential value of a final determination under this subsection.

SECTION 41. IC 6-1.1-15-5, AS AMENDED BY P.L.199-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) Not later than fifteen (15) days after the Indiana board gives notice of its final determination under section 4 of this chapter to the party or the maximum allowable time for the issuance of a final determination by the Indiana board under section 4 of this chapter expires, a party to the proceeding may request a rehearing before the Indiana board. The Indiana board may conduct a rehearing and affirm or modify its final determination, giving the same notices after the rehearing as are required by section 4 of this chapter. The Indiana board has fifteen (15) days after receiving a petition for a rehearing to determine whether to grant a rehearing. Failure to grant a rehearing not later than fifteen (15) days after receiving the petition shall be treated as a final determination to deny the petition. A petition for a rehearing does not toll the time in which to file a petition for judicial review unless the petition for rehearing is granted. If the Indiana board determines to rehear a final determination, the Indiana board:

(1) may conduct the additional hearings that the Indiana

board determines necessary or review the written record without additional hearings; and

(2) shall issue a final determination not later than ninety (90) days after notifying the parties that the Indiana board will rehear the final determination.

If the Indiana board fails to make a final determination within the time allowed under subdivision (2), the entity that initiated the petition for rehearing may take no action and wait for the Indiana board to make a final determination or petition for judicial review under subsection (g).

(b) A ~~person~~ **party** may petition for judicial review of the final determination of the Indiana board regarding the assessment **or exemption** of ~~that person's~~ tangible property. ~~The action shall be taken to the tax court under IC 4-21.5-5.~~ **In order to obtain judicial review under this section, a party must:**

(1) file a petition with the Indiana tax court;

(2) serve a copy of the petition on:

(A) the county assessor;

(B) the attorney general; and

(C) any entity that filed an amicus curiae brief with the Indiana board; and

(3) file a written notice of appeal with the Indiana board informing the Indiana board of the party's intent to obtain judicial review.

Petitions for judicial review may be consolidated at the request of the appellants if it can be done in the interest of justice. ~~The property tax assessment board of appeals that made the determination under appeal under this section may, with the approval of the county executive, file an amicus curiae brief in the review proceeding under this section. The expenses incurred by the property tax assessment board of appeals in filing the amicus curiae brief shall be paid from the property reassessment fund under IC 6-1.1-4-27.5. In addition, the executive of a taxing unit may file an amicus curiae brief in the review proceeding under this section if the property whose assessment is under appeal is subject to assessment by that taxing unit.~~ The department of local government finance may intervene in an action taken under this subsection if the interpretation of a rule of the department is at issue in the action. ~~A township assessor,~~ **The** county assessor ~~member of a county property tax assessment board of appeals, or county property tax assessment board of appeals that made the original assessment determination under appeal under this section~~ is a party to the review under this section. ~~to defend the determination.~~

(c) Except as provided in subsection (g), to initiate a proceeding for judicial review under this section, a ~~person~~ **party** must take the action required by subsection (b) not later than:

(1) forty-five (45) days after the Indiana board gives the person notice of its final determination, unless a rehearing is conducted under subsection (a); or

(2) ~~thirty (30)~~ **forty-five (45)** days after the Indiana board gives the person notice under subsection (a) of its final determination, if a rehearing is conducted under subsection (a) or the maximum time elapses for the Indiana board to make a determination under this section.

(d) The failure of the Indiana board to conduct a hearing within the period prescribed in section ~~4(h)~~ **4(e)** or ~~4(i)~~ **4(f)** of this chapter does not constitute notice to the ~~person~~ **party** of an Indiana board final determination.

(e) The county ~~executive~~ **assessor** may petition for judicial review to the tax court in the manner prescribed in this section. ~~upon request by the county assessor, the elected township assessor, or an affected taxing unit. If an appeal is taken at the request of an affected taxing unit, the taxing unit shall pay the costs of the appeal.~~

(f) ~~If~~ The county ~~executive determines upon a request under this subsection to not appeal to the tax court:~~

~~(1) the entity described in subsection (b) that made the original determination under appeal under this section may take an appeal to the tax court in the manner prescribed in this section using funds from that entity's budget; and~~

~~(2) the petitioner~~ **assessor** may not be represented by the attorney general in ~~an action described in subdivision (1).~~ **a judicial review initiated under subsection (b) by the county assessor.**

(g) If the maximum time elapses for the Indiana board to give notice of its final determination under subsection (a) or section 4 of this chapter, a ~~person~~ **party** may initiate a proceeding for judicial review by taking the action required by subsection (b) at any time after the maximum time elapses. If:

(1) a judicial proceeding is initiated under this subsection; and

(2) the Indiana board has not issued a determination;

the tax court shall determine the matter de novo.

SECTION 42. IC 6-1.1-15-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) If a final determination by the Indiana board regarding the assessment **or exemption** of any tangible property is vacated, set aside, or adjudged null and void under the decision of the tax court, ~~under IC 4-21.5-5,~~ the matter of the assessment **or exemption** of the property shall be remanded to the Indiana board with instructions to the Indiana board to refer the matter to the:

(1) department of local government finance with respect to an appeal of a determination made by the department; or

(2) county ~~property tax assessment~~ board ~~of appeals~~ with respect to an appeal of a determination made by the county board;

to make another assessment **or exemption determination.** Upon remand, the Indiana board may take action only on those issues specified in the decision of the tax court.

(b) The department of local government finance or the county ~~property tax assessment~~ board ~~of appeals~~ shall take action on a case referred to it by the Indiana board under subsection (a) not later than ninety (90) days after the date the referral is made. ~~unless an appeal of the final determination of the Indiana board is initiated under IC 4-21.5-5-16.~~ The department of local government finance or the county ~~property tax assessment~~ board ~~of appeals~~ may petition the Indiana board at any time for an extension of the ninety (90) day period. An extension shall be granted upon a showing of reasonable cause.

(c) The taxpayer in a case remanded under subsection (a) may petition the tax court for an order requiring the department of local government finance or the county ~~property tax assessment~~ board ~~of appeals~~ to show cause why action has not been taken pursuant to the Indiana board's referral under subsection (a) if:

(1) at least ninety (90) days have elapsed since the referral was made;

(2) the department of local government finance or the county ~~property tax assessment~~ board ~~of appeals~~ has not taken action on the issues specified in the tax court's decision; and

(3) an appeal of the tax court's decision has not been filed.

(d) If a case remanded under subsection (a) is appealed under ~~IC 4-21.5-5-16,~~ **section 5 of this chapter,** the ninety (90) day period provided in subsection (b) is tolled until the appeal is concluded.

SECTION 43. IC 6-1.1-15-9, AS AMENDED BY P.L.199-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) If the assessment **or exemption** of tangible property is corrected by the department of local government finance or the county ~~property tax assessment~~ board ~~of appeals~~ under section 8 of this chapter, the owner of the property has a right to appeal the final determination of the corrected assessment **or exemption** to the Indiana board. The county ~~executive~~ **assessor** also has a right to appeal the final determination of the reassessment **or exemption** by the department of local government finance or the county ~~property tax assessment~~ board, ~~of appeals~~ but only upon request

by the county assessor, the elected township assessor, or an affected taxing unit. If the appeal is taken at the request of an affected taxing unit, the taxing unit shall pay the costs of the appeal.

(b) An appeal under this section must be initiated in the manner prescribed in section 3 of this chapter or IC 6-1.5-5.

SECTION 44. IC 6-1.1-15-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) If a petition for review to any board or a proceeding for judicial review in the tax court regarding an assessment or increase in assessment is pending, the taxes resulting from the assessment or increase in assessment are, notwithstanding the provisions of IC 6-1.1-22-9, not due until after the petition for review, or the proceeding for judicial review, is finally adjudicated and the assessment or increase in assessment is finally determined. However, even though a petition for review or a proceeding for judicial review is pending, the taxpayer shall pay taxes on the tangible property when the property tax installments come due, unless the collection of the taxes is ~~stayed~~ **enjoined** under ~~IC 4-21.5-5-9~~ **IC 33-26-6-2** pending a final determination in the proceeding for judicial review. The amount of taxes which the taxpayer is required to pay, pending the final determination of the assessment or increase in assessment, shall be based on:

(1) the assessed value reported by the taxpayer on the taxpayer's personal property return if a personal property assessment, or an increase in such an assessment, is involved; or

(2) an amount based on the immediately preceding year's assessment of real property if an assessment, or increase in assessment, of real property is involved.

(b) If the petition for review or the proceeding for judicial review is not finally determined by the last installment date for the taxes, the taxpayer, upon showing of cause by a taxing official or at the tax court's discretion, may be required to post a bond or provide other security in an amount not to exceed the taxes resulting from the contested assessment or increase in assessment.

(c) Each county auditor shall keep separate on the tax duplicate a record of that portion of the assessed value of property that is described in IC 6-1.1-17-0.5(b). When establishing rates and calculating state school support, the department of local government finance shall exclude from assessed value in the county the assessed value of property kept separate on the tax duplicate by the county auditor under IC 6-1.1-17-0.5(b).

SECTION 45. IC 6-1.1-15-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) Subject to the limitations contained in subsections (c) and (d), a county auditor shall correct errors which are discovered in the tax duplicate for any one (1) or more of the following reasons:

(1) The description of the real property was in error.

(2) The assessment was against the wrong person.

(3) Taxes on the same property were charged more than one (1) time in the same year.

(4) There was a mathematical error in computing the taxes or penalties on the taxes.

(5) There was an error in carrying delinquent taxes forward from one (1) tax duplicate to another.

(6) The taxes, as a matter of law, were illegal.

(7) There was a mathematical error in computing an assessment.

(8) Through an error of omission by any state or county officer, the taxpayer was not given credit for an exemption or deduction permitted by law.

(b) The county auditor shall correct an error described under subsection (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) when the county auditor finds that the error exists.

(c) If the tax is based on an assessment made or determined by the ~~state board of tax commissioners (before the board was abolished) or the~~ department of local government finance, the county auditor shall not correct an error described under subsection (a)(6), (a)(7), or (a)(8) until after the correction is either approved by the department of local government finance or ordered by the tax court.

(d) If the tax is not based on an assessment made or determined by the ~~state board of tax commissioners (before the board was abolished) or the~~ department of local government finance, the county auditor shall correct an error described under subsection (a)(6), (a)(7), or (a)(8) only if the correction is first approved by at least two (2) of the following officials:

(1) The township assessor.

(2) The county auditor.

(3) The county assessor.

If two (2) of these officials do not approve such a correction, the county auditor shall refer the matter to the county ~~property tax assessment~~ board ~~of appeals~~ for determination. The county ~~property tax assessment~~ board ~~of appeals~~ shall provide a copy of the determination to the taxpayer and to the county auditor.

(e) A taxpayer may appeal a determination of the county ~~property tax assessment~~ board ~~of appeals~~ to the Indiana board for a final administrative determination. An appeal under this section shall be conducted in the same manner as appeals under sections 4 through 8 of this chapter. The Indiana board shall send the final administrative determination to the taxpayer, the county auditor, the county assessor, and the township assessor.

(f) If a correction or change is made in the tax duplicate after it is delivered to the county treasurer, the county auditor shall transmit a certificate of correction to the county treasurer. The county treasurer shall keep the certificate as the voucher for settlement with the county auditor.

(g) A taxpayer that files a personal property tax return under IC 6-1.1-3 may not petition under this section for the correction of an error made by the taxpayer on the taxpayer's personal property tax return. If the taxpayer wishes to correct an error made by the taxpayer on the taxpayer's personal property tax return, the taxpayer must instead file an amended personal property tax return under IC 6-1.1-3-7.5.

(h) A taxpayer that files a statement under IC 6-1.1-8-19 may not petition under this section for the correction of an error made by the taxpayer on the taxpayer's statement. If the taxpayer wishes to correct an error made by the taxpayer on the taxpayer's statement, the taxpayer must instead initiate an objection under IC 6-1.1-8-28 **or an appeal under IC 6-1.1-8-30.**

(i) A taxpayer that files a statement under IC 6-1.1-8-23 may not petition under this section for the correction of an error made by the taxpayer on the taxpayer's statement. If the taxpayer wishes to correct an error made by the taxpayer on the taxpayer's statement, the taxpayer must instead file an amended statement not more than six (6) months after the due date of the statement.

SECTION 46. IC 6-1.1-15-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. In any assessment review the assessing official, the county assessor, and the members of a county ~~property tax assessment~~ board ~~of appeals~~ shall:

(1) use the department of local government finance's rules in effect; and

(2) consider the conditions and circumstances of the property as they existed;

on the original assessment date of the property under review.

SECTION 47. IC 6-1.1-15-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. Notwithstanding any provision in the 2002 Real Property Assessment Manual and Real Property Assessment Guidelines for 2002-Version A, incorporated by reference in 50 IAC 2.3-1-2, a county ~~property tax assessment~~ board ~~of appeals~~ or the Indiana board shall consider all evidence relevant to the assessment of real property regardless of whether the evidence was submitted to the township assessor before the assessment of

the property.

SECTION 48. IC 6-1.1-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) If a county property tax assessment board of appeals fails to change an assessed value claimed by a taxpayer on a personal property return and give notice of the change within the time prescribed in section 1(a)(2) of this chapter, the township assessor or the county assessor may file a petition for review of the assessment by the Indiana board. The township assessor or the county assessor must file the petition for review in the manner provided in ~~IC 6-1.1-15-3(c).~~ **IC 6-1.1-15-3(d).** The time period for filing the petition begins to run on the last day that the county board is permitted to act on the assessment under section 1(a)(2) of this chapter as though the board acted and gave notice of its action on that day.

(b) Notwithstanding section 1(a)(3) of this chapter, the department of local government finance shall reassess tangible property when an appealed assessment of the property is remanded to the board under IC 6-1.1-15-8.

SECTION 49. IC 6-1.1-17-3, AS AMENDED BY P.L.162-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The proper officers of a political subdivision shall formulate its estimated budget and its proposed tax rate and tax levy on the form prescribed by the department of local government finance and approved by the state board of accounts. The political subdivision shall give notice by publication to taxpayers of:

(1) the estimated budget;

(2) the estimated maximum permissible levy;

(3) the current and proposed tax levies of each fund; and

(4) the amounts of excessive levy appeals to be requested.

In the notice, the political subdivision shall also state the time and place at which a public hearing will be held on these items. The notice shall be published twice in accordance with IC 5-3-1 with the first publication at least ten (10) days before the date fixed for the public hearing. Beginning in 2009, the duties required by this subsection must be completed before August 10 of the calendar year. A political subdivision shall provide the estimated budget and levy information required for the notice under subsection (b) to the county auditor on the schedule determined by the department of local government finance.

(b) Beginning in 2009, before August 10 of a calendar year, the county auditor shall mail to the last known address of each person liable for any property taxes, as shown on the tax duplicate, or to the last known address of the most recent owner shown in the transfer book, a statement that includes:

(1) the assessed valuation as of the assessment date in the current calendar year of tangible property on which the person will be liable for property taxes first due and payable in the immediately succeeding calendar year and notice to the person of the opportunity to appeal the assessed valuation under ~~IC 6-1.1-15-1(b),~~ **IC 6-1.1-15-1(c);**

(2) the amount of property taxes for which the person will be liable to each political subdivision on the tangible property for taxes first due and payable in the immediately succeeding calendar year, taking into account all factors that affect that liability, including:

(A) the estimated budget and proposed tax rate and tax levy formulated by the political subdivision under subsection (a);

(B) any deductions or exemptions that apply to the assessed valuation of the tangible property;

(C) any credits that apply in the determination of the tax liability; and

(D) the county auditor's best estimate of the effects on the tax liability that might result from actions of the county board of tax adjustment or the department of local government finance;

(3) a prominently displayed notation that:

(A) the estimate under subdivision (2) is based on the best information available at the time the statement is mailed; and

(B) based on various factors, including potential actions by the county board of tax adjustment or the department of local government finance, it is possible that the tax liability as finally determined will differ substantially from the estimate;

(4) comparative information showing the amount of property taxes for which the person is liable to each political subdivision on the tangible property for taxes first due and payable in the current year; and

(5) the date, time, and place at which the political subdivision will hold a public hearing on the political subdivision's estimated budget and proposed tax rate and tax levy as required under subsection (a).

(c) The department of local government finance shall:

(1) prescribe a form for; and

(2) provide assistance to county auditors in preparing;

statements under subsection (b). Mailing the statement described in subsection (b) to a mortgagee maintaining an escrow account for a person who is liable for any property taxes shall not be construed as compliance with subsection (b).

(d) The board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal) may conduct the public hearing required under subsection (a):

(1) in any county of the solid waste management district; and

(2) in accordance with the annual notice of meetings published under IC 13-21-5-2.

(e) The trustee of each township in the county shall estimate the amount necessary to meet the cost of township assistance in the township for the ensuing calendar year. The township board shall adopt with the township budget a tax rate sufficient to meet the estimated cost of township assistance. The taxes collected as a result of the tax rate adopted under this subsection are credited to the township assistance fund.

(f) 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 50. IC 6-1.1-17-5, AS AMENDED BY P.L.169-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) The officers of political subdivisions shall meet each year to fix the budget, tax rate, and tax levy of their respective subdivisions for the ensuing budget year as follows:

~~(1) The fiscal body of a consolidated city and county, not later than the last meeting of the fiscal body in September.~~

~~(2) The fiscal body of a municipality, not later than September 30.~~

~~(3)~~ **(1)** The board of school trustees of a school corporation that is located in a city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000), not later than:

(A) the time required in section 5.6(b) of this chapter; or

(B) September ~~20~~ **30** if a resolution adopted under section 5.6(d) of this chapter is in effect.

~~(4)~~ **(2)** The proper officers of all other political subdivisions, not later than September ~~20.~~ **30.**

Except in a consolidated city and county and in a second class city, the public hearing required by section 3 of this chapter must be completed at least ten (10) days before the proper officers of the political subdivision meet to fix the budget, tax rate, and tax levy. In a consolidated city and county and in a second class city, that public hearing, by any committee or by the entire fiscal body, may be held at any time after introduction of the budget.

(b) Ten (10) or more taxpayers may object to a budget, tax rate, or tax levy of a political subdivision fixed under subsection (a) by filing an objection petition with the proper officers of the political subdivision not more than seven (7) days after the hearing. The objection petition must specifically identify the provisions of the budget, tax rate, and tax levy to which the taxpayers object.

(c) If a petition is filed under subsection (b), the fiscal body of the political subdivision shall adopt with its budget a finding concerning the objections in the petition and any testimony presented at the adoption hearing.

(d) This subsection does not apply to a school corporation. Each year at least two (2) days before the first meeting of the county board of tax adjustment held under IC 6-1.1-29-4, a political subdivision shall file with the county auditor:

(1) a statement of the tax rate and levy fixed by the political subdivision for the ensuing budget year;

(2) two (2) copies of the budget adopted by the political subdivision for the ensuing budget year; and

(3) two (2) copies of any findings adopted under subsection (c).

Each year the county auditor shall present these items to the county board of tax adjustment at the board's first meeting.

(e) In a consolidated city and county and in a second class city, the clerk of the fiscal body shall, notwithstanding subsection (d), file the adopted budget and tax ordinances with the county board of tax adjustment within two (2) days after the ordinances are signed by the executive, or within two (2) days after action is taken by the fiscal body to override a veto of the ordinances, whichever is later.

(f) If a fiscal body does not fix the budget, tax rate, and tax levy of the political subdivisions for the ensuing budget year as required under this section, the most recent annual appropriations and annual tax levy are continued for the ensuing budget year.

SECTION 51. IC 6-1.1-17-5.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.6. (a) This section applies only to a school corporation that is located in a city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000).

(b) Before February 1 of each year, the officers of the school corporation shall meet to fix the budget for the school corporation for the ensuing budget year, with notice given by the same officers. However, if a resolution adopted under subsection (d) is in effect, the officers shall meet to fix the budget for the ensuing budget year before September ~~20.~~ **30.**

(c) Each year, at least two (2) days before the first meeting of the county board of tax adjustment held under IC 6-1.1-29-4, the school corporation shall file with the county auditor:

(1) a statement of the tax rate and tax levy fixed by the school corporation for the ensuing budget year;

(2) two (2) copies of the budget adopted by the school corporation for the ensuing budget year; and

(3) any written notification from the department of local government finance under section 16(i) of this chapter that specifies a proposed revision, reduction, or increase in the budget adopted by the school corporation for the ensuing budget year.

Each year the county auditor shall present these items to the county board of tax adjustment at the board's first meeting.

(d) The governing body of the school corporation may adopt a resolution to cease using a school year budget year and return to using a calendar year budget year. A resolution adopted under this subsection must be adopted after January 1 and before July 1. The school corporation's initial calendar year budget year following the adoption of a resolution under this subsection begins on January 1 of the year following the year the resolution is adopted. The first six (6) months of the initial calendar year budget for the school corporation must be consistent with the last six (6) months of the final school year budget fixed by the department of local government finance before the adoption of a resolution under this subsection.

(e) A resolution adopted under subsection (d) may be rescinded by a subsequent resolution adopted by the governing body. If the governing body of the school corporation rescinds a resolution adopted under subsection (d) and returns to a school year budget year, the school corporation's initial school year budget year begins on July 1 following the adoption of the rescinding resolution and ends on June 30 of the following year. The first six (6) months of the initial school year budget for the school corporation must be consistent with the last six (6) months of the last calendar year budget fixed by the department of local government finance before the adoption of a rescinding resolution under this subsection.

SECTION 52. IC 6-1.1-18-12, AS AMENDED BY SEA 526-2007, SECTION 115, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) For purposes of this section, "maximum rate" refers to the maximum:

(1) property tax rate or rates; or

(2) special benefits tax rate or rates;

referred to in the statutes listed in subsection (d).

(b) The maximum rate for taxes first due and payable after 2003 is the maximum rate that would have been determined under subsection (e) for taxes first due and payable in 2003 if subsection (e) had applied for taxes first due and payable in 2003.

(c) The maximum rate must be adjusted **each year to account for the change in assessed value of real property that results from:**

(1) ~~each time~~ an annual adjustment of the assessed value of real property ~~takes effect~~ under IC 6-1.1-4-4.5; ~~and~~ **or**

(2) ~~each time~~ a general reassessment of real property ~~takes effect~~ under IC 6-1.1-4-4.

(d) The statutes to which subsection (a) refers are:

(1) IC 8-10-5-17;
(2) IC 8-22-3-11;
(3) IC 8-22-3-25;
(4) IC 12-29-1-1;
(5) IC 12-29-1-2;
(6) IC 12-29-1-3;
(7) IC 12-29-3-6;
(8) IC 13-21-3-12;
(9) IC 13-21-3-15;
(10) IC 14-27-6-30;
(11) IC 14-33-7-3;
(12) IC 14-33-21-5;
(13) IC 15-1-6-2;
(14) IC 15-1-8-1;
(15) IC 15-1-8-2;
(16) IC 16-20-2-18;
(17) IC 16-20-4-27;
(18) IC 16-20-7-2;
(19) IC 16-22-14;
(20) IC 16-23-1-29;
(21) IC 16-23-3-6;
(22) IC 16-23-4-2;
(23) IC 16-23-5-6;
(24) IC 16-23-7-2;

(25) IC 16-23-8-2;
(26) IC 16-23-9-2;
(27) IC 16-41-15-5;
(28) IC 16-41-33-4;
(29) IC 20-46-2-3;
(30) IC 20-46-6-5;
(31) IC 20-49-2-10;
(32) IC 36-1-19-1;
(33) IC 23-14-66-2;
(34) IC 23-14-67-3;
(35) IC 36-7-13-4;
(36) IC 36-7-14-28;
(37) IC 36-7-15.1-16;
(38) IC 36-8-19-8.5;
(39) IC 36-9-6.1-2;
(40) IC 36-9-17.5-4;
(41) IC 36-9-27-73;
(42) IC 36-9-29-31;
(43) IC 36-9-29.1-15;
(44) IC 36-10-6-2;
(45) IC 36-10-7-7;
(46) IC 36-10-7-8;
(47) IC 36-10-7.5-19;
(48) IC 36-10-13-5;
(49) IC 36-10-13-7;
(50) IC 36-10-14-4;
(51) IC 36-12-7-7;
(52) IC 36-12-7-8;
(53) IC 36-12-12-10; and
(54) any statute enacted after December 31, 2003, that:
(A) establishes a maximum rate for any part of the:
(i) property taxes; or
(ii) special benefits taxes;
imposed by a political subdivision; and
(B) does not exempt the maximum rate from the adjustment under this section.

(e) The new maximum rate under a statute listed in subsection (d) is the tax rate determined under STEP SEVEN of the following STEPS:

STEP ONE: Determine the maximum rate for the political subdivision levying a property tax or special benefits tax under the statute for the year preceding the year in which the annual adjustment or general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment takes effect.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first take effect.

STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:
(A) Zero (0).
(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of the STEP ONE tax rate divided by the sum of one (1) plus the STEP SIX percentage increase.

(f) The department of local government finance shall compute the maximum rate allowed under subsection (e) and provide the rate to each political subdivision with authority to levy a tax under a statute listed in subsection (d).

SECTION 53. IC 6-1.1-18-13, AS ADDED BY P.L.2-2006, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: Sec. 13. (a) The maximum property tax rate levied under IC 20-46-6 by each school corporation for the school corporation's capital projects fund must be adjusted each ~~time~~ **year to account for the change in assessed value of real property that results from:**

(1) an annual adjustment of the assessed value of real property under IC 6-1.1-4-4.5; or

(2) a general reassessment of **real** property ~~takes effect~~ **under IC 6-1.1-4-4.**

~~The adjusted property tax rate becomes the new maximum property tax rate for the levy for property taxes first due and payable in each year:~~

~~(1) after the general reassessment for which the adjustment was made takes effect; and~~

~~(2) before the next general reassessment takes effect.~~

(b) The new maximum rate under this section is the tax rate determined under STEP SEVEN of the following formula:

STEP ONE: Determine the maximum rate for the school corporation for the year preceding the year in which the **annual adjustment or** general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value **(before the adjustment, if any, under IC 6-1.1-4-4.5)** of the taxable property from the year preceding the year the **annual adjustment or** general reassessment takes effect to the year that the **annual adjustment or** general reassessment is effective.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value **(before the adjustment, if any, under IC 6-1.1-4-4.5)** of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:
(A) Zero (0).
(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of the STEP ONE tax rate divided by the sum of one (1) plus the STEP SIX percentage increase.

(c) The department of local government finance shall compute the maximum rate allowed under subsection (b) and provide the rate to each school corporation.

SECTION 54. IC 6-1.1-18.5-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 4.5. The department of local government finance shall adjust the maximum permissible ad valorem tax levy of each county and township to reflect any transfer of duties between assessors under IC 36-2-15-5 or IC 36-6-5-2.**

SECTION 55. IC 6-1.1-18.5-9.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: Sec. 9.8. (a) For purposes of determining the property tax levy limit imposed on a city, town, or county under section 3 of this chapter, the city, town, or county's ad valorem property tax levy for a particular calendar year does not

include an amount equal to the lesser of:

(1) the amount of ad valorem property taxes that would be first due and payable to the city, town, or county during the ensuing calendar year if the taxing unit imposed the maximum permissible property tax rate per one hundred dollars ($100) of assessed valuation that the civil taxing unit may impose for the particular calendar year under the authority of IC 36-9-14.5 (in the case of a county) or IC 36-9-15.5 (in the case of a city or town); or

(2) the excess, if any, of:

(A) the property taxes imposed by the city, town, or county under the authority of:

IC 3-11-6-9;
IC 8-16-3;
IC 8-16-3.1;
IC 8-22-3-25;
IC 14-27-6-48;
IC 14-33-9-3;
IC 16-22-8-41;
IC 16-22-5-2 through IC 16-22-5-15;
IC 16-23-1-40;
IC 36-8-14;
IC 36-9-4-48;
IC 36-9-14;
IC 36-9-14.5;
IC 36-9-15;
IC 36-9-15.5;
IC 36-9-16;
IC 36-9-16.5;
IC 36-9-17;
IC 36-9-26;
IC 36-9-27-100;
IC 36-10-3-21; or
IC 36-10-4-36;

that are first due and payable during the ensuing calendar year; over

(B) the property taxes imposed by the city, town, or county under the authority of the citations listed in clause (A) that were first due and payable during calendar year 1984.

(b) The maximum property tax rate levied under the statutes listed in subsection (a) must be adjusted each ~~time~~ **year to account for the change in assessed value of real property that results from:**

(1) an annual adjustment of the assessed value of real property under IC 6-1.1-4-4.5; or

(2) a general reassessment of **real** property ~~takes effect.~~ **under IC 6-1.1-4-4.**

(c) The new maximum rate under a statute listed in subsection (a) is the tax rate determined under STEP SEVEN of the following formula:

STEP ONE: Determine the maximum rate for the political subdivision levying a property tax under the statute for the year preceding the year in which the **annual adjustment or** general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value **(before the adjustment, if any, under IC 6-1.1-4-4.5)** of the taxable property from the year preceding the year the **annual adjustment or** general reassessment takes effect to the year that the **annual adjustment or** general reassessment is effective.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value **(before the adjustment, if any, under IC 6-1.1-4-4.5)** of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0).

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of the STEP ONE tax rate divided by the sum of one (1) plus the STEP SIX percentage increase.

(d) The department of local government finance shall compute the maximum rate allowed under subsection (c) and provide the rate to each political subdivision with authority to levy a tax under a statute listed in subsection (a).

SECTION 56. IC 6-1.1-18.5-12, AS AMENDED BY P.L.67-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) Any civil taxing unit that determines that it cannot carry out its governmental functions for an ensuing calendar year under the levy limitations imposed by section 3 of this chapter may:

(1) before September 20 of the calendar year immediately preceding the ensuing calendar year; or

(2) in the case of a request described in section 16 of this chapter, before

~~(A)~~ December 31 of the calendar year immediately preceding the ensuing calendar year; ~~or~~

~~(B) with the approval of the county fiscal body of the county in which the civil taxing unit is located, March 1 of the ensuing calendar year;~~

appeal to the department of local government finance for relief from those levy limitations. In the appeal the civil taxing unit must state that it will be unable to carry out the governmental functions committed to it by law unless it is given the authority that it is petitioning for. The civil taxing unit must support these allegations by reasonably detailed statements of fact.

(b) The department of local government finance shall promptly deliver to the local government tax control board every appeal petition it receives under subsection (a) and any materials it receives relevant to those appeals. Upon receipt of an appeal petition, the local government tax control board shall immediately proceed to the examination and consideration of the merits of the civil taxing unit's appeal.

(c) In considering an appeal, the local government tax control board has the power to conduct hearings, require any officer or member of the appealing civil taxing unit to appear before it, or require any officer or member of the appealing civil taxing unit to provide the board with any relevant records or books.

(d) If an officer or member:

(1) fails to appear at a hearing of the local government tax control board after having been given written notice from the local government tax control board requiring that person's attendance; or

(2) fails to produce for the local government tax control board's use the books and records that the local government tax control board by written notice required the officer or member to produce;

then the local government tax control board may file an affidavit in the circuit court in the jurisdiction in which the officer or member may be found setting forth the facts of the failure.

(e) Upon the filing of an affidavit under subsection (d), the circuit court shall promptly issue a summons, and the sheriff of the county within which the circuit court is sitting shall serve the summons. The summons must command the officer or member to appear before the local government tax control board, to provide information to the local government tax control board, or to produce books and records for the local government tax control board's use, as the case may be. Disobedience of the

summons constitutes, and is punishable as, a contempt of the circuit court that issued the summons.

(f) All expenses incident to the filing of an affidavit under subsection (d) and the issuance and service of a summons shall be charged to the officer or member against whom the summons is issued, unless the circuit court finds that the officer or member was acting in good faith and with reasonable cause. If the circuit court finds that the officer or member was acting in good faith and with reasonable cause or if an affidavit is filed and no summons is issued, the expenses shall be charged against the county in which the affidavit was filed and shall be allowed by the proper fiscal officers of that county.

(g) The fiscal officer of a civil taxing unit that appeals under section 16 of this chapter for relief from levy limitations shall immediately file a copy of the appeal petition with the county auditor and the county treasurer of the county in which the unit is located.

SECTION 57. IC 6-1.1-18.5-17, AS AMENDED BY P.L.154-2006, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 17. (a) As used in this section, "levy excess" means the part of the ad valorem property tax levy actually collected by a civil taxing unit, for taxes first due and payable during a particular calendar year, that exceeds the civil taxing unit's ad valorem property tax levy, as approved by the department of local government finance under IC 6-1.1-17. The term does not include delinquent ad valorem property taxes collected during a particular year that were assessed for an assessment date that precedes the assessment date for the current year in which the ad valorem property taxes are collected.

(b) A civil taxing unit's levy excess is valid and may not be contested on the grounds that it exceeds the civil taxing unit's levy limit for the applicable calendar year. However, the civil taxing unit shall deposit, except as provided in ~~subsection~~ **subsections** (h) **and (i),** its levy excess in a special fund to be known as the civil taxing unit's levy excess fund.

(c) The chief fiscal officer of a civil taxing unit may invest money in the civil taxing unit's levy excess fund in the same manner in which money in the civil taxing unit's general fund may be invested. However, any income derived from investment of the money shall be deposited in and becomes a part of the levy excess fund.

(d) The department of local government finance shall require a civil taxing unit to include the amount in its levy excess fund in the civil taxing unit's budget fixed under IC 6-1.1-17.

(e) Except as provided by subsection (f), a civil taxing unit may not spend any money in its levy excess fund until the expenditure of the money has been included in a budget that has been approved by the department of local government finance under IC 6-1.1-17. For purposes of fixing its budget and for purposes of the ad valorem property tax levy limits imposed under this chapter, a civil taxing unit shall treat the money in its levy excess fund that the department of local government finance permits it to spend during a particular calendar year as part of its ad valorem property tax levy for that same calendar year.

(f) A civil taxing unit may transfer money from its levy excess fund to its other funds to reimburse those funds for amounts withheld from the civil taxing unit as a result of refunds paid under IC 6-1.1-26.

(g) Subject to the limitations imposed by this section, a civil taxing unit may use money in its levy excess fund for any lawful purpose for which money in any of its other funds may be used.

(h) If the amount that would, notwithstanding this subsection, be deposited in the levy excess fund of a civil taxing unit for a particular calendar year is less than one hundred dollars ($100), no money shall be deposited in the levy excess fund of the unit for that year.

(i) This subsection applies only to a civil taxing unit that:

(1) has a levy excess for a particular calendar year;

(2) in the preceding calendar year experienced a shortfall in property tax collections below the civil taxing unit's property tax levy approved by the department of local government finance under IC 6-1.1-17; and

(3) did not receive permission from the local government tax control board to impose, because of the shortfall in property tax collections in the preceding calendar year, a property tax levy that exceeds the limits imposed by section 3 of this chapter.

The amount that a civil taxing unit subject to this subsection must transfer to the civil taxing unit's levy excess fund in the calendar year in which the excess is collected shall be reduced by the amount of the civil taxing unit's shortfall in property tax collections in the preceding calendar year (but the reduction may not exceed the amount of the civil taxing unit's levy excess).

SECTION 58. IC 6-1.1-20-1.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.8. As used in this chapter, "county voter registration office" means the following:**

(1) A board of registration established under IC 3-7-12 or by a county executive acting under IC 3-7-12.

(2) A board of elections and registration established under IC 3-6-5.2 or IC 3-6-5.4.

(3) The office of the circuit court clerk of a county in which a board has not been established as described in subdivision (1) or (2).

SECTION 59. IC 6-1.1-20-1.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.9. As used in this chapter, "registered voter" means the following:**

(1) In the case of a petition under section 3.1 of this chapter to initiate a petition and remonstrance process, an individual who is registered to vote in the political subdivision on the date the proper officers of the political subdivision publish notice under section 3.1(2) of this chapter of a preliminary determination by the political subdivision to issue bonds or enter into a lease.

(2) In the case of:

(A) a petition under section 3.2 of this chapter in favor of the proposed debt service or lease payments; or

(B) a remonstrance under section 3.2 of this chapter against the proposed debt service or lease payments;

an individual who is registered to vote in the political subdivision on the date that is thirty (30) days after the notice of the applicability of the petition and remonstrance process is published under section 3.2(1) of this chapter.

SECTION 60. IC 6-1.1-20-3.1, AS AMENDED BY P.L.2-2006, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.1. A political subdivision may not impose property taxes to pay debt service or lease rentals without completing the following procedures:

(1) The proper officers of a political subdivision shall:

(A) publish notice in accordance with IC 5-3-1; and

(B) send notice by first class mail to any organization that delivers to the officers, before January 1 of that year, an annual written request for such notices;

of any meeting to consider adoption of a resolution or an ordinance making a preliminary determination to issue bonds or enter into a lease and shall conduct a public hearing on a preliminary determination before adoption of the resolution or ordinance.

(2) When the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease, the officers shall give notice of the preliminary

determination by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to the organizations described in subdivision (1)(B).

(3) A notice under subdivision (2) of the preliminary determination of the political subdivision to issue bonds or enter into a lease must include the following information:

(A) The maximum term of the bonds or lease.

(B) The maximum principal amount of the bonds or the maximum lease rental for the lease.

(C) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.

(D) The purpose of the bonds or lease.

(E) A statement that any owners of real property **within the political subdivision or registered voters residing** within the political subdivision who want to initiate a petition and remonstrance process against the proposed debt service or lease payments must file a petition that complies with subdivisions (4) and (5) not later than thirty (30) days after publication in accordance with IC 5-3-1.

(F) With respect to bonds issued or a lease entered into to open:

(i) a new school facility; or

(ii) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space;

the estimated costs the school corporation expects to incur annually to operate the facility.

(G) A statement of whether the school corporation expects to appeal for a new facility adjustment (as defined in IC 20-45-1-16) for an increased maximum permissible tuition support levy to pay the estimated costs described in clause (F).

(4) After notice is given, a petition requesting the application of a petition and remonstrance process may be filed by the lesser of:

(A) one hundred (100) **persons who are either** owners of real property **within the political subdivision or registered voters residing** within the political subdivision; or

(B) five percent (5%) of the ~~owners of real property~~ **registered voters residing** within the political subdivision.

(5) The state board of accounts shall design and, upon request by the county ~~auditor,~~ **voter registration office,** deliver to the county ~~auditor~~ **voter registration office** or the county ~~auditor's~~ **voter registration office's** designated printer the petition forms to be used solely in the petition process described in this section. The county ~~auditor~~ **voter registration office** shall issue to an owner or owners of real property **within the political subdivision or a registered voter residing** within the political subdivision the number of petition forms requested by the owner or owners **or the registered voter.** Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be owners of real property **or registered voters;**

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; and

(D) govern the closing date for the petition period.

Persons requesting forms may ~~not~~ be required to identify themselves **as owners of real property or registered voters** and may be allowed to pick up additional copies to distribute to other property owners **or registered voters. Each person signing a petition must indicate whether the person is signing the petition as a registered voter within the political subdivision or is signing the petition as the owner of real property within the political subdivision. A person who signs a petition as a registered voter must indicate the address at which the person is registered to vote. A person who signs a petition as a real property owner must indicate the address of the real property owned by the person in the political subdivision.**

(6) Each petition must be verified under oath by at least one (1) qualified petitioner in a manner prescribed by the state board of accounts before the petition is filed with the county ~~auditor~~ **voter registration office** under subdivision (7).

(7) Each petition must be filed with the county ~~auditor~~ **voter registration office** not more than thirty (30) days after publication under subdivision (2) of the notice of the preliminary determination.

(8) The county voter registration office shall determine whether each person who signed the petition is a registered voter. The county voter registration office shall not more than fifteen (15) business days after receiving a petition forward a copy of the petition to the county auditor. Not more than ten (10) business days after receiving the copy of the petition, the county auditor shall provide to the county voter registration office a statement verifying:

(A) whether a person who signed the petition as a registered voter but is not a registered voter, as determined by the county voter registration office, is the owner of real property in the political subdivision; and

(B) whether a person who signed the petition as an owner of real property within the political subdivision does in fact own real property within the political subdivision.

(9) The county voter registration office shall not more than ten (10) business days after receiving the statement from the county auditor under subdivision (8) make the final determination of the number of petitioners that are registered voters in the political subdivision and, based on the statement provided by the county auditor, the number of petitioners that own real property within the political subdivision. Whenever the name of an individual who signs a petition form as a registered voter contains a minor variation from the name of the registered voter as set forth in the records of the county voter registration office, the signature is presumed to be valid, and there is a presumption that the individual is entitled to sign the petition under this section. Except as otherwise provided in this chapter, in determining whether an individual is a registered voter, the county voter registration office shall apply the requirements and procedures used under IC 3 to determine whether a person is a registered voter for purposes of voting in an election governed by IC 3. However, an individual is not required to comply with the provisions concerning providing proof of identification to be considered a registered voter for purposes of this chapter. A person is entitled to sign a petition only one (1) time in a particular petition and remonstrance process under this chapter, regardless of whether the person owns more than one (1) parcel of real property within the subdivision and regardless of whether the person is both a registered voter in the political subdivision and the owner of real property within the political subdivision. Notwithstanding any other provision of this section, if a petition is presented to the county voter

registration office within thirty-five (35) days before an election, the county voter registration office may defer acting on the petition, and the time requirements under this section for action by the county voter registration office do not begin to run until five (5) days after the date of the election.

~~(8)~~ **(10)** The county ~~auditor~~ **voter registration office** must file a certificate and each petition with:

(A) the township trustee, if the political subdivision is a township, who shall present the petition or petitions to the township board; or

(B) the body that has the authority to authorize the issuance of the bonds or the execution of a lease, if the political subdivision is not a township;

within ~~fifteen (15)~~ **thirty-five (35)** business days of the filing of the petition requesting a petition and remonstrance process. The certificate must state the number of petitioners that are owners of real property **within the political subdivision and the number of petitioners who are registered voters residing** within the political subdivision. If a sufficient petition requesting a petition and remonstrance process is not filed by owners of real property **or registered voters** as set forth in this section, the political subdivision may issue bonds or enter into a lease by following the provisions of law relating to the bonds to be issued or lease to be entered into.

SECTION 61. IC 6-1.1-20-3.2, AS AMENDED BY P.L.2-2006, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.2. If a sufficient petition requesting the application of a petition and remonstrance process has been filed as set forth in section 3.1 of this chapter, a political subdivision may not impose property taxes to pay debt service or lease rentals without completing the following procedures:

(1) The proper officers of the political subdivision shall give notice of the applicability of the petition and remonstrance process by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to the organizations described in section 3.1(1)(B) of this chapter.

A notice under this subdivision must include a statement that any owners of real property **within the political subdivision or registered voters residing** within the political subdivision who want to petition in favor of or remonstrate against the proposed debt service or lease payments must file petitions and remonstrances in compliance with subdivisions (2) through (4) not earlier than thirty (30) days or later than sixty (60) days after publication in accordance with IC 5-3-1.

(2) Not earlier than thirty (30) days or later than sixty (60) days after the notice under subdivision (1) is given:

(A) petitions (described in subdivision (3)) in favor of the bonds or lease; and

(B) remonstrances (described in subdivision (3)) against the bonds or lease;

may be filed by an owner or owners of real property **within the political subdivision or a registered voter residing** within the political subdivision. Each signature on a petition must be dated and the date of signature may not be before the date on which the petition and remonstrance forms may be issued under subdivision (3). A petition described in clause (A) or a remonstrance described in clause (B) must be verified in compliance with subdivision (4) before the petition or remonstrance is filed with the county ~~auditor~~ **voter registration office** under subdivision (4).

(3) The state board of accounts shall design and, upon request by the county ~~auditor,~~ **voter registration office,** deliver to the county ~~auditor~~ **voter registration office** or the county ~~auditor's~~ **voter registration office's** designated printer the petition and remonstrance forms to be used solely in the petition and remonstrance process described in this section. The county ~~auditor~~ **voter registration office** shall issue to an owner or owners of real property **within the political subdivision or a registered voter residing** within the political subdivision the number of petition or remonstrance forms requested by the owner or owners **or the registered voter.** Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be owners of real property **or registered voters;**

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature;

(D) govern the closing date for the petition and remonstrance period; and

(E) apply to the carrier under section 10 of this chapter.

Persons requesting forms may ~~not~~ be required to identify themselves **as owners of real property or registered voters** and may be allowed to pick up additional copies to distribute to other property owners **or registered voters. Each person signing a petition or remonstrance must indicate whether the person is signing the petition or remonstrance as a registered voter within the political subdivision or is signing the petition or remonstrance as the owner of real property within the political subdivision. A person who signs a petition or remonstrance as a registered voter must indicate the address at which the person is registered to vote. A person who signs a petition or remonstrance as a real property owner must indicate the address of the real property owned by the person in the political subdivision.** The county ~~auditor~~ **voter registration office** may not issue a petition or remonstrance form earlier than twenty-nine (29) days after the notice is given under subdivision (1). The county ~~auditor~~ **voter registration office** shall certify the date of issuance on each petition or remonstrance form that is distributed under this subdivision.

(4) The petitions and remonstrances must be verified in the manner prescribed by the state board of accounts and filed with the county ~~auditor~~ **voter registration office** within the sixty (60) day period described in subdivision (2) in the manner set forth in section 3.1 of this chapter relating to requests for a petition and remonstrance process.

(5) The county voter registration office shall determine whether each person who signed the petition or remonstrance is a registered voter. The county voter registration office shall not more than fifteen (15) business days after receiving a petition or remonstrance forward a copy of the petition or remonstrance to the county auditor. Not more than ten (10) business days after receiving the copy of the petition or remonstrance, the county auditor shall provide to the county voter registration office a statement verifying:

(A) whether a person who signed the petition or remonstrance as a registered voter but is not a registered voter, as determined by the county voter registration office, is the owner of real property in the political subdivision; and

(B) whether a person who signed the petition or remonstrance as an owner of real property within the political subdivision does in fact own real property within the political subdivision.

(6) The county voter registration office shall not more than ten (10) business days after receiving the statement from the county auditor under subdivision

(5) make the final determination of:

(A) the number of registered voters in the political subdivision that signed a petition and, based on the statement provided by the county auditor, the number of owners of real property within the political subdivision that signed a petition; and

(B) the number of registered voters in the political subdivision that signed a remonstrance and, based on the statement provided by the county auditor, the number of owners of real property within the political subdivision that signed a remonstrance.

Whenever the name of an individual who signs a petition or remonstrance as a registered voter contains a minor variation from the name of the registered voter as set forth in the records of the county voter registration office, the signature is presumed to be valid, and there is a presumption that the individual is entitled to sign the petition or remonstrance under this section. Except as otherwise provided in this chapter, in determining whether an individual is a registered voter, the county voter registration office shall apply the requirements and procedures used under IC 3 to determine whether a person is a registered voter for purposes of voting in an election governed by IC 3. However, an individual is not required to comply with the provisions concerning providing proof of identification to be considered a registered voter for purposes of this chapter. A person is entitled to sign a petition or remonstrance only one (1) time in a particular petition and remonstrance process under this chapter, regardless of whether the person owns more than one (1) parcel of real property within the subdivision and regardless of whether the person is both a registered voter in the political subdivision and the owner of real property within the political subdivision. Notwithstanding any other provision of this section, if a petition or remonstrance is presented to the county voter registration office within thirty-five (35) days before an election, the county voter registration office may defer acting on the petition or remonstrance, and the time requirements under this section for action by the county voter registration office do not begin to run until five (5) days after the date of the election.

~~(5)~~ **(7)** The county ~~auditor~~ **voter registration office** must file a certificate and the petition or remonstrance with the body of the political subdivision charged with issuing bonds or entering into leases within ~~fifteen (15)~~ **thirty-five (35)** business days of the filing of a petition or remonstrance under subdivision (4), whichever applies, containing ten thousand (10,000) signatures or less. The county ~~auditor~~ **voter registration office** may take an additional five (5) days to review and certify the petition or remonstrance for each additional five thousand (5,000) signatures up to a maximum of sixty (60) days. The certificate must state the number of petitioners and remonstrators that are owners of real property **within the political subdivision and the number of petitioners who are registered voters residing** within the political subdivision.

~~(6)~~ **(8)** If a greater number of **persons who are either** owners of real property **within the political subdivision or registered voters residing** within the political subdivision sign a remonstrance than the number that signed a petition, the bonds petitioned for may not be issued or the lease petitioned for may not be entered into. The proper officers of the political subdivision may not make a preliminary determination to issue bonds or enter into a lease for the controlled project defeated by the petition and remonstrance process under this section or any other controlled project that is not substantially different within one (1) year after the date of the county ~~auditor's~~ **voter registration office's** certificate under subdivision ~~(5).~~ **(7).** Withdrawal of a petition carries the same consequences as a defeat of the petition.

~~(7)~~ **(9)** After a political subdivision has gone through the petition and remonstrance process set forth in this section, the political subdivision is not required to follow any other remonstrance or objection procedures under any other law (including section 5 of this chapter) relating to bonds or leases designed to protect owners of real property within the political subdivision from the imposition of property taxes to pay debt service or lease rentals. However, the political subdivision must still receive the approval of the department of local government finance required by:

(A) IC 6-1.1-18.5-8; or

(B) IC 20-46-7-8, IC 20-46-7-9, and IC 20-46-7-10.

SECTION 62. IC 6-1.1-21-4, AS AMENDED BY P.L.228-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: 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 (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 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;

(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~~ **form data** under ~~IC 6-1.1-5.5-3(b);~~ **IC 6-1.1-5.5-3(h);**

(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), money not distributed for the reasons stated in subsection (e) shall be distributed to the county when the department of local government finance determines that the failure to:

(1) provide information; or

(2) pay a bill for services;

has been corrected.

(g) The restrictions on distributions under subsection (e) do not apply if the department of local government finance determines that the failure 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 63. IC 6-1.1-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 5. (a) Each year the taxpayers of each county shall receive a credit for property tax replacement in the amount of each taxpayer's property tax replacement credit amount for taxes which:

(1) under IC 6-1.1-22-9 are due and payable in ~~May and November of~~ that year; or

(2) under IC 6-1.1-22-9.5 are due in installments established by the department of local government finance for that year.

The credit shall be applied to each installment of taxes. The dollar amount of the credit for each taxpayer shall be determined by the county auditor, based on data furnished by the department of local government finance.

(b) The tax liability of a taxpayer for the purpose of computing the credit for a particular year shall be based upon the taxpayer's tax liability as is evidenced by the tax duplicate for the taxes payable in that year, plus the amount by which the tax payable by the taxpayer had been reduced due to the application of county adjusted gross income tax revenues to the extent the county adjusted gross income tax revenues were included in the determination of the total county tax levy for that year, as provided in sections 2(g) and 3 of this chapter, adjusted, however, for any change in assessed valuation which may have been made pursuant to a post-abstract adjustment if the change is set forth on the tax statement or on a corrected tax statement stating the taxpayer's tax liability, as prepared by the county treasurer in accordance with IC 6-1.1-22-8(a). However, except when using the term under section 2(l)(1) of this chapter, the tax liability of a taxpayer does not include the amount of any property tax owed by the taxpayer that is attributable to that part of any property tax levy subtracted under section 2(g)(1)(B), 2(g)(1)(C), 2(g)(1)(D), 2(g)(1)(E), 2(g)(1)(F), 2(g)(1)(G), 2(g)(1)(H), 2(g)(1)(I), 2(g)(1)(J), or 2(g)(1)(K) of this chapter in computing the total county tax levy.

(c) The credit for taxes payable in a particular year with respect to mobile homes which are assessed under IC 6-1.1-7 is equivalent to the taxpayer's property tax replacement credit amount for the taxes payable with respect to the assessments plus the adjustments stated in this section.

(d) Each taxpayer in a taxing district that contains all or part of an economic development district that meets the requirements of section 5.5 of this chapter is entitled to an additional credit for property tax replacement. This credit is equal to the product of:

(1) the STEP TWO quotient determined under section 4(a)(3) of this chapter for the taxing district; multiplied by

(2) the taxpayer's taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

SECTION 64. IC 6-1.1-22-9, AS AMENDED BY P.L.67-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 9. (a) Except as provided in subsections (b) and (c) the property taxes assessed for a year under this article are due in two (2) equal installments on May 10 and November 10 of the following year.

(b) Subsection (a) does not apply if any of the following apply to the property taxes assessed for the year under this article:

(1) Subsection (c).

(2) Subsection (d).

(3) Subsection (h).

(4) Subsection (i).

~~(3)~~ **(5)** IC 6-1.1-7-7.

~~(4)~~ **(6)** Section 9.5 of this chapter.

(c) A county council may adopt an ordinance to require a person to pay the person's property tax liability in one (1) installment, if the tax liability for a particular year is less than twenty-five dollars ($25). If the county council has adopted such an ordinance, then whenever a tax statement mailed under section 8 of this chapter shows that the person's property tax liability for a year is less than twenty-five dollars ($25) for the property covered by that statement, the tax liability for that year is due in one (1) installment on May 10 of that year.

(d) If the county treasurer receives a copy of an appeal petition under IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g) before the county treasurer mails or transmits statements under section 8(a) of this chapter, the county ~~auditor~~ **treasurer** may:

(1) mail or transmit the statements without regard to the pendency of the appeal and, if the resolution of the appeal by the department of local government finance results in changes in levies, mail or transmit reconciling statements under subsection (e); or

(2) delay the mailing or transmission of statements under section 8(a) of this chapter so that:

(A) the due date of the first installment that would otherwise be due under subsection (a) is delayed by not more than sixty (60) days; and

(B) all statements reflect any changes in levies that result from the resolution of the appeal by the department of local government finance.

(e) A reconciling statement under subsection (d)(1) must indicate:

(1) the total amount due for the year;

(2) the total amount of the installments paid that did not reflect the resolution of the appeal under IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g) by the department of local government finance;

(3) if the amount under subdivision (1) exceeds the amount under subdivision (2), the adjusted amount that is payable by the taxpayer:

(A) as a final reconciliation of all amounts due for the year; and

(B) not later than:

(i) November 10; or

(ii) the date or dates established under section 9.5 of this chapter; and

(4) if the amount under subdivision (2) exceeds the amount under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.

(f) If property taxes are not paid on or before the due date, the penalties prescribed in IC 6-1.1-37-10 shall be added to the delinquent taxes.

(g) Notwithstanding any other law, a property tax liability of less than five dollars ($5) is increased to five dollars ($5). The difference between the actual liability and the five dollar ($5) amount that appears on the statement is a statement processing charge. The statement processing charge is considered a part of the tax liability.

(h) If in a county the notices of general reassessment under IC 6-1.1-4-4 or notices of assessment under IC 6-1.1-4-4.5 for an assessment date in a calendar year are given to the taxpayers in the county after March 26 of the immediately succeeding calendar year, the property taxes that would otherwise be due under subsection (a) on May 10 of the immediately succeeding calendar year are due on the later of:

(1) May 10 of the immediately succeeding calendar year; or

(2) forty-five (45) days after the notices are given to taxpayers in the county.

(i) If subsection (h) applies, the property taxes that would otherwise be due under subsection (a) on November 10 of the immediately succeeding calendar year referred to in subsection (h) are due on the later of:

(1) November 10 of the immediately succeeding calendar year; or

(2) a date determined by the county treasurer that is not later than December 31 of the immediately succeeding calendar year.

SECTION 65. IC 6-1.1-22.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 8. A provisional statement must:

(1) be on a form approved by the state board of accounts;

(2) except as provided in emergency rules adopted under section 20 of this chapter, indicate tax liability in the amount of ninety percent (90%) of the tax liability that was payable in the same year as the assessment date for the property for which the provisional statement is issued;

(3) indicate:

(A) that the tax liability under the provisional statement is determined as described in subdivision (2); and

(B) that property taxes billed on the provisional statement:

(i) are due and payable in the same manner as property taxes billed on a tax statement under IC 6-1.1-22-8; and

(ii) will be credited against a reconciling statement;

(4) include a statement in the following or a substantially similar form, as determined by the department of local government finance:

"Under Indiana law, _____ County (insert county) has elected to send provisional statements because the county did not complete the abstract of the property, assessments, taxes, deductions, and exemptions for taxes payable in (insert year) in each taxing district before March 16, (insert year). The statement is due to be paid in installments on ~~May 10~~ **_____ (insert date)** and ~~November 10.~~ **_____ (insert date).** The statement is based on ninety percent (90%) of your tax liability for taxes payable in (insert year), subject to adjustment for any new construction on your property or any damage to your property. After the abstract of property is complete, you will receive a reconciling statement in the amount of your actual tax liability for taxes payable in (insert year), minus the amount you pay under this provisional statement.";

(5) indicate liability for:

(A) delinquent:

(i) taxes; and

(ii) special assessments;

(B) penalties; and

(C) interest;

is allowed to appear on the tax statement under IC 6-1.1-22-8 for the ~~May~~ **first** installment of property taxes in the year in which the provisional tax statement is issued; and

(6) include any other information the county treasurer requires.

SECTION 66. IC 6-1.1-22.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 9. **(a)** Except as provided in **subsection (b), subsection (c), and** section 12 of this chapter, property taxes billed on a provisional statement are due in two (2) equal installments on May 10 and November 10 of the year following the assessment date covered by the provisional statement.

(b) If in a county the notices of general reassessment under IC 6-1.1-4-4 or notices of assessment under IC 6-1.1-4-4.5 for an assessment date in a calendar year are given to the taxpayers in the county after March 26 of the immediately succeeding calendar year, the property taxes that would otherwise be due under subsection (a) on May 10 of the

immediately succeeding calendar year are due on the later of:

(1) May 10 of the immediately succeeding calendar year; or

(2) forty-five (45) days after the mailing or transmittal of provisional statements.

(c) If subsection (b) applies, the property taxes that would otherwise be due under subsection (a) on November 10 of the immediately succeeding calendar year referred to in subsection (b) are due on the later of:

(1) November 10 of the immediately succeeding calendar year; or

(2) a date determined by the county treasurer that is not later than December 31 of the immediately succeeding calendar year.

SECTION 67. IC 6-1.1-22.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 12. (a) Except as provided by subsection (c), each reconciling statement must indicate:

(1) the actual property tax liability under this article on the assessment determined for the assessment date for the property for which the reconciling statement is issued;

(2) the total amount paid under the provisional statement for the property for which the reconciling statement is issued;

(3) if the amount under subdivision (1) exceeds the amount under subdivision (2), that the excess is payable by the taxpayer:

(A) as a final reconciliation of the tax liability; and

(B) not later than:

(i) thirty (30) days after the date of the reconciling statement; or

(ii) if the county treasurer requests in writing that the commissioner designate a later date, the date designated by the commissioner; and

(4) if the amount under subdivision (2) exceeds the amount under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.

(b) If, upon receipt of the abstract referred to in section 6 of this chapter, the county treasurer determines that it is possible to complete the:

(1) preparation; and

(2) mailing or transmittal;

of the reconciling statement at least thirty (30) days before the due date of the ~~November~~ **second** installment specified in the provisional statement, the county treasurer may request in writing that the department of local government finance permit the county treasurer to issue a reconciling statement that adjusts the amount of the ~~November~~ **second** installment that was specified in the provisional statement. If the department approves the county treasurer's request, the county treasurer shall prepare and mail or transmit the reconciling statement at least thirty (30) days before the due date of the ~~November~~ **second** installment specified in the provisional statement.

(c) A reconciling statement prepared under subsection (b) must indicate:

(1) the actual property tax liability under this article on the assessment determined for the assessment date for the property for which the reconciling statement is issued;

(2) the total amount of the ~~May~~ **first** installment paid under the provisional statement for the property for which the reconciling statement is issued;

(3) if the amount under subdivision (1) exceeds the amount under subdivision (2), the adjusted amount of the ~~November~~ **second** installment that is payable by the taxpayer:

(A) as a final reconciliation of the tax liability; and

(B) not later than:

(i) November 10; or

(ii) if the county treasurer requests in writing that the commissioner designate a later date, the date designated by the commissioner; and

(4) if the amount under subdivision (2) exceeds the amount under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.

SECTION 68. IC 6-1.1-22.5-18 IS AMENDED TO READ AS FOLLOWS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 18. For purposes of IC 6-1.1-24-1(a)(1):

(1) the ~~May~~ **first** installment on a provisional statement is considered to be the taxpayer's spring installment of property taxes;

(2) except as provided in subdivision (3), payment on a reconciling statement is considered to be due before the due date of the ~~May~~ **first** installment of property taxes payable in the following year; and

(3) payment on a reconciling statement described in section 12(b) of this chapter is considered to be the taxpayer's fall installment of property taxes.

SECTION 69. IC 6-1.1-26-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The county auditor shall forward a claim for refund filed under section 1 of this chapter to the department of local government finance for review by the department if:

(1) the claim is for the refund of taxes paid on an assessment made or determined by the state board of tax commissioners (before the board was abolished) or the department of local government finance; and

(2) the claim is based upon the grounds specified in section 1(4)(B) or 1(4)(C) of this chapter.

(b) The department of local government finance shall review each refund claim forwarded to it under this section. The department shall certify its approval or disapproval on the claim and shall return the claim to the county auditor.

(c) Before the department of local government finance disapproves a refund claim that is forwarded to it under this section, the department shall notify the claimant of its intention to disapprove the claim and of the time and place fixed for a hearing on the claim. The department shall hold the hearing within thirty (30) days after the date of the notice. The claimant has a right to be heard at the hearing. After the hearing, the department shall give the claimant notice of the department's final determination on the claim.

(d) If a person desires to initiate an appeal of the final determination of the department of local government finance to disapprove a claim under subsection (c), the person shall file a petition for review with the appropriate county assessor not more than forty-five (45) days after the department gives the person notice of the final determination.

(e) If a person desires to initiate a proceeding for judicial review of the Indiana board's final determination under subsection (d), the person must petition for judicial review under ~~IC 4-21.5-5~~ **IC 6-1.1-15-5** not more than forty-five (45) days after the Indiana board gives the person notice of the final determination.

SECTION 70. IC 6-1.1-26-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) A refund claim which is filed under section 1 of this chapter and which is not subject to review by the department of local government finance under section 2 of this chapter shall be either approved or disapproved by the county auditor, the county treasurer, and the county assessor.

(b) If the claim for refund is disapproved by either the county auditor, the county treasurer, or the county assessor, the claimant may appeal that decision to the Indiana board. The claimant must initiate the appeal and the Indiana board shall hear the appeal in the same manner that assessment appeals are heard by the Indiana board.

(c) If a person desires to initiate a proceeding for judicial

review of the Indiana board's final determination under this section, the person must petition for judicial review under ~~IC 4-21.5-5~~ **IC 6-1.1-15-5** not more than forty-five (45) days after the Indiana board gives the person notice of the final determination.

SECTION 71. IC 6-1.1-26-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A county auditor shall submit a refund claim filed under section 1 of this chapter to the county board of commissioners for final review after the appropriate county officials either approve or disapprove the claim and, if the claim is disapproved, an appeal to the Indiana board is not initiated under section 3 of this chapter.

(b) The county board of commissioners shall disallow a refund claim if it was disapproved by one (1) of the appropriate county officials and an appeal to the Indiana board was not initiated under section 3 of this chapter.

(c) Except as provided in subsection (b) of this section, the county board of commissioners may either allow or disallow a refund claim which is submitted to it for final review. If the county board disallows a claim, the claimant may appeal that decision to the Indiana board.

(d) The Indiana board shall hear an appeal under subsection (c) in the same manner that assessment appeals are heard.

(e) If a person desires to initiate a proceeding for judicial review of the Indiana board's final determination under this section, the person must petition for judicial review under ~~IC 4-21.5-5~~ **IC 6-1.1-15-5** not more than forty-five (45) days after the Indiana board gives the person notice of the final determination.

SECTION 72. IC 6-1.1-28-1, AS AMENDED BY P.L.228-2005, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: 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 **or level three** assessor-appraiser. Subject to subsections (d) and (e), the board of commissioners of the county shall appoint two (2) freehold members so that not more than three (3) of the five (5) members may be of the same political party and so that at least three (3) of the five (5) members are residents of the county. At least one (1) of the members appointed by the board of county commissioners must be a certified level two **or level three** assessor-appraiser. If the county assessor is a certified level two **or level three** assessor-appraiser, the board of county commissioners may waive the requirement in this subsection that one (1) of the freehold members appointed by the board of county commissioners must be a certified level two **or level three** assessor-appraiser. 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 **or level three** assessor-appraiser constitutes a quorum for the transaction of business. Any question properly before the board may be decided by the agreement of a majority of the whole board.

(b) 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 **or level three** Indiana assessor-appraisers:

(1) who are willing to serve on the board; and

(2) whose political party membership status would satisfy the requirement in subsection (c)(1).

(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 **or level three** Indiana assessor-appraisers; and

(3) willing to serve on the county property tax assessment board of appeals;

it is not necessary that at least three (3) of the five (5) 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 73. IC 6-1.1-28-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) Subject to the limitations contained in subsection (b), a county on behalf of the property tax assessment board of appeals may employ and fix the compensation of as many field representatives and hearing examiners as are necessary to promptly and efficiently perform the duties and functions of the board. A person employed under this subsection must be a person who is certified in Indiana as a level two **or level three** assessor-appraiser by the department of local government finance.

(b) The number and compensation of all persons employed under this section are subject to the appropriations made for that purpose by the county council.

SECTION 74. IC 6-1.1-30-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. ~~(a)~~ The department of local government finance:

(1) shall see that the property taxes due this state are collected;

(2) shall see that the penalties prescribed under this article are enforced;

(3) shall investigate the property tax laws and systems of other states and countries; ~~and~~

(4) for assessment dates after December 31, 2008, shall conduct all ratio studies required for:

(A) equalization under 50 IAC 14; and

(B) annual adjustments under 50 IAC 21; and

~~(4)~~ **(5)** may recommend changes in this state's property tax laws to the general assembly.

~~(b) The department of local government finance shall see that personal property assessments are correctly and completely reported by annually conducting audits of a sampling of personal property assessment returns throughout the state. Audits under this subsection shall be conducted by department personnel.~~

SECTION 75. IC 6-1.1-35.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. The department of local government finance shall:

(1) conduct an assessor-appraiser examination and certification program **for level one and level two certifications; and**

(2) administer a level three assessor-appraiser certification program.

The department shall design and implement the ~~program~~ **programs** in a manner that maximizes the number of certified assessor-appraisers involved in the assessment process.

SECTION 76. IC 6-1.1-35.5-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4.5. (a) The department of local government finance shall:**

(1) administer a program for level three assessor-appraiser certifications; and

(2) design a curriculum for level three assessor-appraiser certification candidates that:

(A) consists of tested courses offered by nationally recognized assessing organizations; and

(B) requires superior knowledge of assessment administration and property valuation concepts.

(b) The department of local government finance may adopt rules under IC 4-22-2 to implement this section.

SECTION 77. IC 6-1.1-35.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. A county or township assessor, a member or hearing officer of the county property tax assessment board of appeals, or a member of the public may apply for and take the level one examination. A person who is successful on the level one examination may apply for and take the level two examination. **A person who is successful on the level two examination may apply for level three certification.**

SECTION 78. IC 6-1.1-35.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The department of local government finance shall certify all persons who successfully ~~perform on an examination~~ **complete a certification** under this chapter and shall furnish each successful ~~examinee~~ **certification applicant** with a certificate that prominently displays the **person's** name ~~of the successful examinee~~ and the fact that the person is a level one, ~~or~~ level two, **or level three** certified Indiana assessor-appraiser.

(b) The department of local government finance shall revoke the certification of an individual if the department reasonably determines that the individual committed fraud or misrepresentation with respect to:

(1) the preparation, administration, or taking of the examination **for level one or level two certification; or**

(2) completion of the curriculum for level three certification.

The department of local government finance shall give notice and hold a hearing to consider all of the evidence about the fraud or misrepresentation before deciding whether to revoke the individual's certification.

SECTION 79. IC 6-1.1-35.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) **With respect to level one and level two certifications,** the department of local government finance shall establish a fair and reasonable fee for examination and certification under this chapter. However, the fee does not apply to an elected assessing official, a county assessor, a member of, and hearing officers for, a county property tax assessment board of appeals, or an employee of an elected assessing official, county assessor, or county property tax assessment board of appeals who is taking the level one examination or the level two examination for the first time.

(b) The assessing official training account is established as an account within the state general fund. All fees collected by the department of local government finance shall be deposited in the account. The account shall be administered by the department of local government finance and does not revert to the state general fund at the end of a fiscal year. The department of local government finance may use money in the account for:

(1) testing and training of assessing officials, county assessors, members of a county property tax assessment board of appeals, and employees of assessing officials, county assessors, or the county property tax assessment board of appeals; **and**

(2) administration of the level three certification program under section 4.5 of this chapter.

SECTION 80. IC 6-1.1-35.5-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8.5. **(a) This section applies only to level one and level two assessor-appraiser certifications.**

(b) The department of local government finance may adopt rules under IC 4-22-2 to implement this chapter. The department of local government finance shall adopt rules to set:

(1) minimum requirements for initial certification after December 31, 2001, under this chapter;

(2) continuing education requirements for the renewal of a certification after December 31, 2001, under this chapter; and

(3) procedures for renewing a certification issued under this chapter, including a certification issued before January 1, 1999, for a person who meets the certification requirements set under subdivision (2).

The rules must also establish procedures for disciplinary action against a certificate holder that fails to comply with the statutes or rules applicable to the certificate holder. The rules adopted under subdivisions (2) and (3) may not require testing to renew or maintain a certification under this chapter.

SECTION 81. IC 6-1.1-37-9, AS AMENDED BY P.L.67-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) This section applies when:

(1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were originally due;

(2) the assessment upon which a taxpayer has been paying taxes under IC 6-1.1-15-10(a)(1) or IC 6-1.1-15-10(a)(2) while a petition for review or a judicial proceeding has been pending is less than the assessment that results from the final determination of the petition for review or judicial proceeding; or

(3) the collection of certain ad valorem property taxes has been ~~stayed~~ **enjoined** under ~~IC 4-21.5-5-9,~~ **IC 33-26-6-2,** and under the final determination of the petition for judicial review the taxpayer is liable for at least part of those taxes.

(b) Except as provided in subsections (c) and (g), a taxpayer shall pay interest on the taxes the taxpayer is required to pay as a result of an action or a determination described in subsection (a) at the rate of ten percent (10%) per year from the original due date or dates for those taxes to:

(1) the date of payment; or

(2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f);

whichever occurs first.

(c) Except as provided in subsection (g), a taxpayer shall pay interest on the taxes the taxpayer is ultimately required to pay in excess of the amount that the taxpayer is required to pay under IC 6-1.1-15-10(a)(1) while a petition for review or a judicial proceeding has been pending at the overpayment rate established under Section 6621(c)(1) of the Internal Revenue Code in effect on the original due date or dates for those taxes from the original due date or dates for those taxes to:

(1) the date of payment; or

(2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f);

whichever occurs first.

(d) With respect to an action or determination described in

subsection (a), the taxpayer shall pay the taxes resulting from that action or determination and the interest prescribed under subsection (b) or (c) on or before:

(1) the next May 10; or

(2) the next November 10;

whichever occurs first.

(e) A taxpayer shall, to the extent that the penalty is not waived under section 10.5 or 10.7 of this chapter, begin paying the penalty prescribed in section 10 of this chapter on the day after the date for payment prescribed in subsection (d) if:

(1) the taxpayer has not paid the amount of taxes resulting from the action or determination; and

(2) the taxpayer either:

(A) received notice of the taxes the taxpayer is required to pay as a result of the action or determination at least thirty (30) days before the date for payment; or

(B) voluntarily signed and filed an assessment return for the taxes.

(f) If subsection (e) does not apply, a taxpayer who has not paid the amount of taxes resulting from the action or determination shall, to the extent that the penalty is not waived under section 10.5 or 10.7 of this chapter, begin paying the penalty prescribed in section 10 of this chapter on:

(1) the next May 10 which follows the date for payment prescribed in subsection (d); or

(2) the next November 10 which follows the date for payment prescribed in subsection (d);

whichever occurs first.

(g) A taxpayer is not subject to the payment of interest on real property assessments under subsection (b) or (c) if:

(1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were due;

(2) the assessment or the assessment increase is made as the result of error or neglect by the assessor or by any other official involved with the assessment of property or the collection of property taxes; and

(3) the assessment:

(A) would have been made on the normal assessment date if the error or neglect had not occurred; or

(B) increase would have been included in the assessment on the normal annual assessment date if the error or neglect had not occurred.

SECTION 82. IC 6-1.1-37-10, AS AMENDED BY P.L.154-2006, SECTION 55, AND AS AMENDED BY P.L.67-2006, SECTION 11, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 10. (a) Except as provided in ~~*section*~~ *sections* 10.5 *and 10.7* of this chapter, if an installment of property taxes is not completely paid on or before the due date, a penalty ~~*equal to ten percent (10%) of the amount of delinquent taxes*~~ shall be added to the unpaid portion in the year of the initial delinquency. *The penalty is equal to an amount determined as follows:*

(1) If:

(A) an installment of **real** *property taxes is completely paid on or before the date thirty (30) days after the due date; and*

(B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous ~~*year*~~ **installment** *for the same parcel;*

the amount of the penalty is equal to five percent (5%) of the amount of delinquent taxes.

(2) If:

(A) an installment of personal property taxes is completely paid on or before the date thirty (30) days after the due date; and

(B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous installment for a personal property tax return for property in the same taxing district;

the amount of the penalty is equal to five percent (5%) of the amount of delinquent taxes.

~~*(2)*~~ **(3)** *If subdivision (1)* **or (2)** *does not apply, the amount of the penalty is equal to ten percent (10%) of the amount of delinquent taxes.*

(b) With respect to property taxes due in two (2) equal installments under IC 6-1.1-22-9(a), on the day immediately following the due dates ~~in May and November~~ of **the first and second installments in** each year following the year of the initial delinquency, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added. With respect to property taxes due in installments under IC 6-1.1-22-9.5, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added on the day immediately following each date that succeeds the last installment due date by:

(1) six (6) months; or

(2) a multiple of six (6) months.

(c) The penalties under subsection (b) are imposed only on the principal amount of the delinquent taxes.

(d) If the department of local government finance determines that an emergency has occurred which precludes the mailing of the tax statement in any county at the time set forth in IC 6-1.1-22-8, the department shall establish by order a new date on which the installment of taxes in that county is due and no installment is delinquent if paid by the date so established.

(e) If any due date falls on a Saturday, a Sunday, a national legal holiday recognized by the federal government, or a statewide holiday, the act that must be performed by that date is timely if performed by the next succeeding day that is not a Saturday, a Sunday, or one (1) of those holidays.

(f) *Subject to subsections (g) and (h),* a payment to the county treasurer is considered to have been paid by the due date if the payment is:

(1) received on or before the due date ~~*to*~~ *by* the county treasurer or a collecting agent appointed by the county treasurer;

(2) deposited in ~~*the*~~ United States *first class* mail:

(A) properly addressed to the principal office of the county treasurer;

(B) with sufficient postage; and

(C) ~~*certified or*~~ postmarked by the United States Postal Service as mailed on or before the due date; ~~*or*~~

(3) deposited with a nationally recognized express parcel carrier and is:

(A) properly addressed to the principal office of the county treasurer; and

(B) verified by the express parcel carrier as:

(i) paid in full for final delivery; and

(ii) received *by the express parcel carrier* on or before the due date;

(4) deposited to be mailed through United States registered mail, United States certified mail, or United States certificate of mailing:

(A) properly addressed to the principal office of the county treasurer;

(B) with sufficient postage; and

(C) with a date of registration, certification, or certificate, as evidenced by any record authenticated by the United States Postal Service, on or before the due date; or

(5) made by an electronic ~~*fund*~~ **funds** *transfer and the taxpayer's bank account is charged on or before the due date.*

For purposes of this subsection, "postmarked" does not mean the date printed by a postage meter that affixes postage to the envelope or package containing a payment.

(g) If a payment is mailed through the United States mail and is physically received after the due date without a legible correct postmark, the person who mailed the payment is considered to have made the payment on or before the due date if the person can show by reasonable evidence that the payment was deposited in the United States mail on or before the due date.

(h) If a payment is sent via the United States mail or a nationally recognized express parcel carrier but is not received by the designated recipient, the person who sent the payment is considered to have made the payment on or before the due date if the person:

(1) can show by reasonable evidence that the payment was deposited in the United States mail, or with the express parcel carrier, on or before the due date; and

(2) makes a duplicate payment within thirty (30) days after the date the person is notified that the payment was not received.

SECTION 83. IC 6-1.1-39-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 6. (a) An economic development district may be enlarged by the fiscal body by following the same procedure for the creation of an economic development district specified in this chapter. Property taxes that are attributable to the additional area and allocable to the economic development district are not eligible for the property tax replacement credit provided by IC 6-1.1-21-5. However, subject to subsection (c) and except as provided in subsection (f), each taxpayer in an additional 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 (f), one-half (1/2) 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 in a county that contains all or part of the additional area:

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

STEP TWO: Divide:

(A) that part of the 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 would have been allocated to a special fund under section 5 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 economic development district and paid into a special fund under section 5(a) of this chapter.

(b) If the additional credit under subsection (a) is not reduced under subsection (c) or (d), the credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (a) shall be computed on an aggregate basis for all taxpayers in a taxing district that contains all or part of an additional area. The credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (a) shall be combined on the tax statements sent to each taxpayer.

(c) The county fiscal body may, by ordinance, provide that the additional credit described in subsection (a):

(1) does not apply in a specified additional area; or

(2) is to be reduced by a uniform percentage for all taxpayers in a specified additional area.

(d) Whenever the county fiscal body determines that granting the full additional credit under subsection (a) would adversely affect the interests of the holders of bonds or other contractual obligations that are payable from allocated tax proceeds in that economic development district in a way that would create a reasonable expectation that those bonds or other contractual obligations would not be paid when due, the county fiscal body must adopt an ordinance under subsection (c) to deny the additional credit or reduce the additional credit to a level that creates a reasonable expectation that the bonds or other obligations will be paid when due. An ordinance adopted under subsection (c) denies or reduces the additional credit for taxes (as defined in IC 6-1.1-21-2) first due and payable in any year following the year in which the ordinance is adopted.

(e) An ordinance adopted under subsection (c) remains in effect until the ordinance is rescinded by the body that originally adopted the ordinance. However, an ordinance 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 economic development district 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 an ordinance is rescinded and no other ordinance is adopted, the additional credit described in subsection (a) applies to taxes (as defined in IC 6-1.1-21-2) first due and payable in each year following the year in which the resolution is rescinded.

(f) This subsection applies to an additional 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 additional area is entitled to an additional credit under subsection (a) 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).

SECTION 84. IC 6-1.1-40-10, AS AMENDED BY P.L.154-2006, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) Subject to subsection (e), an owner of new manufacturing equipment or inventory, or both, whose statement of benefits is approved is entitled to a deduction from the assessed value of that equipment and inventory for a period of ten (10) years. Except as provided in subsections (c) and (d), and subject to subsection (e) **and section 14 of this chapter,** for the first five (5) years, the amount of the deduction for new manufacturing equipment that an owner is entitled to for a particular year equals the assessed value of the new manufacturing equipment. Subject to subsection (e) **and section 14 of this chapter,** for the sixth through the tenth year, the amount of the deduction equals the product of:

(1) the assessed value of the new manufacturing equipment; multiplied by

(2) the percentage prescribed in the following table:

YEAR OF DEDUCTION	PERCENTAGE
6th	100%
7th	95%
8th	80%
9th	65%
10th	50%
11th and thereafter	0%

(b) **Subject to section 14 of this chapter,** for the first year the amount of the deduction for inventory equals the assessed value of the inventory. **Subject to section 14 of this chapter,** for the next nine (9) years, the amount of the deduction equals:

(1) the assessed value of the inventory for that year; multiplied by

(2) the owner's export sales ratio for the previous year, as certified by the department of state revenue under

IC 6-3-2-13.

(c) A deduction under this section is not allowed in the first year the deduction is claimed for new manufacturing equipment to the extent that it would cause the assessed value of all of the personal property of the owner in the taxing district in which the equipment is located to be less than the assessed value of all of the personal property of the owner in that taxing district in the immediately preceding year.

(d) If a deduction is not fully allowed under subsection (c) in the first year the deduction is claimed, then the percentages specified in subsection (a) apply in the subsequent years to the amount of deduction that was allowed in the first year.

(e) For purposes of subsection (a), the assessed value of new manufacturing equipment that is part of an owner's assessable depreciable personal property in a single taxing district subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 is the product of:

(1) the assessed value of the equipment determined without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9; multiplied by

(2) the quotient of:

(A) the amount of the valuation limitation determined under 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 for all of the owner's depreciable personal property in the taxing district; divided by

(B) the total true tax value of all of the owner's depreciable personal property in the taxing district that is subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 determined:

(i) under the depreciation schedules in the rules of the department of local government finance before any adjustment for abnormal obsolescence; and

(ii) without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9.

SECTION 85. IC 6-1.1-40-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 14. If:**

(1) as the result of an error the county auditor applies a deduction under this chapter for a particular assessment date in an amount that is less than the amount to which the taxpayer is entitled under this chapter; and

(2) the taxpayer is entitled to a correction of the error under this article;

the county auditor shall apply the correction of the error in the manner that corrections are applied under IC 6-1.1-12.1-15.

SECTION 86. IC 6-1.1-42-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 28. (a) Subject to this section **and section 34 of this chapter,** the amount of the deduction which the property owner is entitled to receive under this chapter for a particular year equals the product of:

(1) the increase in the assessed value resulting from the remediation and redevelopment in the zone or the location of personal property in the zone, or both; multiplied by

(2) the percentage determined under subsection (b).

(b) The percentage to be used in calculating the deduction under subsection (a) is as follows:

(1) For deductions allowed over a three (3) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	66%
3rd	33%

(2) For deductions allowed over a six (6) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	66%
4th	50%
5th	34%
6th	17%

(3) For deductions allowed over a ten (10) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	95%
3rd	80%
4th	65%
5th	50%
6th	40%
7th	30%
8th	20%
9th	10%
10th	5%

(c) The amount of the deduction determined under subsection (a) shall be adjusted in accordance with this subsection in the following circumstances:

(1) If a general reassessment of real property occurs within the particular period of the deduction, the amount determined under subsection (a)(1) shall be adjusted to reflect the percentage increase or decrease in assessed valuation that resulted from the general reassessment.

(2) If an appeal of an assessment is approved that results in a reduction of the assessed value of the redeveloped or rehabilitated property, the amount of any deduction shall be adjusted to reflect the percentage decrease that resulted from the appeal.

(3) The amount of the deduction may not exceed the limitations imposed by the designating body under section 23 of this chapter.

(4) The amount of the deduction must be proportionally reduced by the proportionate ownership of the property by a person that:

(A) has an ownership interest in an entity that contributed; or

(B) has contributed;

a contaminant (as defined in IC 13-11-2-42) that is the subject of the voluntary remediation, as determined under the written standards adopted by the department of environmental management.

The department of local government finance shall adopt rules under IC 4-22-2 to implement this subsection.

SECTION 87. IC 6-1.1-42-34 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 34. If:**

(1) as the result of an error the county auditor applies a deduction under this chapter for a particular assessment date in an amount that is less than the amount to which the taxpayer is entitled under this chapter; and

(2) the taxpayer is entitled to a correction of the error under this article;

the county auditor shall apply the correction of the error in the manner that corrections are applied under IC 6-1.1-12.1-15.

SECTION 88. IC 6-1.5-2-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 6. Notwithstanding IC 5-14-3-8, the Indiana board shall charge a person that files a petition with the Indiana tax court for review of a determination by the Indiana board the reasonable cost of preparing any necessary copies and transcripts for transmittal to the court.**

SECTION 89. IC 6-1.5-5-2, AS AMENDED BY P.L.154-2006, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) After receiving a petition for review that is filed under a statute listed in section 1(a) of this chapter, the Indiana board shall, at its earliest opportunity:

(1) conduct a hearing; or

(2) cause a hearing to be conducted by an administrative law judge.

The Indiana board may determine to conduct the hearing under subdivision (1) on its own motion or on request of a party to the appeal.

(b) In its resolution of a petition, the Indiana board may

~~(1) assign:~~

~~(A) full;~~

~~(B) limited; or~~

~~(C) no;~~

~~evidentiary value to the assessed valuation of tangible property determined by stipulation submitted as evidence of a comparable sale; and~~

~~(2)~~ correct any errors that may have been made and adjust the assessment in accordance with the correction.

(c) The Indiana board shall give notice of the date fixed for the hearing by mail to:

(1) the taxpayer;

(2) the department of local government finance; and

(3) the appropriate:

(A) township assessor;

(B) county assessor; and

(C) county auditor.

(d) With respect to an appeal of the assessment of real property or personal property filed after June 30, 2005, the notices required under subsection (c) must include the following:

(1) The action of the department of local government finance with respect to the appealed items.

(2) A statement that a taxing unit receiving the notice from the county auditor under subsection (e) may:

(A) attend the hearing;

(B) offer testimony; and

(C) file an amicus curiae brief in the proceeding.

(e) If, after receiving notice of a hearing under subsection (c), the county auditor determines that the assessed value of the appealed items constitutes at least one percent (1%) of the total gross certified assessed value of a particular taxing unit for the assessment date immediately preceding the assessment date for which the appeal was filed, the county auditor shall send a copy of the notice to the affected taxing unit. A taxing unit that receives a notice from the county auditor under this subsection is not a party to the appeal. Failure of the county auditor to send a copy of the notice to the affected taxing unit does not affect the validity of the appeal or delay the appeal.

(f) The Indiana board shall give the notices required under subsection (c) at least thirty (30) days before the day fixed for the hearing.

SECTION 90. IC 6-1.5-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. ~~(a) An administrative law judge who conducts a hearing shall submit a written report of findings of fact and conclusions of law to the Indiana board.~~

~~(b)~~ **(a)** After ~~reviewing the report of the administrative law judge,~~ **conducting a hearing,** the Indiana board may take additional evidence or hold additional hearings.

~~(c)~~ **(b)** The Indiana board may base its final determination on a stipulation between the respondent and the petitioner. If the final determination is based on a stipulated assessed valuation of tangible property, the Indiana board may order the placement of a notation on the permanent assessment record of the tangible property that the assessed valuation was determined by stipulation. The Indiana board may:

(1) order that a final determination under this subsection has no precedential value; or

(2) specify a limited precedential value of a final determination under this subsection.

~~(d)~~ **(c)** If the Indiana board does not issue its final determination under subsection ~~(c),~~ **(b),** the Indiana ~~board shall base its~~ **board's** final determination ~~on:~~

~~(1) the:~~

~~(A) report of the administrative law judge; or~~

~~(B) evidence received at a hearing conducted by the Indiana board;~~

~~(2) any additional evidence taken by the Indiana board; and~~

~~(3) any records that the Indiana board considers relevant.~~

must include separately stated findings of fact for all aspects of the determination. Findings of ultimate fact must be accompanied by a concise statement of the underlying basic facts of record to support the findings. Findings must:

(1) be based exclusively on:

(A) the evidence on the record in the proceeding; and

(B) matters officially noticed in the proceeding; and

(2) be based on a preponderance of the evidence.

SECTION 91. IC 6-2.5-8-1, AS AMENDED BY P.L.111-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 1. (a) A retail merchant may not make a retail transaction in Indiana, unless the retail merchant has applied for a registered retail merchant's certificate.

(b) A retail merchant may obtain a registered retail merchant's certificate by filing an application with the department and paying a registration fee of twenty-five dollars ($25) for each place of business listed on the application. The retail merchant shall also provide such security for payment of the tax as the department may require under IC 6-2.5-6-12.

(c) The retail merchant shall list on the application the location (including the township) of each place of business where the retail merchant makes retail transactions. However, if the retail merchant does not have a fixed place of business, the retail merchant shall list the retail merchant's residence as the retail merchant's place of business. In addition, a public utility may list only its principal Indiana office as its place of business for sales of public utility commodities or service, but the utility must also list on the application the places of business where it makes retail transactions other than sales of public utility commodities or service.

(d) Upon receiving a proper application, the correct fee, and the security for payment, if required, the department shall issue to the retail merchant a separate registered retail merchant's certificate for each place of business listed on the application. Each certificate shall bear a serial number and the location of the place of business for which it is issued.

(e) If a retail merchant intends to make retail transactions during a calendar year at a new Indiana place of business, the retail merchant must file a supplemental application and pay the fee for that place of business.

(f) A registered retail merchant's certificate is valid for two (2) years after the date the registered retail merchant's certificate is originally issued or renewed. If the retail merchant has filed all returns and remitted all taxes the retail merchant is currently obligated to file or remit, the department shall renew the registered retail merchant's certificate within thirty (30) days after the expiration date, at no cost to the retail merchant.

(g) The department may not renew a registered retail merchant certificate of a retail merchant who is delinquent in remitting sales or use tax. The department, at least sixty (60) days before the date on which a retail merchant's registered retail merchant's certificate expires, shall notify a retail merchant who is delinquent in remitting sales or use tax that the department will not renew the retail merchant's registered retail merchant's certificate.

(h) A retail merchant engaged in business in Indiana as defined in IC 6-2.5-3-1(c) who makes retail transactions that are only subject to the use tax must obtain a registered retail merchant's certificate before making those transactions. The retail merchant may obtain the certificate by following the same procedure as a retail merchant under subsections (b) and (c),

except that the retail merchant must also include on the application:

(1) the names and addresses of the retail merchant's principal employees, agents, or representatives who engage in Indiana in the solicitation or negotiation of the retail transactions;

(2) the location of all of the retail merchant's places of business in Indiana, including offices and distribution houses; and

(3) any other information that the department requests.

(i) The department may permit an out-of-state retail merchant to collect the use tax. However, before the out-of-state retail merchant may collect the tax, the out-of-state retail merchant must obtain a registered retail merchant's certificate in the manner provided by this section. Upon receiving the certificate, the out-of-state retail merchant becomes subject to the same conditions and duties as an Indiana retail merchant and must then collect the use tax due on all sales of tangible personal property that the out-of-state retail merchant knows is intended for use in Indiana.

(j) **Except as provided in subsection (k),** the department shall submit to the township assessor before July 15 of each year:

(1) the name of each retail merchant that has newly obtained a registered retail merchant's certificate between March 2 of the preceding year and March 1 of the current year for a place of business located in the township; and

(2) the address of each place of business of the taxpayer in the township.

(k) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, the department shall submit the information listed in subsection (j) to the county assessor.

SECTION 92. IC 6-8.1-7-1, AS AMENDED BY SEA 526-2007, SECTION 129, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 1. (a) This subsection does not apply to the disclosure of information concerning a conviction on a tax evasion charge. Unless in accordance with a judicial order or as otherwise provided in this chapter, the department, its employees, former employees, counsel, agents, or any other person may not divulge the amount of tax paid by any taxpayer, terms of a settlement agreement executed between a taxpayer and the department, investigation records, investigation reports, or any other information disclosed by the reports filed under the provisions of the law relating to any of the listed taxes, including required information derived from a federal return, except to:

(1) members and employees of the department;

(2) the governor;

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

(4) any authorized officers of the United States;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) This section does not apply to:

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

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

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

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

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

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

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

(8) the fees under IC 13-23.

(m) The name and business address of retail merchants within

each county that sell tobacco products may be released to the division of mental health and addiction and the alcohol and tobacco commission solely for the purpose of the list prepared under IC 6-2.5-6-14.2.

SECTION 93. IC 8-14-9-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. All bonds and interest on bonds issued under this chapter are exempt from taxation as provided under IC 6-8-5-1. All general laws relating to:

(1) the filing of a petition requesting the issuance of bonds;
(2) the right of taxpayers **and voters** to remonstrate against the issuance of bonds;
(3) the appropriation of the proceeds of the bonds and the approval of the appropriation by the department of local government finance; and
(4) the sale of bonds at public sale for not less than par value;

are applicable to proceedings under this chapter.

SECTION 94. IC 8-22-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) The board may issue general obligation bonds of the authority for the purpose of procuring funds to pay the cost of acquiring real property, or constructing, enlarging, improving, remodeling, repairing, or equipping buildings, structures, runways, or other facilities, for use as or in connection with or for administrative purposes of the airport. The issuance of the bonds must be authorized by ordinance of the board providing for the amount, terms, and tenor of the bonds and for the time and character of notice and the mode of making sale. If one (1) airport is owned by the authority, an ordinance authorizing the issuance of bonds for a separate second airport is subject to approval as provided in this section. The bonds bear interest and are payable at the times and places that the board determines but running not more than twenty-five (25) years after the date of their issuance, and they must be executed in the name of the authority by the president of the board and attested by the secretary who shall affix to each of the bonds the official seal of the authority. The interest coupons attached to the bonds may be executed by placing on them the facsimile signature of the president of the board.

(b) The issuance of general obligation bonds must be approved by resolution of the following body:

(1) When the authority is established by an eligible entity, by its fiscal body.
(2) When the authority is established by two (2) or more eligible entities acting jointly, by the fiscal body of each of those entities.
(3) When the authority was established under IC 19-6-2, by the mayor of the consolidated city, and if a second airport is to be funded, also by the city-county council.
(4) When the authority was established under IC 19-6-3, by the county council.

(c) The airport director shall manage and supervise the preparation, advertisement, and sale of the bonds, subject to the authorizing ordinance. Before the sale of the bonds, the airport director shall cause notice of the sale to be published once each week for two (2) consecutive weeks in two (2) newspapers of general circulation published in the district, setting out the time and place where bids will be received, the amount and maturity dates of the issue, the maximum interest rate, and the terms and conditions of sale and delivery of the bonds. The bonds shall be sold to the highest bidder, in accordance with the procedures for selling public bonds. After the bonds have been properly sold and executed, the airport director shall deliver them to the treasurer of the authority and take ~~his~~ **a** receipt for them, and shall certify to the treasurer the amount which the purchaser is to pay for them, together with the name and address of the purchaser. On payment of the purchase price the treasurer shall deliver the bonds to the purchaser, and the treasurer and airport director or superintendent shall report their actions to the board.

(d) The provisions of IC 6-1.1-20 and IC 5-1 relating to the filing of a petition requesting the issuance of bonds and giving notice of them, the giving of notice of determination to issue bonds, the giving of notice of hearing on the appropriation of the proceeds of bonds and the right of taxpayers to appeal and be heard on the proposed appropriation, the approval of the appropriation by the department of local government finance, the right of taxpayers **and voters** to remonstrate against the issuance of bonds, and the sale of bonds at public sale for not less than par value are applicable to proceedings under this chapter for the issuance of general obligation bonds.

(e) Bonds issued under this chapter are not a corporate obligation or indebtedness of any eligible entity but are an indebtedness of the authority as a municipal corporation. An action to question the validity of the bonds issued or to prevent their issue must be instituted not later than the date set for sale of the bonds, and all of the bonds after that date are incontestable.

SECTION 95. IC 8-22-3.5-10, AS AMENDED BY P.L.124-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 10. (a) Except as provided in subsection (d), if the commission adopts the provisions of this section by resolution, each taxpayer in the airport development zone 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 (d), one-half (1/2) 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 airport development zone:

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

STEP TWO: Divide:

(A) that part of the 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 the special funds under section 9 of this chapter had the additional credit described in this section not been given.

The additional credit reduces the amount of proceeds allocated and paid into the special funds under section 9 of this chapter.

(b) The additional credit under subsection (a) shall be:

(1) computed on an aggregate basis of all taxpayers in a taxing district that contains all or part of an airport development zone; and
(2) combined on the tax statement sent to each taxpayer.

(c) Concurrently with the mailing or other delivery of the tax statement or any corrected tax statement to each taxpayer, as required by IC 6-1.1-22-8(a), each county treasurer shall for each tax statement also deliver to each taxpayer in an airport development zone who is entitled to the additional credit under subsection (a) a notice of additional credit. The actual dollar amount of the credit, the taxpayer's name and address, and the tax statement to which the credit applies shall be stated on the notice.

(d) This subsection applies to an airport development zone 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 airport development zone is entitled to an additional credit under subsection (a) 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).

SECTION 96. IC 12-29-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. All general Indiana statutes relating to the following apply to the issuance of county bonds under this chapter:

(1) The filing of a petition requesting the issuance of bonds.

(2) The giving of notice of the following:

(A) The filing of the petition requesting the issuance of the bonds.

(B) The determination to issue bonds.

(C) A hearing on the appropriation of the proceeds of the bonds.

(3) The right of taxpayers to appear and be heard on the proposed appropriation.

(4) The approval of the appropriation by the department of local government finance.

(5) The right of taxpayers **and voters** to remonstrate against the issuance of bonds.

SECTION 97. IC 12-29-2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. All general Indiana statutes relating to the following apply to the issuance of county bonds under this chapter:

(1) The filing of a petition requesting the issuance of bonds.

(2) The giving of notice of the following:

(A) The filing of the petition requesting the issuance of the bonds.

(B) The determination to issue bonds.

(C) A hearing on the appropriation of the proceeds of the bonds.

(3) The right of taxpayers to appear and be heard on the proposed appropriation.

(4) The approval of the appropriation by the department of local government finance.

(5) The right of taxpayers **and voters** to remonstrate against the issuance of bonds.

SECTION 98. IC 14-27-6-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 40. The provisions of IC 5-1 and IC 6-1.1-20 relating to the following apply to proceedings under this chapter:

(1) The filing of a petition requesting the issuance of bonds and giving notice of the petition.

(2) The giving of notice of determination to issue bonds.

(3) The giving of notice of hearing on the appropriation of the proceeds of bonds and the right of taxpayers to appeal and be heard on the proposed appropriation.

(4) The approval of the appropriation by the department of local government finance.

(5) The right of taxpayers **and voters** to remonstrate against the issuance of bonds.

(6) The sale of bonds at public sale for not less than the par value.

SECTION 99. IC 20-48-1-8, AS ADDED BY P.L.2-2006, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. The provisions of all general statutes and rules relating to:

(1) filing petitions requesting the issuance of bonds and giving notice of the issuance of bonds;

(2) giving notice of determination to issue bonds;

(3) giving notice of a hearing on the appropriation of the proceeds of the bonds and the right of taxpayers to appear and be heard on the proposed appropriation;

(4) the approval of the appropriation by the department of local government finance; and

(5) the right of taxpayers **and voters** to remonstrate against the issuance of bonds;

apply to proceedings for the issuance of bonds and the making of an emergency loan under this article and IC 20-26-1 through IC 20-26-5. An action to contest the validity of the bonds or emergency loans may not be brought later than five (5) days after the acceptance of a bid for the sale of the bonds.

SECTION 100. IC 32-21-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 13. (a) **Except as provided in subsection (c),** if the auditor of the county or the township assessor under IC 6-1.1-5-9 and IC 6-1.1-5-9.1 determines it necessary, an instrument transferring fee simple title to less than the whole of a tract that will result in the division of the tract into at least two (2) parcels for property tax purposes may not be recorded unless the auditor or township assessor is furnished a drawing or other reliable evidence of the following:

(1) The number of acres in each new tax parcel being created.

(2) The existence or absence of improvements on each new tax parcel being created.

(3) The location within the original tract of each new tax parcel being created.

(b) Any instrument that is accepted for recording and placed of record that bears the endorsement required by IC 36-2-11-14 is presumed to comply with this section.

(c) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

SECTION 101. IC 32-28-3-1, AS AMENDED BY P.L.1-2006, SECTION 501, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 1. (a) A contractor, a subcontractor, a mechanic, a lessor leasing construction and other equipment and tools, whether or not an operator is also provided by the lessor, a journeyman, a laborer, or any other person performing labor or furnishing materials or machinery, including the leasing of equipment or tools, for:

(1) the erection, alteration, repair, or removal of:

(A) a house, mill, manufactory, or other building; or

(B) a bridge, reservoir, system of waterworks, or other structure;

(2) the construction, alteration, repair, or removal of a walk or sidewalk located on the land or bordering the land, a stile, a well, a drain, a drainage ditch, a sewer, or a cistern; or

(3) any other earth moving operation;

may have a lien as set forth in this section.

(b) A person described in subsection (a) may have a lien separately or jointly: ~~upon the:~~

(1) **upon the** house, mill, manufactory, or other building, bridge, reservoir, system of waterworks, or other structure, sidewalk, walk, stile, well, drain, drainage ditch, sewer, cistern, or earth:

(A) that the person erected, altered, repaired, moved, or removed; or

(B) for which the person furnished materials or machinery of any description; and

(2) on the interest of the owner of the lot or parcel of land:

(A) on which the structure or improvement stands; or

(B) with which the structure or improvement is connected;

to the extent of the value of any labor done or the material furnished, or both, including any use of the leased equipment and tools.

(c) All claims for wages of mechanics and laborers employed in or about a shop, mill, wareroom, storeroom, manufactory or structure, bridge, reservoir, system of waterworks or other

structure, sidewalk, walk, stile, well, drain, drainage ditch, cistern, or any other earth moving operation shall be a lien on all the:

(1) machinery;
(2) tools;
(3) stock;
(4) material; or
(5) finished or unfinished work;

located in or about the shop, mill, wareroom, storeroom, manufactory or other building, bridge, reservoir, system of waterworks, or other structure, sidewalk, walk, stile, well, drain, drainage ditch, sewer, cistern, or earth used in a business.

(d) If the person, firm, limited liability company, or corporation described in subsection (a) or (c) is in failing circumstances, the claims described in this section shall be preferred debts whether a claim or notice of lien has been filed.

(e) Subject to subsection (f), a contract:

(1) for the construction, alteration, or repair of a Class 2 structure (as defined in IC 22-12-1-5);
(2) for the construction, alteration, or repair of an improvement on the same real estate auxiliary to a Class 2 structure (as defined in IC 22-12-1-5);
(3) for the construction, alteration, or repair of property that is:
(A) owned, operated, managed, or controlled by a:
(i) public utility (as defined in IC 8-1-2-1);
(ii) municipally owned utility (as defined in IC 8-1-2-1);
(iii) joint agency (as defined in IC 8-1-2.2-2);
(iv) rural electric membership corporation formed under IC 8-1-13-4;
(v) rural telephone cooperative corporation formed under IC 8-1-17; or
(vi) not-for-profit utility (as defined in IC 8-1-2-125);
regulated under IC 8; and
(B) intended to be used and useful for the production, transmission, delivery, or furnishing of heat, light, water, telecommunications services, or power to the public; or
(4) to prepare property for Class 2 residential construction;

may include a provision or stipulation in the contract of the owner and principal contractor that a lien may not attach to the real estate, building, structure or any other improvement of the owner.

(f) A contract containing a provision or stipulation described in subsection (e) must meet the requirements of this subsection to be valid against subcontractors, mechanics, journeymen, laborers, or persons performing labor upon or furnishing materials or machinery for the property or improvement of the owner. The contract must:

(1) be in writing;
(2) contain specific reference by legal description of the real estate to be improved;
(3) be acknowledged as provided in the case of deeds; and
(4) be filed and recorded in the recorder's office of the county in which the real estate, building, structure, or other improvement is situated not more than five (5) days after the date of execution of the contract.

A contract containing a provision or stipulation described in subsection (e) does not affect a lien for labor, material, or machinery supplied before the filing of the contract with the recorder.

(g) Upon the filing of a contract under subsection (f), the recorder shall:

(1) record the contract at length in the order of the time it was received in books provided by the recorder for that purpose;
(2) index the contract in the name of the:
(A) contractor; and
(B) owner;
in books kept for that purpose; and
(3) collect a fee for recording the contract as is provided for the recording of deeds and mortgages.

(h) A person, firm, partnership, limited liability company, or corporation that sells or furnishes on credit any material, labor, or machinery for the alteration or repair of an owner occupied single or double family dwelling or the appurtenances or additions to the dwelling to:

(1) a contractor, subcontractor, mechanic; or
(2) anyone other than the occupying owner or the owner's legal representative;

must furnish to the occupying owner of the parcel of land where the material, labor, or machinery is delivered a written notice of the delivery or work and of the existence of lien rights not later than thirty (30) days after the date of first delivery or labor performed. The furnishing of the notice is a condition precedent to the right of acquiring a lien upon the lot or parcel of land or the improvement on the lot or parcel of land.

(i) A person, firm, partnership, limited liability company, or corporation that sells or furnishes on credit material, labor, or machinery for the original construction of a single or double family dwelling for the intended occupancy of the owner upon whose real estate the construction takes place to a contractor, subcontractor, mechanic, or anyone other than the owner or the owner's legal representatives must:

(1) furnish the owner of the real estate:
(A) as named in the latest entry in the transfer books described in IC 6-1.1-5-4 of the county auditor; or
(B) if IC 6-1.1-5-9 applies, as named in the transfer books of the township assessor **or the county assessor;**
with a written notice of the delivery or labor and the existence of lien rights not later than sixty (60) days after the date of the first delivery or labor performed; and
(2) file a copy of the written notice in the recorder's office of the county not later than sixty (60) days after the date of the first delivery or labor performed.

The furnishing and filing of the notice is a condition precedent to the right of acquiring a lien upon the real estate or upon the improvement constructed on the real estate.

(j) A lien for material or labor in original construction does not attach to real estate purchased by an innocent purchaser for value without notice of a single or double family dwelling for occupancy by the purchaser unless notice of intention to hold the lien is recorded under section 3 of this chapter before recording the deed by which the purchaser takes title.

SECTION 102. IC 32-28-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 3. (a) Except as provided in subsection (b), a person who wishes to acquire a lien upon property, whether the claim is due or not, must file in duplicate a sworn statement and notice of the person's intention to hold a lien upon the property for the amount of the claim:

(1) in the recorder's office of the county; and
(2) not later than ninety (90) days after performing labor or furnishing materials or machinery described in section 1 of this chapter.

The statement and notice of intention to hold a lien may be verified and filed on behalf of a client by an attorney registered with the clerk of the supreme court as an attorney in good standing under the requirements of the supreme court.

(b) This subsection applies to a person that performs labor or furnishes materials or machinery described in section 1 of this chapter related to a Class 2 structure (as defined in IC 22-12-1-5) or an improvement on the same real estate auxiliary to a Class 2 structure (as defined in IC 22-12-1-5). A person who wishes to acquire a lien upon property, whether the claim is due or not, must file in duplicate a sworn statement and notice of the person's intention to hold a lien upon the property for the amount of the claim:

(1) in the recorder's office of the county; and

(2) not later than sixty (60) days after performing labor or furnishing materials or machinery described in section 1 of this chapter.

The statement and notice of intention to hold a lien may be verified and filed on behalf of a client by an attorney registered with the clerk of the supreme court as an attorney in good standing under the requirements of the supreme court.

(c) A statement and notice of intention to hold a lien filed under this section must specifically set forth:

(1) the amount claimed;

(2) the name and address of the claimant;

(3) the owner's:

(A) name; and

(B) latest address as shown on the property tax records of the county; and

(4) the:

(A) legal description; and

(B) street and number, if any;

of the lot or land on which the house, mill, manufactory or other buildings, bridge, reservoir, system of waterworks, or other structure may stand or be connected with or to which it may be removed.

The name of the owner and legal description of the lot or land will be sufficient if they are substantially as set forth in the latest entry in the transfer books described in IC 6-1.1-5-4 of the county auditor or, if IC 6-1.1-5-9 applies, the transfer books of the township assessor **or the county assessor** at the time of filing of the notice of intention to hold a lien.

(d) The recorder shall:

(1) mail, first class, one (1) of the duplicates of the statement and notice of intention to hold a lien to the owner named in the statement and notice not later than three (3) business days after recordation;

(2) post records as to the date of the mailing; and

(3) collect a fee of two dollars ($2) from the lien claimant for each statement and notice that is mailed.

The statement and notice shall be addressed to the latest address of the owner as specifically set out in the sworn statement and notice of the person intending to hold a lien upon the property.

SECTION 103. IC 33-26-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) This section applies ~~instead of IC 4-21.5-5-12~~ with respect to judicial review of final determinations of the Indiana board of tax review.

(b) The tax court may receive evidence in addition to that contained in the record of the determination of the Indiana board of tax review only if the evidence relates to the validity of the determination at the time it was taken and is needed to decide disputed issues regarding one (1) or both of the following:

(1) Improper constitution as a decision making body or grounds for disqualification of those taking the agency action.

(2) Unlawfulness of procedure or decision making process.

This subsection applies only if the additional evidence could not, by due diligence, have been discovered and raised in the administrative proceeding giving rise to a proceeding for judicial review.

(c) The tax court may remand a matter to the Indiana board of tax review before final disposition of a petition for review with directions that the Indiana board of tax review conduct further factfinding or that the Indiana board of tax review prepare an adequate record, if:

(1) the Indiana board of tax review failed to prepare or preserve an adequate record;

(2) the Indiana board of tax review improperly excluded or omitted evidence from the record; or

(3) a relevant law changed after the action of the Indiana board of tax review and the tax court determines that the new provision of law may control the outcome.

(d) This subsection applies if the record for a judicial review prepared under IC 6-1.1-15-6 contains an inadequate record of a site inspection. Rather than remand a matter under subsection (c), the tax court may take additional evidence not contained in the record relating only to observations and other evidence collected during a site inspection conducted by a hearing officer or other employee of the Indiana board of tax review. The evidence may include the testimony of a hearing officer only for purposes of verifying or rebutting evidence regarding the site inspection that is already contained in the record.

SECTION 104. IC 33-26-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) This section applies ~~instead of IC 4-21.5-5-14~~ with respect to judicial review of final determinations of the Indiana board of tax review.

(b) The burden of demonstrating the invalidity of an action taken by the Indiana board of tax review is on the party to the judicial review proceeding asserting the invalidity.

(c) The validity of an action taken by the Indiana board of tax review shall be determined in accordance with the standards of review provided in this section as applied to the agency action at the time it was taken.

(d) The tax court shall make findings of fact on each material issue on which the court's decision is based.

(e) The tax court shall grant relief under section 7 of this chapter only if the tax court determines that a person seeking judicial relief has been prejudiced by an action of the Indiana board of tax review that is:

(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(2) contrary to constitutional right, power, privilege, or immunity;

(3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory jurisdiction, authority, or limitations;

(4) without observance of procedure required by law; or

(5) unsupported by substantial or reliable evidence.

(f) Subsection (e) may not be construed to change the substantive precedential law embodied in judicial decisions that are final as of January 1, 2002.

SECTION 105. IC 36-1-8-14.2, AS AMENDED BY P.L.181-2006, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 14.2. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

(1) Assessed value.

(2) Exemption.

(3) Owner.

(4) Person.

(5) Property taxation.

(6) Real property.

(7) Township assessor.

(b) As used in this section, "PILOTS" means payments in lieu of taxes.

(c) As used in this section, "property owner" means the owner of real property described in IC 6-1.1-10-16.7.

(d) Subject to the approval of a property owner, the governing body of a political subdivision may adopt an ordinance to require the property owner to pay PILOTS at times set forth in the ordinance with respect to real property that is subject to an exemption under IC 6-1.1-10-16.7, if the improvements that qualify the real property for an exemption were begun or acquired after December 31, 2001. The ordinance remains in full force and effect until repealed or modified by the governing body, subject to the approval of the property owner.

(e) The PILOTS must be calculated so that the PILOTS are in an amount equal to the amount of property taxes that would have been levied by the governing body for the political subdivision upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation.

(f) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the real property described in subsection (d). **Except as provided in subsection (j),** the township assessors shall assess the real property described in subsection (d) as though the property were not subject to an exemption.

(g) PILOTS collected under this section shall be deposited in the unit's affordable housing fund established under IC 5-20-5-15.5 and used for any purpose for which the affordable housing fund may be used.

(h) 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 taxes for purposes of all procedural and substantive provisions of law.

(i) This section does not apply to a county that contains a consolidated city or to a political subdivision of the county.

(j) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

SECTION 106. IC 36-2-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 3. (a) The county fiscal body shall fix the compensation of officers, deputies, and other employees whose compensation is payable from the county general fund, county highway fund, county health fund, county park and recreation fund, aviation fund, or any other fund from which the county auditor issues warrants for compensation. This includes the power to:

(1) fix the number of officers, deputies, and other employees;
(2) describe and classify positions and services;
(3) adopt schedules of compensation; and
(4) hire or contract with persons to assist in the development of schedules of compensation.

(b) **Subject to subsection (e),** the county fiscal body shall provide for a county assessor or elected township assessor who has attained a level two **or level three** certification under IC 6-1.1-35.5 to receive annually one thousand dollars ($1,000), which is in addition to and not part of the annual compensation of the assessor. **Subject to subsection (e),** the county fiscal body shall provide for a county or township deputy assessor who has attained a level two **or level three** certification under IC 6-1.1-35.5 to receive annually five hundred dollars ($500), which is in addition to and not part of the annual compensation of the county or township deputy assessor.

(c) Notwithstanding subsection (a), the board of each local health department shall prescribe the duties of all its officers and employees, recommend the number of positions, describe and classify positions and services, adopt schedules of compensation, and hire and contract with persons to assist in the development of schedules of compensation.

(d) This section does not apply to community corrections programs (as defined in IC 11-12-1-1 and IC 35-38-2.6-2).

(e) Subsection (b) applies regardless of whether the assessor or deputy assessor attained the level two certification:

(1) while in office; or
(2) before assuming office.

SECTION 107. IC 36-2-6-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 22. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

(1) Assessed value.
(2) Exemption.
(3) Owner.
(4) Person.
(5) Property taxation.
(6) Real property.
(7) Township assessor.

(b) As used in this section, "PILOTS" means payments in lieu of taxes.

(c) As used in this section, "property owner" means the owner of real property described in IC 6-1.1-10-16.7 that is not located in a county containing a consolidated city.

(d) Subject to the approval of a property owner, the fiscal body of a county may adopt an ordinance to require the property owner to pay PILOTS at times set forth in the ordinance with respect to real property that is subject to an exemption under IC 6-1.1-10-16.7. The ordinance remains in full force and effect until repealed or modified by the legislative body, subject to the approval of the property owner.

(e) The PILOTS must be calculated so that the PILOTS are in an amount equal to the amount of property taxes that would have been levied upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation.

(f) PILOTS shall be imposed in the same manner as property taxes and shall be based on the assessed value of the real property described in subsection (d). **Except as provided in subsection (i),** the township assessors shall assess the real property described in subsection (d) as though the property were not subject to an exemption.

(g) PILOTS collected under this section shall be distributed in the same manner as if they were property taxes being distributed to taxing units in the county.

(h) 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 taxes for purposes of all procedural and substantive provisions of law.

(i) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

SECTION 108. IC 36-2-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 5. (a) The county assessor shall perform the functions assigned by statute to the county assessor, including the following:

(1) Countywide equalization.
(2) Selection and maintenance of a countywide computer system.
(3) Certification of gross assessments to the county auditor.
(4) Discovery of omitted property.
(5) In a county in which the transfer of duties is required by subsection (e), performance of the assessment duties prescribed by IC 6-1.1.

(b) The county assessor shall perform the functions of an assessing official under IC 36-6-5-2 in a township with a township assessor-trustee if the township assessor-trustee:

(1) fails to make a report that is required by law;
(2) fails to deliver a property tax record to the appropriate officer or board;
(3) fails to deliver an assessment to the county assessor; or
(4) fails to perform any other assessing duty as required by statute or rule of the department of local government finance;

within the time period prescribed by statute or rule of the department or within a later time that is necessitated by reason of another official failing to perform the official's functions in a timely manner.

(c) A township with a township trustee-assessor may, with the consent of the township board, enter into an agreement with:

(1) the county assessor; or
(2) another township assessor in the county;

to perform any of the functions of an assessing official. A township trustee-assessor may not contract for the performance of any function for a period of time that extends beyond the completion of the township trustee-assessor's term of office.

(d) A transfer of duties between assessors under

subsection (e) does not affect:

(1) any assessment, assessment appeal, or other official action made by an assessor before the transfer; or

(2) any pending action against, or the rights of any party that may possess a legal claim against, an assessor that is not described in subdivision (1).

Any assessment, assessment appeal, or other official action of an assessor made by the assessor within the scope of the assessor's official duties before the transfer is considered as having been made by the assessor to whom the duties are transferred.

(e) If for a particular general election after June 30, 2008, the person elected to the office of township assessor or the office of township trustee-assessor has not attained the certification of a level two assessor-appraiser as provided in IC 3-8-1-23.5 before the date the term of office begins, the assessment duties prescribed by IC 6-1.1 that would otherwise be performed in the township by the township assessor or township trustee-assessor are transferred to the county assessor on that date. If assessment duties in a township are transferred to the county assessor under this subsection, those assessment duties are transferred back to the township assessor or township trustee-assessor (as appropriate) if at a later election a person who has attained the certification of a level two assessor-appraiser as provided in IC 3-8-1-23.5 is elected to the office of township assessor or the office of township trustee-assessor.

(f) If assessment duties in a township are transferred to the county assessor under subsection (e):

(1) the office of elected township assessor remains vacant for the period during which the assessment duties prescribed by IC 6-1.1 are transferred to the county assessor; and

(2) the office of township trustee remains in place for the purpose of carrying out all functions of the office other than assessment duties prescribed by IC 6-1.1.

SECTION 109. IC 36-2-15-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 7. (a) Each county assessor, elected township assessor, or township trustee-assessor whose assessment duties prescribed by IC 6-1.1 will be transferred under section 5 of this chapter shall:**

(1) organize the records of the assessor's office relating to the assessment of tangible property in a manner prescribed by the department of local government finance; and

(2) transfer the records as directed by the department of local government finance.

(b) The department of local government finance shall determine a procedure and schedule for the transfer of the records and operations. The assessors shall assist each other and coordinate their efforts to:

(1) ensure an orderly transfer of all records; and

(2) provide for an uninterrupted and professional transition of the property assessment functions consistent with this chapter and the directions of the department of local government finance.

SECTION 110. IC 36-2-19-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 7. **(a) Except as provided in subsection (b),** in a township in which IC 6-1.1-5-9 or IC 6-1.1-5-9.1 applies, the county surveyor shall file a duplicate copy of any plat described in section 4 of this chapter with the township assessor.

(b) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

SECTION 111. IC 36-3-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 10. (a) The general assembly finds the following:

(1) That the tax base of the consolidated city and the county have been significantly eroded through the ownership of tangible property by separate municipal corporations and other public entities that operate as private enterprises yet are exempt or whose property is exempt from property taxation.

(2) That to restore this tax base and provide a proper allocation of the cost of providing governmental services the legislative body of the consolidated city and county should be authorized to collect payments in lieu of taxes from these public entities.

(3) That the appropriate maximum payments in lieu of taxes would be the amount of the property taxes that would be paid if the tangible property were not subject to an exemption.

(b) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

(1) Assessed value.

(2) Exemption.

(3) Owner.

(4) Person.

(5) Personal property.

(6) Property taxation.

(7) Tangible property.

(8) Township assessor.

(c) As used in this section, "PILOTS" means payments in lieu of taxes.

(d) As used in this section, "public entity" means any of the following government entities in the county:

(1) An airport authority operating under IC 8-22-3.

(2) A capital improvement board of managers under IC 36-10-9.

(3) A building authority operating under IC 36-9-13.

(4) A wastewater treatment facility.

(e) The legislative body of the consolidated city may adopt an ordinance to require a public entity to pay PILOTS at times set forth in the ordinance with respect to:

(1) tangible property of which the public entity is the owner or the lessee and that is subject to an exemption;

(2) tangible property of which the owner is a person other than a public entity and that is subject to an exemption under IC 8-22-3; or

(3) both.

The ordinance remains in full force and effect until repealed or modified by the legislative body.

(f) The PILOTS must be calculated so that the PILOTS may be in any amount that does not exceed the amount of property taxes that would have been levied by the legislative body for the consolidated city and county upon the tangible property described in subsection (e) if the property were not subject to an exemption from property taxation.

(g) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the tangible property described in subsection (e). **Except as provided in subsection (l),** the township assessors shall assess the tangible property described in subsection (e) as though the property were not subject to an exemption. The public entity shall report the value of personal property in a manner consistent with IC 6-1.1-3.

(h) Notwithstanding any law to the contrary, a public entity is authorized to pay PILOTS imposed under this section from any legally available source of revenues. The public entity may consider these payments to be operating expenses for all purposes.

(i) PILOTS shall be deposited in the consolidated county fund and used for any purpose for which the consolidated county fund may be used.

(j) 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 taxes for purposes of all procedural and substantive provisions of law.

(k) PILOTS imposed on a wastewater treatment facility may be paid only from the cash earnings of the facility remaining after provisions have been made to pay for current obligations, including:

(1) operating and maintenance expenses;

(2) payment of principal and interest on any bonded indebtedness;

(3) depreciation or replacement fund expenses;

(4) bond and interest sinking fund expenses; and

(5) any other priority fund requirements required by law or by any bond ordinance, resolution, indenture, contract, or similar instrument binding on the facility.

(l) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

SECTION 112. IC 36-3-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 11. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

(1) Assessed value.

(2) Exemption.

(3) Owner.

(4) Person.

(5) Property taxation.

(6) Real property.

(7) Township assessor.

(b) As used in this section, "PILOTS" means payments in lieu of taxes.

(c) As used in this section, "property owner" means the owner of real property described in IC 6-1.1-10-16.7 that is located in a county with a consolidated city.

(d) Subject to the approval of a property owner, the legislative body of the consolidated city may adopt an ordinance to require the property owner to pay PILOTS at times set forth in the ordinance with respect to real property that is subject to an exemption under IC 6-1.1-10-16.7. The ordinance remains in full force and effect until repealed or modified by the legislative body, subject to the approval of the property owner.

(e) The PILOTS must be calculated so that the PILOTS are in an amount that is:

(1) agreed upon by the property owner and the legislative body of the consolidated city;

(2) a percentage of the property taxes that would have been levied by the legislative body for the consolidated city and the county upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation; and

(3) not more than the amount of property taxes that would have been levied by the legislative body for the consolidated city and county upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation.

(f) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the real property described in subsection (d). **Except as provided in subsection (i),** the township assessors shall assess the real property described in subsection (d) as though the property were not subject to an exemption.

(g) PILOTS collected under this section shall be deposited in the housing trust fund established under IC 36-7-15.1-35.5 and used for any purpose for which the housing trust fund may be used.

(h) 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 taxes for purposes of all procedural and substantive provisions of law.

(i) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

SECTION 113. IC 36-3-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) This section applies whenever a special taxing district of the consolidated city has the power to issue bonds, notes, or warrants.

(b) Before any bonds, notes, or warrants of a special taxing district may be issued, the issue must be approved by resolution of the legislative body of the consolidated city.

(c) Any bonds of a special taxing district must be issued in the manner prescribed by statute for that district, and the board of the department having jurisdiction over the district shall:

(1) hold all required hearings;

(2) adopt all necessary resolutions; and

(3) appropriate the proceeds of the bonds;

in that manner. However, the legislative body shall levy each year the special tax required to pay the principal of and interest on the bonds and any bank paying charges.

(d) Notwithstanding any other statute, bonds of a special taxing district may:

(1) be dated;

(2) be issued in any denomination;

(3) mature at any time or times not exceeding fifty (50) years after their date; and

(4) be payable at any bank or banks;

as determined by the board. The interest rate or rates that the bonds will bear must be determined by bidding, notwithstanding IC 5-1-11-3.

(e) Bonds of a special taxing district are subject to the provisions of IC 5-1 and IC 6-1.1-20 relating to the filing of a petition requesting the issuance of bonds and giving notice of the petition, the giving of notice of a hearing on the appropriation of the proceeds of bonds, the right of taxpayers to appear and be heard on the proposed appropriation, the approval of the appropriation by the department of local government finance, the right of taxpayers **and voters** to remonstrate against the issuance of bonds, and the sale of bonds at public sale.

SECTION 114. IC 36-3-7-5, AS AMENDED BY P.L.131-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 5. (a) Liens for taxes levied by the consolidated city are perfected when evidenced on the tax duplicate in the office of the treasurer of the county.

(b) Liens created when the city enters upon property to make improvements to bring it into compliance with a city ordinance, and liens created upon failure to pay charges assessed by the city for services shall be certified to the auditor, after the adoption of a resolution confirming the incurred expense by the appropriate city department, board, or other agency. In addition, the resolution must state the name of the owner as it appears on the township assessor's **or county assessor's** record and a description of the property.

(c) The amount of a lien shall be placed on the tax duplicate by the auditor in the nature of a delinquent tax subject to enforcement and collection as otherwise provided under IC 6-1.1-22, IC 6-1.1-24, and IC 6-1.1-25. However, the amount of the lien is not considered a tax within the meaning of IC 6-1.1-21-2(b) and shall not be included as a part of either a total county tax levy under IC 6-1.1-21-2(g) or the tax liability of a taxpayer under IC 6-1.1-21-5 for purposes of the tax credit computations under IC 6-1.1-21-4 and IC 6-1.1-21-5.

SECTION 115. IC 36-5-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 3. **(a)** A petition for incorporation must be accompanied by the following items, to be supplied at the expense of the petitioners:

(1) A survey, certified by a surveyor registered under

IC 25-21.5, showing the boundaries of and quantity of land contained in the territory sought to be incorporated.

(2) An enumeration of the territory's residents and landowners and their mailing addresses, completed not more than thirty (30) days before the time of filing of the petition and verified by the persons supplying it.

(3) **Except as provided in subsection (b),** a statement of the assessed valuation of all real property within the territory, certified by the assessors of the townships in which the territory is located.

(4) A statement of the services to be provided to the residents of the proposed town and the approximate times at which they are to be established.

(5) A statement of the estimated cost of the services to be provided and the proposed tax rate for the town.

(6) The name to be given to the proposed town.

(b) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

SECTION 116. IC 36-5-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The legislative body may issue bonds for the purpose of procuring money to be used in the exercise of the powers of the town and for the payment of town debts. However, a town may not issue bonds to procure money to pay current expenses.

(b) Bonds issued under this section are payable in the amounts and at the times determined by the legislative body.

(c) Bonds issued under this section are subject to the provisions of IC 5-1 and IC 6-1.1-20 relating to the filing of a petition requesting the issuance of bonds and giving notice of the petition, the giving of notice of a hearing on the appropriation of the proceeds of bonds, the right of taxpayers to appear and be heard on the proposed appropriation, the approval of the appropriation by the department of local government finance, the right of taxpayers **and voters** to remonstrate against the issuance of bonds, and the sale of bonds at public sale for not less than their par value.

(d) The legislative body may, by ordinance, make loans of money for not more than five (5) years and issue notes for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the town, and the total amount of outstanding loans under this subsection may not exceed five percent (5%) of the town's total tax levy in the current year (excluding amounts levied to pay debt service and lease rentals). Loans under this subsection shall be made as follows:

(1) The ordinance authorizing the loans must pledge to their payment a sufficient amount of tax revenues over the ensuing five (5) years to provide for refunding the loans.

(2) The loans must be evidenced by notes of the town in terms designating the nature of the consideration, the time and place payable, and the revenues out of which they will be payable.

(3) The interest accruing on the notes to the date of maturity may be added to and included in their face value or be made payable periodically, as provided in the ordinance.

Notes issued under this subsection are not bonded indebtedness for purposes of IC 6-1.1-18.5.

SECTION 117. IC 36-6-5-1, AS AMENDED BY P.L.240-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 1. (a) **Except as provided in subsection (f),** a township assessor shall be elected under IC 3-10-2-13 by the voters of each township having:

(1) a population of more than eight thousand (8,000); or

(2) an elected township assessor or the authority to elect a township assessor before January 1, 1979.

(b) **Except as provided in subsection (f),** a township assessor shall be elected under IC 3-10-2-14 in each township having a population of more than five thousand (5,000) but not more than eight thousand (8,000), if the legislative body of the township:

(1) by resolution, declares that the office of township assessor is necessary; and

(2) the resolution is filed with the county election board not later than the first date that a declaration of candidacy may be filed under IC 3-8-2.

(c) **Except as provided in subsection (f),** a township government that is created by merger under IC 36-6-1.5 shall elect only one (1) township assessor under this section.

(d) The township assessor must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The assessor forfeits office if the assessor ceases to be a resident of the township.

(e) The term of office of a township assessor is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified. However, the term of office of a township assessor elected at a general election in which no other township officer is elected ends on December 31 after the next election in which any other township officer is elected.

(f)) A person who runs for the office of township assessor in an election after June 30, 2008, is subject to IC 3-8-1-23.5.

SECTION 118. IC 36-6-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 2. (a) This section applies to townships that do not have an elected or appointed and qualified township assessor.

(b) **Except as provided in subsection (e),** the township executive shall perform all the duties and has all the rights and powers of assessor.

(c) If a township qualifies under IC 36-6-5-1 to elect a township assessor, the executive shall continue to serve as assessor until:

(1) an assessor is appointed or elected and qualified; **or**

(2) the duties of the township assessor are transferred to the county assessor as described in IC 6-1.1-1-24.

~~(c)~~ **(d)** The bond filed by the executive in ~~his~~ **the** capacity as executive also covers ~~his~~ **the executive's** duties as assessor.

(e) Subsection (b) does not apply if the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24.

SECTION 119. IC 36-6-5-3, AS AMENDED BY P.L.162-2006, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 3. **(a) Except as provided in subsection (b),** the assessor shall perform the duties prescribed by statute, including assessment duties prescribed by IC 6-1.1.

(b) Subsection (a) does not apply if the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24.

SECTION 120. IC 36-6-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) **Subject to subsection (e),** a township assessor who becomes a certified level ~~2~~ **two or level three** Indiana assessor-appraiser is entitled to ~~a salary increase of~~ **receive annually** one thousand dollars ($1,000) after the assessor's certification under IC 6-1.1-35.5, **which is in addition to and not part of the annual compensation of the township assessor.**

(b) A certified level ~~2~~ **two or level three** Indiana assessor-appraiser who replaces a township assessor who is not so certified is entitled to ~~a salary of~~ **receive annually** one thousand dollars ($1,000) more than the salary of the person's predecessor, **which is in addition to and not part of the annual compensation of the township assessor.**

(c) **Subject to subsection (e),** an employee of a township assessor who becomes a certified level ~~2~~ **two or level three** Indiana assessor-appraiser is entitled to ~~a salary increase of~~ **receive annually** five hundred dollars ($500) after the

employee's certification under IC 6-1.1-35.5, **which is in addition to and not part of the annual compensation of the employee.**

(d) A ~~salary increase under this section comprises a part of the township assessor's or employee's base salary~~ **township assessor or employee who becomes entitled to receive an additional amount under this section is entitled to receive the additional amount** for as long as the person serves in that position and maintains the level ~~2~~ **two or level three** certification.

(e) Subsections (a) and (c) apply regardless of whether the township assessor or employee of a township assessor becomes a certified level two assessor-appraiser:

(1) while:

(A) in office; or

(B) employed by the township assessor; or

(2) before:

(A) assuming office; or

(B) beginning employment by the township assessor.

SECTION 121. IC 36-7-11.2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 11. As used in this chapter, "notice" means written notice:

(1) served personally upon the person, official, or office entitled to the notice; or

(2) served upon the person, official, or office by placing the notice in the United States mail, first class postage prepaid, properly addressed to the person, official, or office. Notice is considered served if mailed in the manner prescribed by this subdivision properly addressed to the following:

(A) The governor, both to the address of the governor's official residence and to the governor's executive office in Indianapolis.

(B) The Indiana department of transportation, to the commissioner.

(C) The department of natural resources, both to the director of the department and to the director of the department's division of historic preservation and archeology.

(D) The department of metropolitan development.

(E) An occupant, to:

(i) the person by name; or

(ii) if the name is unknown, ~~to~~ the "Occupant" at the address of the Meridian Street or bordering property occupied by the person.

(F) An owner, to the person by the name shown to be the name of the owner, and at the person's address, as the address appears in the records in the bound volumes of the most recent real estate tax assessment records as the records appear in:

(i) the offices of the township assessors; **or**

(ii) the office of the county assessor;

in Marion County.

(G) A neighborhood association or the society, to the organization at the latest address as shown in the records of the commission.

SECTION 122. IC 36-7-11.2-58 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 58. (a) A person who has filed a petition under section 56 or 57 of this chapter shall, not later than ten (10) days after the filing, serve notice upon all interested parties. The notice must state the following:

(1) The full name and address of the following:

(A) The petitioner.

(B) Each attorney acting for and on behalf of the petitioner.

(2) The street address of the Meridian Street and bordering property for which the petition was filed.

(3) The name of the owner of the property.

(4) The full name and address of, and the type of business, if any, conducted by:

(A) each person who at the time of the filing is a party to; and

(B) each person who is a disclosed or an undisclosed principal for whom the party was acting as agent in entering into;

a contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement of any kind or nature concerning the subject property or the present or future ownership, use, occupancy, possession, or development of the subject property.

(5) A description of the contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement sufficient to disclose the full nature of the interest of the party or of the party's principal in the subject property or in the present or future ownership, use, occupancy, possession, or development of the subject property.

(6) A description of the proposed use for which the rezoning or zoning variance is sought, sufficiently detailed to appraise the notice recipient of the true character, nature, extent, and physical properties of the proposed use.

(7) The date of the filing of the petition.

(8) The date, time, and place of the next regular meeting of the commission if a petition is for approval of a zoning variance. If a petition is filed with the development commission, the notice does not have to specify the date of a hearing before the commission or the development commission. However, the person filing the petition shall give ten (10) days notice of the date, time, and place of a hearing before the commission on the petition after the referral of the petition to the commission by the development commission.

(b) For purposes of giving notice to the interested parties who are owners, the records in the bound volumes of the recent real estate tax assessment records as the records appear in:

(1) the offices of the township assessors; **or**

(2) the office of the county assessor;

as of the date of filing are considered determinative of the persons who are owners.

SECTION 123. IC 36-7-11.3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 6. As used in this chapter, "notice" means written notice:

(1) served personally upon the person, official, or office entitled to the notice; or

(2) served upon the person, official, or office by placing the notice in the United States mail, first class postage prepaid, properly addressed to the person, official, or office. Notice is considered served if mailed in the manner prescribed by this subdivision properly addressed to the following:

(A) The governor, both to the address of the governor's official residence and to the governor's executive office in Indianapolis.

(B) The Indiana department of transportation, to the commissioner.

(C) The department of natural resources, both to the director of the department and to the director of the department's division of historic preservation and archeology.

(D) The municipal plan commission.

(E) An occupant, to:

(i) the person by name; or

(ii) if the name is unknown, ~~to~~ the "Occupant" at the address of the primary or secondary property occupied by the person.

(F) An owner, to the person by the name shown to be the name of the owner, and at the person's address, as appears in the records in the bound volumes of the most recent real estate tax assessment records as the records appear in:

(i) the offices of the township assessors; ~~in~~ **or**

(ii) the **office of the** county **assessor.**

(G) The society, to the organization at the latest address as shown in the records of the commission.

SECTION 124. IC 36-7-11.3-52 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 52. (a) A person who has filed a petition under section 50 or 51 of this chapter shall, not later than ten (10) days after the filing, serve notice upon all interested parties. The notice must state the following:

(1) The full name and address of the following:

(A) The petitioner.

(B) Each attorney acting for and on behalf of the petitioner.

(2) The street address of the primary and secondary property for which the petition was filed.

(3) The name of the owner of the property.

(4) The full name and address of and the type of business, if any, conducted by:

(A) each person who at the time of the filing is a party to; and

(B) each person who is a disclosed or an undisclosed principal for whom the party was acting as agent in entering into;

a contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement of any kind or nature concerning the subject property or the present or future ownership, use, occupancy, possession, or development of the subject property.

(5) A description of the contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement sufficient to disclose the full nature of the interest of the party or of the party's principal in the subject property or in the present or future ownership, use, occupancy, possession, or development of the subject property.

(6) A description of the proposed use for which the rezoning or zoning variance is sought, sufficiently detailed to appraise the notice recipient of the true character, nature, extent, and physical properties of the proposed use.

(7) The date of the filing of the petition.

(8) The date, time, and place of the next regular meeting of the commission if a petition is for approval of a zoning variance. If a petition is filed with the development commission, the notice does not have to specify the date of a hearing before the commission or the development commission. However, the person filing the petition shall give ten (10) days notice of the date, time, and place of a hearing before the commission on the petition after the referral of the petition to the commission by the development commission.

(b) For purposes of giving notice to the interested parties who are owners, the records in the bound volumes of the recent real estate tax assessment records as the records appear in:

(1) the offices of the township assessors; **or**

(2) the office of the county assessor;

as of the date of filing are considered determinative of the persons who are owners.

SECTION 125. IC 36-7-14-25.1, AS AMENDED BY P.L.185-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25.1. (a) In addition to other methods of raising money for property acquisition or redevelopment in a redevelopment project area, and in anticipation of the special tax to be levied under section 27 of this chapter, the taxes allocated under section 39 of this chapter, or other revenues of the district, or any combination of these sources, the redevelopment commission may, by resolution and subject to subsection (p), issue the bonds of the special taxing district in the name of the unit. The amount of the bonds may not exceed the total, as estimated by the commission, of all expenses reasonably incurred in connection with the acquisition and redevelopment of the property, including:

(1) the total cost of all land, rights-of-way, and other property to be acquired and redeveloped;

(2) all reasonable and necessary architectural, engineering, legal, financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and redevelopment of the property or the issuance of bonds;

(3) capitalized interest permitted by this chapter and a debt service reserve for the bonds to the extent the redevelopment commission determines that a reserve is reasonably required; and

(4) expenses that the redevelopment commission is required or permitted to pay under IC 8-23-17.

(b) If the redevelopment commission plans to acquire different parcels of land or let different contracts for redevelopment work at approximately the same time, whether under one (1) or more resolutions, the commission may provide for the total cost in one (1) issue of bonds.

(c) The bonds must be dated as set forth in the bond resolution and negotiable, subject to the requirements of the bond resolution for registering the bonds. The resolution authorizing the bonds must state:

(1) the denominations of the bonds;

(2) the place or places at which the bonds are payable; and

(3) the term of the bonds, which may not exceed fifty (50) years.

The resolution may also state that the bonds are redeemable before maturity with or without a premium, as determined by the redevelopment commission.

(d) The redevelopment commission shall certify a copy of the resolution authorizing the bonds to the municipal or county fiscal officer, who shall then prepare the bonds, subject to subsection (p). The seal of the unit must be impressed on the bonds, or a facsimile of the seal must be printed on the bonds.

(e) The bonds must be executed by the appropriate officer of the unit, and attested by the municipal or county fiscal officer.

(f) The bonds are exempt from taxation for all purposes.

(g) The municipal or county fiscal officer shall give notice of the sale of the bonds by publication in accordance with IC 5-3-1. The municipal fiscal officer, or county fiscal officer or executive, shall sell the bonds to the highest bidder, but may not sell them for less than ninety-seven percent (97%) of their par value. However, bonds payable solely or in part from tax proceeds allocated under section 39(b)(2) of this chapter, or other revenues of the district may be sold at a private negotiated sale.

(h) Except as provided in subsection (i), a redevelopment commission may not issue the bonds when the total issue, including bonds already issued and to be issued, exceeds two percent (2%) of the adjusted value of the taxable property in the special taxing district, as determined under IC 36-1-15.

(i) The bonds are not a corporate obligation of the unit but are an indebtedness of the taxing district. The bonds and interest are payable, as set forth in the bond resolution of the redevelopment commission:

(1) from a special tax levied upon all of the property in the taxing district, as provided by section 27 of this chapter;

(2) from the tax proceeds allocated under section 39(b)(2) of this chapter;

(3) from other revenues available to the redevelopment commission; or

(4) from a combination of the methods stated in subdivisions (1) through (3).

If the bonds are payable solely from the tax proceeds allocated under section 39(b)(2) of this chapter, other revenues of the redevelopment commission, or any combination of these sources, they may be issued in any amount without limitation.

(j) Proceeds from the sale of bonds may be used to pay the

cost of interest on the bonds for a period not to exceed five (5) years from the date of issuance.

(k) All laws relating to the giving of notice of the issuance of bonds, the giving of notice of a hearing on the appropriation of the proceeds of the bonds, the right of taxpayers to appear and be heard on the proposed appropriation, and the approval of the appropriation by the department of local government finance apply to all bonds issued under this chapter that are payable from the special benefits tax levied pursuant to section 27 of this chapter or from taxes allocated under section 39 of this chapter.

(l) All laws relating to the filing of petitions requesting the issuance of bonds and the right of taxpayers **and voters** to remonstrate against the issuance of bonds apply to bonds issued under this chapter, except for bonds payable solely from tax proceeds allocated under section 39(b)(2) of this chapter, other revenues of the redevelopment commission, or any combination of these sources.

(m) 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.

(n) Any amount remaining in the debt service reserve after all of the bonds of the issue for which the debt service reserve was established have matured shall be deposited in the allocation fund established under section 39(b)(2) of this chapter.

(o) If bonds are issued under this chapter that are payable solely or in part from revenues to the redevelopment commission from a project or projects, the redevelopment commission may adopt a resolution or trust indenture or enter into covenants as is customary in the issuance of revenue bonds. The resolution or trust indenture may pledge or assign the revenues from the project or projects, but may not convey or mortgage any project or parts of a project. The resolution or trust indenture may also contain any provisions for protecting and enforcing the rights and remedies of the bond owners as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the redevelopment commission. The redevelopment commission may establish fees and charges for the use of any project and covenant with the owners of any bonds to set those fees and charges at a rate sufficient to protect the interest of the owners of the bonds. Any revenue bonds issued by the redevelopment commission that are payable solely from revenues of the commission shall contain a statement to that effect in the form of bond.

(p) If the total principal amount of bonds authorized by a resolution of the redevelopment commission is equal to or greater than three million dollars ($3,000,000), the bonds may not be issued without the approval, by resolution, of the legislative body of the unit.

SECTION 126. IC 36-7-14-48, AS ADDED BY P.L.154-2006, SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 48. (a) Notwithstanding section 39(a) of this chapter, with respect to the allocation and distribution of property taxes for the accomplishment of a program adopted under section 45 of this chapter, "base assessed value" means the net assessed value of all of the property, other than personal property, as finally determined for the assessment date immediately preceding the effective date of the allocation provision, as adjusted under section 39(h) of this chapter.

(b) The allocation fund established under section 39(b) of this chapter for the allocation area for a program adopted under section 45 of this chapter may be used only for purposes related to the accomplishment of the program, including the following:

(1) The construction, rehabilitation, or repair of residential units within the allocation area.

(2) The construction, reconstruction, or repair of any infrastructure (including streets, sidewalks, and sewers) within or serving the allocation area.

(3) The acquisition of real property and interests in real property within the allocation area.

(4) The demolition of real property within the allocation area.

(5) The provision of financial assistance to enable individuals and families to purchase or lease residential units within the allocation area. However, financial assistance may be provided only to those individuals and families whose income is at or below the county's median income for individuals and families, respectively.

(6) The provision of financial assistance to neighborhood development corporations to permit them to provide financial assistance for the purposes described in subdivision (5).

(7) Providing each taxpayer in the allocation area a credit for property tax replacement as determined under subsections (c) and (d). However, the commission may provide this credit only if the municipal legislative body (in the case of a redevelopment commission established by a municipality) or the county executive (in the case of a redevelopment commission established by a county) establishes the credit by ordinance adopted in the year before the year in which the credit is provided.

(c) The maximum credit that may be provided under subsection (b)(7) to a taxpayer in a taxing district that contains all or part of an allocation area established for a program adopted under section 45 of this chapter shall be determined as follows:

STEP ONE: Determine that part of the sum of the amounts described in IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) through IC 6-1.1-21-2(g)(5) 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(a)(1) that is attributable to the taxing district; by

(B) the amount determined under STEP ONE.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district allocated to the allocation fund, including the amount that would have been allocated but for the credit.

(d) The commission may determine to grant to taxpayers in an allocation area from its allocation fund a credit under this section, as calculated under subsection (c). Except as provided in subsection (g), one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2) that under IC 6-1.1-22-9 are due and payable ~~on May 10 and November 10 of~~ **in** a year. The commission must provide for the credit annually by a resolution and must find in the resolution the following:

(1) That the money to be collected and deposited in the allocation fund, based upon historical collection rates, after granting the credit will equal the amounts payable for contractual obligations from the fund, plus ten percent (10%) of those amounts.

(2) If bonds payable from the fund are outstanding, that there is a debt service reserve for the bonds that at least equals the amount of the credit to be granted.

(3) If bonds of a lessor under section 25.2 of this chapter or under IC 36-1-10 are outstanding and if lease rentals are payable from the fund, that there is a debt service reserve for those bonds that at least equals the amount of the credit to be granted.

If the tax increment is insufficient to grant the credit in full, the commission may grant the credit in part, prorated among all taxpayers.

(e) Notwithstanding section 39(b) of this chapter, the allocation fund established under section 39(b) of this chapter for the allocation area for a program adopted under section 45 of this

chapter may only be used to do one (1) or more of the following:

(1) Accomplish one (1) or more of the actions set forth in section 39(b)(2)(A) through 39(b)(2)(H) and 39(b)(2)(J) of this chapter for property that is residential in nature.

(2) Reimburse the county or municipality for expenditures made by the county or municipality in order to accomplish the housing program in that allocation area.

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

(f) Notwithstanding section 39(b) of this chapter, the commission shall, relative to the allocation fund established under section 39(b) of this chapter for an allocation area for a program adopted under section 45 of this chapter, do the following before July 15 of each year:

(1) Determine the amount, if any, by which property taxes payable to the allocation fund in the following year will exceed the amount of property taxes necessary:

(A) to make, when due, principal and interest payments on bonds described in section 39(b)(2) of this chapter;

(B) to pay the amount necessary for other purposes described in section 39(b)(2) of this chapter; and

(C) to reimburse the county or municipality for anticipated expenditures described in subsection (e)(2).

(2) Notify the county auditor of the amount, if any, of excess property taxes that the commission has determined may be paid to the respective taxing units in the manner prescribed in section 39(b)(1) of this chapter.

(g) This subsection applies to an allocation area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (d) for the taxes (as defined in IC 6-1.1-21-2) 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).

SECTION 127. IC 36-7-14.5-12.5, AS AMENDED BY P.L.1-2006, SECTION 567, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12.5. (a) This section applies only to an authority in a county having a United States government military base that is scheduled for closing or is completely or partially inactive or closed.

(b) In order to accomplish the purposes set forth in section 11 of this chapter, an authority may create an economic development area:

(1) by following the procedures set forth in IC 36-7-14-41 for the establishment of an economic development area by a redevelopment commission; and

(2) with the same effect as if the economic development area was created by a redevelopment commission.

The area established under this section shall be established only in the area where a United States government military base that is scheduled for closing or is completely or partially inactive or closed is or was located.

(c) In order to accomplish the purposes set forth in section 11 of this chapter, an authority may do the following in a manner that serves an economic development area created under this section:

(1) Acquire by purchase, exchange, gift, grant, condemnation, or lease, or any combination of methods, any personal property or interest in real property needed for the redevelopment of economic development areas located within the corporate boundaries of the unit.

(2) Hold, use, sell (by conveyance by deed, land sale contract, or other instrument), exchange, lease, rent, or otherwise dispose of property acquired for use in the redevelopment of economic development areas on the terms and conditions that the authority considers best for the unit and the unit's inhabitants.

(3) Sell, lease, or grant interests in all or part of the real property acquired for redevelopment purposes to any other department of the unit or to any other governmental agency for public ways, levees, sewerage, parks, playgrounds, schools, and other public purposes on any terms that may be agreed on.

(4) Clear real property acquired for redevelopment purposes.

(5) Repair and maintain structures acquired for redevelopment purposes.

(6) Remodel, rebuild, enlarge, or make major structural improvements on structures acquired for redevelopment purposes.

(7) Survey or examine any land to determine whether the land should be included within an economic development area to be acquired for redevelopment purposes and to determine the value of that land.

(8) Appear before any other department or agency of the unit, or before any other governmental agency in respect to any matter affecting:

(A) real property acquired or being acquired for redevelopment purposes; or

(B) any economic development area within the jurisdiction of the authority.

(9) Institute or defend in the name of the unit any civil action, but all actions against the authority must be brought in the circuit or superior court of the county where the authority is located.

(10) Use any legal or equitable remedy that is necessary or considered proper to protect and enforce the rights of and perform the duties of the authority.

(11) Exercise the power of eminent domain in the name of and within the corporate boundaries of the unit subject to the same conditions and procedures that apply to the exercise of the power of eminent domain by a redevelopment commission under IC 36-7-14.

(12) Appoint an executive director, appraisers, real estate experts, engineers, architects, surveyors, and attorneys.

(13) Appoint clerks, guards, laborers, and other employees the authority considers advisable, except that those appointments must be made in accordance with the merit system of the unit if such a system exists.

(14) Prescribe the duties and regulate the compensation of employees of the authority.

(15) Provide a pension and retirement system for employees of the authority by using the public employees' retirement fund or a retirement plan approved by the United States Department of Housing and Urban Development.

(16) Discharge and appoint successors to employees of the authority subject to subdivision (13).

(17) Rent offices for use of the department or authority, or accept the use of offices furnished by the unit.

(18) Equip the offices of the authority with the necessary furniture, furnishings, equipment, records, and supplies.

(19) Design, order, contract for, and construct, reconstruct, improve, or renovate the following:

(A) Any local public improvement or structure that is necessary for redevelopment purposes or economic development within the corporate boundaries of the unit.

(B) Any structure that enhances development or economic development.

(20) Contract for the construction, extension, or improvement of pedestrian skyways (as defined in IC 36-7-14-12.2(c)).

(21) Accept loans, grants, and other forms of financial

assistance from, or contract with, the federal government, the state government, a municipal corporation, a special taxing district, a foundation, or any other source.

(22) Make and enter into all contracts and agreements necessary or incidental to the performance of the duties of the authority and the execution of the powers of the authority under this chapter.

(23) Take any action necessary to implement the purpose of the authority.

(24) Provide financial assistance, in the manner that best serves the purposes set forth in section 11 of this chapter, including grants and loans, to enable private enterprise to develop, redevelop, and reuse military base property or otherwise enable private enterprise to provide social and economic benefits to the citizens of the unit.

(d) An authority may designate all or a portion of an economic development area created under this section as an allocation area by following the procedures set forth in IC 36-7-14-39 for the establishment of an allocation area by a redevelopment commission. The allocation provision may modify the definition of "property taxes" under IC 36-7-14-39(a) to include taxes imposed under IC 6-1.1 on the depreciable personal property located and taxable on the site of operations of designated taxpayers in accordance with the procedures applicable to a commission under IC 36-7-14-39.3. IC 36-7-14-39.3 applies to such a modification. An allocation area established by an authority under this section is a special taxing district authorized by the general assembly to enable the unit to provide special benefits to taxpayers in the allocation area by promoting economic development that is of public use and benefit. For allocation areas established for an economic development area created under this section after June 30, 1997, and to the expanded portion of an allocation area for an economic development area that was established before June 30, 1997, and that is expanded under this section after June 30, 1997, the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date, must be allocated. All of the provisions of IC 36-7-14-39, IC 36-7-14-39.1, and IC 36-7-14-39.5 apply to an allocation area created under this section, except that the authority shall be vested with the rights and duties of a commission as referenced in those sections, and except that, notwithstanding IC 36-7-14-39(b)(2), property tax proceeds paid into the allocation fund may be used by the authority only to do one (1) or more of the following:

(1) Pay the principal of and interest and redemption premium on any obligations incurred by the special taxing district or any other entity for the purpose of financing or refinancing military base reuse activities in or serving or benefiting that allocation area.

(2) Establish, augment, or restore the debt service reserve for obligations payable solely or in part from allocated tax proceeds in that allocation area or from other revenues of the authority (including lease rental revenues).

(3) Make payments on leases payable solely or in part from allocated tax proceeds in that allocation area.

(4) Reimburse any other governmental body for expenditures made by it for local public improvements or structures in or serving or benefiting that allocation area.

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

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

STEP TWO: Divide:

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

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

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

If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under IC 36-7-14-39.5 in the same year.

(6) Pay expenses incurred by the authority for local public improvements or structures that are in the allocation area or serving or benefiting the allocation area.

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

(A) in the allocation area; and

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

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

(e) In addition to other methods of raising money for property acquisition, redevelopment, or economic development activities in or directly serving or benefitting an economic development area created by an authority under this section, and in anticipation of the taxes allocated under subsection (d), other revenues of the authority, or any combination of these sources, the authority may, by resolution, issue the bonds of the special taxing district in the name of the unit. Bonds issued under this section may be issued in any amount without limitation. The following apply if such a resolution is adopted:

(1) The authority shall certify a copy of the resolution authorizing the bonds to the municipal or county fiscal officer, who shall then prepare the bonds. The seal of the unit must be impressed on the bonds, or a facsimile of the seal must be printed on the bonds.

(2) The bonds must be executed by the appropriate officer of the unit and attested by the unit's fiscal officer.

(3) The bonds are exempt from taxation for all purposes.

(4) Bonds issued under this section may be sold at public sale in accordance with IC 5-1-11 or at a negotiated sale.

(5) The bonds are not a corporate obligation of the unit but are an indebtedness of the taxing district. The bonds and interest are payable, as set forth in the bond resolution of the authority:

(A) from the tax proceeds allocated under subsection (d);

(B) from other revenues available to the authority; or

(C) from a combination of the methods stated in clauses (A) and (B).

(6) Proceeds from the sale of bonds may be used to pay the cost of interest on the bonds for a period not to exceed five (5) years from the date of issuance.

(7) Laws relating to the filing of petitions requesting the issuance of bonds and the right of taxpayers **and voters** to remonstrate against the issuance of bonds do not apply to bonds issued under this section.

(8) If a debt service reserve is created from the proceeds of bonds, the debt service reserve may be used to pay principal and interest on the bonds as provided in the bond resolution.

(9) If bonds are issued under this chapter that are payable solely or in part from revenues to the authority from a project or projects, the authority may adopt a resolution or trust indenture or enter into covenants as is customary in the issuance of revenue bonds. The resolution or trust indenture may pledge or assign the revenues from the project or projects. The resolution or trust indenture may also contain any provisions for protecting and enforcing the rights and remedies of the bond owners as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority. The authority may establish fees and charges for the use of any project and covenant with the owners of any bonds to set those fees and charges at a rate sufficient to protect the interest of the owners of the bonds. Any revenue bonds issued by the authority that are payable solely from revenues of the authority shall contain a statement to that effect in the form of bond.

(f) Notwithstanding section 8(a) of this chapter, an ordinance adopted under section 11 of this chapter may provide, or be amended to provide, that the board of directors of the authority shall be composed of not fewer than three (3) nor more than eleven (11) members, who must be residents of the unit appointed by the executive of the unit.

(g) The acquisition of real and personal property by an authority under this section is not subject to the provisions of IC 5-22, IC 36-1-10.5, IC 36-7-14-19, or any other statutes governing the purchase of property by public bodies or their agencies.

(h) An authority may negotiate for the sale, lease, or other disposition of real and personal property without complying with the provisions of IC 5-22-22, IC 36-1-11, IC 36-7-14-22, or any other statute governing the disposition of public property.

(i) Notwithstanding any other law, utility services provided within an economic development area established under this section are subject to regulation by the appropriate regulatory agencies unless the utility service is provided by a utility that provides utility service solely within the geographic boundaries of an existing or a closed military installation, in which case the utility service is not subject to regulation for purposes of rate making, regulation, service delivery, or issuance of bonds or other forms of indebtedness. However, this exemption from regulation does not apply to utility service if the service is generated, treated, or produced outside the boundaries of the existing or closed military installation.

SECTION 128. IC 36-7-15.1-17, AS AMENDED BY P.L.185-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) In addition to other methods of raising money for property acquisition or redevelopment in a redevelopment project area, and in anticipation of the special tax to be levied under section 19 of this chapter, the taxes allocated under section 26 of this chapter, or other revenues of the redevelopment district, the commission may, by resolution, issue the bonds of the redevelopment district in the name of the consolidated city and in accordance with IC 36-3-5-8. The amount of the bonds may not exceed the total, as estimated by the commission, of all expenses reasonably incurred in connection with the acquisition and redevelopment of the property, including:

(1) the total cost of all land, rights-of-way, and other property to be acquired and redeveloped;

(2) all reasonable and necessary architectural, engineering, legal, financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and redevelopment of the property or the issuance of bonds;

(3) capitalized interest permitted in this chapter and a debt service reserve for the bonds, to the extent that the redevelopment commission determines that a reserve is reasonably required;

(4) the total cost of all clearing and construction work provided for in the resolution; and

(5) expenses that the commission is required or permitted to pay under IC 8-23-17.

(b) If the commission plans to acquire different parcels of land or let different contracts for redevelopment work at approximately the same time, whether under one (1) or more resolutions, the commission may provide for the total cost in one (1) issue of bonds.

(c) The bonds must be dated as set forth in the bond resolution and negotiable subject to the requirements of the bond resolution for the registration of the bonds. The resolution authorizing the bonds must state:

(1) the denominations of the bonds;

(2) the place or places at which the bonds are payable; and

(3) the term of the bonds, which may not exceed fifty (50) years.

The resolution may also state that the bonds are redeemable before maturity with or without a premium, as determined by the commission.

(d) The commission shall certify a copy of the resolution authorizing the bonds to the fiscal officer of the consolidated city, who shall then prepare the bonds. The seal of the unit must be impressed on the bonds, or a facsimile of the seal must be printed on the bonds.

(e) The bonds shall be executed by the city executive and attested by the fiscal officer. The interest coupons, if any, shall be executed by the facsimile signature of the fiscal officer.

(f) The bonds are exempt from taxation as provided by IC 6-8-5.

(g) The city fiscal officer shall sell the bonds according to law. Notwithstanding IC 36-3-5-8, bonds payable solely or in part from tax proceeds allocated under section 26(b)(2) of this chapter or other revenues of the district may be sold at private negotiated sale and at a price or prices not less than ninety-seven percent (97%) of the par value.

(h) The bonds are not a corporate obligation of the city but are an indebtedness of the redevelopment district. The bonds and interest are payable:

(1) from a special tax levied upon all of the property in the redevelopment district, as provided by section 19 of this chapter;

(2) from the tax proceeds allocated under section 26(b)(2) of this chapter;

(3) from other revenues available to the commission; or

(4) from a combination of the methods stated in subdivisions (1) through (3);

and from any revenues of the designated project. If the bonds are payable solely from the tax proceeds allocated under section 26(b)(2) of this chapter, other revenues of the redevelopment commission, or any combination of these sources, they may be issued in any amount without limitation.

(i) Proceeds from the sale of the bonds may be used to pay the cost of interest on the bonds for a period not to exceed five (5) years from the date of issue.

(j) Notwithstanding IC 36-3-5-8, the laws relating to the filing of petitions requesting the issuance of bonds and the right of taxpayers **and voters** to remonstrate against the issuance of bonds applicable to bonds issued under this chapter do not apply to bonds payable solely or in part from tax proceeds allocated under section 26(b)(2) of this chapter, other revenues of the

commission, or any combination of these sources.

(k) If bonds are issued under this chapter that are payable solely or in part from revenues to the commission from a project or projects, the commission may adopt a resolution or trust indenture or enter into covenants as is customary in the issuance of revenue bonds. The resolution or trust indenture may pledge or assign the revenues from the project or projects, but may not convey or mortgage any project or parts of a project. The resolution or trust indenture may also contain any provisions for protecting and enforcing the rights and remedies of the bond owners as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the commission. The commission may establish fees and charges for the use of any project and covenant with the owners of any bonds to set those fees and charges at a rate sufficient to protect the interest of the owners of the bonds. Any revenue bonds issued by the commission that are payable solely from revenues of the commission must contain a statement to that effect in the form of bond.

SECTION 129. IC 36-7-15.1-26.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 26.5. (a) As used in this section, "adverse determination" means a determination by the fiscal officer of the consolidated city that the granting of credits described in subsection (g) or (h) would impair any contract with or otherwise adversely affect the owners of outstanding bonds payable from the allocation area special fund.

(b) As used in this section, "allocation area" has the meaning set forth in section 26 of this chapter.

(c) As used in this section, "special fund" refers to the special fund into which property taxes are paid under section 26 of this chapter.

(d) As used in this section, "taxing district" has the meaning set forth in IC 6-1.1-1-20.

(e) Except as provided in subsections (g), (h), (i), and (j), 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 (j), one-half (1/2) 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 26 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 redevelopment district and paid into the special fund.

(f) The credit for property tax replacement under IC 6-1.1-21-5 and the additional credits under subsections (e), (g), (h), and (i), unless the credits under subsections (g) and (h) are partial credits, shall be computed on an aggregate basis for all taxpayers in a taxing district that contains all or part of an allocation area. Except as provided in subsections (h) and (i), the credit for property tax replacement under IC 6-1.1-21-5 and the additional credits under subsections (e), (g), (h), and (i) shall be combined on the tax statements sent to each taxpayer.

(g) This subsection applies to an allocation area if allocated taxes from that area were pledged to bonds, leases, or other obligations of the commission before May 8, 1989. A credit calculated using the method provided in subsection (e) may be granted under this subsection. The credit provided under this subsection is first applicable for the allocation area for property taxes first due and payable in 1992. The following apply to the determination of the credit provided under this subsection:

(1) Before June 15 of each year, the fiscal officer of the consolidated city shall determine and certify the following:

(A) All amounts due in the following year to the owners of outstanding bonds payable from the allocation area special fund.

(B) All amounts that are:

(i) required under contracts with bond holders; and

(ii) payable from the allocation area special fund to fund accounts and reserves.

(C) An estimate of the amount of personal property taxes available to be paid into the allocation area special fund under section 26.9(c) of this chapter.

(D) An estimate of the aggregate amount of credits to be granted if full credits are granted.

(2) Before June 15 of each year, the fiscal officer of the consolidated city shall determine if the granting of the full amount of credits in the following year would impair any contract with or otherwise adversely affect the owners of outstanding bonds payable from the allocation area special fund.

(3) If the fiscal officer of the consolidated city determines under subdivision (2) that there would not be an impairment or adverse effect:

(A) the fiscal officer of the consolidated city shall certify the determination; and

(B) the full credits shall be applied in the following year, subject to the determinations and certifications made under section 26.7(b) of this chapter.

(4) If the fiscal officer of the consolidated city makes an adverse determination under subdivision (2), the fiscal officer of the consolidated city shall determine whether there is an amount of partial credits that, if granted in the following year, would not result in the impairment or adverse effect. If the fiscal officer determines that there is an amount of partial credits that would not result in the impairment or adverse effect, the fiscal officer shall do the following:

(A) Determine the amount of the partial credits.

(B) Certify that determination.

(5) If the fiscal officer of the consolidated city certifies under subdivision (4) that partial credits may be paid, the partial credits shall be applied pro rata among all affected taxpayers in the following year.

(6) An affected taxpayer may appeal any of the following to the circuit or superior court of the county in which the allocation area is located:

(A) A determination by the fiscal officer of the consolidated city that:

(i) credits may not be paid in the following year; or

(ii) only partial credits may be paid in the following year.

(B) A failure by the fiscal officer of the consolidated city to make a determination by June 15 of whether full or partial credits are payable under this subsection.

(7) An appeal of a determination must be filed not later than thirty (30) days after the publication of the determination.

(8) An appeal of a failure by the fiscal officer of the consolidated city to make a determination of whether the

credits are payable under this subsection must be filed by July 15 of the year in which the determination should have been made.

(9) All appeals under subdivision (6) shall be decided by the court within sixty (60) days.

(h) This subsection applies to an allocation area if allocated taxes from that area were pledged to bonds, leases, or other obligations of the commission before May 8, 1989. A credit calculated using the method in subsection (e) and in subdivision (2) may be granted under this subsection. The following apply to the credit granted under this subsection:

(1) The credit is applicable to property taxes first due and payable in 1991.

(2) For purposes of this subsection, the amount of a credit for 1990 taxes payable in 1991 with respect to an affected taxpayer is equal to:

(A) the amount of the quotient determined under STEP TWO of subsection (e); multiplied by

(B) the total amount of the property taxes payable by the taxpayer that were allocated in 1991 to the allocation area special fund under section 26 of this chapter.

(3) Before June 15, 1991, the fiscal officer of the consolidated city shall determine and certify an estimate of the aggregate amount of credits for 1990 taxes payable in 1991 if the full credits are granted.

(4) The fiscal officer of the consolidated city shall determine whether the granting of the full amounts of the credits for 1990 taxes payable in 1991 against 1991 taxes payable in 1992 and the granting of credits under subsection (g) would impair any contract with or otherwise adversely affect the owners of outstanding bonds payable from the allocation area special fund for an allocation area described in subsection (g).

(5) If the fiscal officer of the consolidated city determines that there would not be an impairment or adverse effect under subdivision (4):

(A) the fiscal officer shall certify that determination; and

(B) the full credits shall be applied against 1991 taxes payable in 1992 or the amount of the credits shall be paid to the taxpayers as provided in subdivision (12), subject to the determinations and certifications made under section 26.7(b) of this chapter.

(6) If the fiscal officer of the consolidated city makes an adverse determination under subdivision (4), the fiscal officer shall determine whether there is an amount of partial credits for 1990 taxes payable in 1991 that, if granted against 1991 taxes payable in 1992 in addition to granting of the credits under subsection (g), would not result in the impairment or adverse effect.

(7) If the fiscal officer of the consolidated city determines under subdivision (6) that there is an amount of partial credits that would not result in the impairment or adverse effect, the fiscal officer shall determine the amount of partial credits and certify that determination.

(8) If the fiscal officer of the consolidated city certifies under subdivision (7) that partial credits may be paid, the partial credits shall be applied pro rata among all affected taxpayers against 1991 taxes payable in 1992.

(9) An affected taxpayer may appeal any of the following to the circuit or superior court of the county in which the allocation area is located:

(A) A determination by the fiscal officer of the consolidated city that:

(i) credits may not be paid for 1990 taxes payable in 1991; or

(ii) only partial credits may be paid for 1990 taxes payable in 1991.

(B) A failure by the fiscal officer of the consolidated city to make a determination by June 15, 1991, of whether credits are payable under this subsection.

(10) An appeal of a determination must be filed not later than thirty (30) days after the publication of the determination. Any such appeal shall be decided by the court within sixty (60) days.

(11) An appeal of a failure by the fiscal officer of the consolidated city to make a determination of whether credits are payable under this subsection must be filed by July 15, 1991. Any such appeal shall be decided by the court within sixty (60) days.

(12) If 1991 taxes payable in 1992 with respect to a parcel are billed to the same taxpayer to which 1990 taxes payable in 1991 were billed, the county treasurer shall apply to the tax bill for 1991 taxes payable in 1992 both the credit provided under subsection (g) and the credit provided under this subsection, along with any credit determined to be applicable to the tax bill under subsection (i). In the alternative, at the election of the county auditor, the county may pay to the taxpayer the amount of the credit by May 10, 1992, and the amount shall be charged to the taxing units in which the allocation area is located in the proportion of the taxing units' respective tax rates for 1990 taxes payable in 1991.

(13) If 1991 taxes payable in 1992 with respect to a parcel are billed to a taxpayer other than the taxpayer to which 1990 taxes payable in 1991 were billed, the county treasurer shall do the following:

(A) Apply only the credits under subsections (g) and (i) to the tax bill for 1991 taxes payable in 1992.

(B) Give notice by June 30, 1991, by publication two (2) times in three (3) newspapers in the county with the largest circulation of the availability of a refund of the credit under this subsection.

A taxpayer entitled to a credit must file an application for refund of the credit with the county auditor not later than November 30, 1991.

(14) A taxpayer who files an application by November 30, 1991, is entitled to payment from the county treasurer in an amount that is in the same proportion to the credit provided under this subsection with respect to a parcel as the amount of 1990 taxes payable in 1991 paid by the taxpayer with respect to the parcel bears to the 1990 taxes payable in 1991 with respect to the parcel. This amount shall be paid to the taxpayer by May 10, 1992, and shall be charged to the taxing units in which the allocation area is located in the proportion of the taxing units' respective tax rates for 1990 taxes payable in 1991.

(i) This subsection applies to an allocation area if allocated taxes from that area were pledged to bonds, leases, or other obligations of the commission before May 8, 1989. The following apply to the credit granted under this subsection:

(1) A prior year credit is applicable to property taxes first due and payable in each year from 1987 through 1990 (the "prior years").

(2) The credit for each prior year is equal to:

(A) the amount of the quotient determined under STEP TWO of subsection (e) for the prior year; multiplied by

(B) the total amount of the property taxes paid by the taxpayer that were allocated in the prior year to the allocation area special fund under section 26 of this chapter.

(3) Before January 31, 1992, the county auditor shall determine the amount of credits under subdivision (2) with respect to each parcel in the allocation area for all prior years with respect to which:

(A) taxes were billed to the same taxpayer for taxes payable in each year from 1987 through 1991; or

(B) an application was filed by November 30, 1991, under subdivision (8) for refund of the credits for prior

years.

A report of the determination by parcel shall be sent by the county auditor to the department of local government finance and the budget agency within five (5) days of such determination.

(4) Before January 31, 1992, the county auditor shall determine the quotient of the amounts determined under subdivision (3) with respect to each parcel divided by six (6).

(5) Before January 31, 1992, the county auditor shall determine the quotient of the aggregate amounts determined under subdivision (3) with respect to all parcels divided by twelve (12).

(6) Except as provided in subdivisions (7) and (9), in each year in which credits from prior years remain unpaid, credits for the prior years in the amounts determined under subdivision (4) shall be applied as provided in this subsection.

(7) If taxes payable in the current year with respect to a parcel are billed to the same taxpayer to which taxes payable in all of the prior years were billed and if the amount determined under subdivision (3) with respect to the parcel is at least five hundred dollars ($500), the county treasurer shall apply the credits provided for the current year under subsections (g) and (h) and the credit in the amount determined under subdivision (4) to the tax bill for taxes payable in the current year. However, if the amount determined under subdivision (3) with respect to the parcel is less than five hundred dollars ($500) (referred to in this subdivision as "small claims"), the county may, at the election of the county auditor, either apply a credit in the amount determined under subdivision (3) or (4) to the tax bill for taxes payable in the current year or pay either amount to the taxpayer. If title to a parcel transfers in a year in which a credit under this subsection is applied to the tax bill, the transferor may file an application with the county auditor within thirty (30) days of the date of the transfer of title to the parcel for payments to the transferor at the same times and in the same amounts that would have been allowed as credits to the transferor under this subsection if there had not been a transfer. If a determination is made by the county auditor to refund or credit small claims in the amounts determined under subdivision (3) in 1992, the county auditor may make appropriate adjustments to the credits applied with respect to other parcels so that the total refunds and credits in any year will not exceed the payments made from the state property tax replacement fund to the prior year credit fund referred to in subdivision (11) in that year.

(8) If taxes payable in the current year with respect to a parcel are billed to a taxpayer that is not a taxpayer to which taxes payable in all of the prior years were billed, the county treasurer shall do the following:

(A) Apply only the credits under subsections (g) and (h) to the tax bill for taxes payable in the current year.

(B) Give notice by June 30, 1991, by publication two (2) times in three (3) newspapers in the county with the largest circulation of the availability of a refund of the credit.

A taxpayer entitled to the credit must file an application for refund of the credit with the county auditor not later than November 30, 1991. A refund shall be paid to an eligible applicant by May 10, 1992.

(9) A taxpayer who filed an application by November 30, 1991, is entitled to payment from the county treasurer under subdivision (8) in an amount that is in the same proportion to the credit determined under subdivision (3) with respect to a parcel as the amount of taxes payable in the prior years paid by the taxpayer with respect to the parcel bears to the taxes payable in the prior years with respect to the parcel.

(10) In each year on May 1 and November 1, the state shall pay to the county treasurer from the state property tax replacement fund the amount determined under subdivision (5).

(11) All payments received from the state under subdivision (10) shall be deposited into a special fund to be known as the prior year credit fund. The prior year credit fund shall be used to make:

(A) payments under subdivisions (7) and (9); and

(B) deposits into the special fund for the application of prior year credits.

(12) All amounts paid into the special fund for the allocation area under subdivision (11) are subject to any pledge of allocated property tax proceeds made by the redevelopment district under section 26(d) of this chapter, including but not limited to any pledge made to owners of outstanding bonds of the redevelopment district of allocated taxes from that area.

(13) By January 15, 1993, and by January 15 of each year thereafter, the county auditor shall send to the department of local government finance and the budget agency a report of the receipts, earnings, and disbursements of the prior year credit fund for the prior calendar year. If in the final year that credits under subsection (i) are allowed any balance remains in the prior year credit fund after the payment of all credits payable under this subsection, such balance shall be repaid to the treasurer of state for deposit in the property tax replacement fund.

(14) In each year, the county shall limit the total of all refunds and credits provided for in this subsection to the total amount paid in that year from the property tax replacement fund into the prior year credit fund and any balance remaining from the preceding year in the prior year credit fund.

(j) 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 (e) 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).

SECTION 130. IC 36-7-15.1-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 32. (a) The commission must establish a program for housing. The program, which may include such elements as the commission considers appropriate, must be adopted as part of a redevelopment plan or amendment to a redevelopment plan, and must establish an allocation area for purposes of sections 26 and 35 of this chapter for the accomplishment of the program.

(b) The notice and hearing provisions of sections 10 and 10.5 of this chapter apply to the resolution adopted under subsection (a). Judicial review of the resolution may be made under section 11 of this chapter.

(c) Before formal submission of any housing program to the commission, the department shall consult with persons interested in or affected by the proposed program and provide the affected neighborhood associations, residents, ~~and~~ township assessors, **and the county assessor** with an adequate opportunity to participate in an advisory role in planning, implementing, and evaluating the proposed program. The department may hold public meetings in the affected neighborhood to obtain the views of neighborhood associations and residents.

SECTION 131. IC 36-7-15.1-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 35. (a) Notwithstanding section 26(a) of this chapter, with respect to the allocation and distribution of property taxes for the accomplishment of a program adopted under section 32 of this chapter, "base assessed value" means the net assessed value of all of the land as finally determined for the assessment date immediately preceding the effective date of the allocation provision, as adjusted under section 26(g) of this chapter. However, "base assessed value" does not include the value of real property improvements to the land.

(b) The special fund established under section 26(b) of this chapter for the allocation area for a program adopted under section 32 of this chapter may be used only for purposes related to the accomplishment of the program, including the following:

(1) The construction, rehabilitation, or repair of residential units within the allocation area.

(2) The construction, reconstruction, or repair of infrastructure (such as streets, sidewalks, and sewers) within or serving the allocation area.

(3) The acquisition of real property and interests in real property within the allocation area.

(4) The demolition of real property within the allocation area.

(5) To provide financial assistance to enable individuals and families to purchase or lease residential units within the allocation area. However, financial assistance may be provided only to those individuals and families whose income is at or below the county's median income for individuals and families, respectively.

(6) To provide financial assistance to neighborhood development corporations to permit them to provide financial assistance for the purposes described in subdivision (5).

(7) To provide each taxpayer in the allocation area a credit for property tax replacement as determined under subsections (c) and (d). However, this credit may be provided by the commission only if the city-county legislative body establishes the credit by ordinance adopted in the year before the year in which the credit is provided.

(c) The maximum credit that may be provided under subsection (b)(7) to a taxpayer in a taxing district that contains all or part of an allocation area established for a program adopted under section 32 of this chapter shall be determined as follows:

STEP ONE: Determine that part of the sum of the amounts described in IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) through IC 6-1.1-21-2(g)(5) 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(a)(1) that is attributable to the taxing district; by

(B) the amount determined under STEP ONE.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district allocated to the allocation fund, including the amount that would have been allocated but for the credit.

(d) Except as provided in subsection (g), the commission may determine to grant to taxpayers in an allocation area from its allocation fund a credit under this section, as calculated under subsection (c), by applying one-half (1/2) of the credit to each installment of 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~~ a year. Except as provided in subsection (g), one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2). The commission must provide for the credit annually by a resolution and must find in the resolution the following:

(1) That the money to be collected and deposited in the allocation fund, based upon historical collection rates, after granting the credit will equal the amounts payable for contractual obligations from the fund, plus ten percent (10%) of those amounts.

(2) If bonds payable from the fund are outstanding, that there is a debt service reserve for the bonds that at least equals the amount of the credit to be granted.

(3) If bonds of a lessor under section 17.1 of this chapter or under IC 36-1-10 are outstanding and if lease rentals are payable from the fund, that there is a debt service reserve for those bonds that at least equals the amount of the credit to be granted.

If the tax increment is insufficient to grant the credit in full, the commission may grant the credit in part, prorated among all taxpayers.

(e) Notwithstanding section 26(b) of this chapter, the special fund established under section 26(b) of this chapter for the allocation area for a program adopted under section 32 of this chapter may only be used to do one (1) or more of the following:

(1) Accomplish one (1) or more of the actions set forth in section 26(b)(2)(A) through 26(b)(2)(H) of this chapter.

(2) Reimburse the consolidated city for expenditures made by the city in order to accomplish the housing program in that allocation area.

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

(f) Notwithstanding section 26(b) of this chapter, the commission shall, relative to the special fund established under section 26(b) of this chapter for an allocation area for a program adopted under section 32 of this chapter, do the following before July 15 of each year:

(1) 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:

(A) to make, when due, principal and interest payments on bonds described in section 26(b)(2) of this chapter;

(B) to pay the amount necessary for other purposes described in section 26(b)(2) of this chapter; and

(C) to reimburse the consolidated city for anticipated expenditures described in subsection (e)(2).

(2) Notify the county auditor of the amount, if any, of excess property taxes that the commission has determined may be paid to the respective taxing units in the manner prescribed in section 26(b)(1) of this chapter.

(g) This subsection applies to an allocation area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (d) for the taxes (as defined in IC 6-1.1-21-2) 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).

SECTION 132. IC 36-7-15.1-45, AS AMENDED BY P.L.185-2005, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 45. (a) In addition to other methods of raising money for property acquisition or redevelopment in a redevelopment project area, and in anticipation of the special tax to be levied under section 50 of this chapter, the taxes allocated under section 53 of this chapter, or other revenues of the redevelopment district, a commission may, by resolution, issue the bonds of its redevelopment district in the name of the excluded city. The

amount of the bonds may not exceed the total, as estimated by the commission, of all expenses reasonably incurred in connection with the acquisition and redevelopment of the property, including:

(1) the total cost of all land, rights-of-way, and other property to be acquired and redeveloped;

(2) all reasonable and necessary architectural, engineering, legal, financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and redevelopment of the property or the issuance of bonds;

(3) capitalized interest permitted in this chapter and a debt service reserve for the bonds, to the extent that the redevelopment commission determines that a reserve is reasonably required;

(4) the total cost of all clearing and construction work provided for in the resolution; and

(5) expenses that the commission is required or permitted to pay under IC 8-23-17.

(b) If a commission plans to acquire different parcels of land or let different contracts for redevelopment work at approximately the same time, whether under one (1) or more resolutions, a commission may provide for the total cost in one (1) issue of bonds.

(c) The bonds must be dated as set forth in the bond resolution and negotiable subject to the requirements concerning registration of the bonds. The resolution authorizing the bonds must state:

(1) the denominations of the bonds;

(2) the place or places at which the bonds are payable; and

(3) the term of the bonds, which may not exceed fifty (50) years.

The resolution may also state that the bonds are redeemable before maturity with or without a premium, as determined by the commission.

(d) The commission shall certify a copy of the resolution authorizing the bonds to the fiscal officer of the excluded city, who shall then prepare the bonds. The seal of the unit must be impressed on the bonds, or a facsimile of the seal must be printed on the bonds.

(e) The bonds shall be executed by the excluded city executive and attested by the excluded city fiscal officer. The interest coupons, if any, shall be executed by the facsimile signature of the excluded city fiscal officer.

(f) The bonds are exempt from taxation as provided by IC 6-8-5.

(g) The excluded city fiscal officer shall sell the bonds according to law. Bonds payable solely or in part from tax proceeds allocated under section 53(b)(2) of this chapter or other revenues of the district may be sold at private negotiated sale and at a price or prices not less than ninety-seven percent (97%) of the par value.

(h) The bonds are not a corporate obligation of the excluded city but are an indebtedness of the redevelopment district. The bonds and interest are payable:

(1) from a special tax levied upon all of the property in the redevelopment district, as provided by section 50 of this chapter;

(2) from the tax proceeds allocated under section 53(b)(2) of this chapter;

(3) from other revenues available to the commission; or

(4) from a combination of the methods described in subdivisions (1) through (3);

and from any revenues of the designated project. If the bonds are payable solely from the tax proceeds allocated under section 53(b)(2) of this chapter, other revenues of the redevelopment commission, or any combination of these sources, they may be issued in any amount without limitation.

(i) Proceeds from the sale of the bonds may be used to pay the cost of interest on the bonds for a period not to exceed five (5) years from the date of issue.

(j) The laws relating to the filing of petitions requesting the issuance of bonds and the right of taxpayers **and voters** to remonstrate against the issuance of bonds applicable to bonds issued under this chapter do not apply to bonds payable solely or in part from tax proceeds allocated under section 53(b)(2) of this chapter, other revenues of the commission, or any combination of these sources.

(k) If bonds are issued under this chapter that are payable solely or in part from revenues to a commission from a project or projects, a commission may adopt a resolution or trust indenture or enter into covenants as is customary in the issuance of revenue bonds. The resolution or trust indenture may pledge or assign the revenues from the project or projects but may not convey or mortgage any project or parts of a project. The resolution or trust indenture may also contain any provisions for protecting and enforcing the rights and remedies of the bond owners as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the commission. The commission may establish fees and charges for the use of any project and covenant with the owners of bonds to set those fees and charges at a rate sufficient to protect the interest of the owners of the bonds. Any revenue bonds issued by the commission that are payable solely from revenues of the commission must contain a statement to that effect in the form of bond.

SECTION 133. IC 36-7-15.1-56 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 56. (a) As used in this section, "allocation area" has the meaning set forth in section 53 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 as 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 (1/2) 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; 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 would have been allocated to an allocation fund under section 53 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 development district and paid into an allocation fund under section 53(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 commission, the excluded city legislative body 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) Whenever the excluded city legislative body 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 excluded city legislative body must adopt a resolution under subsection (e) to deny the additional credit or reduce it 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 it is rescinded by the body that originally adopted it. 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).

SECTION 134. IC 36-7-30-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) In addition to other methods of raising money for property acquisition, redevelopment, or economic development activities in or directly serving or benefiting a military base reuse area, and in anticipation of the taxes allocated under section 25 of this chapter, other revenues of the district, or any combination of these sources, the reuse authority may by resolution issue the bonds of the special taxing district in the name of the unit.

(b) The reuse authority shall certify a copy of the resolution authorizing the bonds to the municipal or county fiscal officer, who shall then prepare the bonds. The seal of the unit must be impressed on the bonds or a facsimile of the seal must be printed on the bonds.

(c) The bonds must be executed by the appropriate officer of the unit, and attested by the unit's fiscal officer.

(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 the unit but are an indebtedness of the taxing district. The bonds and interest are payable, as set forth in the bond resolution of the reuse authority, from any of the following:

(1) The tax proceeds allocated under section 25 of this chapter.

(2) Other revenues available to the reuse authority.

(3) A combination of the methods stated in subdivisions (1) through (2).

If the bonds are payable solely from the tax proceeds allocated under section 25 of this chapter, other revenues of the reuse authority, or any combination of these sources, the bonds 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 **and voters** 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 reuse authority, the reuse 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 reuse authority and properties becoming available to the reuse 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 reuse authority. The reuse 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 reuse authority that are payable solely from revenues of the reuse authority shall contain a statement to that effect in the form of the bond.

SECTION 135. IC 36-7-30-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 27. (a) As used in this section, "allocation area" has the meaning set forth in section 25 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 (1/2) 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; 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 would have been allocated to an allocation fund under section 25 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 reuse district and paid into an allocation fund under section 25(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 reuse authority, the municipal legislative body (in the case of a reuse authority established by a municipality) or the county executive (in the case of a reuse authority established by a 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).

SECTION 136. IC 36-7-30-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 31. (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 reuse 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 reuse 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 reuse authority to pay PILOTS at times set forth in the ordinance with respect to tangible property of which the reuse 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). **Except as provided in subsection (j),** the township assessors shall assess the tangible property described in subsection (d) as though the property were not exempt. The reuse authority shall report the value of personal property in a manner consistent with IC 6-1.1-3.

(g) Notwithstanding any other law, a reuse authority is authorized to pay PILOTS imposed under this section from any legally available source of revenues. The reuse 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.

(j) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

SECTION 137. IC 36-7-30.5-23, AS ADDED BY P.L.203-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 **and voters** 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.

SECTION 138. IC 36-7-30.5-32, AS ADDED BY P.L.203-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: 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 (1/2) 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).

SECTION 139. IC 36-7-30.5-34, AS ADDED BY P.L.203-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: 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). **Except as provided in subsection (j),** 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.

(j) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

SECTION 140. IC 36-7-32-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 18. (a) A redevelopment commission may, by resolution, provide that each taxpayer in a certified technology park that has been designated as 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. One-half (1/2) of the credit shall be applied to each installment of property taxes. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district that contains all or part of the certified technology park:

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

STEP TWO: Divide:

(A) that part of the county's total 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 the certified technology park fund under section 17 of this chapter had the additional credit described in this section not been given.

The additional credit reduces the amount of proceeds allocated and paid into the certified technology park fund under section 17 of this chapter.

(b) The additional credit under subsection (a) shall be:

(1) computed on an aggregate basis of all taxpayers in a taxing district that contains all or part of a certified technology park; and

(2) combined on the tax statement sent to each taxpayer.

(c) Concurrently with the mailing or other delivery of the tax statement or any corrected tax statement to each taxpayer, as required by IC 6-1.1-22-8(a), each county treasurer shall for each tax statement also deliver to each taxpayer in a certified technology park who is entitled to the additional credit under subsection (a) a notice of additional credit. The actual dollar amount of the credit, the taxpayer's name and address, and the tax statement to which the credit applies must be stated on the notice.

(d) Notwithstanding any other law, a taxpayer in a certified technology park is not entitled to a credit for property tax replacement under IC 6-1.1-21-5.

SECTION 141. IC 36-9-3-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) This section applies to an authority that includes a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) The authority may issue revenue or general obligation bonds under this section.

(c) The board may issue revenue bonds of the authority for the purpose of procuring money to pay the cost of acquiring real or personal property for the purpose of this chapter. The issuance of bonds must be authorized by resolution of the board and approved by the county fiscal bodies of the counties in the authority before issuance. The resolution must provide for the amount, terms, and tenor of the bonds, and for the time and character of notice and mode of making sale of the bonds.

(d) The bonds are payable at the times and places determined by the board, but they may not run more than thirty (30) years after the date of their issuance and must be executed in the name of the authority by an authorized officer of the board and attested by the secretary. The interest coupons attached to the bonds may be executed by placing on them the facsimile signature of the authorized officer of the board.

(e) The president of the authority shall manage and supervise the preparation, advertisement, and sale of the bonds, subject to the authorizing ordinance. Before the sale of bonds, the president shall cause notice of the sale to be published in accordance with IC 5-3-1, setting out the time and place where bids will be received, the amount and maturity dates of the issue, the maximum interest rate, and the terms and conditions of sale and delivery of the bonds. The bonds shall be sold in accordance with IC 5-1-11. After the bonds have been properly sold and executed, the executive director or president shall deliver them to the controller of the authority and take a receipt for them, and shall certify to the treasurer the amount that the purchaser is to pay, together with the name and address of the purchaser. On payment of the purchase price the controller shall deliver the bonds to the purchaser, and the controller and executive director or president shall report their actions to the board.

(f) General obligation bonds issued under this section are subject to the provisions of IC 5-1 and IC 6-1.1-20 relating to the filing of a petition requesting the issuance of bonds, the appropriation of the proceeds of bonds, the right of taxpayers to appeal and be heard on the proposed appropriation, the approval of the appropriation by the department of local government finance, the right of taxpayers **and voters** to remonstrate against the issuance of bonds, and the sale of bonds for not less than their par value.

(g) Notice of the filing of a petition requesting the issuance of bonds, notice of determination to issue bonds, and notice of the appropriation of the proceeds of the bonds shall be given by posting in the offices of the authority for a period of one (1) week and by publication in accordance with IC 5-3-1.

(h) The bonds are not a corporate indebtedness of any unit, but are an indebtedness of the authority as a municipal corporation. A suit to question the validity of the bonds issued or to prevent their issuance may not be instituted after the date set for sale of the bonds, and after that date the bonds may not be contested for any cause.

(i) The bonds issued under this section and the interest on them are exempt from taxation 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 142. IC 36-9-4-45 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 45. (a) Bonds issued under this chapter:

(1) shall be issued in the denomination;

(2) are payable over a period not to exceed thirty (30) years from the date of the bonds; and

(3) mature;

as determined by the ordinance authorizing the bond issue.

(b) All bonds issued under this chapter, the interest on them, and the income from them are exempt from taxation to the extent provided by IC 6-8-5-1.

(c) The provisions of IC 6-1.1-20 relating to filing petitions requesting the issuance of bonds and giving notice of those petitions, giving notice of a hearing on the appropriation of the proceeds of the bonds, the right of taxpayers to appear and be heard on the proposed appropriation, the approval of the appropriation by the department of local government finance, and the right of taxpayers **and voters** to remonstrate against the issuance of bonds apply to the issuance of bonds under this chapter.

(d) A suit to question the validity of bonds issued under this chapter or to prevent their issue and sale may not be instituted after the date set for the sale of the bonds, and the bonds are incontestable after that date.

SECTION 143. IC 36-9-11.1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 11. (a) All property of every kind, including air rights, acquired for off-street parking purposes, and all its funds and receipts, are exempt from taxation for all purposes. When any real property is acquired by the consolidated city, the county auditor shall, upon certification of that fact by the board, cancel all taxes then a lien. The certificate of the board must specifically describe the real property, including air rights, and the purpose for which acquired.

(b) A lessee of the city may not be assessed any tax upon any land, air rights, or improvements leased from the city, but the separate leasehold interest has the same status as leases on taxable real property, notwithstanding any other law. **Except as provided in subsection (c),** whenever the city sells any such property to anyone for private use, the property becomes liable for all taxes after that, as other property is so liable and is assessed, and the board shall report all such sales to the township assessor, who shall cause the property to be upon the proper tax records.

(c) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

SECTION 144. IC 36-10-3-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) In order to raise money to pay for land to be acquired for any of the purposes named in this chapter, to pay for an improvement authorized by this chapter, or both, and in anticipation of the special benefit tax to be levied as provided in this chapter, the board shall cause to be issued, in the name of the unit, the bonds of the district. The bonds may not exceed in amount the total cost of all land to be acquired and all improvements described in the resolution, including all expenses necessarily incurred in connection with the proceedings, together with a sum sufficient to pay the costs of supervision and inspection during the period of construction of a work. The expenses to be covered in the bond issue include all expenses of every kind actually incurred preliminary to acquiring the land and the construction of the work, such as the cost of the necessary record, engineering expenses, publication of notices, preparation of bonds, and other necessary expenses. If more than one (1) resolution or proceeding of the board under section 23 of this chapter is confirmed whereby different parcels of land are to be acquired, or more than one (1) contract for work is let by the board at approximately the same time, the cost involved under all of the resolutions and proceedings may be included in one (1) issue of bonds.

(b) The bonds may be issued in any denomination not less than one thousand dollars ($1,000) each, in not less than five (5) nor more than forty (40) annual series. The bonds are payable one (1) series each year, beginning at a date after the receipt of taxes from a levy made for that purpose. The bonds are negotiable. The bonds may bear interest at any rate, payable semiannually. After adopting a resolution ordering bonds, the board shall certify a copy of the resolution to the unit's fiscal officer. The fiscal officer shall prepare the bonds and the unit's executive shall execute them, attested by the fiscal officer.

(c) The bonds and the interest on them are exempt from taxation as prescribed by IC 6-8-5-1. Bonds issued under this section are subject to the provisions of IC 5-1 and IC 6-1.1-20 relating to the filing of a petition requesting the issuance of bonds, the right of taxpayers **and voters** to remonstrate against the issuance of bonds, the appropriation of the proceeds of the bonds and approval by the department of local government finance, and the sale of bonds at public sale for not less than their par value.

(d) The board may not have bonds of the district issued under this section that are payable by special taxation when the total issue for that purpose, including the bonds already issued or to be issued, exceeds two percent (2%) of the adjusted value of the taxable property in the district as determined under IC 36-1-15. All bonds or obligations issued in violation of this subsection are void. The bonds are not obligations or indebtedness of the unit, but constitute an indebtedness of the district as a special taxing district. The bonds and interest are payable only out of a special tax levied upon all the property of the district as prescribed by this chapter. The bonds must recite the terms upon their face, together with the purposes for which they are issued.

SECTION 145. IC 36-10-7.5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) To raise money to pay for land to be acquired for any of the purposes named in this chapter or to pay for an improvement authorized by this chapter, and in anticipation of the special benefit tax to be levied as provided in this chapter, the legislative body shall issue in the name of the township the bonds of the district. The bonds may not exceed in amount the total cost of all land to be acquired and all improvements described in the resolution, including all expenses necessarily incurred in connection with the proceedings, together with a sum sufficient

to pay the costs of supervision and inspection during the period of construction of a work. The expenses to be covered in the bond issue include all expenses of every kind actually incurred preliminary to acquiring the land and the construction of the work, such as the cost of the necessary record, engineering expenses, publication of notices, preparation of bonds, and other necessary expenses. If more than one (1) resolution or proceeding of the legislative body under this chapter is confirmed whereby different parcels of land are to be acquired or more than one (1) contract for work is let by the executive at approximately the same time, the cost involved under all of the resolutions and proceedings may be included in one (1) issue of bonds.

(b) The bonds may be issued in any denomination not less than one thousand dollars ($1,000) each, in not less than five (5) nor more than forty (40) annual series. The bonds are payable one (1) series each year, beginning at a date after the receipt of taxes from a levy made for that purpose. The bonds are negotiable. The bonds may bear interest at any rate, payable semiannually. After adopting a resolution ordering bonds, the legislative body shall certify a copy of the resolution to the township's fiscal officer. The fiscal officer shall prepare the bonds and the executive shall execute the bonds, attested by the fiscal officer.

(c) The bonds and the interest on the bonds are exempt from taxation as prescribed by IC 6-8-5-1. Bonds issued under this section are subject to the provisions of IC 5-1 and IC 6-1.1-20 relating to the filing of a petition requesting the issuance of bonds, the right of taxpayers **and voters** to remonstrate against the issuance of bonds, the appropriation of the proceeds of the bonds with the approval of the department of local government finance, and the sale of bonds at public sale for not less than the par value of the bonds.

(d) The legislative body may not have bonds of the district issued under this section that are payable by special taxation when the total issue for that purpose, including the bonds already issued or to be issued, exceeds two percent (2%) of the total adjusted value of the taxable property in the district as determined under IC 36-1-15. All bonds or obligations issued in violation of this subsection are void. The bonds are not obligations or indebtedness of the township but constitute an indebtedness of the district as a special taxing district. The bonds and interest are payable only out of a special tax levied upon all the property of the district as prescribed by this chapter. A bond must recite the terms upon the face of the bond, together with the purposes for which the bond is issued.

SECTION 146. IC 36-10-8-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) A capital improvement may be financed in whole or in part by the issuance of general obligation bonds of the county or, if the authority was created under IC 18-7-18 (before its repeal on February 24, 1982), also of the city, if the board determines that the estimated annual net income of the capital improvement, plus the estimated annual tax revenues to be derived from any tax revenues made available for this purpose, will not be sufficient to satisfy and pay the principal of and interest on all bonds issued under this chapter, including the bonds then proposed to be issued.

(b) If the board desires to finance a capital improvement in whole or in part as provided in this section, it shall have prepared a resolution to be adopted by the county executive authorizing the issuance of general obligation bonds, or, if the authority was created under IC 18-7-18 (before its repeal on February 24, 1982), by the fiscal body of the city authorizing the issuance of general obligation bonds. The resolution must set forth an itemization of the funds and assets received by the board, together with the board's valuation and certification of the cost. The resolution must state the date or dates on which the principal of the bonds is payable, the maximum interest rate to be paid, and the other terms upon which the bonds shall be issued. The board shall submit the proposed resolution to the proper officers, together with a certificate to the effect that the issuance of bonds in accordance with the resolution will be in compliance with this section. The certificate must also state the estimated annual net income of the capital improvement to be financed by the bonds, the estimated annual tax revenues, and the maximum amount payable in any year as principal and interest on the bonds issued under this chapter, including the bonds proposed to be issued, as the maximum interest rate set forth in the resolution. The bonds issued may mature over a period not exceeding forty (40) years from the date of issue.

(c) Upon receipt of the resolution and certificate, the proper officers may adopt them and take all action necessary to issue the bonds in accordance with the resolution. An action to contest the validity of bonds issued under this section may not be brought after the fifteenth day following the receipt of bids for the bonds.

(d) The provisions of all general statutes relating to:

(1) the filing of a petition requesting the issuance of bonds and giving notice;

(2) the right of taxpayers **and voters** to remonstrate against the issuance of bonds;

(3) the giving of notice of the determination to issue bonds;

(4) the giving of notice of a hearing on the appropriation of the proceeds of bonds;

(5) the right of taxpayers to appear and be heard on the proposed appropriation;

(6) the approval of the appropriation by the department of local government finance; and

(7) the sale of bonds at public sale;

apply to the issuance of bonds under this section.

SECTION 147. IC 36-10-9-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) A capital improvement may be financed in whole or in part by the issuance of general obligation bonds of the county.

(b) If the board desires to finance a capital improvement in whole or in part as provided in this section, it shall have prepared a resolution to be adopted by the board of commissioners of the county authorizing the issuance of general obligation bonds. The resolution must state the date or dates on which the principal of the bonds is payable, the maximum interest rate to be paid, and the other terms upon which the bonds shall be issued. The board shall submit the proposed resolution to the board of commissioners of the county, together with a certificate to the effect that the issuance of bonds in accordance with the resolution will be in compliance with this section. The certificate must also state the estimated annual net income of the capital improvement to be financed by the bonds, the estimated annual tax revenues, and the maximum amount payable in any year as principal and interest on the bonds issued under this chapter, including the bonds proposed to be issued, at the maximum interest rate set forth in the resolution. The bonds issued may mature over a period not exceeding forty (40) years from the date of issue.

(c) Upon receipt of the resolution and certificate, the board of commissioners of the county may adopt them and take all action necessary to issue the bonds in accordance with the resolution. An action to contest the validity of bonds issued under this section may not be brought after the fifteenth day following the receipt of bids for the bonds.

(d) The provisions of all general statutes relating to:

(1) the filing of a petition requesting the issuance of bonds and giving notice;

(2) the right of taxpayers **and voters** to remonstrate against the issuance of bonds;

(3) the giving of notice of the determination to issue bonds;

(4) the giving of notice of a hearing on the appropriation of the proceeds of bonds;

(5) the right of taxpayers to appear and be heard on the

proposed appropriation;

(6) the approval of the appropriation by the department of local government finance; and

(7) the sale of bonds at public sale for not less than par value;

are applicable to the issuance of bonds under this section.

SECTION 148. IC 36-12-3-12, AS ADDED BY P.L.1-2005, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) The library board shall determine the rate of taxation for the library district that is necessary for the proper operation of the library. The library board shall certify the rate to the county auditor. The county auditor shall certify the tax rate to the county tax adjustment board in the manner provided in IC 6-1.1. An additional rate may be levied under section 10(4) of this chapter.

(b) If the library board fails to:

(1) give:

(A) a first published notice to the board's taxpayers of the board's proposed budget and tax levy for the ensuing year at least ten (10) days before the public hearing required under IC 6-1.1-17-3; and

(B) a second published notice to the board's taxpayers of the board's proposed budget and tax levy for the ensuing year at least three (3) days before the public hearing required under IC 6-1.1-17-3; or

(2) finally adopt the budget and fix the tax levy not later than September ~~20.~~ **30;**

the last preceding annual appropriation made for the public library is renewed for the ensuing year, and the last preceding annual tax levy is continued. Under this subsection, the treasurer of the library board shall report the continued tax levy to the county auditor not later than September ~~20.~~ **30.**

SECTION 149. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2007]: IC 6-1.1-15-2.1; IC 6-1.1-35.5-8; IC 6-6-5.5-18.

SECTION 150. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2008]: IC 6-1.1-14-2; IC 6-1.1-14-3;IC 6-1.1-35-1.1.

SECTION 151. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] **(a) The definitions in IC 6-1.1-1 apply throughout this SECTION.**

(b) This SECTION applies instead of IC 6-1.1-18-12.

(c) For purposes of this SECTION, "maximum rate" refers to the maximum:

(1) property tax rate or rates; or

(2) special benefits tax rate or rates;

referred to in the statutes listed in subsection (f).

(d) The maximum rate for taxes first due and payable after 2003 is the maximum rate that would have been determined under subsection (g) for taxes first due and payable in 2003 if subsection (g) had applied for taxes first due and payable in 2003.

(e) The maximum rate must be adjusted:

(1) each time an annual adjustment of the assessed value of real property takes effect under IC 6-1.1-4-4.5; and

(2) each time a general reassessment of real property takes effect under IC 6-1.1-4-4.

(f) The statutes to which subsection (c) refers are:

(1) IC 8-10-5-17;
(2) IC 8-22-3-11;
(3) IC 8-22-3-25;
(4) IC 12-29-1-1;
(5) IC 12-29-1-2;
(6) IC 12-29-1-3;
(7) IC 12-29-3-6;
(8) IC 13-21-3-12;
(9) IC 13-21-3-15;
(10) IC 14-27-6-30;
(11) IC 14-33-7-3;
(12) IC 14-33-21-5;
(13) IC 15-1-6-2;
(14) IC 15-1-8-1;
(15) IC 15-1-8-2;
(16) IC 16-20-2-18;
(17) IC 16-20-4-27;
(18) IC 16-20-7-2;
(19) IC 16-22-14;
(20) IC 16-23-1-29;
(21) IC 16-23-3-6;
(22) IC 16-23-4-2;
(23) IC 16-23-5-6;
(24) IC 16-23-7-2;
(25) IC 16-23-8-2;
(26) IC 16-23-9-2;
(27) IC 16-41-15-5;
(28) IC 16-41-33-4;
(29) IC 20-46-2-3;
(30) IC 20-46-6-5;
(31) IC 20-49-2-10;
(32) IC 23-13-17-1;
(33) IC 23-14-66-2;
(34) IC 23-14-67-3;
(35) IC 36-7-13-4;
(36) IC 36-7-14-28;
(37) IC 36-7-15.1-16;
(38) IC 36-8-19-8.5;
(39) IC 36-9-6.1-2;
(40) IC 36-9-17.5-4;
(41) IC 36-9-27-73;
(42) IC 36-9-29-31;
(43) IC 36-9-29.1-15;
(44) IC 36-10-6-2;
(45) IC 36-10-7-7;
(46) IC 36-10-7-8;
(47) IC 36-10-7.5-19;
(48) IC 36-10-13-5;
(49) IC 36-10-13-7;
(50) IC 36-10-14-4;
(51) IC 36-12-7-7;
(52) IC 36-12-7-8;
(53) IC 36-12-12-10; and
(54) any statute enacted after December 31, 2003, that:

(A) establishes a maximum rate for any part of the:

(i) property taxes; or

(ii) special benefits taxes;

imposed by a political subdivision; and

(B) does not exempt the maximum rate from the adjustment under this section.

(g) The new maximum rate under a statute listed in subsection (f) is the tax rate determined under STEP SEVEN of the following STEPS:

STEP ONE: Determine the maximum rate for the political subdivision levying a property tax or special benefits tax under the statute for the year preceding the year in which the annual adjustment or general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment takes effect.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first take effect.

STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual

percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0).

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of the STEP ONE tax rate divided by the sum of one (1) plus the STEP SIX percentage increase.

(h) The department of local government finance shall compute the maximum rate allowed under subsection (g) and provide the rate to each political subdivision with authority to levy a tax under a statute listed in subsection (f).

(i) This SECTION expires June 30, 2007.

SECTION 152. [EFFECTIVE UPON PASSAGE] **(a) The legislative services agency shall prepare legislation for introduction in the 2008 regular session of the general assembly to correct statutes affected by this act.**

(b) This SECTION expires July 1, 2008.

SECTION 153. [EFFECTIVE UPON PASSAGE] **(a) The legislative council shall provide for an interim study committee to study the following topics:**

(1) Whether there are ways to:

(A) improve the efficiency of the system for real property sales disclosure established in IC 6-1.1-5.5; and

(B) decrease the administrative burden of real property sales disclosure on parties to a real property conveyance.

(2) The role in the system of the department of local government finance and rulemaking by the department.

(b) The department of local government finance shall provide information and recommendations to assist in the committee's study under subsection (a).

(c) This SECTION expires January 1, 2008.

SECTION 154. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies to a political subdivision's determination to issue bonds or enter into a lease rental only to the extent that the law under which the political subdivision intends to issue the bonds or enter into the lease rental applies IC 6-1.1-20 to the political subdivision's determination.**

(b) The right of taxpayers to remonstrate against the issuance of bonds or a lease rental under IC 6-1.1-20-3.1 and IC 6-1.1-20-3.2, as in effect before their amendment by this act, applies to a preliminary determination to issue bonds or enter into a lease rental made before the effective date of this SECTION.

(c) The right of registered voters to remonstrate against the issuance of bonds or a lease rental under IC 6-1.1-20-3.1 and IC 6-1.1-20-3.2, both as amended by this act, applies to a preliminary determination to issue bonds or enter into a lease rental made on or after the effective date of this SECTION.

(d) This SECTION expires July 1, 2008.

SECTION 155. [EFFECTIVE UPON PASSAGE] **(a) The state board of accounts shall before July 1, 2007, design and prepare the forms and instructions to be used under IC 6-1.1-20-3.1 and IC 6-1.1-20-3.2, both as amended by this act.**

(b) This SECTION expires December 31, 2007.

SECTION 156. [EFFECTIVE UPON PASSAGE] **(a) IC 6-1.1-15-1, as amended by this act, applies only to:**

(1) notices of review filed under IC 6-1.1-15-1, as amended by this act, after June 30, 2007; and

(2) subsequent proceedings in connection with those notices of review.

(b) IC 6-1.1-15-2.1, before its repeal by this act, applies only to reviews initiated under IC 6-1.1-15-1 before July 1, 2007.

(c) IC 6-1.1-15-3 and IC 6-1.1-15-4, both as amended by this act, apply only to:

(1) petitions for review filed under IC 6-1.1-15-3, as amended by this act, with respect to notices of action of a county property tax assessment board of appeals issued after June 30, 2007; and

(2) subsequent proceedings in connection with those petitions for review.

(d) IC 6-1.1-8-30, IC 6-1.1-15-5, IC 6-1.1-26-2, IC 6-1.1-26-3, and IC 6-1.1-26-4, all as amended by this act, apply only to:

(1) petitions for judicial review filed under IC 6-1.1-15-5, as amended by this act, with respect to final determinations of the Indiana board of tax review issued after June 30, 2007; and

(2) subsequent proceedings in connection with those petitions for judicial review.

(e) IC 6-1.1-15-8 and IC 6-1.1-15-9, both as amended by this act, apply only to:

(1) decisions of the Indiana tax court issued after June 30, 2007; and

(2) subsequent proceedings in connection with those decisions.

SECTION 157. [EFFECTIVE JANUARY 1, 2008] **IC 6-1.1-5.5-3, as amended by this act, applies only to a conveyance, as defined in IC 6-1.1-5.5-1, after December 31, 2007.**

SECTION 158. [EFFECTIVE JANUARY 1, 2008] **(a) IC 6-1.1-3-10 and IC 6-1.1-3-18, both as amended by this act, apply only to assessment dates after December 31, 2007.**

(b) This SECTION expires January 1, 2010.

SECTION 159. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] **IC 6-1.1-18-12, IC 6-1.1-18-13, and IC 6-1.1-18.5-9.8, all as amended by this act, apply only to property taxes first due and payable after December 31, 2006.**

SECTION 160. [EFFECTIVE JULY 1, 2007] **IC 6-1.1-12.1-4, IC 6-1.1-12.1-4.1, IC 6-1.1-12.1-4.5, IC 6-1.1-12.1-4.8, IC 6-1.1-12.4-2, IC 6-1.1-12.4-3, IC 6-1.1-40-10, and IC 6-1.1-42-28, all as amended by this act, and IC 6-1.1-12.1-15, IC 6-1.1-12.4-14, IC 6-1.1-40-14, and IC 6-1.1-42-34, all as added by this act, apply only to corrections of assessed value deductions for assessment dates after December 31, 2007.**

SECTION 161. [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)] **IC 6-1.1-12.1-1, as amended by this act, applies only to the installation of tangible personal property after December 31, 2005.**

SECTION 162. [EFFECTIVE JULY 1, 2006 (RETROACTIVE)] **(a) The definitions in IC 6-1.1-1 apply throughout this SECTION.**

(b) A reference in this SECTION to IC 6-1.1-15-1 is a reference to that section as in effect on July 1, 2006.

(c) Notwithstanding IC 6-1.1-15-1(b)(1), a taxpayer that receives a tax statement under IC 6-1.1-22 or a provisional tax statement under IC 6-1.1-22.5 for the first installment of property taxes first due and payable in 2007 may appeal the assessment under IC 6-1.1-15-1 by requesting in writing a preliminary conference with the county or township official referred to in IC 6-1.1-15-1(a) not later than the later of:

(1) forty-five (45) days after:

(A) the tax statement under IC 6-1.1-22; or

(B) provisional tax statement under IC 6-1.1-22.5;

is given to the taxpayer; or

(2) July 1, 2007.

(d) This SECTION expires January 1, 2009.

SECTION 163. [EFFECTIVE MARCH 1, 2007

(RETROACTIVE)] **IC 6-1.1-12-9, IC 6-1.1-12-14, and IC 6-1.1-12-17.4, all as amended by this act, apply to property taxes first due and payable after December 31, 2007.**

SECTION 164. **An emergency is declared for this act.**

(Reference is to ESB 287 as reprinted April 10, 2007.)

KENLEY	KUZMAN
HUME	ESPICH
Senate Conferees	House Conferees

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

RESOLUTIONS ON FIRST READING

House Resolution 100

Representative Murphy introduced House Resolution 100:

A HOUSE RESOLUTION honoring Wayne Fields.

Whereas, Wayne Fields served as a doorman for the Indiana House of Representatives since 1995;

Whereas, At 79 years of age, Wayne Fields is still dedicated to helping his fellow man and volunteering at his church;

Whereas, Retired from Allison after 40 years of dedicated service, Wayne and Norma, his wife of 57 years, want to spend their time traveling; and

Whereas, Dedication and a lifetime of service to his family, his community, and the citizens of Indiana is worthy of special recognition: 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 thanks Wayne Fields for his years of dedicated service to the Indiana House of Representatives and hopes that he and Norma enjoy their travels.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Wayne Fields and his family.

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

House Resolution 101

Representative Austin introduced House Resolution 101:

A HOUSE RESOLUTION urging the establishment of an interim study committee on sustainable design.

Whereas, The essential aim of sustainable design is to produce places, products and services in a way that reduces use of nonrenewable resources, minimizes environmental impact, and relates people with the natural environment: 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 sustainable design.

SECTION 2. That the committee, if established, shall operate under the direction of the legislative council and that the committee 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 102

Representative Austin introduced House Resolution 102:

A HOUSE RESOLUTION urging the establishment of an interim study committee on prison privatization and non-privatization issues.

Whereas, On April 24, 2007 a prison riot occurred at the New Castle, Indiana Correctional Facility;

Whereas, Approximately 500 Arizona and Indiana inmates at the New Castle Correctional Facility were involved in the uprising in which nine people suffered injuries;

Whereas, Numerous incidents of violent attacks on prison staff have occurred at state-run prison facilities;

Whereas, A comprehensive study of prison-related issues, including, but not limited to, a study of government and privately run prison staffing levels, the continued privatization of prisons, and incidents of violence at prison facilities: 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 prison privatization and non-privatization issues.

SECTION 2. That the committee, if established shall operate under the direction of the legislative council and the committee shall issue a final report and make recommendations 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 72

The Speaker handed down Senate Concurrent Resolution 72, sponsored by Representatives Lehe, Gutwein, and McClain:

A CONCURRENT RESOLUTION memorializing former Senator Jack Guy.

Whereas, Senator John M. "Jack" Guy was born in Detroit, Michigan in 1929 and graduated from Monticello High School in 1947, Butler University in 1958, and the Indiana University School of Law;

Whereas, Senator John M. "Jack" Guy served his country as a member of the United States Air Force and his community as the White County Prosecutor from 1963 to 1966;

Whereas, Senator John M. "Jack" Guy earned the trust and respect of everyone he met. He was elected to the Indiana House of Representatives from 1971 to 1974 and then the Senate of the General Assembly of the State of Indiana from 1977 to 1984, ascending to the role of Majority Floor Leader in both houses;

Whereas, In his role as a community leader, Senator Guy was instrumental in helping to rebuild the town of Monticello, Indiana in the wake of the tornadoes that wiped out the city in 1974;

Whereas, In addition to his role as a legislator and public servant, Senator Guy served as a deacon, elder and chairman of the Monticello Christian Church Board, was a past Chairman of the Board for the former State and Savings Bank, and was a partner in the law firm of Guy Christopher & Loy; and

Whereas, In an era when successful professionals tended to leave Indiana's small towns for opportunities in larger cities, Senator John M. "Jack" Guy remained in and served the citizens of Monticello, Indiana with dignity and poise: 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 recognizes Senator John M "Jack" Guy's dedicated service to the State of Indiana. We salute his life and honor his memory.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this resolution to Senator Guy's wife, Judy Reynolds; his children, Janice and Bob Guy; his step daughters,

Andrea Ulery and Angela Shilndell; and his brother, Robert Guy.

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 Concurrent Resolution 103

The Speaker handed down Senate Concurrent Resolution 103, sponsored by Representative C. Brown:

A CONCURRENT RESOLUTION recognizing the academic achievements of Gary Community School Corporation for the school year 2006-07.

Whereas, Pursuant to the No Child Left Behind Act, signed into law in 2001, schools must achieve standards of Adequate Yearly Progress, which include all demographic groups;

Whereas, Gary Community School Corporation made AYP at the district level for the first time since the standard had been set by the federal government;

Whereas, Gary Community School Corporation's achievement is especially worthy of praise because of the serious challenges facing Gary schools including the high concentration of students with disabilities;

Whereas, Gary Community School Corporation's success was the result of the implementation of a five-year strategic plan encompassing customized instructional and management methods and tools;

Whereas, This plan helped teachers and administrators achieve greater effectiveness in the classroom assuring that all students attain high academic achievement, safe and orderly learning environment, effective and efficient operations and recruitment and retention of highly qualified teachers, administrators and staff;

Whereas, Gary Community School Corporation's efforts have focused largely on the elementary level where the greatest improvements have been seen;

Whereas, Gary Community School Corporation's strategy of laying a solid foundation promises greater improvement and success in the future;

Whereas, The U.S. Department of Education was so impressed by the strides made in Gary that officials recently visited schools there to hear from administrators and students; and

Whereas, The students, parents, teachers, and administrators of Gary Community School Corporation should be commended for their efforts in making strides towards becoming a more highly competitive, attractive and academically reputable school district: Therefore,

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

SECTION 1. The Indiana State Senate hereby recognizes the academic achievements of Gary Community School Corporation for the school year 2006-07.

SECTION 2. The Secretary of the Senate is directed to transmit a copy of this resolution to Gary School Board of Trustees and Superintendent Dr. Mary Steele-Agee.

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.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 29 because it conflicts with SEA 526-2007 without properly recognizing the existence of SEA 526-2007, has had Engrossed Senate Bill 29 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 29 be corrected as follows:

Page 1, line 1, delete "P.L.119-2006," and insert "SEA 526-2007,".

Page 1, line 2, delete "3," and insert "97,".

Page 2, line 37, after "state" insert "educational".

Page 2, line 37, delete "institution of higher education." and insert "institution.".

(Reference is to ESB 29 as reprinted April 6, 2007.)

PELATH, Chair
WHETSTONE, R.M.M.
ROBERTSON, Sponsor

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 559 because it conflicts with HEA 1281-2007 and SEA 524-2007 without properly recognizing the existence of HEA 1281-2007 and SEA 524-2007, has had Engrossed Senate Bill 559 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 559 be corrected as follows:

Page 5, line 16, delete "P.L.184-2005," and insert "HEA 1281-2007, SECTION 1,".

Page 5, line 17, delete "SECTION 2,".

Page 5, line 21, after "However," insert "IC 5-22-5-9 and".

Page 5, line 21, delete "applies" and insert "apply".

Page 66, line 19, delete "P.L.235-2005," and insert "SEA 524-2007, SECTION 38,".

Page 66, line 20, delete "SECTION 204,".

Page 66, line 29, delete "(17),".

Page 66, line 29, reset in roman "(16),".

Page 67, line 31, delete "health and educational facility".

Page 67, line 32, delete "under IC 20-12-63;" and insert ";".

(Reference is to ESB 559 as reprinted April 6, 2007.)

PELATH, Chair
WHETSTONE, R.M.M.
BARDON, Sponsor

Report adopted.

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rules 162.1 and 164.1 and recommends that House Rules 162.1 and 164.1 be suspended so that the following conference committee reports may be eligible for consideration: Engrossed Senate Bills 45–1, 154–1, 205–1, and 310–1 and Engrossed House Bills 1192–1, 1237–1, 1426–1, 1566–3, and 1717–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rules 162.1 and 164.1 be suspended so that the following conference committee reports are eligible for consideration: Engrossed Senate Bills 45–1, 154–1, 205–1, and 310–1 and Engrossed House Bills 1192–1, 1237–1, 1426–1, 1566–3, and 1717–1.

PELATH, Chair

Motion prevailed.

Engrossed House Bill 1192–1

The conference committee report was reread. Roll Call 655: yeas 91, nays 2. Report adopted.

Engrossed House Bill 1426–1

The conference committee report was reread. Roll Call 656: yeas 96, nays 0. Report adopted.

Engrossed House Bill 1503–1

The conference committee report was reread. Roll Call 657: yeas 52, nays 45. Report adopted.

Engrossed House Bill 1566–3

The conference committee report was reread. Roll Call 658: yeas 94, nays 0. Report adopted.

Engrossed House Bill 1717–1

The conference committee report was reread. Roll Call 659: yeas 96, nays 0. Report adopted.

Engrossed Senate Bill 45–1

The conference committee report was reread. Roll Call 660: yeas 97, nays 0. Report adopted.

Engrossed Senate Bill 154–1

The conference committee report was reread. Roll Call 661: yeas 97, nays 0. Report adopted.

Engrossed Senate Bill 205–1

The conference committee report was reread. Roll Call 662: yeas 96, nays 1. Report adopted.

Engrossed Senate Bill 310–1

The conference committee report was reread. Roll Call 663: yeas 97, nays 0. Report adopted.

ENROLLED ACTS SIGNED

The Speaker announced that he had signed House Enrolled Acts 1067, 1075, 1256, 1324, 1387, 1424, 1427, 1546 and Senate Enrolled Acts 43, 104, 106, 157, 171, 328, 346, and 550 on April 28.

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 adopted the Conference Committee Report 1 on Engrossed House Bill 1437.

MARY C. MENDEL
Principal Secretary of the Senate

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Sunday, April 29, 2007 at 11:30 a.m.

HOY

Motion prevailed.

Representative Pelath announced a meeting of the Committee on Rules and Legislative Procedures to consider further conference committee reports.

On the motion of Representative Van Haaften, the House adjourned at 11:10 p.m., this twenty-eighth day of April, 2007, until Sunday, April 29, 2007, at 11:30 a.m.

B. PATRICK BAUER
Speaker of the House of Representatives

CLINTON McKAY
Principal Clerk of the House of Representatives