Journal of the House

State of Indiana

115th General Assembly — Second Regular Session

Twenty-first Meeting Day — **Thursday Afternoon** — **February 21, 2008**

The House convened at 1:00 p.m. with Speaker B. Patrick Bauer in the Chair.

The Speaker read a prayer for wisdom and service (printed January 10, 2008).

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

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

Austin
Avery
Bardon
Bartlett
Battles
Behning
Bell
Bischoff
Blanton
Borders
Borror
Bosma
C. Brown ⏏
T. Brown
Buck
Buell
Burton
Candelaria Reardon
Cheatham
Cherry
Cochran
Crawford
Crooks
Crouch
Davis
Day
Dembowski
Dermody
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
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
Simms
M. Smith
V. Smith
Soliday
Stemler
Steuerwald
Stevenson
Stilwell
Stutzman
Summers
Thomas
Thompson
Tincher
Torr
Turner
Tyler
Ulmer ⏏
VanDenburgh
VanHaaften
Walorski
Welch
Wolkins
Mr. Speaker

Roll Call 205: 98 present; 2 excused. The Speaker announced a quorum in attendance. [*NOTE*: ⏏ *indicates those who were excused*.]

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Monday, February 25, 2008, at 10:00 a.m.

STEMLER

The motion was adopted by a constitutional majority.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed, without amendments, Engrossed House Bills 1067, 1112, 1120, 1129, 1145, 1156, 1193, 1202, 1203, 1213, 1234, 1243, 1244, 1253, and 1275 and the same are herewith returned to the House.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed House Bills 1019, 1065, 1071, 1096, 1107, 1117, 1121, 1122, 1159, 1164, 1179, and 1204 with amendments and the same are herewith returned to the House for concurrence.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Acts 133 and 219 for signature of the Speaker of the House.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE PRESIDENT
OF THE SENATE

Mr. Speaker: I have on the 19th day of February, 2008, signed House Enrolled Acts 1017 and 1051.

REBECCA S. SKILLMAN
President of the Senate

ENROLLED ACTS SIGNED

The Speaker announced that he had signed House Enrolled Acts 1046, 1077, and 1275 and Senate Enrolled Acts 133 and 219 on February 21.

RESOLUTIONS ON FIRST READING

House Resolution 43

Representatives Bauer and Bosma introduced House Resolution 43:

A HOUSE RESOLUTION honoring the Zhejiang Province of the People's Republic of China.

Whereas, Indiana and the Zhejiang Province of the People's Republic of China, who have had a Sister State/Province relationship since 1987, recently celebrated the 20th anniversary of their partnership;

Whereas, As a result of this partnership, many delegations from Zhejiang Province have visited Indiana, including one delegation led by Mr. WU Guohua, Vice President, Zhejiang Provincial Committee of the CPPCC, and Chairman, Zhejiang Provincial Committee of the China National Democratic Construction Association;

Whereas, In 1987, Indiana established one of the earliest state offices in Beijing, primarily to promote increased trade and investment between China and Indiana;

Whereas, China is one of Indiana's top ten export markets with close to $600 million in exports in 2006;

Whereas, Several Indiana businesses have offices in China, including Cummins, Inc. which began doing business in China in the 1970s and has had its regional office for Asia in Beijing since the 1990s;

Whereas, In addition, more than 40 Indiana-based companies are doing business in China, including Allison Transmission, Delta Faucet Company, Dow AgroSciences, Kimball International, Roche Diagnostics and Rolls Royce Corporation;

Whereas, Under the leadership of President Michael McRobbie and Vice President Patrick O'Meara, Indiana University has developed a relationship with two major Chinese universities as key strategic partners in Asia;

Whereas, Indiana University and Zhejiang University (ZJU) have a history of 25 years of formal relations; and, in November 2007, the two universities celebrated the 25th anniversary of their relationship with a symposium on higher education and issues of technology transfer;

Whereas, The Indiana University School of Law and the Zhejiang University Guanghua School of Law and the Kelley School of Business and the Zhejiang University School of Management recently signed a new exchange agreement;

Whereas, As home to Internet II, the academic internet network for North America, Indiana University established an important linkage with Tsinghua University; the North American network is linked to CERNET, providing a critical conduit for the flow of research information between China and the United States;

Whereas, Indiana University initiated the Research Center for Chinese Politics and Business to explore the relationships between business and politics and also conducts research in its School for Public and Environmental Affairs;

Whereas, Indiana University also has agreements with several universities and institutions in China, including Beijing Sport University, Chengdu Sport University, the China Scholarship Council, China University of Political Science and Law, Fudan University, Hohai University, Hunan University, Nankai University, Peking University, Tianjin Normal University, and Tongji University;

Whereas, The first Chinese student graduated from Purdue University almost a century ago;

Whereas, There are currently 778 students enrolled at Purdue University and 223 Chinese faculty are employed there, making China the single largest source of Purdue University's foreign-born faculty;

Whereas, Information Technology at Purdue (ITAP) is collaborating with the Tsing Hau University faculty and technologists on high performance computing, grid computing, and cyber infrastructure development and further collaborating with the Chinese Academy of Sciences;

Whereas, The Office of International Programs and the Krannert School of Management have a long standing relationship with Tsing Hau University in a variety of activities involving student and faculty relationships;

Whereas, Purdue University has developed lasting exchanges and close working relationships with several universities and institutes including Shanghai Jiao Tong University, Ningbo University and the Harbin Institute of Technology, Beijing Electric Power College, Beijing Institute of Tourism, Chang Chun Academy of Agricultural Science, China Agricultural University, Civil Aviation University of China, Graduate University of Chinese Academy of Sciences, Hong Kong Baptist University, Hong Kong Polytechnic University, Nankai University, Peking University, Shandong Ag University, University of Science and Technology of China, Zhejiang University, Northwest Agricultural and Forestry University, Communication University of China, Guang Zhou International Tourism Institute, South China University of Technology, Southern Yangtze University, and Dalin University;

Whereas, Indiana University Purdue University–Indianapolis and Sun Yat-sen University have created a partnership between the two universities' Schools of Medicine;

Whereas, The Indiana University Purdue University–Indianapolis School of Law and the Renmin University School of Law have developed a very productive relationship that has resulted in exchange and training activities, supported in part by a grant from the United States Department of State; and

Whereas, There are three Chinese government supported Confucius Centers in Indiana, at Indiana University (Indianapolis and Bloomington campuses), Purdue University, and Valparaiso University, with each center providing important outreach for the teaching of Chinese language and culture to the business and academic communities: 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 hereby pledges its support to further cooperation between the American and Chinese people in the fields of education, industry and business. This cooperation will help increase opportunities for all so that the people of both societies may share peace and prosperity throughout the millennium.

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

Senate Concurrent Resolution 54

The Speaker handed down Senate Concurrent Resolution 54, sponsored by Representative Tincher:

A CONCURRENT RESOLUTION recognizing the Indiana State Police Department on its 75th anniversary.

Whereas, The Indiana State Police Department was established in 1933 in response to the expansion of organized crime during the great depression and the emerging prominence of the motor vehicle in daily life;

Whereas, The Indiana State Police began with 66 recruits. By 1937, the department had a total of 170 officers. The department created an aviation division in 1947 and then in 1951 the department expanded again, adding 25 new full-time officers for

the new Motor Carrier Division to address commercial vehicle traffic regulations;

Whereas, While working hard to keep Indiana citizens safe, the Indiana State Police Department became a national leader by pioneering the use of the Breathalyzer alcohol testing instrument;

Whereas, Since its inception, the Indiana State Police Department has been noted for its service to the people of Indiana, the dedication of its employees (both police and civilian) in the detection and apprehension of criminals, and the enhancement of safety on Indiana's roadways,

Whereas, During this time of dedication and service, 45 members of the Indiana State Police have made the ultimate sacrifice while serving the people of the State of Indiana; and

Whereas, Indiana takes great pride in recognizing the Indiana State Police Department on the 75th anniversary of its founding: 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 the Indiana State Police Department on its 75th anniversary and commends the achievement and dedication of the men and women who have honorably served the State of Indiana as members of the Department.

SECTION 2. The Secretary of the Senate is hereby directed to transmit copies of this resolution to the Superintendent of the Indiana State Police.

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: Your Committee on Education, to which was referred Engrossed Senate Bill 22, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 17, delete "," and insert "**;**".

Page 1, line 17, beginning with "if" begin a new line blocked left.

Page 2, line 5, delete "must" and insert "**must:**

(1) demonstrate that the applicant has:

(A) participated in cultural competency professional development activities;

(B) obtained training and information from a special education teacher concerning exceptional learners; and

(C) received:

(i) training or certification that complies; or

(ii) an exemption from compliance;

with the standards set forth in section 3(c) of this chapter; and

(2)".

(Reference is to SB 22 as printed January 11, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 0.

PORTER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Engrossed Senate Bill 27, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 4, after "domestic" insert "**violence**".

Page 1, line 4, delete "IC 35-41-1-6.3) violence" and insert "**IC 35-41-1-6.3)**".

Page 1, line 13, after "domestic" insert "**violence**".

Page 1, line 13, before "on" delete "violence".

(Reference is to SB 27 as printed January 25, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

L. LAWSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred Engrossed Senate Bill 43, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 28 through 31.

Page 3, delete lines 31 through 42.

Page 4, delete lines 1 through 41.

Renumber all SECTIONS consecutively.

(Reference is to SB 43 as reprinted January 25, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 0.

DVORAK, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Engrossed Senate Bill 81, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 9, after line 8, begin a new paragraph and insert:

"SECTION 13. IC 36-2-13-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 17. A sheriff or an employee of a jail may not charge an individual a fee for the individual to be incarcerated or held in a jail unless the individual has been convicted of a crime for which the individual was incarcerated or held in the jail.**".

(Reference is to SB 81 as printed January 25, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 0.

L. LAWSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred Engrossed Senate Bill 83, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 2, delete ""council" refers to the prosecuting attorneys council of" and insert "**"bureau" means the bureau of motor vehicles created by IC 9-14-1-1.**

(b) As used in this SECTION, "council" means the prosecuting attorneys council of Indiana established by IC 33-39-8-2(a).

(c) As used in this SECTION, "e-citation" means an electronic traffic ticket (as defined in IC 9-30-3-2.5).

(d) As used in this SECTION, "institute" means the Indiana criminal justice institute established by IC 5-2-6-3.

(e) As used in this SECTION, "license" means a

commercial driver's license issued according to rules adopted under IC 9-24-6-2.

(f) The institute shall prepare a report that studies the following:

(1) Implementation of P.L.219-2003 (incorporating federal law regarding probationary and restricted driving privileges for persons holding a license).

(2) Implementation of P.L.176-2005, SECTIONS 19 through 25 (prosecuting attorney diversion and deferral limitations and the computer system established by the council).

(3) Implementation of P.L.206-2007 (e-citations).

(4) Use in Indiana of:

(A) ignition interlock programs and other alcohol monitoring systems such as SCRAM (Secure Continuous Remote Alcohol Monitor); and

(B) other alcohol abuse deterrent programs.

(5) Procedures and practices regarding license suspensions or granting of restricted or probationary licenses for:

(A) persons holding a license; or

(B) the:

(i) arrest of a person alleged to have; or

(ii) conviction of a person who has;

committed a violation of IC 9-30-5.

(g) To the extent available and permissible, the institute may consult with and use records of the bureau, the council, and the judicial technology and automation committee of the supreme court.

(h) The institute shall transmit the compiled report to the legislative council in an electronic format under IC 5-14-6 not later than November 1 of each year.".

Page 1, delete lines 3 through 18.

Page 2, delete lines 1 through 33.

Page 2, line 34, delete "(f)" and insert "**(i)**".

(Reference is to SB 83 as printed January 17, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

AUSTIN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred Engrossed Senate Bill 89, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

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

"SECTION 1. IC 4-6-12-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. (a) Not later than July 1, 2008, the unit shall establish a toll free telephone number to receive calls from persons having information about suspected fraudulent:**

(1) mortgage lending practices;

(2) real estate appraisals; or

(3) other practices;

involving residential real estate transactions.

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

(1) employees or investigators of the unit who have knowledge of the laws concerning:

(A) mortgage lending practices;

(B) real estate appraisals; or

(C) other practices;

involving residential real estate transactions;

(2) representatives of any of the entities described in section 4(a)(8) through 4(a)(10) of this chapter who have knowledge of the laws concerning:

(A) mortgage lending practices;

(B) real estate appraisals; or

(C) other practices;

involving residential real estate transactions; or

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

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

(c) The persons designated by the attorney general under subsection (b) to staff the toll free telephone number required by this section shall ensure that any information received from callers to the telephone number is shared with any entity described in section 4 of this chapter that has jurisdiction over the matter reported. The unit shall establish uniform procedures for:

(1) responding to calls received;

(2) protecting:

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

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

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

(4) transmitting reported information to the appropriate entities described in section 4 of this chapter.

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

SECTION 2. IC 4-6-12-8, AS AMENDED BY P.L.181-2006, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. The unit shall cooperate with the Indiana housing and community development authority in the development and implementation of the home ownership education programs established under ~~IC 5-20-1-4(f).~~ **IC 5-20-1-4(d).**

SECTION 3. IC 4-6-12-9, AS AMENDED BY P.L.64-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) The homeowner protection unit account within the general fund is established to support the operations of the unit. The account is administered by the attorney general.

(b) The homeowner protection unit account consists of:

(1) fees collected under IC 24-9-9; **and**

(2) civil penalties collected under IC 24-5-0.5-4(l)(3).

(c) The expenses of administering the homeowner protection unit account shall be paid from money in the account.

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

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

SECTION 4. IC 5-20-1-4, AS AMENDED BY P.L.99-2007, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The authority has all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the power:

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

(2) to make or participate in the making of mortgage loans ~~to sponsors of~~ **for** multiple family residential housing ~~that~~

~~is federally assisted or assisted by a government sponsored enterprise, such as the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Agricultural Mortgage Corporation, the Federal Home Loan Bank, and other similar entities~~ **under terms that are** approved by the authority;

(3) to purchase or participate in the purchase from mortgage lenders of mortgage loans made to persons of low and moderate income for residential housing;

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

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

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

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

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

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

(10) to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing;

(11) to include in any borrowing such amounts as may be deemed necessary by the authority to pay financing charges, interest on the obligations (for a period not exceeding the period of construction and a reasonable time thereafter or if the housing is completed, two (2) years from the date of issue of the obligations), consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) to make and publish rules respecting its lending programs and such other rules as are necessary to effectuate the purposes of this chapter;

(13) to provide technical and advisory services to sponsors, builders, and developers of residential housing and to residents and potential residents, including housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) to promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) to encourage community organizations to participate in residential housing development;

(16) to make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, limited liability company, or other organization or entity necessary or convenient to accomplish the purposes of this chapter;

(17) to accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;

(18) to sue and be sued in its own name, plead and be impleaded;

(19) to maintain an office in the city of Indianapolis and at such other place or places as it may determine;

(20) to adopt an official seal and alter the same at pleasure;

(21) to adopt and from time to time amend and repeal bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules and policies in connection with the performance of its functions and duties;

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

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

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

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

(C) proceeds of bonds or notes;

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

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

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

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

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

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

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

(27) to provide financial assistance to mutual housing associations (IC 5-20-3) in the form of grants, loans, or a combination of grants and loans for the development of housing for low and moderate income families;

(28) to service mortgage loans made or acquired by the

authority and to impose and collect reasonable fees and charges in connection with such servicing;

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

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

(31) to coordinate and establish linkages between governmental and other social services programs to ensure the effective delivery of services to low income individuals;

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

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

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

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

(b) The authority shall ~~structure and administer any program conducted~~ **ensure that a mortgage loan acquired by the authority** under subsection (a)(3) or **made by a mortgage lender with funds provided by the authority under subsection** (a)(4) ~~in order to assure that no mortgage loan shall~~ **is not** knowingly ~~be~~ made to a person whose adjusted family income, ~~shall exceed~~ **as determined by the authority, exceeds** one hundred twenty-five percent (125%) of the median income for the geographic area ~~within which the person resides and at least forty percent (40%) of the mortgage loans so financed shall be for persons whose adjusted family income shall be below eighty percent (80%) of the median income for such area.~~ **involved. However, if the authority determines that additional encouragement is needed for the development of the geographic area involved, a mortgage loan acquired or made under subsection (a)(3) or (a)(4) may be made to a person whose adjusted family income, as determined by the authority, does not exceed one hundred forty percent (140%) of the median income for the geographic area involved. The authority shall establish procedures that the authority determines are appropriate to structure and administer any program conducted under subsection (a)(3) or (a)(4) for the purpose of acquiring or making mortgage loans to persons of low or moderate income. In determining what constitutes low income, moderate income, or median income for purposes of any program conducted under subsection (a)(3) or (a)(4), the authority shall consider:**

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

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

(A) sources of;

(B) exclusions from; and

(C) adjustments to;

income.

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

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

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

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

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

~~(D) for which the purchaser has made a down payment in an amount determined by the authority;~~

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 5. IC 5-20-1-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.5. (a) As used in this section, ~~"person with a disability" means a person who, by reason of physical, mental, or emotional defect or infirmity, whether congenital or acquired by accident, injury, or disease, is totally or partially prevented from achieving the fullest attainable physical, social, economic, mental, and vocational participation in the normal process of living.~~ **"special needs populations" include the following:**

(1) Persons with physical or developmental disabilities.

(2) Persons with mental impairments.

(3) Single parent households.

(4) Victims of domestic violence.

(5) Abused children.

(6) Persons with chemical addictions.

(7) Homeless persons.

(8) The elderly.

(b) As used in this section, "qualified building" means a building:

(1) that is used or will be used to provide residential housing for ~~persons with disabilities;~~ **special needs populations;** and

(2) for which a taxpayer is eligible to claim a low income housing credit under 26 U.S.C. 42.

(c) Subject to subsection (d), the authority shall allocate to qualified buildings at least ten percent (10%) of the total dollar amount of federal low income housing credits allocated to the authority under 26 U.S.C. 42. The authority shall allocate credits under this section based on the proportionate amount of a qualified building that is used to provide residential housing for ~~persons with disabilities,~~ **special needs populations,** as determined by the authority.

(d) The authority shall hold available the allocation made under subsection (c) for qualified buildings through October 31 of each calendar year. Beginning November 1 of each calendar year, any part of the allocation that remains unassigned shall be available for any appropriate use under 26 U.S.C. 42.

SECTION 6. IC 5-20-1-8, AS AMENDED BY P.L.235-2005, SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) Subject to the approval of the ~~governor,~~ **public finance director appointed under IC 4-4-11-9,** the authority is hereby authorized to issue bonds or notes, or a combination thereof, to carry out and effectuate its purposes and powers. The principal of, and the interest on, such bonds or notes shall be payable solely from the funds provided for such payment in this chapter. The authority may secure the repayment of such bonds and notes by the pledge of mortgages and notes of others, revenues derived from operations and loan repayments, the proceeds of its bonds, and any available revenues or assets of the authority. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the authority, at such price or prices and under such terms and conditions as may be determined by the authority. Any such bonds or notes shall bear interest at such rate or rates as may be determined by the authority. Notes shall mature at such time or times not exceeding ten (10) years from their date or dates, and bonds shall mature at such time or times not exceeding forty-five (45) years from their date or dates, as may be determined by the authority. The authority shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or outside the state. In case any officer whose signature, or a facsimile of whose signature, shall appear on any bonds or notes or coupons attached thereto shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if ~~he~~ **the person** had remained in office until such delivery. The authority may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the authority authorizing the sale of its bonds or notes, such bonds or notes may be sold in such manner, either at public or private sale, and for such price as the authority shall determine to be for the best interest of the authority and to best effectuate the purposes of this chapter.

(b) The proceeds of any bonds or notes shall be used solely for the purposes for which they are issued. The proceeds shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the resolution authorizing the issuance of such bonds or notes or in the trust agreement securing the same.

(c) Prior to the preparation of definitive bonds, the authority may, under like restrictions and subject to the approval of the ~~governor,~~ **public finance director appointed under IC 4-4-11-9,** issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds or notes which shall become mutilated or shall be destroyed or lost.

(d) The authority shall cooperate with and use the assistance of the Indiana finance authority established under IC 4-4-11 in the issuance of the bonds or notes.

SECTION 7. IC 5-20-1-18, AS AMENDED BY P.L.235-2005, SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. The authority shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the ~~governor,~~ **public finance director appointed under IC 4-4-11-9,** the budget committee, and the general assembly. An annual report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6. The report shall set forth a complete operating and financial statement of the authority during such year, and a copy of such report shall be available to inspection by the public at the Indianapolis office of the authority. The authority shall cause an audit of its books and accounts to be made at least once in each year by an independent certified public accountant and the cost thereof may be paid from any available money of the authority.

SECTION 8. IC 5-20-1-27, AS AMENDED BY P.L.181-2006, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27. (a) The home ownership education account within the state general fund is established to support the home ownership education programs established under section ~~4(f)~~ **4(d)** of this chapter. The account is administered by the authority.

(b) The home ownership education account consists of fees collected under IC 24-9-9.

(c) The expenses of administering the home ownership education account shall be paid from money in the ~~fund.~~ **account.**

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

SECTION 9. IC 5-20-3-4, AS AMENDED BY P.L.181-2006, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) A mutual housing association may be established as a nonprofit corporation incorporated under IC 23-7-1.1 (before its repeal on August 1, 1991) or IC 23-17 to prevent and eliminate neighborhood deterioration and to preserve neighborhood stability by:

(1) providing high quality, long term housing for families of low and moderate income; and

(2) affording community and residential involvement in the provision of that housing.

(b) The articles of incorporation of a mutual housing association ~~must meet the requirements of the Indiana housing and community development authority under IC 5-20-1-6 and~~ must be approved by the authority.

(c) The articles of incorporation of a mutual housing association must include a provision that provides that if the mutual housing association dissolves, is involved in a bankruptcy proceeding, or otherwise disposes of its physical properties, the association may only transfer the assets to another entity that provides high quality long term housing for families of low and moderate income.".

SECTION 10. IC 6-1.1-12-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 43. (a) For purposes of this section:

(1) "benefit" refers to:

(A) a deduction under section 1, 9, 11, 13, 14, 16, 17.4,

26, 29, 31, 33, or 34 of this chapter; or
(B) the homestead credit under IC 6-1.1-20.9-2;
(2) "closing agent" means a person that closes a transaction;
(3) "customer" means an individual who obtains a loan in a transaction; and
(4) "transaction" means a single family residential:
(A) first lien purchase money mortgage transaction; or
(B) refinancing transaction.

(b) Before closing a transaction after December 31, 2004, a closing agent must provide to the customer the form referred to in subsection (c).

(c) Before June 1, 2004, the department of local government finance shall prescribe the form to be provided by closing agents to customers under subsection (b). The department shall make the form available to closing agents, county assessors, county auditors, and county treasurers in hard copy and electronic form. County assessors, county auditors, and county treasurers shall make the form available to the general public. The form must:
(1) on one (1) side:
(A) list each benefit;
(B) list the eligibility criteria for each benefit; and
(C) indicate that a new application for a deduction under section 1 of this chapter is required when residential real property is refinanced;
(2) on the other side indicate:
(A) each action by; and
(B) each type of documentation from;
the customer required to file for each benefit; and
(3) be printed in one (1) of two (2) or more colors prescribed by the department of local government finance that distinguish the form from other documents typically used in a closing referred to in subsection (b).

(d) A closing agent:
(1) may reproduce the form referred to in subsection (c);
(2) in reproducing the form, must use a print color prescribed by the department of local government finance; and
(3) is not responsible for the content of the form referred to in subsection (c) and shall be held harmless by the department of local government finance from any liability for the content of the form.

(e) This subsection applies to a transaction that is closed after December 31, 2009. In addition to providing the customer the form described in subsection (c) before closing the transaction, a closing agent shall do the following as soon as possible after the closing, and within the time prescribed by the department of insurance under IC 27-7-3-15.5:
(1) Input the information described in IC 27-7-3-15.5(b) into the system maintained by the department of insurance under IC 27-7-3-15.5.
(2) Submit the form described in IC 27-7-3-15.5(c) to the data base described in IC 27-7-3-15.5(c)(2)(B).

~~(e)~~ **(f)** A closing agent to which this section applies shall document ~~its~~ **the closing agent's** compliance with this section with respect to each transaction in the form of verification of compliance signed by the customer.

~~(f)~~ **(g)** A closing agent is subject to a civil penalty of twenty-five dollars ($25) for each instance in which the closing agent fails to comply with this section with respect to a customer. The penalty:
(1) may be enforced by the state agency that has administrative jurisdiction over the closing agent in the same manner that the agency enforces the payment of fees or other penalties payable to the agency; and
(2) shall be paid into the property tax replacement fund.

(h) A closing agent is not liable for any other damages claimed by a customer because of:
(1) the closing agent's mere failure to provide the appropriate document to the customer **under subsection (b); or**
(2) with respect to a transaction that is closed after December 31, 2009, the closing agent's failure to input the information or submit the form described in subsection (e).

~~(g)~~ **(i)** The state agency that has administrative jurisdiction over a closing agent shall:
(1) examine the closing agent to determine compliance with this section; and
(2) impose and collect penalties under subsection ~~(f).~~ **(g).**

SECTION 11. IC 20-24-8-5, AS AMENDED BY P.L.2-2006, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. The following statutes and rules and guidelines adopted under the following statutes apply to a charter school:
(1) IC 5-11-1-9 (required audits by the state board of accounts).
(2) IC 20-39-1-1 (unified accounting system).
(3) IC 20-35 (special education).
(4) IC 20-26-5-10 and IC 20-28-5-9 (criminal history).
(5) IC 20-26-5-6 (subject to laws requiring regulation by state agencies).
(6) IC 20-28-7-14 (void teacher contract when two (2) contracts are signed).
(7) IC 20-28-10-12 (nondiscrimination for teacher marital status).
(8) IC 20-28-10-14 (teacher freedom of association).
(9) IC 20-28-10-17 (school counselor immunity).
(10) For conversion charter schools only, IC 20-28-6, IC 20-28-7, IC 20-28-8, IC 20-28-9, and IC 20-28-10.
(11) IC 20-33-2 (compulsory school attendance).
(12) IC 20-33-3 (limitations on employment of children).
(13) IC 20-33-8-19, IC 20-33-8-21, and IC 20-33-8-22 (student due process and judicial review).
(14) IC 20-33-8-16 (firearms and deadly weapons).
(15) IC 20-34-3 (health and safety measures).
(16) IC 20-33-9 (reporting of student violations of law).
(17) IC 20-30-3-2 and IC 20-30-3-4 (patriotic commemorative observances).
(18) IC 20-31-3, IC 20-32-4, IC 20-32-5, IC 20-32-6, IC 20-32-8, or any other statute, rule, or guideline related to standardized testing (assessment programs, including remediation under the assessment programs).
(19) IC 20-33-7 (parental access to education records).
(20) IC 20-31 (accountability for school performance and improvement).
(21) Beginning with the school year that begins in the calendar year beginning January 1, 2010, IC 20-30-5-19 (instruction concerning consumer transactions and personal financial responsibility).

SECTION 12. IC 20-30-5-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 19. (a) Beginning with the school year that begins in the calendar year beginning January 1, 2010, each school corporation (including each charter school) and each nonpublic school that voluntarily has become accredited under IC 20-19-2-8 shall include in its curriculum for all students in grades 9 through 12 instruction designed to:**
(1) increase students' awareness of certain consumer transactions, including mortgage transactions; and
(2) foster personal financial responsibility.

(b) A school corporation (including a charter school) and a nonpublic school that voluntarily has become accredited under IC 20-19-2-8 may meet the requirements of subsection (a) by:
(1) integrating the instruction described in subsection (a) in its required mathematics curriculum; or

(2) conducting a separate class or seminar that includes the instruction described in subsection (a).

(c) A person may not receive a high school diploma from a school subject to this section unless the person has received the instruction required by this section.

(d) The department, in collaboration with the department of financial institutions established by IC 28-11-1-1, shall develop guidelines and the state board shall adopt rules under IC 4-22-2 to assist teachers assigned to provide the instruction required by this section.".

Page 1, strike lines 8 through 11.

Page 1, line 12, strike "(c)" and insert "**(b)**".

Page 1, line 15, strike "(d)" and insert "**(c)**".

Page 1, line 17, strike "(e)" and insert "**(d)**".

Page 2, line 15, strike "or".

Page 2, line 17, delete "product." and insert "product; **or**

(5) a creditor that is licensed under IC 24-4.4-2-402.".

Page 2, line 18, strike "(f)" and insert "**(e)**".

Page 2, line 20, strike "(g)" and insert "**(f)**".

Page 2, line 23, strike "(h)" and insert "**(g)**".

Page 2, line 26, strike "(e)." and insert "**(d).**".

Page 2, line 27, strike "(i)" and insert "**(h)**".

Page 2, line 31, strike "(j)" and insert "**(i)**".

Page 2, line 35, strike "(k)" and insert "**(j)**".

Page 2, line 41, strike "(l)" and insert "**(k)**".

Page 3, line 7, delete "(m)" and insert "**(l)**".

Page 3, line 29, delete "(n)" and insert "**(m)**".

Page 3, line 37, delete "(o)" and insert "**(n)**".

Page 4, line 30, delete "However, if the commissioner seeks evidence of".

Page 4, delete lines 31 through 40.

Page 5, line 1, delete "may" and insert "**shall**".

Page 5, line 26, strike "(1)" and insert "**(A)**".

Page 5, line 27, strike "(2)" and insert "**(B)**".

Page 5, line 30, strike "(3)" and insert "**(C)**".

Page 5, line 33, strike "(4)" and insert "**(D)**".

Page 6, line 41, strike "fifty" and insert "**one hundred**".

Page 6, line 41, strike "($50,000)," and insert "**($100,000),**".

Page 7, line 28, strike "and".

Page 7, between lines 28 and 29, begin a new line block indented and insert:

"**(2) individual described in subsection (a)(4); and**".

Page 7, line 29, strike "(2)" and insert "**(3)**".

Page 7, line 35, delete "owner" and insert "**owner, the individual described in subsection (a)(4),**".

Page 7, line 38, after "owner" insert "**, individual described in subsection (a)(4),**".

Page 8, line 3, strike "and".

Page 8, between lines 3 and 4, begin a new line block indented and insert:

"**(2) individual described in subsection (a)(4); and**".

Page 8, line 4, strike "(2)" and insert "**(3)**".

Page 8, line 12, after "owner" insert "**, the individual described in subsection (a)(4),**".

Page 17, strike lines 3 through 6.

Page 17, line 7, strike "(4)" and insert "**(3)**".

Page 17, line 9, strike "(5)" and insert "**(4)**".

Page 17, line 15, strike "(6)" and insert "**(5)**".

Page 17, line 19, strike "(7)" and insert "**(6)**".

Page 17, strike lines 20 through 33.

Page 17, line 34, strike "Indiana during".

Page 17, line 34, delete "the".

Page 17, line 34, strike "calendar year".

Page 17, line 34, delete "immediately preceding".

Page 17, delete lines 35 through 36.

Page 17, strike lines 37 through 38.

Page 18, strike lines 13 through 20.

Page 18, line 21, strike "(3) be accompanied by a fee of four hundred dollars ($400),".

Page 18, line 21, delete "plus".

Page 18, delete lines 22 through 23.

Page 18, strike lines 24 through 35.

Page 18, line 37, delete "(a) As used in this".

Page 18, delete lines 38 through 42.

Page 19, delete line 1.

Page 19, line 2, delete "(b)" and insert "**(a)**".

Page 19, line 26, delete "that personal information is" and insert "**the personal information is:**

(A) included as part of:

(i) an application form; or

(ii) a document that is used in connection with an application process or an enrollment process;

(B) used to obtain a consumer report (as defined in IC 24-5-24-2) for an applicant for credit; or

(C) used to establish, amend, or terminate an account, a contract, or a policy, or to confirm the accuracy of the personal information.

However, personal information allowed to be disclosed under this subdivision may not be printed in whole or in part on a postcard or other mailer that does not require an envelope, or in a manner that makes the personal information visible on an envelope or a mailer without the envelope or mailer being opened.

(8) Engage in any reckless or negligent activity allowing the release or disclosure of the unencrypted, unredacted personal information of one (1) or more borrowers or prospective borrowers. An activity described in this subdivision includes an action prohibited by section 18(d) of this chapter.

(9) Recommend a loan to, or procure a loan on behalf of, a prospective borrower without first conducting a reasonable inquiry concerning the prospective borrower's ability to repay the loan. For purposes of this subdivision, a person conducts a reasonable inquiry concerning a borrower's ability to repay a loan if the person:

(A) obtains a consumer report (as defined in IC 24-5-24-2) or other information maintained by a consumer reporting agency (as defined in IC 24-5-24-3) with respect to the prospective borrower; and

(B) obtains information about the prospective borrower through:

(i) a current or past employer of the prospective borrower;

(ii) public records; or

(ii) any other legal or commercially reasonable means.".

Page 19, delete lines 27 through 42.

Page 20, delete lines 1 through 7.

Page 20, line 8, delete "(c)" and insert "**(b)**".

Page 20, line 8, delete "(b)" and insert "**(a)**".

Page 21, after line 23, begin a new paragraph and insert:

"SECTION 23. IC 24-4.4 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]:

ARTICLE 4.4. FIRST LIEN MORTGAGE LENDING

Chapter 1. General Provisions and Definitions

Sec. 101. This article shall be known and may be cited as the First Lien Mortgage Lending Act.

Sec. 102. (1) This article shall be liberally construed and applied to promote its underlying purposes and policies.

(2) The underlying purposes and policies of this article are:

(a) to permit and encourage the development of fair and economically sound first lien mortgage lending practices; and

(b) to conform the regulation of first lien mortgage lending practices to applicable state and federal laws,

rules, and regulations.

(3) A reference to a requirement imposed by this article includes reference to a related rule of the department adopted under this article.

(4) A reference to a federal law in this article is a reference to the law in effect December 31, 2008.

Sec. 103. This article:

(1) is a general act intended as a unified coverage of its subject matter; and

(2) any part of this article may not be considered to be impliedly repealed by subsequent legislation if such construction can reasonably be avoided.

Sec. 104. The provisions of this article are severable, so that if:

(1) any provisions of this article; or

(2) the application of this article to any person or circumstances;

is held invalid, the invalidity does not affect other provisions or applications of this article that can be given effect without the invalid provision or application.

Sec. 201. (1) Except as provided in subsection (2), this article applies to a first lien mortgage transaction:

(a) that is secured by an interest in land in Indiana; and

(b) the closing for which takes place after December 31, 2008.

(2) This article does not apply to a first lien mortgage transaction if:

(a) the debtor is not a resident of Indiana at the time the transaction is entered into; and

(b) the laws of the debtor's state of residence requires that the transaction be made under the laws of the state of the debtor's residence.

Sec. 202. This article does not apply to the following:

(1) Extensions of credit to government or governmental agencies or instrumentalities.

(2) A first lien mortgage transaction in which the debt is incurred primarily for a purpose other than a personal, family, or household purpose

(3) An extension of credit primarily for a business, a commercial, or an agricultural purpose.

(4) A first lien mortgage transaction made:

(a) in compliance with the requirements of; and

(b) by a 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.

(5) A supervised financial organization.

(6) An operating subsidiary that is majority owned, directly or indirectly, by a supervised financial organization to the extent the operating subsidiary is regulated by the chartering authority of the supervised financial organization.

(7) A credit union service organization that is majority owned, directly or indirectly, by one (1) or more credit unions.

(8) Agencies, instrumentalities, and government owned corporations of the United States, including United States government sponsored enterprises.

Sec. 203. Any civil court in Indiana may exercise jurisdiction over any creditor with respect to any conduct in Indiana governed by this article or with respect to any claim arising from a transaction subject to this article. In addition to any other method provided by rule or by statute, personal jurisdiction over a creditor may be acquired in a civil action or proceeding instituted in any civil court by the service of process.

Sec. 301. In addition to definitions appearing in subsequent chapters of this article, the following definitions apply throughout this article:

(1) "Credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(2) "Creditor" means a person:

(a) that regularly engages in the extension of first lien mortgage transactions that are subject to a credit service charge or loan finance charge, as applicable, or are payable by written agreement in more than four (4) installments (not including a down payment); and

(b) to which the obligation is initially payable, either on the face of the note or contract, or by agreement if there is not a note or contract.

The term does not include a person described in subsection (13)(a) in a tablefunded transaction.

(3) "Department" refers to the members of the department of financial institutions.

(4) "Director" refers to the director of the department of financial institutions.

(5) “Dwelling" means a residential structure that contains one (1) to four (4) units, regardless of whether the structure is attached to real property. The term includes an individual:

(a) condominium unit;

(b) cooperative unit;

(c) mobile home; or

(d) trailer;

that is used as a residence.

(6) "First lien mortgage transaction" means a loan in which a first mortgage, or a land contract which constitutes a first lien, is created or retained against land upon which there is a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes.

(7) "Loan" includes:

(a) the creation of debt by:

(i) the creditor's payment of or agreement to pay money to the debtor or to a third party for the account of the debtor; or

(ii) the extension of credit by a person who regularly engages as a seller in credit transactions primarily secured by an interest in land;

(b) the creation of debt by a credit to an account with the creditor upon which the debtor is entitled to draw immediately; and

(c) the forbearance of debt arising from a loan.

(8) "Payable in installments", with respect to a debt or an obligation, means that payment is required or permitted by written agreement to be made in more than four (4) installments not including a down payment.

(9) "Person" includes an individual or an organization.

(10) A person is "regularly engaged"as a creditor in first lien mortgage transactions in Indiana if:

(a) the person acted as a creditor in first lien mortgage transactions in Indiana more than five (5) times in the preceding calendar year; or

(b) the person did not meet the numerical standards set forth in subdivision (a) in the preceding calendar year, but has or will meet the numerical standards set forth in subdivision (a) in the current calendar year.

(11) "Revolving first lien mortgage transaction" means an arrangement between a creditor and a debtor in which:

(a) the creditor permits the debtor to obtain advances from time to time;

(b) the unpaid balances of principal, credit service charges or loan finance charges, and other appropriate charges are debited to an account; and

(c) the debtor has the privilege of paying the balances in installments.

(12) "Supervised financial organization" means a person that is:

(a) organized, chartered, or holding an authorization certificate under the laws of a state or of the United States which authorizes the person to make loans and to receive deposits, including deposits into a savings, share, certificate, or deposit account; and

(b) subject to supervision by an official or agency of a state or of the United States.

(13) "Tablefunded" means a transaction in which:

(a) a person closes a first lien mortgage transaction in the person's own name as a mortgagee with funds provided by one (1) or more other persons; and

(b) the transaction is assigned simultaneously to the mortgage creditor providing the funding not later than one (1) business day after the funding of the transaction.

Chapter 2. Miscellaneous

Sec. 101. This chapter shall be known and may be cited as the First Lien Mortgage Lending Act - Miscellaneous.

Sec. 201. (1) A creditor or mortgage servicer shall provide an accurate payoff amount for a first lien mortgage transaction to the debtor not later than ten (10) calendar days after the creditor or mortgage servicer receives the debtor's written request for the accurate payoff amount. A creditor or mortgage servicer who fails to provide an accurate payoff amount is liable for:

(a) one hundred dollars ($100) if an accurate payoff amount is not provided by the creditor or mortgage servicer not later than ten (10) calendar days after the creditor or mortgage servicer receives the debtor's first written request; and

(b) the greater of:

(i) one hundred dollars ($100); or

(ii) the loan finance charge that accrues on the first lien mortgage transaction from the date the creditor or mortgage servicer receives the first written request until the date on which the accurate payoff amount is provided;

if an accurate payoff amount is not provided by the creditor or mortgage servicer not later than ten (10) calendar days after the creditor or mortgage servicer receives the debtor's second written request, and the creditor or mortgage servicer fails to comply with subdivision (a).

(2) This subsection applies to a first lien mortgage transaction with respect to which any installment or minimum payment due is delinquent for at least ten (10) days. The creditor, servicer, or the creditor's agent shall acknowledge a written offer made in connection with a proposed short sale not later than ten (10) business days after the date of the offer if the offer complies with the requirements for a qualified written request set forth in 12 U.S.C. 2605(e)(1)(B). The creditor, servicer, or creditor's agent is required to acknowledge a written offer made in connection with a proposed short sale from a third party acting on behalf of the debtor only if the debtor has provided written authorization for the creditor, servicer, or creditor's agent to do so. Not later than twenty (20) business days after receipt of an offer under this subsection, the creditor, servicer, or creditor's agent shall respond to the offer with an acceptance or a rejection of the offer. As used in this subsection, "short sale" means a transaction in which the property that is the subject of a first lien mortgage transaction is sold for an amount that is less than the amount of the debtor's outstanding obligation under the first lien mortgage transaction. A creditor or mortgage servicer that fails to respond to an offer within the time prescribed by this subsection is liable:

(a) under the terms set forth in subsection (1), as if the creditor or mortgage servicer had failed to provide a first lien mortgage transaction payoff amount; and

(b) in accordance with 12 U.S.C. 2605(f) in any action brought under that section.

Sec. 301. (1) A violation of a state or federal law, regulation, or rule applicable to first lien mortgage transactions is a violation of this article.

(2) The department may enforce penalty provisions set forth in 15 U.S.C. 1640 for violations of disclosure requirements applicable to first lien mortgage transactions.

Sec. 401. Unless a person subject to this article has first obtained a license from the department, the person shall not regularly engage in Indiana as a creditor in first lien mortgage transactions. However, this article does not require an employee of a person that is licensed under this article to obtain a license to make a first lien mortgage loan.

Sec. 402. (1) The department shall receive and act on all applications for licenses to engage in first lien mortgage transactions. Applications must be made as prescribed by the director.

(2) A license may not be issued unless the department finds that the financial responsibility, character, and fitness of:

(a) the applicant and any significant affiliate of the applicant;

(b) each executive officer, director, or manager of the applicant, or any other individual having a similar status or performing a similar function for the applicant; and

(c) if known, each person directly or indirectly owning of record or owning beneficially at least ten percent (10%) of the outstanding shares of any class of equity security of the applicant;

are such as to warrant belief that the business will be operated honestly and fairly within the purposes of this article.

(3) The director is entitled to request evidence of compliance with this section at:

(a) the time of application;

(b) the time of renewal of a license; or

(c) any other time considered necessary by the director.

(4) Evidence of compliance with this section may include:

(a) criminal background checks, including a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation, for any individual described in subsection (2);

(b) credit histories; and

(c) other background checks considered necessary by the director.

If the director requests a national criminal history background check under subdivision (a) for an individual described in subsection (2), the director shall require the individual to submit fingerprints to the department or to the state police department, as appropriate, at the time evidence of compliance is requested under subsection (3). The individual to whom the request is made shall pay any fees or costs associated with the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the results of the national criminal history background check to any private entity.

(5) The department may deny an application under this section if the director of the department determines that the application was submitted for the benefit of, or on behalf of, a person who does not qualify for a license.

(6) Upon written request, the applicant is entitled to a hearing on the question of the qualifications of the applicant

for a license in the manner provided in IC 4-21.5.

(7) The applicant shall pay the following fees at the time designated by the department:

(a) An initial license fee as established by the department under IC 28-11-3-5.

(b) An annual renewal fee as established by the department under IC 28-11-3-5.

(c) Examination fees as established by the department under IC 28-11-3-5.

(8) A fee as established by the department under IC 28-11-3-5 may be charged for each day the annual renewal fee under subsection (7)(b) is delinquent.

(9) A license issued under this section is not assignable or transferable.

(10) Subject to subsection (11), the director may designate an automated central licensing system and repository, operated by a third party, to serve as the sole entity responsible for:

(a) processing applications and renewals for licenses under this section; and

(b) performing other services that the director determines are necessary for the orderly administration of the department's licensing system under this article.

(11) The director's authority to designate an automated central licensing system and repository under subsection (10) is subject to the following:

(a) The director or the director's designee may not require any person exempt from licensure under this article, or any employee or agent of an exempt person, to:

(i) submit information to; or

(ii) participate in;

the automated central licensing system and repository.

(b) Information stored in the automated central licensing system and repository is subject to the confidentiality provisions of IC 28-1-2-30 and IC 5-14-3. A person may not:

(i) obtain information from the automated central licensing system and repository, unless the person is authorized to do so by statute;

(ii) initiate any civil action based on information obtained from the automated central licensing system if the information is not otherwise available to the person under any other state law; or

(iii) initiate any civil action based on information obtained from the automated central licensing system if the person could not have initiated the action based on information otherwise available to the person under any other state law.

(c) Documents, materials, and other forms of information in the control or possession of the automated central licensing system and repository that are confidential under IC 28-1-2-30 and that are:

(i) furnished by the director, the director's designee, or a licensee; or

(ii) otherwise obtained by the automated central licensing system and repository;

are confidential and privileged by law and are not subject to inspection under IC 5-14-3, subject to subpoena, subject to discovery, or admissible in evidence in any civil action. However, the director or the director's designee may use the documents, materials, or other information available to the director or the director's designee in furtherance of any action brought in connection with the director's duties under this article.

(d) Disclosure of documents, materials, and information:

(i) to the director or the director's designee; or

(ii) by the director or the director's designee;

under this subsection does not result in a waiver of any applicable privilege or claim of confidentiality with respect to the documents, materials, or information.

(e) Information provided to the automated central licensing system and repository is subject to IC 4-1-11.

(f) This subsection does not limit or impair a person's right to:

(i) obtain information;

(ii) use information as evidence in a civil action or proceeding; or

(iii) use information to initiate a civil action or proceeding;

if the information may be obtained from the director or the director's designee under any law.

(g) The director may require a licensee required to submit information to the automated central licensing system and repository to pay a processing fee considered reasonable by the director.

Sec. 403. (1) A license issued by the department authorizing a person to engage in first lien mortgage transactions under this article may be revoked by the department if the person fails to:

(a) file any renewal form required by the department; or

(b) pay any license renewal fee described under section 402 of this chapter;

not later than sixty (60) days after the due date.

(2) A person whose license is revoked under this section may do either of the following:

(a) Pay all delinquent fees and apply for a new license.

(b) Appeal the revocation to the department for an administrative review under IC 4-21.5-3. Pending the decision resulting from the hearing under IC 4-21.5-3 concerning the license revocation, the license remains in force.

Sec. 404. (1) The department may issue to a person licensed to engage in first lien mortgage transactions an order to show cause why the person's license should not be revoked or suspended for a period determined by the department. The order must state the place and time for a meeting with the department that is not less than ten (10) days from the date of the order. After the meeting, the department shall revoke or suspend the license if the department finds that:

(a) the licensee has repeatedly and willfully violated:

(i) this article or any rule or order lawfully adopted or issued under this article; or

(ii) any other state or federal law, regulation, or rule applicable to first lien mortgage transactions; or

(b) facts or conditions exist which would clearly have justified the department in refusing to grant a license had the facts or conditions been known to exist at the time the application for the license was made.

(2) Except as provided in section 403 of this chapter, a revocation or suspension of a license is not authorized under this article unless before instituting proceedings to suspend or revoke the license, the department gives notice to the licensee of the conduct or facts that warrant the intended action, and the licensee is given an opportunity to show compliance with all lawful requirements for retention of the license.

(3) If the department finds that probable cause for revocation of a license exists and that enforcement of this article requires immediate suspension of the license pending investigation, the department may, after a hearing with the licensee upon five (5) days written notice to the licensee, enter an order suspending the license for not more than thirty (30) days.

(4) Whenever the department revokes or suspends a license, the department shall enter an order to that effect and

notify the licensee of the revocation or suspension. Not later than five (5) days after the entry of the order the department shall deliver to the licensee a copy of the order and the findings supporting the order.

(5) Any person holding a license to engage in first lien mortgage transactions may relinquish the license by notifying the department in writing of the relinquishment. However, a relinquishment under this paragraph does not affect the person's liability for acts previously committed and coming within the scope of this article.

(6) A revocation, suspension, or relinquishment of a license does not impair or affect the obligation of any preexisting lawful contract between:

(a) the person whose license has been revoked, suspended, or relinquished; and

(b) any debtor.

(7) The department may reinstate a license, terminate a suspension, or grant a new license to a person whose license has been revoked or suspended if the director determines that, at the time the determination is made, there is no fact or condition that exists that clearly would justify the department in refusing to grant a license.

(8) If the director:

(a) has just cause to believe an emergency exists from which it is necessary to protect the interests of the public; or

(b) determines that a license was obtained for the benefit of, or on behalf of, a person who does not qualify for a license;

the director may proceed with the revocation of the license under IC 4-21.5-3-6.

Sec. 405. (1) Every licensee shall maintain records in a manner that will enable the department to determine whether the licensee is complying with this Article. The record keeping system of a licensee is sufficient if the licensee makes the required information reasonably available. The department shall determine the sufficiency of the records and whether the licensee has made the required information reasonably available. The department shall be given free access to the records wherever the records are located. Records concerning any first lien mortgage transaction shall be retained for two (2) years after the making of the final entry relating to the transaction, but in the case of a revolving first lien mortgage transaction, the two (2) years required under this subsection is measured from the date of each entry relating to the transaction.

(2) A licensee shall file with the department financial statements relating to all first lien mortgage transactions originated by the licensee. The licensee shall file the financial statements as required by the department, but not more frequently than annually, in the form prescribed by the department.

(3) A licensee shall file notification with the department if the licensee:

(a) has a change in name, address, or any of its principals;

(b) opens a new branch, closes an existing branch, or relocates an existing branch;

(c) files for bankruptcy or reorganization; or

(d) is subject to revocation or suspension proceedings by a state or governmental authority with regard to the licensee's activities;

not later than thirty (30) days after the date of the event described in this subsection.

(4) A licensee shall file notification with the department if a key officer or director of the licensee:

(a) is under indictment for a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction; or

(b) has been convicted of or pleaded guilty or nolo contendere to a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction;

not later than thirty (30) days after the date of the event described in this subsection.

Sec. 501. A creditor in a first lien mortgage transaction shall comply with IC 6-1.1-12-43, to the extent applicable.

Sec. 502. (1) A violation by a creditor in a first lien mortgage transaction of Section 125 of the Federal Consumer Credit Protection Act (15 U.S.C. 1635) (concerning a debtor's right to rescind a transaction) constitutes a violation of this article. A creditor may not accrue interest during the period when a first lien mortgage transaction may be rescinded under Section 125 of the Federal Consumer Protection Act (15 U.S.C. 1635).

(2) A creditor must make available for disbursement the proceeds of a transaction subject to subsection (1) on the later of:

(a) the date the creditor is reasonably satisfied that the debtor has not rescinded the transaction; or

(b) the first business day after the expiration of the rescission period under subsection (1).

Chapter 3. Administration

Sec. 101. This chapter shall be known and may be cited as the First Lien Mortgage Lending Act - Administration.

Sec. 102. This chapter applies to a person that regularly engages as a creditor in first lien mortgage transactions in Indiana.

Sec. 103. (1) In addition to other powers granted by this article, the department within the limitations provided by law may:

(a) receive and act on complaints, take action designed to obtain voluntary compliance with this article, or commence proceedings on the department's own initiative;

(b) counsel persons and groups on their rights and duties under this article;

(c) establish programs for the education of consumers with respect to credit practices and problems;

(d) make studies appropriate to effectuate the purposes and policies of this article and make the results available to the public;

(e) adopt, amend, and repeal rules, orders, policies, and forms to carry out the provisions of this article;

(f) maintain more than one (1) office within Indiana; and

(g) appoint any necessary attorneys, hearing examiners, clerks, and other employees and agents and fix their compensation, and authorize attorneys appointed under this section to appear for and represent the department in court.

(2) Liability may not be imposed under this article for an act done or omitted in conformity with a rule, written notice, written opinion, written interpretation, or written directive of the department notwithstanding the fact that after the act is done or omitted the rule, written notice, written opinion, written interpretation, or written directive may be:

(a) amended or repealed; or

(b) determined by judicial or other authority to be invalid;

for any reason.

Sec. 104. (1) In administering this article and in order to determine whether the provisions of this article are being complied with by persons engaging in acts subject to this article, the department may examine the records of persons and may make investigations of persons as may be necessary to determine compliance. Records subject to examination under this section include the following:

(a) Training, operating, and policy manuals.

(b) Minutes of:

(i) management meetings; and
(ii) other meetings.
(c) Financial records, credit files, and data bases.
(d) Other records that the department determines are necessary to perform its investigation or examination.

The department may also administer oaths or affirmations, subpoena witnesses, compel the attendance of witnesses, adduce evidence, and require the production of any matter which is relevant to an investigation. The department shall determine the sufficiency of the records maintained and whether the person has made the required information reasonably available. The records concerning any transaction subject to this article shall be retained for two (2) years after the making of the final entry relating to the first lien mortgage transaction, but in the case of a revolving first lien mortgage transaction the two (2) year period is measured from the date of each entry.

(2) The department's examination and investigatory authority under this article includes the following:
(a) The authority to require a creditor to refund overcharges resulting from the creditor's noncompliance with the terms of a first lien mortgage transaction.
(b) The authority to require a creditor to comply with the penalty provisions set forth in IC 24-4.4-2-201.
(c) The authority to investigate complaints filed with the department by debtors.

(3) The department shall be given free access to the records wherever the records are located. If the person's records are located outside Indiana, the records shall be made available to the department at a convenient location within Indiana, or the person shall pay the reasonable and necessary expenses for the department or the department's representative to examine the records where they are maintained. The department may designate comparable officials of the state in which the records are located to inspect the records on behalf of the department.

(4) Upon a person's failure without lawful excuse to obey a subpoena or to give testimony and upon reasonable notice by the department to all affected persons, the department may apply to any civil court with jurisdiction for an order compelling compliance.

(5) The department shall not make public:
(a) the name or identity of a person whose acts or conduct the department investigates under this section; or
(b) the facts discovered in the investigation.

However, this subsection does not apply to civil actions or enforcement proceedings under this article.

Sec. 105. Except as otherwise provided, IC 4-21.5-3 governs any action taken by the department under this chapter or IC 24-4.4-2-401 through IC 24-4.4-2-405. IC 4-22-2 applies to the adoption of rules by the department under this article. However, if the department determines that an emergency exists, the department may adopt any rules authorized by this article under IC 4-22-2-37.1.

Sec. 106. (1) After notice and hearing, the department may order a creditor or a person acting on the creditor's behalf to cease and desist from engaging in violations of this article. In any civil court with jurisdiction:
(a) a respondent aggrieved by an order of the department may obtain judicial review of the order; and
(b) the department may obtain an order of the court for the enforcement of the department's order.

A proceeding for review or enforcement under this subsection shall be initiated by the filing of a petition in the court. Copies of the petition shall be served upon all parties of record.

(2) Not later than thirty (30) days after service of a petition for review upon the department under subsection (1), or within such further time as the court may allow, the department shall transmit to the court the original or a certified copy of the entire record upon which the order that is the subject of the review is based, including any transcript of testimony, which need not be printed. By stipulation of all parties to the review proceeding, the record may be shortened. After conducting a hearing on the matter, the court may:
(a) reverse or modify the order if the findings of fact of the department are clearly erroneous in view of the reliable, probative, and substantial evidence in the whole record;
(b) grant any temporary relief or restraining order the court considers just; and
(c) enter an order:
(i) enforcing;
(ii) modifying;
(iii) enforcing as modified; or
(iv) setting aside;
in whole or in part, the order of the department; or
(d) enter an order remanding the case to the department for further proceedings.

(3) An objection not urged at the hearing shall not be considered by the court unless the failure to urge the objection is excused for good cause shown. A party may move the court to remand the case to the department in the interest of justice for the purpose of:
(a) adducing additional specified and material evidence; and
(b) seeking a finding upon such evidence;
upon good cause shown for the failure to previously adduce this evidence before the department.

(4) The jurisdiction of the court is exclusive and the court's final judgment or decree is subject to review on appeal in the same manner and form and with the same effect as in appeals from a final judgment or decree. The department's copy of the testimony shall be available at reasonable times to all parties for examination without cost.

(5) A proceeding for review under this section must be initiated not later than thirty (30) days after a copy of the order of the department is received. If a proceeding is not initiated within the time set forth in this subsection, the department may obtain a decree of a civil court with jurisdiction for enforcement of the department's order upon a showing that:
(a) the order was issued in compliance with this section;
(b) a proceeding for review was not initiated within the thirty (30) day period prescribed by this subsection; and
(c) the respondent is subject to the jurisdiction of the court.

(6) With respect to unconscionable agreements or fraudulent or unconscionable conduct by a respondent, the department may not issue an order under this section but may bring a civil action for an injunction under section 111 of this chapter.

Sec. 107. If it is claimed that a person has engaged in conduct subject to an order by:
(a) the department under section 106(1) of this chapter; or
(b) a court under sections 108 through 110 of this chapter;
the department may accept an assurance in writing that the person will not engage in the conduct in the future. If a person giving an assurance of discontinuance fails to comply with the terms of the assurance, the assurance is evidence that before the assurance was issued the person engaged in the conduct described in the assurance.

Sec. 108. The department may bring a civil action to

restrain a person from violating this article and for other appropriate relief.

Sec. 109. (1) As used in this section, "deceptive act" means an act or a practice in which a person knowingly or intentionally:

(a) makes a material misrepresentation concerning; or

(b) conceals material information regarding the terms or conditions of;

a first lien mortgage transaction.

(2) For purposes of this section, "knowingly" means having actual knowledge at the time of the transaction.

(3) The department may bring a civil action to enjoin a deceptive act performed in connection with a first lien mortgage transaction.

Sec. 110. With respect to an action brought under:

(a) section 108 of this chapter to enjoin violations of this article; or

(b) section 109 of this chapter to enjoin deceptive acts;

the department may apply to the court for appropriate temporary relief against a respondent, pending final determination of the proceedings. If the court finds after a hearing held upon notice to the respondent that there is reasonable cause to believe that the respondent is engaging in or is likely to engage in the conduct sought to be restrained, the court may grant any temporary relief or restraining order the court considers appropriate.

Sec. 111. (1) The department may bring a civil action against a creditor or a person acting on the creditor's behalf to recover a civil penalty for willfully violating this article. If the court finds that the defendant has engaged in a course of repeated and willful violations of this article, the court may assess a civil penalty of not more than five thousand dollars ($5,000). A civil penalty may not be imposed under this subsection:

(a) for violations of this article occurring more than two

(2) years before the action is brought; or

(b) for making unconscionable agreements or engaging in a course of fraudulent or unconscionable conduct.

(2) If the department determines, after notice and opportunity for hearing, that a person has violated this article, the department may, in addition to or instead of all other remedies available under this section, impose upon the person a civil penalty not greater than ten thousand dollars ($10,000) per violation.

Sec. 112. In an action brought by the department under this article, the defendant does not have a right to trial by a jury.

Sec. 113. The grant of powers to the department under this article does not affect remedies available to debtors under this article or under other principles of law or equity.

Sec. 114. The department may bring an action or a proceeding in a court in a county:

(1) in which an act on which the action or proceeding is based occurred;

(2) in which the respondent resides or transacts business; or

(3) in which the action or proceeding is otherwise authorized by rule or venue laws.

Sec. 115. As used in this article, "civil court" means any court in Indiana having jurisdiction of civil cases.

SECTION 24. IC 24-4.5-1-301, AS AMENDED BY P.L.57-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 301. General Definitions – In addition to definitions appearing in subsequent chapters in this article:

(1) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances, including course of dealing or usage of trade or course of performance.

(2) "Agricultural purpose" means a purpose related to the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures the agricultural products; "Agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any and all products raised or produced on farms and any processed or manufactured products thereof.

(3) "Average daily balance" means the sum of each of the daily balances in a billing cycle divided by the number of days in the billing cycle, and if the billing cycle is a month, the creditor may elect to treat the number of days in each billing cycle as thirty (30).

(4) "Closing costs" with respect to a debt secured by an interest in land includes:

(a) fees or premiums for title examination, title insurance, or similar purposes, including surveys;

(b) fees for preparation of a deed, settlement statement, or other documents;

(c) escrows for future payments of taxes and insurance;

(d) fees for notarizing deeds and other documents;

(e) appraisal fees; and

(f) credit reports.

(5) "Conspicuous": A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it.

(6) "Consumer credit" means credit offered or extended to a consumer primarily for a personal, family, or household purpose.

(7) "Credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(8) "Creditor" means a person:

(a) who regularly engages in the extension of consumer credit that is subject to a credit service charge or loan finance charge, as applicable, or is payable **by written agreement** in **more than four (4)** installments **(not including a down payment);** and

(b) to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is not a note or contract.

(9) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments under a pension or retirement program.

(10) "Lender credit card or similar arrangement" means an arrangement or loan agreement, other than a seller credit card, pursuant to which a lender gives a debtor the privilege of using a credit card, letter of credit, or other credit confirmation or identification in transactions out of which debt arises:

(a) by the lender's honoring a draft or similar order for the payment of money drawn or accepted by the debtor;

(b) by the lender's payment or agreement to pay the debtor's obligations; or

(c) by the lender's purchase from the obligee of the debtor's obligations.

(11) "Official fees" means:

(a) fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest related to a consumer credit sale, consumer lease, or consumer loan; or

(b) premiums payable for insurance in lieu of perfecting a security interest otherwise required by the creditor in connection with the sale, lease, or loan, if the premium does not exceed the fees and charges described in paragraph (a) which would otherwise be payable.

(12) "Organization" means a corporation, a government or governmental subdivision, or an agency, a trust, an estate, a partnership, a limited liability company, a cooperative, or an association.

(13) "Payable in installments" means that payment is required or permitted by written agreement to be made in more than four (4) installments not including a down payment.

(14) "Person" includes a natural person or an individual and an organization.

(15) "Person related to" with respect to an individual means:

(a) the spouse of the individual;

(b) a brother, brother-in-law, sister, sister-in-law of the individual;

(c) an ancestor or lineal descendants of the individual or the individual's spouse; and

(d) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

"Person related to" with respect to an organization means:

(a) a person directly or indirectly controlling, controlled by, or under common control with the organization;

(b) an officer or director of the organization or a person performing similar functions with respect to the organization or to a person related to the organization;

(c) the spouse of a person related to the organization; and

(d) a relative by blood or marriage of a person related to the organization who shares the same home with the person.

(16) "Presumed" or "presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(17) "Mortgage transaction" means a transaction in which a first mortgage or a land contract which constitutes a first lien is created or retained against land.

(18) "Regularly engaged" means a person who extends consumer credit more than:

(a) twenty-five (25) times; or

(b) five (5) times for transactions secured by a dwelling;

in the preceding calendar year. If a person did not meet these numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year.

(19) "Seller credit card" means an arrangement which gives to a buyer or lessee the privilege of using a credit card, letter of credit, or other credit confirmation or identification for the purpose of purchasing or leasing goods or services from that person, a person related to that person, or from that person and any other person. The term includes a card that is issued by a person, that is in the name of the seller, and that can be used by the buyer or lessee only for purchases or leases at locations of the named seller.

(20) "Supervised financial organization" means a person, other than an insurance company or other organization primarily engaged in an insurance business:

(a) organized, chartered, or holding an authorization certificate under the laws of a state or of the United States which authorizes the person to make loans and to receive deposits, including a savings, share, certificate, or deposit account; and

(b) subject to supervision by an official or agency of a state or of the United States.

(21) "Mortgage servicer" means the last person to whom a mortgagor or the mortgagor's successor in interest has been instructed by a mortgagee to send payments on a loan secured by a mortgage.

(22) "Affiliate", with respect to any person subject to this article, means a person that, directly or indirectly, through one (1) or more intermediaries:

(a) controls;

(b) is controlled by; or

(c) is under common control with;

the person subject to this article.

SECTION 25. IC 24-4.5-2-107 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 107. Definition; "Seller" - Except as otherwise provided, "seller" **means a person regularly engaged as a creditor in making consumer credit sales. The term** includes an assignee of the seller's right to payment but use of the term does not in itself impose on an assignee any obligation of the seller with respect to events occurring before the assignment.

SECTION 26. IC 24-4.5-2-201, AS AMENDED BY P.L.57-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 201. Credit Service Charge for Consumer Credit Sales other than Revolving Charge Accounts — (1) With respect to a consumer credit sale, other than a sale pursuant to a revolving charge account, a seller may contract for and receive a credit service charge not exceeding that permitted by this section.

(2) The credit service charge, calculated according to the actuarial method, may not exceed the equivalent of the greater of either of the following:

(a) the total of:

(i) thirty-six percent (36%) per year on that part of the unpaid balances of the amount financed which is three hundred dollars ($300) or less;

(ii) twenty-one percent (21%) per year on that part of the unpaid balances of the amount financed which is more than three hundred dollars ($300) but does not exceed one thousand dollars ($1,000); and

(iii) fifteen percent (15%) per year on that part of the unpaid balances of the amount financed which is more than one thousand dollars ($1,000); or

(b) twenty-one percent (21%) per year on the unpaid balances of the amount financed.

(3) This section does not limit or restrict the manner of contracting for the credit service charge, whether by way of add-on, discount, or otherwise, so long as the rate of the credit service charge does not exceed that permitted by this section. If the sale is precomputed:

(a) the credit service charge may be calculated on the assumption that all scheduled payments will be made when due; and

(b) the effect of prepayment is governed by the provisions on rebate upon prepayment (IC 24-4.5-2-210).

(4) For the purposes of this section, the term of a sale agreement commences with the date the credit is granted or, if goods are delivered or services performed more than thirty (30) days after that date, with the date of commencement of delivery or performance except as set forth below:

(a) Delays attributable to the customer. Where the customer requests delivery after the thirty (30) day period or where delivery occurs after the thirty (30) day period for a reason attributable to the customer (including but not limited to failure to close on a residence or failure to obtain lease approval), the term of the sale agreement shall commence with the date credit is granted.

(b) Partial Deliveries. Where any portion of the order has been delivered within the thirty (30) day period, the term of the sale agreement shall commence with the date credit is granted.

Differences in the lengths of months are disregarded and a day may be counted as one-thirtieth (1/30) of a month. Subject to classifications and differentiations the seller may reasonably establish, a part of a month in excess of fifteen (15) days may be treated as a full month if periods of fifteen (15) days or less are disregarded and that procedure is not consistently used to obtain a greater yield than would otherwise be permitted.

(5) Subject to classifications and differentiations the seller may reasonably establish, the seller may make the same credit service charge on all amounts financed within a specified range. A credit service charge so made does not violate subsection (2) if:

(a) when applied to the median amount within each range, it does not exceed the maximum permitted by subsection (2); and

(b) when applied to the lowest amount within each range, it does not produce a rate of credit service charge exceeding the rate calculated according to paragraph (a) by more than eight percent (8%) of the rate calculated according to paragraph (a).

(6) Notwithstanding subsection (2), the seller may contract for and receive a minimum credit service charge of not more than thirty dollars ($30). The minimum credit service charge allowed under this subsection may be imposed only if:

(a) the ~~borrower~~ **debtor** prepays in full a consumer credit sale, refinancing, or consolidation, regardless of whether the sale, refinancing, or consolidation is precomputed;

(b) the sale, refinancing, or consolidation prepaid by the ~~borrower~~ **debtor** is subject to a credit service charge that:

(i) is contracted for by the parties; and

(ii) does not exceed the rate prescribed in subsection (2); and

(c) the credit service charge earned at the time of prepayment is less than the minimum credit service charge contracted for under this subsection.

(7) The amounts of three hundred dollars ($300) and one thousand dollars ($1,000) in subsection (2) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106).

(8) The amount of thirty dollars ($30) in subsection (6) is subject to change under the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 1992.

SECTION 27. IC 24-4.5-2-209 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 209. Right to Prepay - (1) Subject to the provisions on rebate upon prepayment (IC 24-4.5-2-210), the buyer may prepay in full the unpaid balance of a consumer credit sale, refinancing, or consolidation at any time without penalty.

(2) At the time of prepayment of a credit sale not subject to the provisions of rebate upon prepayment (IC 24-4.5-2-210), the total credit service charge, including the prepaid credit service charge, may not exceed the maximum charge allowed under this chapter for the period the credit sale was in effect.

(3) The creditor or mortgage servicer shall provide an accurate payoff of the consumer credit sale to the debtor within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's written request for the accurate consumer credit sale payoff amount. A creditor or mortgage servicer who fails to provide the accurate consumer credit sale payoff amount is liable for:

(A) one hundred dollars ($100) if an accurate consumer credit sale payoff amount is not provided by the creditor or mortgage servicer within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's first written request; and

(B) the greater of:

(i) one hundred dollars ($100); or

(ii) the credit service charge that accrues on the sale from the date the creditor or mortgage servicer receives the first written request until the date on which the accurate consumer credit sale payoff amount is provided;

if an accurate consumer credit sale payoff amount is not provided by the creditor or mortgage servicer within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's second written request, and the creditor or mortgage servicer failed to comply with clause (A).

A liability under this subsection is an excess charge under IC 24-4.5-5-202.

(4) As used in this subsection, "mortgage transaction" means a consumer credit sale in which a mortgage, deed of trust, or a land contract that constitutes a lien is created or retained against land upon which there is a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes. This subsection applies to a mortgage transaction with respect to which any installment or minimum payment due is delinquent for at least ten (10) days. The creditor, servicer, or the creditor's agent shall acknowledge a written offer made in connection with a proposed short sale not later than ten (10) business days after the date of the offer if the offer complies with the requirements for a qualified written request set forth in 12 U.S.C. 2605(e)(1)(B). The creditor, servicer, or creditor's agent is required to acknowledge a written offer made in connection with a proposed short sale from a third party acting on behalf of the debtor only if the debtor has provided written authorization for the creditor, servicer, or creditor's agent to do so. Not later than twenty (20) business days after receipt of an offer under this subsection, the creditor, servicer, or creditor's agent shall respond to the offer with an acceptance or a rejection of the offer. As used in this subsection, "short sale" means a transaction in which the property that is the subject of a mortgage transaction is sold for an amount that is less than the amount of the debtor's outstanding obligation under the mortgage transaction. A creditor or mortgage servicer that fails to respond to an offer within the time prescribed by this subsection is liable:

(a) under the terms set forth in subsection (3), as if the creditor or mortgage servicer had failed to provide a consumer credit sale payoff amount; and

(b) in accordance with 12 U.S.C. 2605(f) in any action brought under that section.

SECTION 28. IC 24-4.5-3-107 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 107. Definitions: "Lender"; "Precomputed"; "Principal" – (1) Except as otherwise provided, "lender" **means a person regularly engaged in making consumer loans. The term** includes an assignee of the lender's right to payment but use of the term does not in itself impose on an assignee any obligation of the lender with respect to events occurring before the assignment.

(2) A loan, refinancing, or consolidation is "precomputed" if the debt is expressed as a sum comprising the principal and the amount of the loan finance charge computed in advance.

(3) "Principal" of a loan means the total of:

(a) the net amount paid to, receivable by, or paid or payable for the account of the debtor;

(b) the amount of any discount excluded from the loan finance charge (subsection (2) of 24-4.5-3-109); and

(c) to the extent that payment is deferred:

(i) amounts actually paid or to be paid by the lender for registration, certificate of title, or license fees if not included in (a); and

(ii) additional charges permitted by this Chapter (24-4.5-3-202).

SECTION 29. IC 24-4.5-3-201, AS AMENDED BY P.L.57-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 201. Loan Finance Charge for Consumer Loans other than Supervised Loans—(1) Except as provided in subsections (6) and (8), with respect to a consumer loan other than a supervised loan (IC 24-4.5-3-501), a lender may contract for a loan finance charge, calculated according to the actuarial method, not exceeding twenty-one percent (21%) per year on the unpaid balances of the principal.

(2) This section does not limit or restrict the manner of contracting for the loan finance charge, whether by way of add-on, discount, or otherwise, so long as the rate of the loan finance charge does not exceed that permitted by this section. If

the loan is precomputed:

(a) the loan finance charge may be calculated on the assumption that all scheduled payments will be made when due; and

(b) the effect of prepayment is governed by the provisions on rebate upon prepayment (IC 24-4.5-3-210).

(3) For the purposes of this section, the term of a loan commences with the date the loan is made. Differences in the lengths of months are disregarded, and a day may be counted as one-thirtieth (1/30) of a month. Subject to classifications and differentiations the lender may reasonably establish, a part of a month in excess of fifteen (15) days may be treated as a full month if periods of fifteen (15) days or less are disregarded and if that procedure is not consistently used to obtain a greater yield than would otherwise be permitted. For purposes of computing average daily balances, the creditor may elect to treat all months as consisting of thirty (30) days.

(4) With respect to a consumer loan made pursuant to a revolving loan account:

(a) the loan finance charge shall be deemed not to exceed the maximum annual percentage rate if the loan finance charge contracted for and received does not exceed a charge in each monthly billing cycle which is one and three-fourths percent (1 3/4%) of an amount no greater than:

(i) the average daily balance of the debt;

(ii) the unpaid balance of the debt on the same day of the billing cycle; or

(iii) subject to subsection (5), the median amount within a specified range within which the average daily balance or the unpaid balance of the debt, on the same day of the billing cycle, is included; for the purposes of this subparagraph and subparagraph (ii), a variation of not more than four (4) days from month to month is "the same day of the billing cycle";

(b) if the billing cycle is not monthly, the loan finance charge shall be deemed not to exceed the maximum annual percentage rate if the loan finance charge contracted for and received does not exceed a percentage which bears the same relation to one-twelfth (1/12) the maximum annual percentage rate as the number of days in the billing cycle bears to thirty (30); and

(c) notwithstanding subsection (1), if there is an unpaid balance on the date as of which the loan finance charge is applied, the lender may contract for and receive a charge not exceeding fifty cents ($0.50) if the billing cycle is monthly or longer, or the pro rata part of fifty cents ($0.50) which bears the same relation to fifty cents ($0.50) as the number of days in the billing cycle bears to thirty (30) if the billing cycle is shorter than monthly, but no charge may be made pursuant to this paragraph if the lender has made an annual charge for the same period as permitted by the provisions on additional charges (paragraph (c) of subsection (1) of IC 24-4.5-3-202).

(5) Subject to classifications and differentiations, the lender may reasonably establish and make the same loan finance charge on all amounts financed within a specified range. A loan finance charge does not violate subsection (1) if:

(a) when applied to the median amount within each range, it does not exceed the maximum permitted by subsection (1); and

(b) when applied to the lowest amount within each range, it does not produce a rate of loan finance charge exceeding the rate calculated according to paragraph (a) by more than eight percent (8%) of the rate calculated according to paragraph (a).

(6) With respect to a consumer loan not made pursuant to a revolving loan account, the lender may contract for and receive a minimum loan finance charge of not more than thirty dollars ($30). The minimum loan finance charge allowed under this subsection may be imposed only if:

(a) the ~~borrower~~ **debtor** prepays in full a consumer loan, refinancing, or consolidation, regardless of whether the loan, refinancing, or consolidation is precomputed;

(b) the loan, refinancing, or consolidation prepaid by the ~~borrower~~ **debtor** is subject to a loan finance charge that:

(i) is contracted for by the parties; and

(ii) does not exceed the rate prescribed in subsection (1); and

(c) the loan finance charge earned at the time of prepayment is less than the minimum loan finance charge contracted for under this subsection.

(7) The amount of thirty dollars ($30) in subsection (6) is subject to change under the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 1992.

(8) In addition to the loan finance charge provided for in this section, a lender may contract for the following:

(a) With respect to a consumer loan that is not made under a revolving loan account, a loan origination fee of not more than two percent (2%) of the loan amount.

(b) With respect to a consumer loan that is made under a revolving loan account, a loan origination fee of not more than two percent (2%) of the line of credit that was contracted for.

(9) The charges provided for in subsection (8):

(a) are not subject to refund or rebate;

(b) are not permitted if a lender makes a settlement charge under IC 24-4.5-3-202(d)(ii); and

(c) are limited to two percent (2%) of the part of the loan that does not exceed two thousand dollars ($2,000), if the loan is not primarily secured by an interest in land.

Notwithstanding subdivision (a), if a lender retains any part of a loan origination fee charged on a loan that is paid in full by a new loan from the same lender within three (3) months after the date of the prior loan, the lender may charge a loan origination fee only on that part of the new loan not used to pay the amount due on the prior loan, or in the case of a revolving loan, the lender may charge a loan origination fee only on the difference between the amount of the existing credit line and the increased credit line. This subsection does not prohibit a lender from contracting for and receiving a fee for preparing deeds, mortgages, reconveyance, and similar documents under IC 24-4.5-3-202(d)(ii), in addition to the charges provided for in subsection (8).

SECTION 30. IC 24-4.5-3-209 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 209. Right to Prepay - (1) Subject to the provisions on rebate upon prepayment (IC 24-4.5-3-210), the debtor may prepay in full the unpaid balance of a consumer loan, refinancing, or consolidation at any time without penalty. With respect to a consumer loan that is primarily secured by an interest in land, a lender may contract for a penalty for prepayment of the loan in full, not to exceed two percent (2%) of any amount prepaid within sixty (60) days of the date of the prepayment in full, after deducting all refunds and rebates as of the date of the prepayment. However, the penalty may not be imposed:

(a) if the loan is refinanced or consolidated with the same creditor;

(b) for prepayment by proceeds of any insurance or acceleration after default; or

(c) after three (3) years from the contract date.

(2) At the time of prepayment of a consumer loan not subject to the provisions of rebate upon prepayment (IC 24-4.5-3-210), the total finance charge, including the prepaid finance charge but excluding the loan origination fee allowed under IC 24-4.5-3-201, may not exceed the maximum charge allowed

under this chapter for the period the loan was in effect. For the purposes of determining compliance with this subsection, the total finance charge does not include the following:

(a) The loan origination fee allowed under IC 24-4.5-3-201.

(b) The ~~borrower~~ **debtor** paid mortgage broker fee, if any, paid to a person who does not control, is not controlled by, or is not under common control with, the creditor holding the loan at the time a consumer loan is prepaid.

(3) The creditor or mortgage servicer shall provide an accurate payoff of the consumer loan to the debtor within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's written request for the accurate consumer loan payoff amount. A creditor or mortgage servicer who fails to provide the accurate consumer loan payoff amount is liable for:

(a) one hundred dollars ($100) if an accurate consumer loan payoff amount is not provided by the creditor or mortgage servicer within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's first written request; and

(b) the greater of:

(i) one hundred dollars ($100); or

(ii) the loan finance charge that accrues on the loan from the date the creditor or mortgage servicer receives the first written request until the date on which the accurate consumer loan payoff amount is provided;

if an accurate consumer loan payoff amount is not provided by the creditor or mortgage servicer within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's second written request, and the creditor or mortgage servicer failed to comply with subdivision (a).

A liability under this subsection is an excess charge under IC 24-4.5-5-202.

(4) As used in this subsection, "mortgage transaction" means a consumer credit loan in which a mortgage, deed of trust, or a land contract that constitutes a lien is created or retained against land upon which there is a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes. This subsection applies to a mortgage transaction with respect to which any installment or minimum payment due is delinquent for at least ten (10) days. The creditor, servicer, or the creditor's agent shall acknowledge a written offer made in connection with a proposed short sale not later than ten (10) business days after the date of the offer if the offer complies with the requirements for a qualified written request set forth in 12 U.S.C. 2605(e)(1)(B). The creditor, servicer, or creditor's agent is required to acknowledge a written offer made in connection with a proposed short sale from a third party acting on behalf of the debtor only if the debtor has provided written authorization for the creditor, servicer, or creditor's agent to do so. Not later than twenty (20) business days after receipt of an offer under this subsection, the creditor, servicer, or creditor's agent shall respond to the offer with an acceptance or a rejection of the offer. As used in this subsection, "short sale" means a transaction in which the property that is the subject of a mortgage transaction is sold for an amount that is less than the amount of the debtor's outstanding obligation under the mortgage transaction. A creditor or mortgage servicer that fails to respond to an offer within the time prescribed by this subsection is liable:

(a) under the terms set forth in subsection (3), as if the creditor or mortgage servicer had failed to provide a consumer credit loan payoff amount; and

(b) in accordance with 12 U.S.C. 2605(f) in any action brought under that section.

SECTION 31. IC 24-4.5-3-508, AS AMENDED BY P.L.57-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 508. Loan Finance Charge for Supervised Loans – (1) With respect to a supervised loan, including a loan pursuant to a revolving loan account, a supervised lender may contract for and receive a loan finance charge not exceeding that permitted by this section.

(2) The loan finance charge, calculated according to the actuarial method, may not exceed the equivalent of the greater of either of the following:

(a) the total of:

(i) thirty-six percent (36%) per year on that part of the unpaid balances of the principal which is three hundred dollars ($300) or less;

(ii) twenty-one percent (21%) per year on that part of the unpaid balances of the principal which is more than three hundred dollars ($300) but does not exceed one thousand dollars ($1,000); and

(iii) fifteen percent (15%) per year on that part of the unpaid balances of the principal which is more than one thousand dollars ($1000); or

(b) twenty-one percent (21%) per year on the unpaid balances of the principal.

(3) This section does not limit or restrict the manner of contracting for the loan finance charge, whether by way of add-on, discount, or otherwise, so long as the rate of the loan finance charge does not exceed that permitted by this section. If the loan is precomputed:

(a) the loan finance charge may be calculated on the assumption that all scheduled payments will be made when due; and

(b) the effect of prepayment is governed by the provisions on rebate upon prepayment (IC 24-4.5-3-210).

(4) The term of a loan for the purposes of this section commences on the date the loan is made. Differences in the lengths of months are disregarded, and a day may be counted as one-thirtieth (1/30) of a month. Subject to classifications and differentiations the lender may reasonably establish, a part of a month in excess of fifteen (15) days may be treated as a full month if periods of fifteen (15) days or less are disregarded and that procedure is not consistently used to obtain a greater yield than would otherwise be permitted.

(5) Subject to classifications and differentiations, the lender may reasonably establish and make the same loan finance charge on all principal amounts within a specified range. A loan finance charge does not violate subsection (2) if:

(a) when applied to the median amount within each range, it does not exceed the maximum permitted in subsection (2); and

(b) when applied to the lowest amount within each range, it does not produce a rate of loan finance charge exceeding the rate calculated according to paragraph (a) by more than eight percent (8%) of the rate calculated according to paragraph (a).

(6) The amounts of three hundred dollars ($300) and one thousand dollars ($1,000) in subsection (2) and thirty dollars ($30) in subsection (7) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). For the adjustment of the amount of thirty dollars ($30), the Reference Base Index to be used is the Index for October 1992.

(7) With respect to a supervised loan not made pursuant to a revolving loan account, the lender may contract for and receive a minimum loan finance charge of not more than thirty dollars ($30). The minimum loan finance charge allowed under this subsection may be imposed only if:

(a) the ~~borrower~~ **debtor** prepays in full a consumer loan, refinancing, or consolidation, regardless of whether the loan, refinancing, or consolidation is precomputed;

(b) the loan, refinancing, or consolidation prepaid by the ~~borrower~~ **debtor** is subject to a loan finance charge that:

(i) is contracted for by the parties; and

(ii) does not exceed the rate prescribed in subsection (2);

and

(c) the loan finance charge earned at the time of prepayment is less than the minimum loan finance charge contracted for under this subsection.

SECTION 32. IC 24-5-0.5-2, AS AMENDED BY P.L.1-2007, SECTION 165, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) As used in this chapter:

(1) "Consumer transaction" means a sale, lease, assignment, award by chance, or other disposition of an item of personal property, real property, a service, or an intangible, except securities and policies or contracts of insurance issued by corporations authorized to transact an insurance business under the laws of the state of Indiana, with or without an extension of credit, to a person for purposes that are primarily personal, familial, charitable, agricultural, or household, or a solicitation to supply any of these things. However, the term includes the following:

(A) A transfer of structured settlement payment rights under IC 34-50-2.

(B) An unsolicited advertisement sent to a person by telephone facsimile machine offering a sale, lease, assignment, award by chance, or other disposition of an item of personal property, real property, a service, or an intangible.

(2) "Person" means an individual, corporation, the state of Indiana or its subdivisions or agencies, business trust, estate, trust, partnership, association, nonprofit corporation or organization, or cooperative or any other legal entity.

(3) "Supplier" means the following:

(A) A seller, lessor, assignor, or other person who regularly engages in or solicits consumer transactions, including soliciting a consumer transaction by using a telephone facsimile machine to transmit an unsolicited advertisement. The term includes a manufacturer, wholesaler, or retailer, whether or not the person deals directly with the consumer.

(B) A person who contrives, prepares, sets up, operates, publicizes by means of advertisements, or promotes a pyramid promotional scheme.

(C) With respect to a deceptive act described in section 3(h) of this chapter, a creditor (as defined in IC 24-9-2-6).

(4) "Subject of a consumer transaction" means the personal property, real property, services, or intangibles offered or furnished in a consumer transaction.

(5) "Cure" as applied to a deceptive act, means either:

(A) to offer in writing to adjust or modify the consumer transaction to which the act relates to conform to the reasonable expectations of the consumer generated by such deceptive act and to perform such offer if accepted by the consumer; or

(B) to offer in writing to rescind such consumer transaction and to perform such offer if accepted by the consumer.

The term includes an offer in writing of one (1) or more items of value, including monetary compensation, that the supplier delivers to a consumer or a representative of the consumer if accepted by the consumer.

(6) "Offer to cure" as applied to a deceptive act is a cure that:

(A) is reasonably calculated to remedy a loss claimed by the consumer; and

(B) includes a minimum additional amount that is the greater of:

(i) ten percent (10%) of the value of the remedy under clause (A), but not more than four thousand dollars ($4,000); or

(ii) five hundred dollars ($500);

as compensation for attorney's fees, expenses, and other costs that a consumer may incur in relation to the deceptive act.

(7) "Uncured deceptive act" means a deceptive act:

(A) with respect to which a consumer who has been damaged by such act has given notice to the supplier under section 5(a) of this chapter; and

(B) either:

(i) no offer to cure has been made to such consumer within thirty (30) days after such notice; or

(ii) the act has not been cured as to such consumer within a reasonable time after the consumer's acceptance of the offer to cure.

(8) "Incurable deceptive act" means a deceptive act done by a supplier as part of a scheme, artifice, or device with intent to defraud or mislead. The term includes a failure of a transferee of structured settlement payment rights to timely provide a true and complete disclosure statement to a payee as provided under IC 34-50-2 in connection with a direct or indirect transfer of structured settlement payment rights.

(9) "Pyramid promotional scheme" means any program utilizing a pyramid or chain process by which a participant in the program gives a valuable consideration exceeding one hundred dollars ($100) for the opportunity or right to receive compensation or other things of value in return for inducing other persons to become participants for the purpose of gaining new participants in the program. The term does not include ordinary sales of goods or services to persons who are not purchasing in order to participate in such a scheme.

(10) "Promoting a pyramid promotional scheme" means:

(A) inducing or attempting to induce one (1) or more other persons to become participants in a pyramid promotional scheme; or

(B) assisting another in promoting a pyramid promotional scheme.

(11) "Elderly person" means an individual who is at least sixty-five (65) years of age.

(12) "Telephone facsimile machine" means equipment that has the capacity to transcribe text or images, or both, from:

(A) paper into an electronic signal and to transmit that signal over a regular telephone line; or

(B) an electronic signal received over a regular telephone line onto paper.

(13) "Unsolicited advertisement" means material advertising the commercial availability or quality of:

(A) property;

(B) goods; or

(C) services;

that is transmitted to a person without the person's prior express invitation or permission, in writing or otherwise.

(b) As used in section 3(a)(15) of this chapter:

(1) "Directory assistance" means the disclosure of telephone number information in connection with an identified telephone service subscriber by means of a live operator or automated service.

(2) "Local telephone directory" refers to a telephone classified advertising directory or the business section of a telephone directory that is distributed by a telephone company or directory publisher to subscribers located in the local exchanges contained in the directory. The term includes a directory that includes listings of more than one (1) telephone company.

(3) "Local telephone number" refers to a telephone number that has the three (3) number prefix used by the provider of telephone service for telephones physically located within the area covered by the local telephone directory in which the number is listed. The term does not include long

distance numbers or 800-, 888-, or 900- exchange numbers listed in a local telephone directory.

SECTION 33. IC 24-5-0.5-3, AS AMENDED BY P.L.85-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The following acts or representations as to the subject matter of a consumer transaction, made orally, in writing, or by electronic communication, by a supplier, are deceptive acts:

(1) That such subject of a consumer transaction has sponsorship, approval, performance, characteristics, accessories, uses, or benefits it does not have which the supplier knows or should reasonably know it does not have.

(2) That such subject of a consumer transaction is of a particular standard, quality, grade, style, or model, if it is not and if the supplier knows or should reasonably know that it is not.

(3) That such subject of a consumer transaction is new or unused, if it is not and if the supplier knows or should reasonably know that it is not.

(4) That such subject of a consumer transaction will be supplied to the public in greater quantity than the supplier intends or reasonably expects.

(5) That replacement or repair constituting the subject of a consumer transaction is needed, if it is not and if the supplier knows or should reasonably know that it is not.

(6) That a specific price advantage exists as to such subject of a consumer transaction, if it does not and if the supplier knows or should reasonably know that it does not.

(7) That the supplier has a sponsorship, approval, or affiliation in such consumer transaction the supplier does not have, and which the supplier knows or should reasonably know that the supplier does not have.

(8) That such consumer transaction involves or does not involve a warranty, a disclaimer of warranties, or other rights, remedies, or obligations, if the representation is false and if the supplier knows or should reasonably know that the representation is false.

(9) That the consumer will receive a rebate, discount, or other benefit as an inducement for entering into a sale or lease in return for giving the supplier the names of prospective consumers or otherwise helping the supplier to enter into other consumer transactions, if earning the benefit, rebate, or discount is contingent upon the occurrence of an event subsequent to the time the consumer agrees to the purchase or lease.

(10) That the supplier is able to deliver or complete the subject of the consumer transaction within a stated period of time, when the supplier knows or should reasonably know the supplier could not. If no time period has been stated by the supplier, there is a presumption that the supplier has represented that the supplier will deliver or complete the subject of the consumer transaction within a reasonable time, according to the course of dealing or the usage of the trade.

(11) That the consumer will be able to purchase the subject of the consumer transaction as advertised by the supplier, if the supplier does not intend to sell it.

(12) That the replacement or repair constituting the subject of a consumer transaction can be made by the supplier for the estimate the supplier gives a customer for the replacement or repair, if the specified work is completed and:

(A) the cost exceeds the estimate by an amount equal to or greater than ten percent (10%) of the estimate;

(B) the supplier did not obtain written permission from the customer to authorize the supplier to complete the work even if the cost would exceed the amounts specified in clause (A);

(C) the total cost for services and parts for a single transaction is more than seven hundred fifty dollars ($750); and

(D) the supplier knew or reasonably should have known that the cost would exceed the estimate in the amounts specified in clause (A).

(13) That the replacement or repair constituting the subject of a consumer transaction is needed, and that the supplier disposes of the part repaired or replaced earlier than seventy-two (72) hours after both:

(A) the customer has been notified that the work has been completed; and

(B) the part repaired or replaced has been made available for examination upon the request of the customer.

(14) Engaging in the replacement or repair of the subject of a consumer transaction if the consumer has not authorized the replacement or repair, and if the supplier knows or should reasonably know that it is not authorized.

(15) The act of misrepresenting the geographic location of the supplier by listing a fictitious business name or an assumed business name (as described in IC 23-15-1) in a local telephone directory if:

(A) the name misrepresents the supplier's geographic location;

(B) the listing fails to identify the locality and state of the supplier's business;

(C) calls to the local telephone number are routinely forwarded or otherwise transferred to a supplier's business location that is outside the calling area covered by the local telephone directory; and

(D) the supplier's business location is located in a county that is not contiguous to a county in the calling area covered by the local telephone directory.

(16) The act of listing a fictitious business name or assumed business name (as described in IC 23-15-1) in a directory assistance data base if:

(A) the name misrepresents the supplier's geographic location;

(B) calls to the local telephone number are routinely forwarded or otherwise transferred to a supplier's business location that is outside the local calling area; and

(C) the supplier's business location is located in a county that is not contiguous to a county in the local calling area.

(17) That the supplier violated IC 24-3-4 concerning cigarettes for import or export.

(18) That a supplier knowingly sells or resells a product to a consumer if the product has been recalled, whether by the order of a court or a regulatory body, or voluntarily by the manufacturer, distributor, or retailer unless the product has been repaired or modified to correct the defect that was the subject of the recall.

(19) That the supplier violated 47 U.S.C. 227, including any rules or regulations issued under 47 U.S.C. 227.

(b) Any representations on or within a product or its packaging or in advertising or promotional materials which would constitute a deceptive act shall be the deceptive act both of the supplier who places such representation thereon or therein, or who authored such materials, and such other suppliers who shall state orally or in writing that such representation is true if such other supplier shall know or have reason to know that such representation was false.

(c) If a supplier shows by a preponderance of the evidence that an act resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error, such act shall not be deceptive within the meaning of this chapter.

(d) It shall be a defense to any action brought under this

chapter that the representation constituting an alleged deceptive act was one made in good faith by the supplier without knowledge of its falsity and in reliance upon the oral or written representations of the manufacturer, the person from whom the supplier acquired the product, any testing organization, or any other person provided that the source thereof is disclosed to the consumer.

(e) For purposes of subsection (a)(12), a supplier that provides estimates before performing repair or replacement work for a customer shall give the customer a written estimate itemizing as closely as possible the price for labor and parts necessary for the specific job before commencing the work.

(f) For purposes of subsection (a)(15), a telephone company or other provider of a telephone directory or directory assistance service or its officer or agent is immune from liability for publishing the listing of a fictitious business name or assumed business name of a supplier in its directory or directory assistance data base unless the telephone company or other provider of a telephone directory or directory assistance service is the same person as the supplier who has committed the deceptive act.

(g) For purposes of subsection (a)(18), it is an affirmative defense to any action brought under this chapter that the product has been altered by a person other than the defendant to render the product completely incapable of serving its original purpose.

(h) In addition to the acts set forth in subsection (a), a violation of IC 24-9 (concerning home loans) is a deceptive act under this chapter.

SECTION 34. IC 24-5-0.5-4, AS AMENDED BY P.L.85-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) **Except as provided in subsection (l),** a person relying upon an uncured or incurable deceptive act may bring an action for the damages actually suffered as a consumer as a result of the deceptive act or five hundred dollars ($500), whichever is greater. The court may increase damages for a willful deceptive act in an amount that does not exceed the greater of:

(1) three (3) times the actual damages of the consumer suffering the loss; or

(2) one thousand dollars ($1,000).

Except as provided in subsection (j), the court may award reasonable attorney fees to the party that prevails in an action under this subsection. **Except for a deceptive act described in section 3(h) of this chapter, and except for purchases of time shares and camping club memberships,** this subsection does not apply to a consumer transaction in real property, including a claim or action involving a construction defect (as defined in IC 32-27-3-1(5)) brought against a construction professional (as defined in IC 32-27-3-1(4)). ~~except for purchases of time shares and camping club memberships.~~ This subsection also does not apply to a violation of IC 24-4.7, IC 24-5-12, or IC 24-5-14. Actual damages awarded to a person under this section have priority over any civil penalty imposed under this chapter.

(b) Any person who is entitled to bring an action under subsection (a) on the person's own behalf against a supplier for damages for a deceptive act may bring a class action against such supplier on behalf of any class of persons of which that person is a member and which has been damaged by such deceptive act, subject to and under the Indiana Rules of Trial Procedure governing class actions, except as herein expressly provided. Except as provided in subsection (j), the court may award reasonable attorney fees to the party that prevails in a class action under this subsection, provided that such fee shall be determined by the amount of time reasonably expended by the attorney and not by the amount of the judgment, although the contingency of the fee may be considered. Any money or other property recovered in a class action under this subsection which cannot, with due diligence, be restored to consumers within one (1) year after the judgment becomes final shall be returned to the party depositing the same. **Except for a deceptive act described in section 3(h) of this chapter, and except for purchases of time shares and camping club memberships,** this subsection does not apply to a consumer transaction in real property. ~~except for purchases of time shares and camping club memberships.~~ Actual damages awarded to a class have priority over any civil penalty imposed under this chapter.

(c) The attorney general may bring an action to enjoin a deceptive act, **including a deceptive act described in section 3(h) of this chapter.** However, **with respect to all other consumer transactions involving real property,** the attorney general may seek to enjoin patterns of incurable deceptive acts. ~~with respect to consumer transactions in real property.~~ In addition, the court may:

(1) issue an injunction;

(2) order the supplier to make payment of the money unlawfully received from the aggrieved consumers to be held in escrow for distribution to aggrieved consumers;

(3) order the supplier to pay to the state the reasonable costs of the attorney general's investigation and prosecution related to the action; and

(4) provide for the appointment of a receiver.

(d) In an action under subsection (a), (b), or (c), the court may void or limit the application of contracts or clauses resulting from deceptive acts and order restitution to be paid to aggrieved consumers.

(e) In any action under subsection (a) or (b), upon the filing of the complaint or on the appearance of any defendant, claimant, or any other party, or at any later time, the trial court, the supreme court, or the court of appeals may require the plaintiff, defendant, claimant, or any other party or parties to give security, or additional security, in such sum as the court shall direct to pay all costs, expenses, and disbursements that shall be awarded against that party or which that party may be directed to pay by any interlocutory order by the final judgment or on appeal.

(f) **Except as provided in subsection (l),** any person who violates the terms of an injunction issued under subsection (c) shall forfeit and pay to the state a civil penalty of not more than fifteen thousand dollars ($15,000) per violation. For the purposes of this section, the court issuing an injunction shall retain jurisdiction, the cause shall be continued, and the attorney general acting in the name of the state may petition for recovery of civil penalties. Whenever the court determines that an injunction issued under subsection (c) has been violated, the court shall award reasonable costs to the state.

(g) If a court finds any person has knowingly violated section 3 or 10 of this chapter, other than section 3(a)(19) **or 3(h)** of this chapter, the attorney general, in an action pursuant to subsection (c), may recover from the person on behalf of the state a civil penalty of a fine not exceeding five thousand dollars ($5,000) per violation.

(h) If a court finds that a person has violated section 3(a)(19) of this chapter, the attorney general, in an action under subsection (c), may recover from the person on behalf of the state a civil penalty as follows:

(1) For a knowing or intentional violation, one thousand five hundred dollars ($1,500).

(2) For a violation other than a knowing or intentional violation, five hundred dollars ($500).

A civil penalty recovered under this subsection shall be deposited in the consumer protection division telephone solicitation fund established by IC 24-4.7-3-6 to be used for the administration and enforcement of section 3(a)(19) of this chapter.

(i) An elderly person relying upon an uncured or incurable deceptive act, including an act related to hypnotism, may bring an action to recover treble damages, if appropriate.

(j) An offer to cure is:

(1) not admissible as evidence in a proceeding initiated under this section unless the offer to cure is delivered by a

supplier to the consumer or a representative of the consumer before the supplier files the supplier's initial response to a complaint; and

(2) only admissible as evidence in a proceeding initiated under this section to prove that a supplier is not liable for attorney's fees under subsection (k).

If the offer to cure is timely delivered by the supplier, the supplier may submit the offer to cure as evidence to prove in the proceeding in accordance with the Indiana Rules of Trial Procedure that the supplier made an offer to cure.

(k) A supplier may not be held liable for the attorney's fees and court costs of the consumer that are incurred following the timely delivery of an offer to cure as described in subsection (j) unless the actual damages awarded, not including attorney's fees and costs, exceed the value of the offer to cure.

(l) The following apply to a deceptive act described in section 3(h) of this chapter:

(1) A person aggrieved by an uncured or incurable deceptive act described in section 3(h) of this chapter may bring an action under subsection (a) for the damages actually suffered as a consumer as a result of the deceptive act. The court may increase damages for a willful deceptive act in an amount that does not exceed three (3) times the actual damages of the consumer suffering the loss.

(2) For a violation of an injunction issued under subsection (c), a civil penalty of not more than thirty thousand dollars ($30,000) may be imposed under subsection (f).

(3) If a court finds any person has knowingly violated section 3(h) of this chapter, the attorney general, in an action under subsection (c), may recover from the person on behalf of the state a civil penalty of a fine not exceeding ten thousand dollars ($10,000) per violation. A civil penalty recovered under this subdivision shall be deposited in the homeowner protection unit account established by IC 4-6-12-9.

SECTION 35. IC 24-5-0.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. **(a) Except as provided in subsection (b),** a person who commits an incurable deceptive act is subject to a civil penalty of a fine of not more than five hundred dollars ($500) for each violation. The attorney general, acting in the name of the state, has the exclusive right to petition for recovery of such a fine, and this fine may be recovered only in an action brought under section 4(c) of this chapter.

(b) A person who commits an incurable deceptive act described in section 3(h) of this chapter is subject to a civil penalty of a fine of not more than one thousand dollars ($1,000) for each violation. The attorney general, acting in the name of the state, has the exclusive right to petition for recovery of the fine, and the fine may be recovered only in an action brought under section 4(c) of this chapter.

SECTION 36. IC 24-9-3-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.1. (a) For purposes of this section, a creditor conducts a "reasonable inquiry" concerning a borrower's ability to repay a loan if the creditor:**

(1) obtains a consumer report (as defined in IC 24-5-24-2) or other information maintained by a consumer reporting agency (as defined in IC 24-5-24-3) with respect to the prospective borrower; and

(2) obtains information about the prospective borrower through:

(A) a current or past employer of the prospective borrower;

(B) public records; or

(C) any other legal or commercially reasonable means.

(b) As used in this section, "stated income or no documentation loan" means a home loan with respect to which a creditor:

(1) relies solely on a prospective borrower's written or oral statement of the prospective borrower's creditworthiness; and

(2) does not independently verify the accuracy of the prospective borrower's statement by conducting a reasonable inquiry into the prospective borrower's creditworthiness;

in making an underwriting determination with respect to the prospective borrower.

(c) A creditor may not do either of the following:

(1) Recommend or issue a stated income or no documentation loan to a prospective borrower.

(2) Recommend or issue a home loan to a prospective borrower without first conducting a reasonable inquiry concerning the prospective borrower's ability to repay the home loan. A creditor, or any officer, agent, or employee of a creditor, that conducts a reasonable inquiry under this section is not liable to:

(A) a borrower or prospective borrower;

(B) a subsequent purchaser of a home that was the subject of a home loan on which a borrower has defaulted; or

(C) any other person;

if a borrower later defaults on a home loan issued by the creditor.

SECTION 37. IC 24-9-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. (a) A creditor may not charge a fee for informing or transmitting to a person the balance due to pay off a home loan or to provide a written release upon prepayment. A creditor must provide a payoff balance not later than ten (10) ~~business~~ **calendar** days after the request is received by the creditor. ~~(b)~~ For purposes of this ~~section,~~ **subsection,** "fee" does not include actual charges incurred by a creditor for express or priority delivery ~~requested by the borrower~~ of home loan documents to the borrower **if such delivery is requested by the borrower.**

(b) This subsection applies to a home loan with respect to which any installment or minimum payment due is delinquent for at least ten (10) days. The creditor, servicer, or the creditor's agent shall acknowledge a written offer made in connection with a proposed short sale not later than ten (10) business days after the date of the offer if the offer complies with the requirements for a qualified written request set forth in 12 U.S.C. 2605(e)(1)(B). The creditor, servicer, or creditor's agent is required to acknowledge a written offer made in connection with a proposed short sale from a third party acting on behalf of the debtor only if the debtor has provided written authorization for the creditor, servicer, or creditor's agent to do so. Not later than twenty (20) business days after receipt of an offer under this subsection, the creditor, servicer, or creditor's agent shall respond to the offer with an acceptance or a rejection of the offer. As used in this subsection, "short sale" means a transaction in which the property that is the subject of a home loan is sold for an amount that is less than the amount of the borrower's outstanding obligation on the home loan. A creditor, a servicer, or a creditor's agent that fails to respond to an offer within the time prescribed by this subsection is liable:

(1) under the terms set forth in IC 24-4.5-3-209(3), as if the creditor, servicer, or agent had failed to provide a consumer loan payoff amount; and

(2) in accordance with 12 U.S.C. 2605(f) in any action brought under that section.

SECTION 38. IC 24-9-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) A creditor may not make a high cost home loan without regard to repayment

ability.

(b) If a creditor presents evidence that the creditor:

(1) followed commercially reasonable practices in determining the borrower's debt to income ratio; **and**

(2) conducted a reasonable inquiry concerning the borrower's ability to repay the high cost home loan under IC 24-9-3-1.1;

there is a rebuttable presumption that the creditor made the high cost home loan with due regard to repayment ability. ~~For purposes of this section, there is a rebuttable presumption that the borrower's statement of income provided to the creditor is true and complete.~~

(c) **For purposes of subsection (b)(1),** commercially reasonable practices include the use of:

(1) the debt to income ratio:

(A) listed in 38 CFR 36.4337(c)(1); and

(B) defined in 38 CFR 36.4337(d); and

(2) the residual income guidelines established under:

(A) 38 CFR 36.4337(e); and

(B) United States Department of Veterans Affairs form 26-6393.

SECTION 39. IC 24-9-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 4.5. Residential Real Estate Closings

Sec. 1. This chapter applies to a home loan closing that takes place after June 30, 2008.

Sec. 2. As used in this chapter, "closing documents" refers to the documents that a settlement service provider is required to provide to a borrower at or before the closing of a home loan, in accordance with the requirements of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) as amended.

Sec. 3. (a) As used in this chapter, "settlement service provider" means a person that provides services in connection with the closing of a real estate transaction, including the provision of title examinations or title insurance.

(b) The term includes a closing agent (as defined in IC 6-1.1-12-43(a)(2)).

Sec. 4. A creditor shall provide a prospective borrower with a notice that states that the prospective borrower has a right to receive, at least forty-eight (48) hours before the closing of a home loan, the closing documents with respect to the home loan. The creditor shall provide the notice required by this section at the same time that the creditor provides the good faith estimates required under the federal Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) as amended.

Sec. 5. (a) Subject to subsections (b) and (c), not later than forty-eight (48) hours before the closing of a home loan, a settlement service provider shall make available to the borrower the closing documents with respect to the home loan. The settlement service provider shall make the closing documents available to the borrower:

(1) at the office of the creditor or the settlement service provider;

(2) through the United States mail;

(3) by facsimile; or

(4) through any other commercially reasonable means.

(b) A settlement service provider's duty to make closing documents available to a borrower within the time set forth in subsection (a) applies only to the extent that the settlement service provider is able to obtain the closing documents from the creditor making the home loan. However, a settlement service provider is not relieved of the settlement service provider's duty under subsection (a) unless the settlement service provider first makes a good faith effort to obtain the closing documents from the creditor so as to allow the settlement service provider to in turn provide the documents to the borrower within the time set forth in subsection (a). If, after a good faith effort by the settlement service provider to obtain the closing documents from the creditor as required under this subsection, the creditor provides a set of closing documents that is not complete, the settlement service provider shall provide written notice to the borrower of that fact at the same time that the settlement service provider makes the closing documents available to the borrower under subsection (a).

(c) A borrower may waive the right to receive the closing documents with respect to a home loan by providing a written notice of waiver to the settlement service provider at or before the time of closing.

(d) If the borrower does not receive the closing documents for a home loan within the time set forth in subsection (a), the borrower is entitled to delay or reschedule the closing without penalty and without forfeiting the right to enter into the loan or, in the case of a purchase money home loan, into the purchase contract.

(e) If the terms of the home loan set forth in the closing documents made available to the borrower under subsection (a) differ from the terms of the home loan presented to the borrower at the time of the closing, the borrower is entitled to delay or reschedule the closing without penalty and without forfeiting the right to enter into the loan or, in the case of a purchase money home loan, into the purchase contract. For purposes of this subsection, "terms", with respect to a home loan, include any of the following:

(1) The total loan amount.

(2) The loan's rate, including the trigger rate.

(3) Points and fees.

(4) Payment amounts and schedules.

(5) The term or duration of the loan.

(6) Prepayment penalties, if any.

(7) Acceleration provisions.

(8) Servicing of the loan.

(9) Other provisions concerning the rights and responsibilities of the parties to the home loan.

Sec. 6. (a) A settlement service provider is subject to a civil penalty of twenty-five dollars ($25) for each instance in which the settlement service provider fails to make closing documents available to a borrower as required by section 5 of this chapter, unless:

(1) the creditor making the home loan fails to provide the closing documents despite the settlement service provider's good faith efforts to obtain the closing documents, as required under section 5(b) of this chapter; or

(2) the borrower has waived the borrower's right to receive the closing documents under section 5(c) of this chapter.

(b) A penalty described in subsection (a):

(1) may be enforced by the state agency that has administrative jurisdiction over the settlement service provider in the same manner that the agency enforces the payment of fees or other penalties payable to the agency; and

(2) shall be paid into the property tax replacement fund.

(c) A settlement service provider is not liable for any other damages claimed by a customer because of the settlement service provider's failure to comply with this chapter.

SECTION 40. IC 24-9-5-4, AS AMENDED BY P.L.3-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) A person who violates this article is liable to a person who is a party to the home loan transaction that gave rise to the violation for the following:

(1) Actual damages, including consequential damages. A person is not required to demonstrate reliance in order to receive actual damages.

(2) Statutory damages equal to ~~two (2)~~ **four (4)** times the finance charges agreed to in the home loan agreement.

(3) Costs and reasonable attorney's fees.

(b) A person may be granted injunctive, declaratory, and other equitable relief as the court determines appropriate in an action to enforce compliance with this chapter.

(c) The right of rescission granted under 15 U.S.C. 1601 et seq. for a violation of the federal Truth in Lending Act (15 U.S.C. 1601 et seq.) is available to a person acting only in an individual capacity by way of recoupment as a defense against a party foreclosing on a home loan at any time during the term of the loan. Any recoupment claim asserted under this provision is limited to the amount required to reduce or extinguish the person's liability under the home loan plus amounts required to recover costs, including reasonable attorney's fees. This article shall not be construed to limit the recoupment rights available to a person under any other law.

(d) The remedies provided in this section are cumulative but are not intended to be the exclusive remedies available to a person. Except as provided in subsection (e), a person is not required to exhaust any administrative remedies under this article or under any other applicable law.

(e) Before bringing an action regarding an alleged deceptive act under this chapter, a person must:

(1) notify the homeowner protection unit established by IC 4-6-12-2 of the alleged violation giving rise to the action; and

(2) allow the homeowner protection unit at least ninety (90) days to institute appropriate administrative and civil action to redress a violation.

(f) An action under this chapter must be brought within five (5) years after the date that the person knew, or by the exercise of reasonable diligence should have known, of the violation of this article.

(g) An award of damages under subsection (a) has priority over a civil penalty imposed under this article.

SECTION 41. IC 24-9-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. A person who knowingly or intentionally violates this article commits:

(1) a Class ~~A misdemeanor;~~ **D felony;** and

(2) an act that is actionable by the attorney general under IC 24-5-0.5 and is subject to the penalties listed in IC 24-5-0.5.

SECTION 42. IC 24-9-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The attorney general may bring an action to enjoin a violation of this article. A court in which the action is brought may:

(1) issue an injunction;

(2) order a person to make restitution;

(3) order a person to reimburse the state for reasonable costs of the attorney general's investigation and prosecution of the violation of this article; and

(4) impose a civil penalty of not more than ~~ten~~ **twenty** thousand dollars ~~($10,000)~~ **($20,000)** per violation.

(b) A person who violates an injunction under this section is subject to a civil penalty of not more than ~~ten~~ **twenty** thousand dollars ~~($10,000)~~ **($20,000)** per violation.

(c) The court that issues an injunction retains jurisdiction over a proceeding seeking the imposition of a civil penalty under this section.

SECTION 43. IC 25-34.1-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. **(a)** To be licensed or certified as a real estate appraiser, an individual must meet the following conditions:

(1) Not have a conviction for any of the following:

(A) An act that would constitute a ground for disciplinary sanction under IC 25-1-11.

(B) A crime that has a direct bearing on the individual's ability to practice competently.

(C) Fraud or material deception in the course of professional services or activities.

(D) A crime that indicates the individual has the propensity to endanger the public.

(2) Have satisfied the requirements established under IC 25-34.1-3-8(f).

(b) After June 30, 2008, the board shall require each applicant for initial licensure or certification under this chapter to submit fingerprints for a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation, for use by the board in determining whether the applicant should be denied licensure or certification under this chapter for any reason set forth in subsection (a)(1). The applicant shall pay any fees or costs associated with the fingerprints and background check required under this subsection. The board may not release the results of a background check described in this subsection to any private entity.

(c) The board may request evidence of compliance with this section in accordance with subsection (d). Evidence of compliance with this section may include any of the following:

(1) Subject to subsections (b) and (d)(2), criminal background checks, including a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation.

(2) Credit histories.

(3) Other background checks considered necessary by the board.

(d) The board may request evidence of compliance with this section at any of the following times:

(1) The time of application for an initial license or certificate.

(2) The time of renewal of a license or certificate.

(3) Any other time considered necessary by the board.

(e) The commission, upon recommendation of the board, shall adopt rules under IC 4-22-2 to implement this section.

SECTION 44. IC 27-7-3-15.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 15.5. (a) This section applies to a transaction that:**

(1) is a single family residential:

(A) first lien purchase money mortgage transaction; or

(B) refinancing transaction; and

(2) is closed after December 31, 2009.

(b) Not later than September 1, 2009, the department shall establish and maintain an electronic system for the collection and storage of the following information concerning any of the following persons that have participated in or assisted with a transaction to which this section applies, or that will participate in or assist with a transaction to which this section applies:

(1) The name and license number (under IC 23-2-5) of each loan brokerage business involved in the transaction.

(2) The name and registration number (under IC 23-2-5) of each originator involved in the transaction.

(3) The name and license number (under IC 25-34.1) of each:

(A) principal broker; and

(B) salesperson or broker-salesperson, if any;

involved in the transaction.

(4) The name and certificate number (under this chapter) of each title insurance company involved in the transaction.

(5) The name and license number (under IC 27-1-15.6) of each title insurance agent involved in the transaction.

(6) The name and:

(A) license or certificate number (under IC 25-34.1-3-8) of each licensed or certified real estate appraiser; or

(B) license number (under IC 25-34.1) of each broker;

who appraises the property that is the subject of the transaction.

(7) The name of the mortgagee and, if the mortgagee is required to be licensed under IC 24-4.5-3-502, the license number of the mortgagee.

(c) The system established by the department under this section must include a form that:

(1) is uniformly accessible in an electronic format to the closing agent (as defined in IC 6-1.1-12-43(a)(2)) in the transaction; and

(2) allows the closing agent to:

(A) input the information described in subsection (b) with respect to each person described in subsection (b) that participates in or assists with the transaction, to the extent determinable; and

(B) submit the form electronically to a data base maintained by the department.

(d) Subject to subsection (e), the department shall make the information stored in the data base described in subsection (c)(2)(B) accessible to:

(1) each entity described in IC 4-6-12-4; and

(2) the homeowner protection unit established under IC 4-6-12-2.

(e) The department, a closing agent who submits a form under subsection (c), each entity described in IC 4-6-12-4, and the homeowner protection unit established under IC 4-6-12-2 shall exercise all necessary caution to avoid disclosure of any information:

(1) concerning a person described in subsection (b), including the person's license, registration, or certificate number; and

(2) contained in the data base described in subsection (c)(2)(B);

except to the extent required or authorized by state or federal law.

SECTION 45. IC 34-30-2-96.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 96.7. IC 24-9-3-1.1 (Concerning a creditor's reasonable inquiry concerning a prospective borrower's ability to repay a home loan.)**

SECTION 46. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "task force" refers to the mortgage lending and fraud prevention task force created under subsection (b).**

(b) Not later than May 1, 2008, the following agencies shall create the mortgage lending and fraud prevention task force by each appointing an equal number of representatives to serve on the task force:

(1) The securities division of the office of the secretary of state established under IC 23-19-6-1(a).

(2) The homeowner protection unit established by the attorney general under IC 4-6-12-2.

(3) The department of financial institutions established by IC 28-11-1-1.

(4) The department of insurance created by IC 27-1-1-1.

(5) The Indiana real estate commission created by IC 25-34.1-2-1.

(6) The real estate appraiser licensure and certification board created by IC 25-34.1-8-1.

(c) The members of the task force shall annually appoint a chair from among the members of the task force. Each year, the chair shall rotate among the agencies set forth in subsection (b).

(d) Subject to subsection (e), beginning not later than July 2008, the task force shall meet each month to:

(1) coordinate the state's efforts to:

(A) regulate the various participants involved in originating, issuing, and closing home loans;

(B) enforce state laws and rules concerning mortgage lending practices and mortgage fraud; and

(C) prevent fraudulent practices in the home loan industry and investigate and prosecute cases involving mortgage fraud; and

(2) share information and resources necessary for the efficient administration of the tasks set forth in subdivision (1).

(e) With respect to any meeting of the task force:

(1) one (1) or more members of the task force may participate in the meeting; or

(2) the meeting may be conducted in its entirety;

by means of a conference telephone or similar communications equipment by which all persons participating in the meeting can communicate with each other. Participation by the means described in this subsection constitutes presence in person at the meeting.

(f) Beginning in 2008, not later than November 1 of each year, the task force shall report to the legislative council on the activities of the task force during the most recent state fiscal year. The report required under this subsection must include:

(1) information on the regulatory activities of each agency described in subsection (b), including a description of any:

(A) investigations conducted; or

(B) disciplinary actions taken or criminal prosecutions pursued;

with respect to the professions involved in originating, issuing, and closing home loans;

(2) a description of any challenges:

(A) encountered by the task force during the most recent state fiscal year; or

(B) anticipated by the task force in the current state fiscal year;

in carrying out the duties set forth in subsection (d);

(3) any additional information required by the legislative council; and

(4) any recommendations by the task force for legislation necessary to assist the task force in carrying out the duties set forth in subsection (d).

A report to the legislative council under this subsection must be in an electronic format under IC 5-14-6.

SECTION 47. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "authority" refers to the Indiana housing and community development authority created by IC 5-20-1-3.**

(b) As used in this SECTION, "mortgage transaction" refers to a first lien mortgage transaction (as defined in IC 24-4.4-1-301(6)).

(c) Not later than November 1, 2008, the authority shall provide a report to the legislative council that includes the following:

(1) An identification of:

(A) new sources of funding that can be used to assist Indiana homeowners in refinancing their existing mortgage transactions; or

(B) existing sources of funding that can be directed or redirected to assist Indiana homeowners in refinancing their existing mortgage transactions;

in order to prevent the foreclosure of the homes secured by homeowners' existing mortgage transactions.

(2) A plan for the rehabilitation of neighborhoods or communities in Indiana that have been adversely or disproportionately affected by mortgage foreclosures.

The plan required by this subdivision must include an identification of the following:

(A) The areas in Indiana that have been adversely or disproportionately affected by mortgage foreclosures, including any statistics or data used to identify the areas.

(B) New or existing sources of funding that can be directed or redirected to the proposed rehabilitation efforts.

(3) Any recommendations for legislation that the authority determines is needed to accomplish the objectives described in subdivisions (1) and (2).

(4) Any other recommendations of the authority concerning:

(A) the prevention of mortgage foreclosures; or

(B) the rehabilitation of neighborhoods or communities adversely or disproportionately affected by mortgage foreclosures.

(d) The report to the legislative council required by this SECTION must be in an electronic format under IC 5-14-6.

(e) This SECTION expires January 1, 2010.

SECTION 48. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "commissioner" refers to the securities commissioner appointed under IC 23-19-6-1.**

(b) As used in this SECTION, "director" refers to the director of the department of financial institutions appointed under IC 28-11-2-1.

(c) The commissioner and the director shall cooperate to determine the appropriate state agency or department to oversee the regulation of a person that is, has been, or may be subject to regulation, licensure, or registration under both:

(1) IC 23-2-5; and

(2) IC 24-4.5, as amended by this act.

(d) The commissioner and the director shall issue joint guidelines to address the appropriate regulation of a person described in subsection (c) not later than September 1, 2008. The joint guidelines issued under this subsection must include any recommendations for legislation needed to implement the appropriate regulation of a person described in subsection (c), as determined by the commissioner and the director.

(e) This SECTION expires January 1, 2010.

SECTION 49. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "board" refers to the real estate appraiser licensure and certification board created by IC 25-34.1-8-1.**

(b) As used in this SECTION, "commission" refers to the Indiana real estate commission created by IC 25-34.1-2-1.

(c) Notwithstanding IC 25-34.1-8-10(e), as added by this act, the commission shall adopt rules to implement IC 25-34.1-8-10, as amended by this act, in the same manner as emergency rules are adopted under IC 4-22-2-37.1. Not later than May 1, 2008, the board shall make recommendations to the commission concerning the rules needed to implement IC 25-34.1-8-10, as amended by this act. The commission shall adopt any emergency rules under this SECTION not later than June 1, 2008. An emergency rule adopted under this SECTION:

(1) takes effect on July 1, 2008; and

(2) expires on the earlier of:

(A) the date the rule is adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36; or

(B) January 1, 2010.

(d) This SECTION expires January 1, 2010.

SECTION 50. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to SB 89 as reprinted January 23, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 2.

BARDON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred Engrossed Senate Bill 107, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 9, nays 1.

VAN HAAFTEN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred Engrossed Senate Bill 111, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

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

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 24.

Page 4, delete line 5.

Renumber all SECTIONS consecutively.

(Reference is to SB 111 as reprinted January 29, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

PORTER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Engrossed Senate Bill 117, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 1.

L. LAWSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred Engrossed Senate Bill 118, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

NIEZGODSKI, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred Engrossed Senate Bill 134, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

STEVENSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Engrossed Senate Bill 143, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 9 through 42 and insert "[EFFECTIVE JULY 1, 2008]: **Sec. 11.4. (a) This section applies after January 1, 2009.**

(b) Subject to subsection (d), not more than sixty (60) days after the enrollment of a child who is at least nine (9) months of age in a child care program, a provider shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child.

(c) Subject to subsection (d), if a child is enrolled in a child care program before the child is nine (9) months of age, the provider shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child performed during the period beginning on the date the child becomes nine (9) months of age and ending on the date the child becomes fourteen (14) months of age.

(d) A parent or guardian is not required to obtain or furnish documentation of a child's blood lead level test if the parent or guardian gives the provider a written:

(1) objection for religious reasons; or

(2) statement from a physician stating the child should not have the blood lead level test for medical reasons.

SECTION 6. IC 12-17.2-3.5-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 11.5. (a) This section applies after July 1, 2011.**

(b) Except as provided in subsection (c), a provider that operates a child care program in a building that was built before 1978 shall:

(1) ensure that the part of the building that is occupied by children is evaluated by means of:

(A) an initial risk assessment not later than December 31, 2011; and

(B) a clearance examination at least every three (3) years after December 31, 2011;

by a person who is licensed under IC 13-17-14; and

(2) if a lead hazard is found:

(A) keep children out of the area with the lead hazard until the lead hazard is remediated and the area is demonstrated to be lead hazard free through a clearance examination; and

(B) notify the parent or guardian of the child that a lead hazard is being remediated.

(c) A provider described in subsection (b) is not required to comply with subsection (b) if:

(1) the provider has a lead-based paint inspection conducted under IC 13-17-14 with respect to the part of the building that is occupied by children; and

(2) one (1) of the following applies:

(A) The lead-based paint inspection results indicate that no lead-based paint exists in the part of the building that is occupied by children.

(B) Abatement of any lead-based paint hazard that existed in the part of the building that is occupied by children has occurred.

(d) A provider shall ensure that at least one (1) individual who is employed at the facility where the provider operates a child care program:

(1) attends training concerning lead hazards that:

(A) includes lead-based paint rules awareness; and

(B) is approved or developed by the state department of health; and

(2) does the following:

(A) Provides current lead hazard education to parents, guardians, caregivers, and employees at the facility where the provider operates a child care program.

(B) Maintains current knowledge concerning product recalls related to lead hazards.

(C) Performs regular child care program facility assessments to identify lead hazards.

(D) Acts to remove or remediate any lead hazards from the child care program facility.

(e) An employee at the facility where the operator operates a child care program who performs the employee's duties under subsection (d) in good faith and the provider that employs the employee are immune from civil liability related to the performance of the duties. This subsection does not apply to an act or omission that amounts to gross negligence or willful or wanton misconduct.

SECTION 7. IC 12-17.2-4-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. A license may not be denied or suspended if a child care center is making a good faith effort to comply with the requirements under sections 18.2 and 18.3 of this chapter.**

SECTION 8. IC 12-17.2-4-18.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18.2. (a) This section applies after January 1, 2009.**

(b) Subject to subsection (d), not more than sixty (60) days after the enrollment of a child who is at least nine (9) months of age at a child care center, the child care center shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child.

(c) Subject to subsection (d), if a child is enrolled at a child care center before the child is nine (9) months of age, the child care center shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child performed during the period beginning on the date the child becomes nine (9) months of age and ending on the date the child becomes fourteen (14) months of age.

(d) A parent or guardian is not required to obtain or furnish documentation of a child's blood lead level test if the parent or guardian gives the child care center a written:

(1) objection for religious reasons; or

(2) statement from a physician stating the child should not have the blood lead level test for medical reasons.

SECTION 9. IC 12-17.2-4-18.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18.3. (a) This section applies after July 1, 2011.**

(b) Except as provided in subsection (c), a child care center that is located in a building that was built before 1978 shall:

(1) ensure that the part of the building that is occupied by children is evaluated by means of:

(A) an initial risk assessment not later than December 31, 2011; and

(B) a clearance examination at least every three (3) years after December 31, 2011;

by a person who is licensed under IC 13-17-14; and

(2) if a lead hazard is found:

(A) keep children out of the area with the lead hazard until the lead hazard is remediated and the area is demonstrated to be lead hazard free through a clearance examination; and

(B) notify the parent or guardian of the child that a lead hazard is being remediated.

(c) A child care center is not required to comply with subsection (b) if:

(1) the child care center has a lead-based paint inspection conducted under IC 13-17-14 with respect to the part of the building that is occupied by children; and

(2) one (1) of the following applies:

(A) The lead-based paint inspection results indicate that no lead-based paint exists in the part of the building that is occupied by children.

(B) Abatement of any lead-based paint hazard that existed in the part of the building that is occupied by children has occurred.

(d) A child care center shall ensure that at least one (1) employee of the child care center:

(1) attends training concerning lead hazards that:

(A) includes lead-based paint rules awareness; and

(B) is approved or developed by the state department of health; and

(2) does the following:

(A) Provides current lead hazard education to parents, guardians, caregivers, and child care center employees.

(B) Maintains current knowledge concerning product recalls related to lead hazards.

(C) Performs regular child care center facility assessments to identify lead hazards.

(D) Acts to remove or remediate any lead hazards from the child care center facility.

(e) An employee of a child care center who performs the employee's duties under subsection (d) in good faith and the child care center that employs the employee are immune from civil liability related to the performance of the duties. This subsection does not apply to an act or omission that amounts to gross negligence or willful or wanton misconduct.

SECTION 10. IC 12-17.2-5-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. A license may not be denied or suspended if a child care home is making a good faith effort to comply with the requirements under sections 18.3 and 18.4 of this chapter.**

SECTION 11. IC 12-17.2-5-18.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18.3. (a) This section applies after January 1, 2009.**

(b) Subject to subsection (d), not more than sixty (60) days after the enrollment of a child who is at least nine (9) months of age in a child care home, the child care home shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child.

(c) Subject to subsection (d), if a child is enrolled at a child care home before the child is nine (9) months of age, the child care home shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child performed during the period beginning on the date the child becomes nine (9) months of age and ending on the date the child becomes fourteen (14) months of age.

(d) A parent or guardian is not required to obtain or furnish documentation of a child's blood lead level test if the parent or guardian gives the child care home a written:

(1) objection for religious reasons; or

(2) statement from a physician stating the child should not have the blood lead level test for medical reasons.

SECTION 12. IC 12-17.2-5-18.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18.4. (a) This section applies after July 1, 2011.**

(b) Except as provided in subsection (c), a child care home that is located in a building that was built before 1978 shall:

(1) ensure that the part of the building that is occupied by children is evaluated by means of:

(A) an initial risk assessment not later than December 31, 2011; and

(B) a clearance examination at least every three (3) years after December 31, 2011;

by a person who is licensed under IC 13-17-14; and

(2) if a lead hazard is found:

(A) keep children out of the area with the lead hazard until the lead hazard is remediated and the area is demonstrated to be lead hazard free through a clearance examination; and

(B) notify the parent or guardian of the child that a lead hazard is being remediated.

(c) A child care home is not required to comply with subsection (b) if:

(1) the child care home has a lead-based paint inspection conducted under IC 13-17-14 with respect to the part of the building that is occupied by children; and

(2) one (1) of the following applies:

(A) The lead-based paint inspection results indicate that no lead-based paint exists in the part of the building that is occupied by children.

(B) Abatement of any lead-based paint hazard that existed in the part of the building that is occupied by children has occurred.

(d) A child care home shall ensure that at least one (1) employee of the child care home:

(1) attends training concerning lead hazards that:

(A) includes lead-based paint rules awareness; and

(B) is approved or developed by the state department of health; and

(2) does the following:

(A) Provides current lead hazard education to parents, guardians, caregivers, and child care home employees.

(B) Maintains current knowledge concerning product recalls related to lead hazards.

(C) Performs regular child care home facility assessments to identify lead hazards.

(D) Acts to remove or remediate any lead hazards from the child care home facility.

(e) An employee of a child care home who performs the employee's duties under subsection (d) in good faith and the child care home that employs the employee are immune from civil liability related to the performance of the duties. This subsection does not apply to an act or omission that amounts to gross negligence or willful or wanton misconduct.

SECTION 13. IC 12-17.2-4-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. A license or registration may not be denied or suspended if a child care ministry is making a good faith effort to comply with the requirements under sections 16 and 17 of this chapter.**

SECTION 14. IC 12-17.2-6-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 16. (a) This section applies after January 1, 2009.**

(b) Subject to subsection (d), not more than sixty (60) days after the enrollment of a child who is at least nine (9) months of age in a child care ministry, the child care ministry shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child.

(c) Subject to subsection (d), if a child is enrolled at a child care ministry before the child is nine (9) months of age, the child care ministry shall obtain from the parent or guardian of the child documentation of a blood lead level test of the child performed during the period beginning on the date the child becomes nine (9) months of age and ending on the date the child becomes fourteen (14) months of age.

(d) A parent or guardian is not required to obtain or furnish documentation of a child's blood lead level test if the parent or guardian gives the child care ministry a written:

(1) objection for religious reasons; or

(2) statement from a physician stating the child should not have the blood lead test for medical reasons.

SECTION 15. IC 12-17.2-6-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 17. (a) This section applies after July 1, 2011.**

(b) Except as provided in subsection (c), a child care ministry that is located in a building that was built before 1978 shall:

(1) ensure that the part of the building that is occupied by children is evaluated by means of:

(A) an initial risk assessment not later than December 31, 2011; and

(B) a clearance examination at least every three (3) years after December 31, 2011;

by a person who is licensed under IC 13-17-14; and

(2) if a lead hazard is found:

(A) keep children out of the area with the lead hazard until the lead hazard is remediated and the area is demonstrated to be lead hazard free through a clearance examination; and

(B) notify the parent or guardian of the child that a lead hazard is being remediated.

(c) A child care ministry is not required to comply with subsection (b) if:

(1) the child care ministry has a lead-based paint inspection conducted under IC 13-17-14 with respect to the part of the building that is occupied by children; and

(2) one (1) of the following applies:

(A) The lead-based paint inspection results indicate that no lead-based paint exists in the part of the building that is occupied by children.

(B) Abatement of any lead-based paint hazard that existed in the part of the building that is occupied by children has occurred.

(d) A child care ministry shall ensure that at least one (1) employee of the child care ministry:

(1) attends training concerning lead hazards that:

(A) includes lead-based paint rules awareness; and

(B) is approved or developed by the state department of health; and

(2) does the following:

(A) Provides current lead hazard education to parents, guardians, caregivers, and child care ministry employees.

(B) Maintains current knowledge concerning product recalls related to lead hazards.

(C) Performs regular child care ministry facility assessments to identify lead hazards.

(D) Acts to remove or remediate any lead hazards from the child care ministry facility.

(e) An employee of a child care ministry who performs the employee's duties under subsection (d) in good faith and the child care ministry that employs the employee are immune from civil liability related to the performance of the duties. This subsection does not apply to an act or omission that amounts to gross negligence or willful or wanton misconduct.".

Delete pages 3 through 5.

Page 6, delete lines 1 through 40.

Page 8, line 3, strike "IC 16-41-42," and insert "**IC 16-41-42.2,**".

Page 8, line 4, strike "IC 16-41-42-2." and insert "**IC 16-41-42.2-2.**".

Page 8, line 5, delete "IC 16-18-2-198.5" and insert "IC 16-18-2-198.7".

Page 8, line 7, delete "198.5." and insert "**198.7.**".

Page 11, between lines 32 and 33, begin a new line double block indented and insert:

"**(P) A child care provider.**".

Page 12, line 6, after "assist" insert "**child care and**".

Page 12, between lines 19 and 20, begin a new line double block indented and insert:

"**(8) The content of a basic lead training course for child care workers concerning lead hazards that:**

(A) includes lead-based paint rules awareness; and

(B) includes information concerning how the course should be made available to child care workers.".

Page 13, line 19, after "law;" delete "or" and insert "**and**".

Page 14, delete lines 27 through 42 and insert:

"SECTION 32. IC 16-41-39.4-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10. (a) If the state department or a local health department determines, based on an environmental investigation, that lead hazards in a housing unit have caused or contributed to elevated blood lead levels in an individual, the owner of the housing unit shall submit a remediation plan to the state department or local health department for approval.**

(b) The remediation plan required under subsection (a) must include a plan for:

(1) a clearance examination after remediation activities are complete; and

(2) subsequent annual clearance examinations.

(c) Regardless of whether the plan states that the housing unit will not be occupied by families with children, the state department or local health department may not approve a remediation plan that does not provide for remediation of the lead hazards.

(d) Not later than ninety (90) days after approval of a remediation plan submitted under this section, the owner of a housing unit shall complete the remediation. However, the state department or local health department may grant the property owner an extension of time if the property owner demonstrates that the work cannot reasonably be completed within ninety (90) days and will be completed as expeditiously as possible.

(e) The owner of a rental unit for which a remediation plan is required shall do the following:

(1) Relocate tenants of the rental unit to a lead-safe dwelling at the owner's expense until the lead hazards in the rental unit have been remediated. However, a tenant may remain in the rental unit if:

(A) the remediation plan uses lead-safe work practices; and

(B) the owner documents to the state department or local health department that the workers designated to make the necessary repairs have been:

(i) licensed under IC 13-17-14 to use lead-safe work practices; or

(ii) properly trained in the federal Department of Housing and Urban Development Lead Safe Housing Rule requirements for lead safe work practices training (24 CFR 53.1330(a)(4)).

(2) Offer to relocate a tenant if the tenant is expected to be without the use of a bathroom or kitchen in the rental unit for more than eight (8) hours, and relocate a tenant who accepts the offer.

An owner's obligation to relocate a tenant under this subsection ends on the earlier of the date that remediation of the lead hazard is completed or the date that the rental agreement expires. The tenant is required to continue to make rental payments under the original rental agreement while the tenant is relocated under this subsection.

(f) The owner of a rental unit may not evict a tenant or change the terms of a tenant's lease in retaliation for the tenant's report to a governmental agency related to the presence of lead hazards on the property. An owner is taking retaliatory action if the owner, during the term of the rental agreement and without cause:

(1) initiates eviction proceedings;

(2) increases the rent; or

(3) makes other changes to the rental agreement.

(g) This section does not apply to residential property owned by a state educational institution.".

Delete pages 15 through 16.

Page 17, delete lines 1 through 7.

Page 17, delete lines 15 though 19, begin a new paragraph and insert:

"SECTION 34. [EFFECTIVE JULY 1, 2008] **The division of family resources established by IC 12-13-1-1 shall, not later than January 1, 2010, adopt rules under IC 4-22-2 to implement IC 12-17.2-3.5-11.5, IC 12-17.2-4-18.3, IC 12-17.2-5-18.4, and IC 12-17.2-6-17, all as added by this act.**

SECTION 35. [EFFECTIVE UPON PASSAGE] **(a) The legislative council shall assign to a study committee during the 2008 interim the responsibility to examine issues concerning civil procedures and liability in tort actions brought by consumers who are injured by a banned hazardous substance in a consumer product.**

(b) This SECTION expires December 31, 2008.

SECTION 36. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to SB 143 as reprinted January 29, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 2.

C. BROWN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred Engrossed Senate Bill 149, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 7, nays 0.

SUMMERS, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Engrossed Senate Bill 153, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 8, nays 2.

C. BROWN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred Engrossed Senate Bill 175, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

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

"SECTION 1. IC 8-23-2-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12.5. (a) As used in this section, "contractor" refers to a person who provides professional services under a contract with the department.**

(b) As used in this section, "professional services" refers to engineering, architectural, or surveying services.

(c) Notwithstanding any provision of IC 26-2-5-1 to the contrary, the department may not require a contractor to assume any liability or indemnify the state for any amount greater than the degree of fault of the contractor.

(d) Any contractual provision in conflict with the prohibitions contained in subsection (c) is void and unenforceable.".

Page 1, line 10, delete "twenty" and insert "**fifteen**".

Page 1, line 10, delete "(20%)" and insert "**(15%)**".

Page 1, after line 15, begin a new paragraph and insert:

"SECTION 3. IC 34-30-2-26.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 26.5. IC 8-23-2-12.5 (Concerning contractors providing services to the Indiana department of transportation).**

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

Renumber all SECTIONS consecutively.

(Reference is to SB 175 as printed January 16, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

AUSTIN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred Engrossed Senate Bill 189, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 1.

PFLUM, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred Engrossed Senate Bill 192, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 8, nays 0.

VAN HAAFTEN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred Engrossed Senate Bill 200, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 9, nays 0.

DVORAK, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred Engrossed Senate Bill 207, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 9, nays 0.

VAN HAAFTEN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred Engrossed Senate Bill 215, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

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

paragraph and insert:

"SECTION 1. IC 3-5-2-40.5, AS ADDED BY P.L.109-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 40.5. **(a) Except as provided in subsections (b) and (c),** "proof of identification" refers to a document that satisfies all the following:

(1) The document shows the name of the individual to whom the document was issued, and the name conforms to the name in the individual's voter registration record.

(2) The document shows a photograph of the individual to whom the document was issued.

(3) The document includes an expiration date, and the document:

(A) is not expired; or

(B) expired after the date of the most recent general election.

(4) The document was issued by **any of the following:**

(A) The United States. ~~or~~

(B) The state of Indiana.

(C) An approved postsecondary educational institution (as defined in IC 21-7-13-6(a)).

(b) Notwithstanding subsection (a)(3), a document issued by the United States Department of Defense, a branch of the uniformed services, the Merchant Marine, or the Indiana National Guard that:

(1) otherwise complies with the requirements of subsection (a); and

(2) has no expiration date or states that the document has an indefinite expiration date;

is sufficient proof of identification for purposes of this title.

(c) Notwithstanding subsection (a), a document issued to an individual to identify the individual as a participant in the Medicare program established under Title XVIII of the federal Social Security Act (42 U.S.C. 1395 et seq.) is sufficient proof of identification for purposes of this title.

SECTION 2. IC 3-5-2-40.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 40.6. "Provisional ballot" refers to a ballot cast in accordance with the provisions of IC 3-11.7. **The term includes an absentee ballot required to be treated as a provisional ballot under this title.**".

Page 2, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 5. IC 3-5-4.5-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. (a) This section applies to an absentee ballot cast by an individual confined in a long term care facility.**

(b) A person may not challenge the right of an individual to vote at an election by absentee ballot solely on the basis that the address on the individual's application for an absentee ballot differs from the address shown on the individual's voter registration record.".

Page 3, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 9. IC 3-7-12-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. **(a) Subject to subsection (c),** a board of registration may employ all necessary assistants.

(b) The number of employees shall be divided equally between the major political parties of the county.

(c) A person who is:

(1) on probation;

(2) on parole;

(3) subject to home detention under IC 35-38-2.5;

(4) placed in a community corrections program under IC 35-38-2.6;

(5) in a community transition program under IC 11-10-11.5;

(6) participating in a postconviction forensic diversion program under IC 11-12-3.7;

(7) being supervised by a reentry court;

(8) serving a sentence in a minimum security assignment under IC 35-38-3-6; or

(9) serving an intermittent sentence;

may not be an employee of, or otherwise perform work for, a board of registration.

SECTION 10. IC 3-7-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A person who is:

(1) convicted of a crime; and

(2) imprisoned following conviction;

is deprived of the right of suffrage by the general assembly pursuant to Article 2, Section 8 of the Constitution of the State of Indiana.

(b) A person described in subsection (a) is ineligible to register under this article during the period that the person is:

(1) imprisoned; or

(2) otherwise subject to lawful detention.

(c) A person who is subject to lawful detention but has not been convicted of a crime is eligible to:

(1) register under this article; and

(2) vote;

until the person has been convicted of a crime and imprisoned following conviction.".

Page 9, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 21. IC 3-8-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The declaration of each candidate required by this chapter must be signed before a person authorized to administer oaths and contain the following information:

(1) The candidate's name, printed or typewritten as:

(A) the candidate wants the candidate's name to appear on the ballot; and

(B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.

(2) A statement that the candidate is a registered voter and the location of the candidate's precinct and township (or ward and city or town), county, and state.

(3) The candidate's complete residence address, and if the candidate's mailing address is different from the residence address, the mailing address.

(4) A statement of the candidate's party affiliation. For purposes of this subdivision, a candidate is considered to be affiliated with a political party only if any of the following applies:

(A) The most recent primary election in which the candidate voted was a primary election held by the party with which the candidate claims affiliation.

(B) The candidate has never voted in a primary election and claims a party affiliation.

(C) **The candidate obtains certification that the candidate is a member of the political party from** the county chairman of ~~(i)~~ the political party with which the candidate claims affiliation and ~~(ii)~~ **for** the county in which the candidate resides. ~~certifies that the candidate is a member of the political party.~~ **If the candidate is a candidate for a legislative office or a state office, the candidate must also obtain certification from the state chairman of the political party with which the candidate claims affiliation.**

The declaration of candidacy must inform candidates how party affiliation is determined under this subdivision and permit the candidate to indicate on the declaration of candidacy which of clauses (A), (B), or (C) applies to the candidate. If a candidate claims party affiliation under clause (C), the candidate must attach to the candidate's

declaration of candidacy the written ~~certification~~ **certifications** of the **state chairman and the** county chairman required by clause (C).

(5) A statement that the candidate complies with all requirements under the laws of Indiana to be a candidate for the above named office, including any applicable residency requirements, and that the candidate is not ineligible to be a candidate due to a criminal conviction that would prohibit the candidate from serving in the office.

(6) A request that the candidate's name be placed on the official primary ballot of that party to be voted on, the office for which the candidate is declaring, and the date of the primary election.

(7) A statement that the candidate:

(A) is aware of the provisions of IC 3-9 regarding campaign finance and the reporting of campaign contributions and expenditures; and

(B) agrees to comply with the provisions of IC 3-9.

The candidate must separately sign the statement required by this subdivision.

(8) A statement as to whether the candidate has been a candidate for state or local office in a previous primary or general election and whether the candidate has filed all reports required by IC 3-9-5-10 for all previous candidacies.

(9) If the candidate is subject to IC 3-9-1-5, a statement that the candidate has filed a campaign finance statement of organization for the candidate's principal committee or is aware that the candidate may be required to file a campaign finance statement of organization not later than noon seven (7) days after the final date to file the declaration of candidacy under section 11 of this chapter.

(10) The candidate's signature.

(b) The commission shall provide that the form of a declaration of candidacy includes the following information near the separate signature required by subsection (a)(7):

(1) The dates for filing campaign finance reports under IC 3-9.

(2) The penalties for late filing of campaign finance reports under IC 3-9.

(c) A declaration of candidacy must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the declaration of candidacy. If there is a difference between the name on the candidate's declaration of candidacy and the name on the candidate's voter registration record, the officer with whom the declaration of candidacy is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's declaration of candidacy.".

Page 16, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 29. IC 3-10-1-7.2, AS AMENDED BY P.L.164-2006, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.2. (a) Except as provided in subsection (e), a voter who desires to vote an official ballot at a primary election shall provide proof of identification.

(b) Except as provided in subsection (e), before the voter proceeds to vote in a primary election, a ~~member of the~~ precinct election ~~board~~ **officer** shall ask the voter to provide proof of identification. The voter must produce the proof of identification before being permitted to sign the poll list.

(c) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the precinct election board determines that the proof of identification presented by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

a member of the precinct election board shall challenge the voter as prescribed by IC 3-11-8.

(d) If the voter executes a challenged voter's affidavit under section 9 of this chapter or IC 3-11-8-22.1, the voter may:

(1) sign the poll list; and

(2) receive a provisional ballot.

(e) **A voter described by either of the following is not required to provide proof of identification before voting in a primary election:**

(1) A voter who votes in person at a precinct polling place that is located at a state licensed care facility where the voter resides. ~~is not required to provide proof of identification before voting in a primary election.~~

(2) A voter who executes an affidavit, in the form prescribed by the commission, affirming under the penalties of perjury that the voter satisfies either of the following:

(A) The voter is:

(i) indigent; and

(ii) unable to obtain proof of identification without the payment of a fee.

(B) The voter has a religious objection to being photographed.".

Page 18, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 34. IC 3-11-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A voter who is otherwise qualified to vote in person is entitled to vote by absentee ballot: ~~Except~~

(1) by mail;

(2) before an absentee voter board as ~~otherwise~~ provided in this article; ~~a voter voting by absentee ballot must vote~~

(3) in the office of the circuit court clerk (or board of elections and registration in a county subject to IC 3-6-5.2); or

(4) at a satellite office established under IC 3-11-10-26.3.

(b) A county election board, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the board determines that the person has been hospitalized or suffered an injury following the final date and hour for applying for an absentee ballot that would prevent the person from voting in person at the polls.

(c) The commission, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the commission determines that an emergency prevents the person from voting in person at a polling place.

(d) The absentee ballots used in subsection (b) or (c) must be the same official absentee ballots as described in ~~section~~ **sections** 12 and 13 of this chapter. Taking into consideration the amount of time remaining before the election, the commission shall determine whether the absentee ballots are transmitted to and from the voter by mail or personally delivered. An absentee ballot that is personally delivered shall comply with the requirements in sections 19, 20, and 21 of this chapter.

SECTION 35. IC 3-11-4-2, AS AMENDED BY P.L.103-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A voter who wants to vote by absentee ballot must apply to the county election board for an official absentee ballot. Except as provided in subsection (b), the voter must sign the absentee ballot application.

(b) If a voter with disabilities is unable to sign the absentee ballot application and the voter has not designated an individual to serve as attorney in fact for the voter, the county election board may designate an individual to sign the application on

behalf of the voter. If an individual applies for an absentee ballot as the properly authorized attorney in fact for a voter, the attorney in fact must attach a copy of the power of attorney to the application.

(c) A person may provide an individual with an application for an absentee ballot with the following information already printed or otherwise set forth on the application when provided to the individual:

(1) The name of the individual.
(2) The voter registration address of the individual.
(3) The mailing address of the individual.
(4) The date of birth of the individual.
(5) The voter identification number of the individual.

(d) A person may not provide an individual with an application for an absentee ballot with the following information already printed or otherwise set forth on the application when provided to the individual:

(1) The address to which the absentee ballot would be mailed, if different from the voter registration address of the individual.
(2) In a primary election, the major political party ballot requested by the individual.
(3) In a primary or general election, the types of absentee ballots requested by the individual.
~~(4) The reason why the individual is entitled to vote an absentee ballot:~~
~~(A) by mail; or~~
~~(B) before an absentee voter board (other than an absentee voter board located in the office of the circuit court clerk or a satellite office);~~
~~in accordance with IC 3-11-4-18, IC 3-11-10-24, or IC 3-11-10-25.~~

(e) If the county election board determines that an absentee ballot application does not comply with subsection (d), the board shall deny the application under section 17.5 of this chapter.

(f) A person who assists an individual in completing any information described in subsection (d) on an absentee ballot application shall state under the penalties for perjury the following information on the application:

(1) The full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the person providing the assistance.
(2) The date this assistance was provided.
(3) That the person providing the assistance has complied with Indiana laws governing the submission of absentee ballot applications.
(4) That the person has no knowledge or reason to believe that the individual submitting the application:
(A) is ineligible to vote or to cast an absentee ballot; or
(B) did not properly complete and sign the application.

(g) This subsection does not apply to an employee of the United States Postal Service or a bonded courier company acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company. A person who receives a completed absentee ballot application from the individual who has applied for the absentee ballot shall file the application with the appropriate county election board not later than:

(1) noon seven (7) days after the person receives the application; or
(2) the deadline set by Indiana law for filing the application with the board;

whichever occurs first.

(h) This subsection does not apply to an employee of the United States Postal Service or a bonded courier company acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company. A person filing an absentee ballot application, other than the person's own absentee ballot application, must sign an affidavit at the time of filing the application. The affidavit must be in a form prescribed by the commission. The form must include the following:

(1) A statement of the full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the person submitting the application.
(2) A statement that the person filing the affidavit has complied with Indiana laws governing the submission of absentee ballot applications.
(3) A statement that the person has no knowledge or reason to believe that the individual whose application is to be filed:
(A) is ineligible to vote or to cast an absentee ballot; or
(B) did not properly complete and sign the application.
(4) A statement that the person is executing the affidavit under the penalties of perjury.
(5) A statement setting forth the penalties for perjury.

(i) The county election board shall record the date and time of the filing of the affidavit.".

Page 19, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 37. IC 3-11-4-18, AS AMENDED BY P.L.164-2006, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) ~~If a voter satisfies any of the qualifications described in IC 3-11-10-24 that entitle a voter to cast an absentee ballot by mail,~~ The county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the voter at the address stated in the application.

(b) If the county election board mails an absentee ballot to a voter required to file additional documentation with the county voter registration office before voting by absentee ballot under this chapter, the board shall include a notice to the voter in the envelope mailed to the voter under section 20 of this chapter. The notice must inform the voter that the voter must file the additional documentation required under IC 3-7-33-4.5 with the county voter registration office not later than noon on election day for the absentee ballot to be counted as an absentee ballot, and that, if the documentation required under IC 3-7-33-4.5 is filed after noon and before 6 p.m. on election day, the ballot will be processed as a provisional ballot. The commission shall prescribe the form of this notice under IC 3-5-4-8.

(c) Except as provided in section 18.5 of this chapter, the ballot shall be mailed:

(1) on the day of the receipt of the voter's application; or
(2) not more than five (5) days after the date of delivery of the ballots under section 15 of this chapter;

whichever is later.

(d) In addition to the ballot mailed under subsection (c), the county election board shall mail a special absentee ballot for overseas voters.

(e) Except as provided in section 18.5 of this chapter, the ballot described in subsection (d):

(1) must be mailed:
(A) on the day of the receipt of the voter's application; or
(B) not more than five (5) days after the latest date for delivery of the ballots under section 13(b) of this chapter applicable to that election;
whichever is later; and
(2) may not be mailed after the absentee ballots described by section 13(a) of this chapter have been delivered to the circuit court clerk or the clerk's authorized deputy.

(f) As required by 42 U.S.C. 15481, an election board shall establish a voter education program (specific to a paper ballot or optical scan ballot card provided as an absentee ballot under this chapter) to notify a voter of the effect of casting multiple votes for a single office.

(g) As provided by 42 U.S.C. 15481, when an absentee ballot is mailed under this section, the mailing must include:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 38. IC 3-11-6.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) To receive reimbursement for the purchase of voting systems under this chapter, a county must file an application with the election division, in the form required by the election division. The secretary of state with the consent of the co-directors of the election division shall review the application and make a recommendation to the budget committee regarding the application. If a county filed an application under section 3 of this chapter (repealed) not later than January 31, 2003, the application may be amended to comply with this chapter or the county may file a new application under this subsection.

(b) The budget agency, after review by the budget committee, shall approve a county's application for reimbursement under this chapter if the budget agency determines ~~either~~ **any** of the following:

(1) The county has purchased or will purchase a new voting system or an upgrade or expansion of an existing voting system to comply with HAVA that would be eligible for reimbursement under HAVA and this chapter from any fund account.

(2) The county purchased a new voting system or an upgrade or expansion of the county's existing voting system after January 1, 1998, and before July 1, 2001, that would not qualify for reimbursement from federal funds received under HAVA, and the new voting system or upgrade or expansion of the county's existing voting system enhanced all of the following:

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

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

(C) Ease of use of the county's voting system by voters.

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

(3) The county has purchased or will purchase a new voting system to replace a voting system that the county cannot use because the county is unable to obtain technical or other operating support for its current voting system. This subdivision applies only if the purchase of a new voting system is eligible for reimbursement under HAVA.".

Page 20, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 43. IC 3-11-8-25.1, AS AMENDED BY P.L.164-2006, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25.1. (a) Except as provided in subsection (e), a voter who desires to vote an official ballot at an election shall provide proof of identification.

(b) Except as provided in subsection (e), before the voter proceeds to vote in the election, a ~~member of the~~ precinct election ~~board~~ **officer** shall ask the voter to provide proof of identification. The voter shall produce the proof of identification before being permitted to sign the poll list.

(c) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the precinct election board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

a member of the precinct election board shall challenge the voter as prescribed by this chapter.

(d) If the voter executes a challenged voter's affidavit under section 22.1 of this chapter, the voter may:

(1) sign the poll list; and

(2) receive a provisional ballot.

(e) **A voter described by either of the following is not required to provide proof of identification before voting in an election:**

(1) A voter who votes in person at a precinct polling place that is located at a state licensed care facility where the voter resides. ~~is not required to provide proof of identification before voting in an election.~~

(2) A voter who executes an affidavit, in the form prescribed by the commission, affirming under the penalties of perjury that the voter satisfies either of the following:

(A) The voter is:

(i) indigent; and

(ii) unable to obtain proof of identification without the payment of a fee.

(B) The voter has a religious objection to being photographed.

(f) After a voter has passed the challengers or has been sworn in, the voter shall be instructed by a member of the precinct election board to proceed to the location where the poll clerks are stationed. The voter shall announce the voter's name to the poll clerks or assistant poll clerks. A poll clerk, an assistant poll clerk, or a member of the precinct election board shall require the voter to write the following on the poll list:

(1) The voter's name.

(2) Except as provided in subsection (k), the voter's current residence address.

(g) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall:

(1) ask the voter to provide or update the voter's voter identification number;

(2) tell the voter the number the voter may use as a voter identification number; and

(3) explain to the voter that the voter is not required to provide or update a voter identification number at the polls.

(h) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall ask the voter to provide proof of identification.

(i) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under IC 3-7-29. If the board determines that the voter's signature is authentic, the voter may then vote. If either poll clerk doubts the voter's identity following comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by section 21 of this chapter.

(j) If, in a precinct governed by subsection (g):

(1) the poll clerk does not execute a challenger's affidavit; or

(2) the voter executes a challenged voter's affidavit under section 22.1 of this chapter or executed the affidavit before signing the poll list;

the voter may then vote.

(k) Each line on a poll list sheet provided to take a voter's current address must include a box under the heading "Address Unchanged" so that a voter whose residence address shown on the poll list is the voter's current residence address may check the box instead of writing the voter's current residence address on the poll list.

SECTION 44. IC 3-11-10-4, AS AMENDED BY P.L.198-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Upon receipt of an absentee ballot, a county election board (or the absentee voter board in the office of the circuit court clerk) shall immediately examine the signature of the absentee voter to determine its genuineness.

(b) This subsection does not apply to an absentee ballot cast by a voter permitted to transmit the voter's absentee ballots by fax or electronic mail under IC 3-11-4-6. The board shall

compare the signature as it appears upon the envelope containing the absentee ballot with the signature of the voter as it appears upon the ~~application for the absentee ballot.~~ **voter's affidavit of registration.** The board may also compare the signature on the ballot envelope with any other admittedly genuine signature of the voter.

(c) This subsection applies to an absentee ballot cast by a voter permitted to transmit the voter's absentee ballots by fax or electronic mail under IC 3-11-4-6. The board shall compare the signature as it appears on the affidavit transmitted with the voter's absentee ballot to the voter's signature as it appears on the ~~application for the absentee ballot.~~ **voter's affidavit of registration.** The board may also compare the signature on the affidavit with any other admittedly genuine signature of the voter.

(d) If a member of the absentee voter board questions whether a signature on a ballot envelope or transmitted affidavit is genuine, the matter shall be referred to the county election board for consideration under section 5 of this chapter.

SECTION 45. IC 3-11-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. **(a)** If a county election board (or the absentee voter board in the office of the circuit court clerk) unanimously finds that the signature on a ballot envelope or transmitted affidavit is genuine, the board shall enclose immediately the accepted and unopened ballot envelope together with the voter's application for the absentee ballot in a ~~large or~~ carrier envelope. **The board may enclose in the same carrier envelope all absentee ballot envelopes and voter applications to be transmitted to the same precinct.**

(b) The envelope shall be securely sealed and endorsed with the ~~name and~~ official title of the circuit court clerk and the following words: "This envelope contains an absentee ballot and must be opened only at the polls on election day while the polls are open.".

SECTION 46. IC 3-11-10-12, AS AMENDED BY P.L.164-2006, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Each county election board shall have all absentee ballots delivered to the precinct election boards at their respective polls on election day.

(b) The absentee ballots shall be delivered during the hours that the polls are open. ~~and in sufficient time to enable~~ The precinct election ~~boards to~~ **board shall** vote ~~the~~ ballots **received** during the time the polls are open. **Any ballots received by the precinct election board after the polls are closed shall be returned to the county election board for counting under section 14 of this chapter.**

(c) Along with the absentee ballots delivered to the precinct election boards under subsection (a), each county election board shall provide a list certified by the circuit court clerk. This list must state the name of each voter subject to IC 3-7-33-4.5 who:

(1) filed the documentation required by IC 3-7-33-4.5 with the county voter registration office after the printing of the certified list under IC 3-7-29 or the poll list under IC 3-11-3; and

(2) as a result, is entitled to have the voter's absentee ballot counted if the ballot otherwise complies with this title.

(d) If the county election board is notified not later than 3 p.m. on election day by the county voter registration office that a voter subject to IC 3-7-33-4.5 and not identified in the list certified under subsection (c) has filed documentation with the office that complies with IC 3-7-33-4.5, the county election board shall transmit a supplemental certified list to the appropriate precinct election board. If the board determines that the supplemental list may not be received before the closing of the polls, the board shall:

(1) attempt to contact the precinct election board to inform the board regarding the content of the supplemental list; and

(2) file a copy of the supplemental list for that precinct as part of the permanent records of the board.

(e) This subsection applies to a special write-in absentee ballot described in:

(1) 42 U.S.C. 1973ff for federal offices; and

(2) IC 3-11-4-12(a) for state offices.

If the county election board receives both a special write-in absentee ballot and the regular absentee ballot described by IC 3-11-4-12 from the same voter, the county election board shall reject the special write-in ballot and deliver only the regular absentee ballot to the precinct election board.

SECTION 47. IC 3-11-10-14, AS AMENDED BY P.L.198-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. **(a)** Subject to section 11 of this chapter, absentee ballots received by mail (or by fax or electronic mail under IC 3-11-4-6) after the county election board has started the final delivery of the ballots to the precincts on election day **shall be delivered to the county election board for counting.**

(b) An absentee ballot delivered to the county election board under subsection (a) shall be counted by the county election board if the ballot is not otherwise successfully challenged under this title.

(c) The election returns from the precinct shall be adjusted to reflect the votes on an absentee ballot required to be counted under subsection (b).

(d) Except as provided in subsection (e), absentee ballots received by the county election board after the close of the polls on election day are considered as arriving too late and ~~need~~ **may** not be ~~delivered to the polls.~~ **counted.**

(e) Absentee ballots received by the precinct election board as described in section 12(b) of this chapter after the close of the polls shall be returned to the county election board and be counted as provided in this section.

SECTION 48. IC 3-11-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. At any time between the opening and closing of the polls on election day, the inspector, in the presence of the precinct election board, shall do all of the following:

(1) Open the outer or carrier envelope containing an absentee ballot envelope and application.

(2) Announce the absentee voter's name.

(3) Compare the signature upon the ~~application~~ **voter's affidavit of registration** with the signature upon the affidavit on the ballot envelope or transmitted affidavit attached to the ballot envelope.

SECTION 49. IC 3-11-10-17, AS AMENDED BY P.L.198-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) If the inspector finds under section 15 of this chapter that any of the following applies, ~~a~~ **the inspector shall direct that the absentee** ballot ~~may not~~ be ~~accepted or counted.~~ **processed as a provisional ballot under IC 3-11.7:**

(1) The affidavit is insufficient or the ballot has not been endorsed with the initials of:

(A) the two (2) members of the absentee voter board in the office of the circuit court clerk under IC 3-11-4-19 or section 27 of this chapter;

(B) the two (2) members of the absentee voter board visiting the voter under section 25(b) of the chapter; or

(C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.

(2) A copy of the voter's signature has been furnished to the precinct election board and that the signatures do not correspond or there is no signature.

(3) The absentee voter is not a qualified voter in the precinct.

(4) The absentee voter has voted in person at the election.

(5) The absentee voter has not registered.

(6) The ballot is open or has been opened and resealed. This subdivision does not permit an absentee ballot transmitted by fax or electronic mail under IC 3-11-4-6 to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax or electronic mail.

(7) The ballot envelope contains more than one (1) ballot of any kind for the same office or public question.

(8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate.

(9) The ballot has been challenged and not supported.

(b) Subsection (c) applies whenever a voter with a disability is unable to make a signature:

(1) on an absentee ballot application that corresponds to the voter's signature in the records of the county voter registration office; or

(2) on an absentee ballot secrecy envelope that corresponds with the voter's signature:

(A) in the records of the county voter registration office; or

(B) on the absentee ballot application.

(c) The voter may request that the voter's signature or mark be attested to by:

(1) the absentee voter board under section 25(b) of this chapter;

(2) a member of the voter's household; or

(3) an individual serving as attorney in fact for the voter.

(d) An attestation under subsection (c) provides an adequate basis for an inspector to determine that a signature or mark complies with subsection (a)(2).

SECTION 50. IC 3-11-10-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. ~~Each~~ **(a) An absentee** ballot not accepted or counted for any of the reasons prescribed by section 17 of this chapter shall, without being unfolded to disclose how it is marked, be **replaced in the absentee ballot envelope in which the ballot was contained. The absentee ballot envelope shall be securely sealed and** endorsed with the words: "Rejected (giving the reason or reasons ~~therefor)".~~ **for the rejection)".**

(b) All rejected absentee ballots shall be enclosed and securely sealed in an envelope on which the inspector shall write the words: ~~"Defective~~ "Absentee ballots **to be processed as provisional ballots".** The inspector shall also identify the precinct and the date of the election on the envelope containing the rejected ballots. ~~The defective absentee ballots shall be returned to the same officer and in the same manner as prescribed by this title for the return and preservation of official ballots cast and uncast at the election.~~

SECTION 51. IC 3-11-10-24, AS AMENDED BY P.L.103-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) Except as provided in subsection (b), a voter ~~who satisfies any of the following~~ is entitled to vote by mail.

~~(1) The voter has a specific, reasonable expectation of being absent from the county on election day during the entire twelve (12) hours that the polls are open.~~

~~(2) The voter will be absent from the precinct of the voter's residence on election day because of service as:~~

~~(A) a precinct election officer under IC 3-6-6;~~

~~(B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;~~

~~(C) a challenger or pollbook holder under IC 3-6-7; or~~

~~(D) a person employed by an election board to administer the election for which the absentee ballot is requested.~~

~~(3) The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury during the entire twelve (12) hours that the polls are open.~~

~~(4) The voter is a voter with disabilities.~~

~~(5) The voter is an elderly voter.~~

~~(6) The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury during the entire twelve (12) hours that the polls are open.~~

~~(7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.~~

~~(8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.~~

~~(9) The voter is prevented from voting due to observance of a religious discipline or religious holiday during the entire twelve (12) hours that the polls are open.~~

~~(10) The voter is an address confidentiality program participant (as defined in IC 5-26.5-1-6).~~

(b) A voter with disabilities who:

(1) is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope; and

(2) requests that the absentee ballot be delivered to an address within Indiana;

must vote before an absentee voter board under section 25(b) of this chapter.

(c) If a voter receives an absentee ballot by mail, the voter shall personally mark the ballot in secret and seal the marked ballot inside the envelope provided by the county election board for that purpose. The voter shall:

(1) deposit the sealed envelope in the United States mail for delivery to the county election board; or

(2) authorize a member of the voter's household or the individual designated as the voter's attorney in fact to:

(A) deposit the sealed envelope in the United States mail; or

(B) deliver the sealed envelope in person to the county election board.

(d) If a member of the voter's household or the voter's attorney in fact delivers the sealed envelope containing a voter's absentee ballot to the county election board, the individual delivering the ballot shall complete an affidavit in a form prescribed by the commission. The affidavit must contain the following information:

(1) The name and residence address of the voter whose absentee ballot is being delivered.

(2) A statement of the full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the individual delivering the absentee ballot.

(3) A statement indicating whether the individual delivering the absentee ballot is a member of the voter's household or is the attorney in fact for the voter. If the individual is the attorney in fact for the voter, the individual must attach a copy of the power of attorney for the voter, unless a copy of this document has already been filed with the county election board.

(4) The date and location at which the absentee ballot was delivered by the voter to the individual delivering the ballot to the county election board.

(5) A statement that the individual delivering the absentee ballot has complied with Indiana laws governing absentee ballots.

(6) A statement that the individual delivering the absentee ballot is executing the affidavit under the penalties of perjury.

(7) A statement setting forth the penalties for perjury.

(e) The county election board shall record the date and time that the affidavit under subsection (d) was filed with the board.

(f) After a voter has mailed or delivered an absentee ballot to the office of the circuit court clerk, the voter may not recast a

ballot, except as provided in:

(1) section 1.5 of this chapter; or

(2) section 33 of this chapter.

SECTION 52. IC 3-11-10-25, AS AMENDED BY P.L.164-2006, SECTION 108, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) A voter who votes by absentee ballot because ~~of:~~ **the voter:**

(1) **has an** illness or injury; ~~or~~

(2) **is** caring for a confined person at a private residence; **or**

(3) is subject to lawful detention but has not been convicted of a crime;

and who is within the county on election day may vote before an absentee voter board or by mail.

(b) If requested by a voter described in subsection (a) or by a voter with disabilities whose precinct is not accessible to voters with disabilities, an absentee voter board shall visit the voter's place of confinement, the residence of the voter with disabilities, or the private residence:

(1) during the regular office hours of the circuit court clerk;

(2) at a time agreed to by the board and the voter;

(3) on any of the twelve (12) days immediately before election day; and

(4) only once before an election, unless:

(A) the confined voter is unavailable at the time of the board's first visit due to a medical emergency; or

(B) the board, in its discretion, decides to make an additional visit.

(c) This subsection applies to a voter confined due to illness or injury. An absentee voter board may not be denied access to the voter's place of confinement if the board is present at the place of confinement at a time:

(1) agreed to by the board and the voter; and

(2) during the regular office hours of the circuit court clerk.

A person who knowingly violates this subsection commits obstruction or interference with an election officer in the discharge of the officer's duty, a violation of IC 3-14-3-4.

(d) The county election board, by unanimous vote of the board's entire membership, may authorize an absentee voter board to visit a voter who is confined due to illness or injury and will be outside the county on election day in accordance with the procedures set forth in subsection (b).

(e) As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

(1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;

(2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and

(3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(f) As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

(g) This subsection applies to a voter who applies to vote an absentee ballot by mail. The county election board shall include a copy of the Absentee Voter's Bill of Rights with any absentee ballot mailed to the voter.

SECTION 53. IC 3-11-10-26, AS AMENDED BY P.L.164-2006, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) As an alternative to voting by mail, a voter is entitled to cast an absentee ballot before an absentee voter board:

(1) in the office of the circuit court clerk (or board of elections and registration in a county subject to IC 3-6-5.2); or

(2) at a satellite office established under section 26.3 of this chapter.

(b) The voter must:

(1) sign an application on the form prescribed by the commission under IC 3-11-4-5.1; and

(2) provide proof of identification;

before being permitted to vote. The application must be received by the circuit court clerk not later than the time prescribed by IC 3-11-4-3.

(c) The voter may vote before the board not more than ~~twenty-nine (29)~~ **twenty-eight (28)** days nor later than noon on the day before election day.

(d) An absent uniformed services voter who is eligible to vote by absentee ballot in the circuit court clerk's office under IC 3-7-36-14 may vote before the board not earlier than ~~twenty-nine (29)~~ **twenty-eight (28)** days before the election and not later than noon on election day. If a voter described by this subsection wishes to cast an absentee ballot during the period beginning at noon on the day before election day and ending at noon on election day, the county election board or absentee voter board may receive and process the ballot at a location designated by resolution of the county election board.

(e) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day.

(f) Notwithstanding subsection (e), in a county with a population of less than twenty thousand (20,000), the absentee voter board in the office of the circuit court clerk, with the approval of the county election board, may reduce the number of hours available to cast absentee ballots under this section to a minimum of four (4) hours on each of the two (2) Saturdays preceding election day.

(g) As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

(1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;

(2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and

(3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(h) As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

(i) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

the voter shall be permitted to cast an absentee ballot, and the voter's absentee ballot shall be treated as a provisional ballot.

(j) The county election board, by unanimous vote of the entire membership of the board, may adopt a resolution providing that absentee ballots be cast at satellite offices instead of in the office of the circuit court clerk (or board of elections and registration in a county subject to IC 3-6-5.2).

SECTION 54. IC 3-11-10-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec 34. If ~~an envelope containing~~ an absentee ballot has been ~~marked "Rejected as defective"~~ **rejected under section 17 of this chapter** and the voter appears in person at the precinct before the polls close, the voter may vote as any other voter voting in person. **A notation shall be made on the absentee ballot envelope of the rejected absentee ballot that the voter appeared at the polls.**".

Page 23, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 58. IC 3-11-14-28.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 28.5. (a) This section applies if it is discovered, after a voter leaves the voting booth, that the voter has failed to register the voter's votes.**

(b) The judges, in the presence of the inspector, shall take all reasonable action to register the voter's votes. The judges shall attempt to register the votes without viewing any of the votes. However, the voter's votes are not void if either of the judges or the inspector sees any of the votes during an attempt to register the votes.

(c) The judges may not alter any of the voter's votes in performing the duty described in this section.

(d) If the judges are unable to register the voter's votes as provided in this section:

(1) the votes shall be canceled; and

(2) the voter may not vote again at the election.

(e) A record of the occurrence and the results of the attempt to register the voter's votes shall be made on the poll list.".

Page 24, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 62. IC 3-11.5-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. To the extent that they are in conflict with this article, the following statutes do not apply to a county that has adopted a resolution described by section 1 of this chapter:

(1) IC 3-11-4-22.
(2) IC 3-11-10-1.5.
(3) IC 3-11-10-3.
(4) IC 3-11-10-5.
(5) IC 3-11-10-6.
(6) IC 3-11-10-7.
(7) IC 3-11-10-8.
(8) IC 3-11-10-9.
(9) IC 3-11-10-11.
(10) IC 3-11-10-12.
(11) IC 3-11-10-13.
(12) IC 3-11-10-14.
(13) IC 3-11-10-15.
(14) IC 3-11-10-16.
(15) IC 3-11-10-17.
(16) IC 3-11-10-18.
(17) IC 3-11-10-20.
(18) IC 3-11-10-21.
(19) IC 3-11-10-22.
(20) IC 3-11-10-23.
(21) IC 3-11-10-31.
(22) IC 3-11-10-32.
(23) IC 3-11-10-33.
(24) IC 3-11-10-34.
~~(25) IC 3-11-10-35.~~
~~(26)~~ **(25)** IC 3-11-10-36.
~~(27)~~ **(26)** IC 3-11-10-37.
~~(28)~~ **(27)** IC 3-12-2.
~~(29)~~ **(28)** IC 3-12-3-12.

SECTION 63. IC 3-11.5-4-10, AS AMENDED BY P.L.198-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. Subject to section 7 of this chapter, absentee ballots received by mail (or by fax or electronic mail under IC 3-11-4-6) after ~~noon~~ **the close of the polls** on election day are considered as arriving too late and may not be counted.

SECTION 64. IC 3-11.5-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. At any time after the couriers return the certificate under section 9 of this chapter, absentee ballot counters appointed under section 22 of this chapter, in the presence of the county election board, shall, except for a ballot rejected under section 13 of this chapter:

(1) open the outer or carrier envelope containing an absentee ballot envelope and application;

(2) announce the absentee voter's name; and

(3) compare the signature upon the ~~application with the signature upon the~~ affidavit on the ballot envelope or transmitted affidavit **with the signature on the voter's affidavit of registration.**

SECTION 65. IC 3-11.5-4-13, AS AMENDED BY P.L.198-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) If the absentee ballot counters find under section 11 of this chapter that any of the following applies, the ballots shall be ~~rejected.~~ **processed as provisional ballots under IC 3-11.7:**

(1) The affidavit is insufficient or that the ballot has not been endorsed with the initials of:

(A) the two (2) members of the absentee voter board in the office of the clerk of the circuit court under IC 3-11-4-19 or IC 3-11-10-27;

(B) the two (2) members of the absentee voter board visiting the voter under IC 3-11-10-25; or

(C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.

(2) The signatures do not correspond or there is no signature.

(3) The absentee voter is not a qualified voter in the precinct.

(4) The absentee voter has voted in person at the election.

(5) The absentee voter has not registered.

(6) The ballot is open or has been opened and resealed. This subdivision does not permit an absentee ballot transmitted by fax or electronic mail under IC 3-11-4-6 to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax or electronic mail.

(7) The ballot envelope contains more than one (1) ballot of any kind for the same office or public question.

(8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate.

(9) The ballot has been challenged and not supported.

(b) Subsection (c) applies whenever a voter with a disability is unable to make a signature:

(1) on an absentee ballot application that corresponds to the voter's signature in the records of the county voter registration office; or

(2) on an absentee ballot security envelope that corresponds with the voter's signature:

(A) in the records of the county voter registration office; or

(B) on the absentee ballot application.

(c) The voter may request that the voter's signature or mark be attested to by any of the following:

(1) The absentee voter board under section 22 of this chapter.

(2) A member of the voter's household.

(3) An individual serving as attorney in fact for the voter.

(d) An attestation under subsection (c) provides an adequate basis for the absentee ballot counters to determine that a signature or mark complies with subsection (a)(2).

(e) If the absentee ballot counters are unable to agree on a finding described under this section or section 12 of this chapter, the county election board shall make the finding.

(f) The absentee ballot counters or county election board shall issue a certificate to a voter whose ballot has been rejected under this section if the voter appears in person before the board not later than 5 p.m. on election day. The certificate must state that the voter's absentee ballot has been rejected and that the voter may vote in person under section 21 of this chapter if otherwise qualified to vote.

SECTION 66. IC 3-11.5-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) ~~Each~~ **An absentee** ballot rejected for any of the reasons prescribed by section 13 of this chapter shall, without being unfolded to disclose how the ballot is marked, be **replaced in the absentee ballot envelope in which the ballot was contained. The absentee ballot envelope shall be securely sealed and** endorsed with the words: "Rejected (giving the reason or reasons for the rejection)".

(b) All rejected absentee ballots shall be enclosed and securely sealed in an envelope on which the absentee ballot counters shall write the words: ~~"Rejected~~ "Absentee ballots **to be processed as provisional ballots".** The absentee ballot counters shall also identify the precinct and the date of the election on the envelope containing the rejected ballots.

~~(c) The rejected absentee ballots shall be returned to the same officer and in the same manner as prescribed by this title for the return and preservation of official ballots cast and uncast at the election.~~

SECTION 67. IC 3-11.5-4-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. If ~~an envelope containing~~ an absentee ballot has been ~~marked "Rejected"~~ **rejected under section 14 of this chapter** and the voter appears in person at the precinct before the polls close, the voter may vote as any other voter voting in person if the voter presents the precinct election board with the certificate issued under ~~section 13(c)~~ **section 13(f)** of this chapter. **A notation shall be made on the absentee ballot envelope of the rejected absentee ballot that the voter appeared at the polls.**

SECTION 68. IC 3-11.7-2-1, AS AMENDED BY P.L.164-2006, SECTION 121, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) ~~As provided by 42 U.S.C. 15482,~~ This section applies to the following individuals:

(1) An individual:

(A) whose name does not appear on the registration list; and

(B) who is challenged under IC 3-10-1 or IC 3-11-8 after the voter makes an oral or a written affirmation under IC 3-7-48-5 or IC 3-7-48-7 or after the voter produces a certificate of error under IC 3-7-48-1.

(2) An individual described by IC 3-10-1-10.5, IC 3-11-8-23.5, or IC 3-11-8-27.5 who is challenged as not eligible to vote.

(3) An individual who seeks to vote in an election as a result of a court order (or any other order) extending the time established for closing the polls under IC 3-11-8-8.

(4) An individual whose absentee ballot has been rejected under IC 3-11-10-17 or IC 3-11.5-4-13.

(b) As required by 42 U.S.C. 15483, a voter who has registered to vote but has not:

(1) presented identification required under 42 U.S.C. 15483 to the poll clerk before voting in person under IC 3-11-8-25.1; or

(2) filed a copy of the identification required under 42 U.S.C. 15483 to the county voter registration office before the voter's absentee ballot is cast;

is entitled to vote a provisional ballot under this article.

(c) A precinct election officer shall inform an individual described by subsection (a)(1) or (a)(2) that the individual may cast a provisional ballot if the individual:

(1) is eligible to vote under IC 3-7-13-1;

(2) submitted a voter registration application during the registration period described by IC 3-7-13-10 (or IC 3-7-36-11, if the voter registered under that section); and

(3) executes an affidavit described in IC 3-10-1-9 or IC 3-11-8-23.

(d) A precinct election officer shall inform an individual described by subsection (a)(3) that the individual may cast a provisional ballot.

(e) An absentee ballot rejected under IC 3-11-10-17 or IC 3-11.5-4-13 shall be treated as a provisional ballot under this article. The county election board shall send a notice to the voter at the address indicated on the voter's absentee ballot application giving the following information:

(1) That the voter's absentee ballot was rejected.

(2) The reasons for rejection of the voter's absentee ballot.

(3) That the voter's absentee ballot will be treated as a provisional ballot.

(4) That the county election board will have a meeting to determine whether provisional ballots shall be counted.

(5) The date, time, and place of the meeting described in subdivision (4).

(6) That the voter will be given an opportunity to support the validity of the absentee ballot.

(7) That the county election board may limit the voter's presentation. The county election board must grant a voter at least five (5) minutes to make a presentation.

SECTION 69. IC 3-11.7-5-1, AS AMENDED BY P.L.164-2006, SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) After the close of the polls, provisional ballots shall be counted as provided in this chapter.

(b) Notwithstanding IC 3-5-4-1.5 and any legal holiday observed under IC 1-1-9, all provisional ballots must be counted by not later than noon ten (10) days following the election.

(c) The county election board shall meet before noon on the date described in subsection (b) to do the following:

(1) Provide voters who have cast provisional ballots an opportunity to make a presentation in support of the validity of the provisional ballot.

(2) Determine which provisional ballots shall be counted.

SECTION 70. IC 3-11.7-5-2, AS AMENDED BY P.L.103-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) ~~Except as provided in section 5 of this chapter,~~ If the county election board determines that all the following apply, a provisional ballot is valid and shall be counted under this chapter:

(1) The affidavit executed by the provisional voter under IC 3-11.7-2-1 is properly executed.

(2) The provisional voter is a qualified voter of the precinct and has provided proof of identification, if required, under IC 3-10-1, IC 3-11-8, or IC 3-11-10-26.

(3) Based on all the information available to the county election board, including:

(A) information provided by the provisional voter;
(B) information contained in the county's voter registration records; and
(C) information contained in the statewide voter registration file;
the provisional voter registered to vote at a registration agency under this article on a date within the registration period.

(b) If the provisional voter has provided information regarding the registration agency where the provisional voter registered to vote, the board shall promptly make an inquiry to the agency regarding the alleged registration. The agency shall respond to the board not later than noon of the first Friday after the election, indicating whether the agency's records contain any information regarding the registration. If the agency does not respond to the board's inquiry, or if the agency responds that the agency has no record of the alleged registration, the board shall reject the provisional ballot **unless:**

(1) the voter appears at the meeting held under section 1 of this chapter; and
(2) the board determines, based on the voter's presentation, that the voter was validly registered.

If the board determines that the voter was not properly registered, the board shall endorse the ballot with the word "Rejected" and document on the ballot the inquiry and response, if any, by the agency.

(c) ~~Except as provided in section 5 of this chapter,~~ A provisional ballot cast by a voter described in IC 3-11.7-2-1(b) is valid and shall be counted if the county election board determines under this article that the voter filed the documentation required under IC 3-7-33-4.5 and 42 U.S.C. 15483 with the county voter registration office not later than the closing of the polls on election day.

SECTION 71. IC 3-11.7-5-2.5, AS ADDED BY P.L.103-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.5. (a) A voter who:

(1) was challenged under IC 3-10-1, IC 3-11-8, or IC 3-11-10-26 as a result of the voter's inability or declination to provide proof of identification; and
(2) cast a provisional ballot;

may personally appear ~~before the circuit court clerk or the~~ **at the** county election board ~~not later than the deadline specified by~~ **meeting held under** section 1 of this chapter for the county election board to determine whether to count a provisional ballot. **The voter may also appear before the circuit court clerk before the county election board meeting to provide proof of identification and execute the affidavit as required under subsection (b).**

(b) Except as provided in subsection (c), ~~or (c),~~ if the voter:

(1) provides proof of identification to the circuit court clerk or county election board; and
(2) executes an affidavit before the clerk or board, in the form prescribed by the commission, affirming under the penalties of perjury that the voter is the same individual who:
(A) personally appeared before the precinct election board; and
(B) cast the provisional ballot on election day;

the county election board shall find that the voter's provisional ballot is valid and direct that the provisional ballot be opened under section 4 of this chapter and processed in accordance with this chapter.

~~(c) If the voter executes an affidavit before the circuit court clerk or county election board, in the form prescribed by the commission, affirming under the penalties of perjury that:~~
~~(1) the voter is the same individual who:~~
~~(A) personally appeared before the precinct election board; and~~
~~(B) cast the provisional ballot on election day; and~~
~~(2) the voter:~~
~~(A) is:~~
~~(i) indigent; and~~
~~(ii) unable to obtain proof of identification without the payment of a fee; or~~
~~(B) has a religious objection to being photographed;~~
~~the county election board shall determine whether the voter has been challenged for any reason other than the voter's inability or declination to present proof of identification to the precinct election board.~~

~~(d) If the county election board determines that the voter described in subsection (c) has been challenged solely for the inability or declination of the voter to provide proof of identification, the county election board shall:~~
~~(1) find that the voter's provisional ballot is valid; and~~
~~(2) direct that the provisional ballot be:~~
~~(A) opened under section 4 of this chapter; and~~
~~(B) processed in accordance with this chapter.~~

~~(c)~~ **(c)** If the county election board determines that a voter described in subsection (b) ~~or (c)~~ has been challenged for a cause other than the voter's inability or declination to provide proof of identification, the board shall:

(1) note on the envelope containing the provisional ballot that the voter has complied with the proof of identification requirement; and
(2) proceed to determine the validity of the remaining challenges set forth in the challenge affidavit before ruling on the validity of the voter's provisional ballot.

~~(f)~~ **(d)** If a voter described by subsection (a) fails by the deadline ~~for counting provisional ballots referenced in subsection (a)~~ **described in section 1 of this chapter** to:

(1) appear before the county election board **or the circuit court clerk;** and
(2) execute an affidavit in the manner prescribed by subsection (b); ~~or (c),~~

the county election board shall find that the voter's provisional ballot is invalid.

SECTION 72. IC 3-11.7-5-3, AS AMENDED BY P.L.103-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) **This section applies** if the board determines **any of the following:**

(1) That the affidavit executed by the provisional voter has not been properly executed.
(2) That the provisional voter is not a qualified voter of the precinct.
(3) That the **provisional** voter failed to provide proof of identification when required under IC 3-10-1, IC 3-11-8, or IC 3-11-10-26. ~~or~~
(4) That the provisional voter did not register to vote at a registration agency under this article on a date within the registration period.
(5) That the provisional voter's absentee ballot is not entitled to be counted under this title.

(b) The board shall make the following findings:

(1) The provisional ballot is invalid.
(2) The provisional ballot may not be counted.
(3) The provisional ballot envelope containing the ballots cast by the provisional voter may not be opened.

~~(b)~~ **(c)** If the county election board determines that a provisional ballot is invalid, a notation shall be made on the provisional ballot envelope: "Provisional ballot determined invalid".

SECTION 73. IC 3-11.7-5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. As soon as the ballots have been counted, the counters shall do the following in the presence of the county election board:

(1) Place in a strong paper envelope or bag the following:
(A) All provisional ballots, voted and spoiled.

(B) All provisional ballots
~~(i)~~ determined invalid under section 3 of this chapter.
~~or~~
~~(ii) rejected under section 5 of this chapter.~~
(C) All protested and uncounted provisional ballots.
(D) All provisional ballot envelopes.
(E) All executed affidavits relating to the provisional ballots.
(F) The tally papers.
(2) Securely seal the envelope or bag.
(3) Have both counters initial the envelope or bag.
(4) Plainly mark on the outside of the envelope or bag in ink the precinct in which the provisional ballots were cast.
(5) Deliver the envelope or bag to the circuit court clerk.
(6) Notify the circuit court clerk of the number of ballots placed in the envelope or bag.

SECTION 74. IC 3-11.7-7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 7. Evaluation of Provisional Voting

Sec. 1. Not later than January 31 following each year in which a general or municipal election is held, the secretary of state shall publish an analysis of provisional voting in Indiana for that election year.

Sec. 2. The analysis required by section 1 of this chapter must contain the following information:
(1) The number of provisional ballots cast by county.
(2) The reasons that provisional ballots were cast. The analysis may group the reasons for casting provisional ballots by category.
(3) The number of provisional ballots counted and the number of provisional ballots not counted, by category.
(4) Measures of variance in casting of provisional ballots by county.
(5) Length of time to check validity and count provisional ballots by county.
(6) The variation in the use of provisional ballots among all counties.

Sec. 3. The analysis required by section 1 of this chapter must consider the following questions:
(1) Whether the provisional ballot system distributes, collects, records, and counts provisional votes with acceptable accuracy.
(2) Whether the provisional ballot system counts all votes cast by properly registered voters who have correctly completed all steps to cast a vote.
(3) Whether the provisional ballot system is structured sufficiently to perform well when the number of votes cast for opposing candidates is close.
(4) Whether the procedural requirements of the provisional ballot system permit a cost efficient, accurate, and timely operation.
(5) Whether the variation in the use of provisional ballots throughout Indiana is great enough to raise concern that the provisional ballot system is not administered uniformly across Indiana.

Sec. 4. The county election board of each county shall collect and send to the secretary of state any information about the use of provisional ballots in the county as required by the secretary of state.

SECTION 75. IC 3-12-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Subject to sections 5, 6, 8, 9, **and** 9.5 ~~and 13~~ of this chapter, the primary factor to be considered in determining a voter's choice on a ballot is the intent of the voter. If the voter's intent can be determined on the ballot or on part of the ballot, the vote shall be counted for the affected candidate or candidates or on the public question. However, if it is impossible to determine a voter's choice of candidates on a part of a ballot or vote on a public question, then the voter's vote concerning those candidates or public questions may not be counted.

SECTION 76. IC 3-12-1-7, AS AMENDED BY P.L.164-2006, SECTION 124, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) This subsection applies whenever a voter:
(1) votes a straight party ticket; and
(2) votes only for one (1) or more individual candidates who are all of the same political party as the straight ticket vote.
The straight ticket vote shall be counted and the individual candidate votes may not be counted.

(b) This subsection applies whenever:
(1) a voter has voted a straight party ticket for the candidates of one (1) political party;
(2) only one (1) person may be elected to an office; and
(3) the voter has voted for one (1) individual candidate for the office described in subdivision (2) who is:
(A) a candidate of a political party other than the party for which the voter voted a straight ticket; or
(B) an independent candidate for the office.
If the voter has voted for one (1) individual candidate for the office described in subdivision (2), the individual candidate vote for that office shall be counted, the straight party ticket vote for that office may not be counted, and the straight party ticket votes for other offices on the ballot shall be counted.

(c) This subsection applies whenever:
(1) a voter has voted a straight party ticket for the candidates of one (1) political party; and
(2) the voter has voted for more individual candidates for the office than the number of persons to be elected to that office.
The individual candidate votes for that office may not be counted, the straight party ticket vote for that office may not be counted, and the straight party ticket votes for other offices on the ballot shall be counted.

(d) This subsection applies whenever:
(1) a voter has voted a straight party ticket for the candidates of one (1) political party;
(2) more than one (1) person may be elected to an office; and
(3) the voter has voted for individual candidates for the office described in subdivision (2) who are:
(A) independent candidates;
(B) candidates of a political party other than the political party for which the voter cast a straight party ticket under subdivision (1); or
(C) a combination of candidates described in clauses (A) and (B).
The individual votes cast by the voter for the office for the independent candidates and the candidates of a political party other than the political party for which the voter cast a straight party ticket shall be counted. The straight party ticket vote cast by that voter for that office shall be counted unless the total number of votes cast for the office by the voter, when adding the voter's votes for the individual candidates for the office and the voter's straight party ticket votes for the office, is greater than the number of persons to be elected to the office. If the total number of votes cast for the office is greater than the number of persons to be elected to the office, the straight party ticket votes for the office may not be counted. The straight party ticket votes for other offices on the voter's ballot shall be counted.

(e) This subsection applies whenever:
(1) a voter has voted a straight party ticket for the candidates of one (1) political party;
(2) more than one (1) person may be elected to an office; and
(3) the voter has voted for individual candidates for the office described in subdivision (2) who are:

(A) independent candidates or candidates of a political party other than the political party for which the voter cast a straight party ticket under subdivision (1); and

(B) candidates of the same political party for which the voter cast a straight party ticket under subdivision (1).

The individual votes cast by the voter for the office for the independent candidates and the candidates of a political party other than the political party for which the voter cast a straight party ticket shall be counted. The individual votes cast by the voter for the office for the candidates of the same political party for which the voter cast a straight party ticket may not be counted **unless the straight party ticket vote is not counted.** The straight party ticket vote cast by that voter for that office shall be counted unless the total number of votes cast for the office by the voter, when adding the voter's votes for the individual candidates for the office and the voter's straight party ticket vote for the office is greater than the number of persons to be elected to the office. If the total number of votes cast for the office is greater than the number of persons to be elected to the office, the straight party ticket votes for that office may not be counted. The straight party ticket votes for other offices on the voter's ballot shall be counted.

(f) If a voter votes a straight party ticket for more than one (1) political party, the whole ballot is void with regard to all candidates nominated by a political party or designated as independent candidates on the ballot. However, the voter's vote for a school board candidate or on a public question shall be counted if otherwise valid under this chapter.

(g) If a voter does not vote a straight party ticket and the number of votes cast by that voter for the candidates for an office are less than or equal to the number of openings for that office, the individual candidates votes shall be counted.

(h) If a voter does not vote a straight party ticket and the number of votes cast by that voter for an office exceeds the number of openings for that office, none of the votes concerning that office may be counted.

SECTION 77. IC 3-12-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) This section applies to votes cast by any method.

(b) ~~Except as provided in section 13 of this chapter,~~ A ballot that has been marked and cast by a voter in compliance with this title but may otherwise not be counted solely as the result of the act or failure to act of an election officer ~~may nevertheless~~ **shall** be counted ~~in a proceeding under IC 3-12-6, IC 3-12-8, or IC 3-12-11~~ unless evidence of fraud, tampering, or misconduct affecting the integrity of the ballot is presented. ~~by a party to the proceeding.~~

(c) The act or failure to act by an election officer is not by itself evidence of fraud, tampering, or misconduct affecting the integrity of the ballot.

SECTION 78. IC 3-12-4-18, AS AMENDED BY P.L.221-2005, SECTION 105, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. If electronic voting systems are used in a precinct, the county election board may ~~request authorization from the state recount commission to~~ inspect the registering counter or other recording device on any electronic voting system showing the number of votes cast for any candidate or public question. ~~If authorized by the state recount commission,~~ The board may conduct an inspection either before it proceeds to count and tabulate the vote or within one (1) day after the count and tabulation are finished.".

Page 25, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 81. IC 4-8.1-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. **(a) The individual elected as treasurer of state shall take office on January 1 following the individual's election.**

(b) The treasurer of state and ~~his~~ **the** deputy treasurers shall each give bond in an amount determined by the auditor of state and the governor. The bond shall be conditioned on the faithful performance of the duties as treasurer of state and deputy treasurer, respectively. The bond must be procured from a surety company authorized by law to transact business in this state.

SECTION 82. IC 5-10.2-1-8, AS AMENDED BY P.L.88-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Except as provided in subsection (b), "vested status" as used in this article means the status of having ten (10) years of creditable service.

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

(1) at least eight (8) years of creditable service as an elected county official in an office described in IC 5-10.2-4-1.7;

(2) been elected at least two (2) times if the person would have had at least eight (8) years of creditable service as an elected county official in an office described in IC 5-10.2-4-1.7 had the person's term of office not been shortened under a statute enacted under Article 6, Section 2(b) of the Constitution of the State of Indiana; or

(3) at least ten (10) years of creditable service as a member of the fund based on a combination of service as an elected county official and as a full-time employee in a covered position.

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

(d) This subsection applies to an individual elected to the office of treasurer of state at the election on November 7, 2006. The individual shall have vested status if the individual is reelected as treasurer of state at the 2010 general election and serves in the office until January 1, 2015.

SECTION 83. IC 5-10.2-4-1.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.9. (a) This section applies only to a member of the public employees' retirement fund:**

(1) who has served as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana; and

(2) whose term of office as a state officer commenced after the election held on November 5, 2002.

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

(1) has:

(A) served as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana for at least eight (8) years; or

(B) been elected at least two (2) times and would have served at least eight (8) years as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana had the member's term of office not been shortened under a statute enacted to establish uniform dates for beginning the terms of state officers listed in Article 6, Section 1 of the Constitution of the State of Indiana; and

(2) is prohibited by Article 6, Section 1 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years in any period of twelve (12) years.

(c) A member who:

(1) has served as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana; and

(2) does not meet the requirements of subsection (b);

is eligible for normal retirement if the member has attained vested status (as defined in IC 5-10.2-1-8(a)) and meets the requirements of section 1 of this chapter.".

Page 28, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 87. IC 20-23-8-10, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A change in a plan may be initiated by one (1) of the following procedures:

(1) By filing a petition signed by at least ~~twenty~~ **ten** percent ~~(20%)~~ **(10%)** of the **active** voters **(as defined in IC 3-5-2-1.7)** of the school corporation with the clerk of the circuit court.

(2) By a resolution adopted by the governing body of the school corporation.

(3) By ordinance adopted by a city legislative body under section 13 of this chapter.

(b) A petition, resolution, or ordinance must set forth a description of the plan that conforms with section 7 of this chapter.

~~(c) Except as provided in subsection (a)(1), in a city having a population of more than fifty-nine thousand seven hundred (59,700) but less than sixty-five thousand (65,000), a change in a plan may be initiated by filing a petition signed by ten percent (10%) or more of the voters of the school corporation with the clerk of the circuit court.~~

SECTION 88. IC 20-23-8-14, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) Not more than ten (10) days after a governing body has:

(1) initiated;

(2) approved; or

(3) disapproved;

a plan initiated by the petition filed with it, the governing body shall publish a notice one (1) time in a newspaper of general circulation in the county of the school corporation. If a newspaper of general circulation is not published in the county of the school corporation, the governing body shall publish a notice one (1) time in a newspaper of general circulation published in a county adjoining the county of the school corporation.

(b) The notice must set out the text of a plan initiated by the governing body or another plan filed with the governing body before the preparation of the notice. The notice must also state the right of a voter, as provided in this section, to file a petition for alternative plans or a petition protesting the adoption of a plan or plans to which the notice relates.

(c) If the governing body fails to publish a notice required by this section, the governing body shall, not more than five (5) days after the expiration of the ten (10) day period for publication of notice under this section, submit the petition that has been filed with the clerk to the state board, whether or not the plan contained in the petition or the petition meets the requirements of this chapter.

(d) Not later than one hundred twenty (120) days after the publication of the notice, voters of the school corporation may file with the clerk a petition protesting a plan initiated or approved by the governing body or a petition submitting an alternative plan as follows:

(1) A petition protesting a plan ~~shall~~ **must** be signed by at least ~~twenty~~ **ten** percent ~~(20%)~~ **(10%)** of the **active** voters **(as defined in IC 3-5-2-1.7)** of the school corporation or five hundred (500) voters of the school corporation, whichever is less.

(2) A petition submitting an alternative plan ~~shall~~ **must** be signed by at least ~~twenty~~ **ten** percent ~~(20%)~~ **(10%)** of the **active** voters **(as defined in IC 3-5-2-1.7)** of the school corporation.

A petition filed under this subsection shall be certified by the clerk and shall be filed with the governing body in the same manner as is provided for a petition in section 11 of this chapter.

(e) The governing body or the voters may not initiate or file additional plans until the plans that were published in the notice or submitted as alternative plans not later than one hundred twenty (120) days after the publication of the notice have been disposed of by:

(1) adoption;

(2) defeat at a special election held under section 16 of this chapter; or

(3) combination with another plan by the state board under section 15 of this chapter.".

Page 29, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 91. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 3-12-1-13; IC 3-14-2-29.

SECTION 92. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 3-11-10-35; IC 3-11.7-5-5.

SECTION 93. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "HAVA money" refers to money received by the state under the Help America Vote Act of 2002 (42 U.S.C. 15301 through 15545).**

(b) The definitions in IC 3-5-2 apply throughout this SECTION.

(c) HAVA money received after December 31, 2007, shall be allocated to reimburse the following counties for purchase of new voting systems:

(1) Boone County.

(2) Cass County.

(3) Parke County.

(4) Randolph County.

(d) The secretary of state, as the state's chief election official under IC 3-6-3.7-1, shall petition the federal Election Assistance Commission for authority to use HAVA money to reimburse counties as provided in subsection (c). In addition to other arguments that the secretary of state may make in the petition, the secretary of state shall inform the Election Assistance Commission that the general assembly considers the circumstances of the counties described in subsection (c) as different from other jurisdictions that have requested to use HAVA money to purchase new voting systems to replace voting systems purchased from HAVA money. Other states have sought to replace functioning voting systems that the state has chosen to abandon for public policy reasons. The state of Indiana is petitioning to use HAVA money to replace voting systems that cannot be used because of the lack of technical and other operating support for the voting systems due to the dissolution of the companies that sold the voting systems.

(e) This SECTION expires July 1, 2013.

SECTION 94. [EFFECTIVE JULY 1, 2008] **(a) There is appropriated to the election administration fund one hundred twenty-five thousand two hundred dollars ($125,200) from the state general fund to match any money granted to the state by the federal government after December 31, 2007, under the Help America Vote Act of 2002 (42 U.S.C. 15301 through 15545), beginning July 1, 2008, and ending June 30, 2011.**

(b) This SECTION expires July 1, 2011.".

Renumber all SECTIONS consecutively.

(Reference is to SB 215 as printed January 18, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

PIERCE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred Engrossed Senate Bill 221, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 9, after "sale," insert "**the following**".

Page 2, line 11, after "(1)" insert "**A sign reading as follows:**".

Page 2, delete lines 13 through 15, begin a new line block indented and insert:

"**(2) A sign reading as follows: "Smoking by Pregnant Women May Result in Fetal Injury, Premature Birth, and Low Birth Weight.".**

(3) A sign displaying a toll free phone number that provides assistance to callers in quitting smoking, as determined by the department of health.".

(Reference is to SB 221 as reprinted January 23, 2008.)
and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

VAN HAAFTEN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Energy and Utilities, to which was referred Engrossed Senate Bill 223, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 1.

CROOKS, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Engrossed Senate Bill 226, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 16, begin a new paragraph and insert:

"SECTION 1. IC 8-1.5-2-4, AS AMENDED BY P.L.113-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. Whenever the municipal legislative body determines to sell or otherwise dispose of nonsurplus municipally owned utility property, it shall by ordinance or resolution, by a two-thirds (2/3) vote, provide for **the following:**

(1) The appointment, **as follows,** of **three (3) residents of Indiana to serve as appraisers:**

(A) One (1) disinterested ~~freeholder residing in the municipality, and~~ **person who is an engineer licensed under IC 25-31-1.**

(B) ~~Two (2)~~ **One (1)** disinterested ~~appraisers~~ **appraiser** licensed under IC 25-34.1.

~~who are residents of Indiana,~~

(C) One disinterested person who is either:

(i) an engineer licensed under IC 25-31-1; or

(ii) an appraiser licensed under IC 25-34.1.

(2) The appraisal of the property. ~~and~~

(3) The time that the appraisal is due.

~~One (1) of the appraisers appointed under subdivision (1)(B) must reside not more than fifty (50) miles from the property.~~".

Page 2, line 2, delete "4(1)(B)" and insert "~~4~~ **4(1)**".

Renumber all SECTIONS consecutively.

(Reference is to SB 226 as printed January 25, 2008.)
and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

V. SMITH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Engrossed Senate Bill 227, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 2. IC 4-33-5-1.5, AS ADDED BY P.L.125-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. The following information submitted, collected, or gathered as part of an application to the commission for a license is confidential for purposes of IC 5-14-3-4:

(1) Any information concerning a minor child of an applicant.

(2) The Social Security number of an applicant or the spouse of an applicant.

(3) The home telephone number of an applicant or the spouse of an applicant.

(4) An applicant's birth certificate.

(5) An applicant's driver's license number.

(6) The name or address of a previous spouse of the applicant.

(7) The date of birth of the spouse of an applicant.

(8) The place of birth of the spouse of an applicant.

(9) The personal financial records of an applicant or the spouse or minor child of an applicant.

(10) Any information concerning a victim of domestic violence or sexual assault.".

Page 6, between lines 25 and 26, begin a new paragraph and insert:

"SECTION 5. IC 35-33-8-3.2, AS AMENDED BY P.L.1-2007, SECTION 226, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3.2. (a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety:

(1) Require the defendant to:

(A) execute a bail bond with sufficient solvent sureties;

(B) deposit cash or securities in an amount equal to the bail;

(C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail;

(D) post a real estate bond; or

(E) perform any combination of the requirements described in clauses (A) through (D).

If the court requires the defendant to deposit cash or cash and another form of security as bail, the court may require the defendant and each person who makes the deposit on behalf of the defendant to execute an agreement that allows the court to retain all or a part of the cash to pay publicly paid costs of representation and fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted. The defendant must also pay the fee required by subsection (d).

(2) Require the defendant to execute:

(A) a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail; and

(B) an agreement that allows the court to retain all or a part of the cash or securities to pay fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted.

A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars ($50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision fines, costs, fees, and restitution as ordered by the court, publicly paid costs of representation that shall be disposed of in accordance with subsection (b), and the fee required by subsection (d). In the event of the posting of a real estate bond, the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution. The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b).

(3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.

(4) Require the defendant to refrain from any direct or indirect contact with an individual, **including if the defendant has not been released from lawful detention.**

(5) Place the defendant under the reasonable supervision of a probation officer, pretrial services agency, or other appropriate public official. If the court places the defendant under the supervision of a probation officer or pretrial services agency, the court shall determine whether the defendant must pay the pretrial services fee under section 3.3 of this chapter.

(6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

(i) of nonappearance; or

(ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community.

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-40-3.

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed or the defendant is acquitted or convicted of the charges.

(d) Except as provided in subsection (e), the clerk of the court shall:

(1) collect a fee of five dollars ($5) from each bond or deposit required under subsection (a)(1); and

(2) retain a fee of five dollars ($5) from each deposit under subsection (a)(2).

The clerk of the court shall semiannually remit the fees collected under this subsection to the board of trustees of the public employees' retirement fund for deposit in the special death benefit fund. The fee required by subdivision (2) is in addition to the administrative fee retained under subsection (a)(2).

(e) With the approval of the clerk of the court, the county sheriff may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day and remit monthly the five dollar ($5) special death benefit fee to the county auditor.

(f) When a court imposes a condition of bail described in subsection (a)(4):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 6. IC 35-37-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a)** As used in this chapter, "confidential communication" means any information:

(1) exchanged between a victim and a victim ~~counselor~~ **advocate** in ~~private or in the presence of a third party who is necessary to facilitate communication or further the counseling process, and~~ **the course of the relationship between the victim and the victim advocate;**

(2) **exchanged or** disclosed in ~~the course of the counselor's treatment of the victim for any emotional or psychological condition resulting from a covered act;~~ **a support group in which a victim is or was a participant; or**

(3) exchanged in the presence of a third person who facilitates or facilitated communication between a victim and a victim advocate.

(b) The term includes communication that is verbal or written and includes:

(1) advice;

(2) notes;

(3) reports;

(4) statistical data;

(5) memoranda;

(6) working papers;

(7) records; and

(8) personally identifying information;

produced in the course of advocating for a victim.

SECTION 7. IC 35-37-6-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.5. (a) As used in this chapter, "confidential information" includes:**

(1) personally identifying information;

(2) descriptions of physical appearance;

(3) the case file; and

(4) the case history;

of a person who seeks, receives, or has received services from a victim advocate.

(b) The term does not include:

(1) information disclosed to a victim service provider or a victim advocate if the victim:

(A) files criminal charges;

(B) institutes a civil lawsuit; or

(C) reports allegations of criminal conduct to a law enforcement agency;

against the victim service provider or victim advocate; and

(2) alleged child abuse or neglect that is required to be reported under IC 31-33.

SECTION 8. IC 35-37-6-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. (a) As used in this chapter, "personally identifying information" means information that identifies a victim or the location where domestic violence, dating violence, sexual assault, or stalking occurred, including the victim's:**

(1) name;
(2) mailing and physical address;
(3) electronic mail address;
(4) Internet protocol address;
(5) telephone numbers, including facsimile numbers;
(6) Social Security number;
(7) date of birth;
(8) racial or ethnic background; and
(9) religious affiliation.

(b) The term includes any other information that, in combination with other nonpersonally identifying information, would identify an individual.

SECTION 9. IC 35-37-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "victim" means an individual:

(1) against whom ~~a covered act~~ **an act of domestic violence, dating violence, sexual assault, or stalking** is committed; or

(2) other than an individual who is accused of committing ~~a covered act,~~ **an act of domestic violence, dating violence, sexual assault, or stalking** who is ~~the parent, stepparent, child, stepchild, grandparent, grandchild, sibling, aunt, uncle, niece, or nephew of the individual described in subdivision (1).~~ **a family member other than a family member who is accused of committing an act of domestic violence, dating violence, sexual assault, or stalking.**

SECTION 10. IC 35-37-6-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 3.5. (a) As used in this chapter, "victim advocate" means an individual employed, appointed, or who volunteers for a victim services provider.**

(b) The term does not include:
(1) a law enforcement officer;
(2) an employee or agent of a law enforcement officer;
(3) a prosecuting attorney; or
(4) an employee or agent of a prosecuting attorney's office.

(c) The term includes an employee, an appointee, or a volunteer of a:
(1) victim services provider;
(2) domestic violence program;
(3) sexual assault program;
(4) rape crisis center;
(5) battered women's shelter;
(6) transitional housing program for victims of domestic violence; or
(7) program that as one (1) of its primary purposes is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking.

(d) The term may apply to an individual who does not maintain an office or does not meet with a victim in person.

SECTION 11. IC 35-37-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. As used in this chapter, "victim ~~counseling center"~~ **service provider"** means:

(1) a public agency;
(2) a unit of a public agency; or
(3) an organization that is exempt from federal income taxation under Section 501 of the Internal Revenue Code;

that is not affiliated with a law enforcement agency, and has, as one (1) of its primary purposes, ~~the treatment of~~ **to provide services to** victims for emotional and psychological conditions that occur as a result of ~~covered acts.~~ **domestic violence, dating violence, sexual assault, or stalking.**

SECTION 12. IC 35-37-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. This chapter does not relieve a victim ~~counselor~~ **advocate** of any duty to report suspected abuse, neglect, battery, or exploitation under IC 12-10-3, IC 31-33, or IC 35-46-1-13.

SECTION 13. IC 35-37-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) The following persons **or entities** may not be compelled to give testimony, ~~or~~ to produce records, **or to disclose any information** concerning confidential communications **and confidential information to anyone or** in any judicial, legislative, or administrative proceeding:

(1) A victim.

(2) A victim ~~counselor,~~ **advocate or victim service provider** unless the victim **specifically** consents to the disclosure **in a written authorization that contains the date the consent expires.**

~~(3) An unemancipated child less than eighteen (18) years of age or an incapacitated victim, unless a custodial parent, custodian, guardian, or guardian ad litem who is not accused of a covered act consents to the disclosure.~~

(b) A victim ~~counselor~~ **advocate, victim service provider,** or ~~a~~ victim may not be compelled to provide testimony in any judicial, legislative, or administrative proceeding that would identify the name, address, location, or telephone number of any facility that provided temporary emergency shelter to the victim of the offense or transaction that is the subject of the proceeding unless the facility is a party to the proceeding.

(c) A victim service provider or victim advocate may not require a victim to consent to the disclosure of information concerning confidential communications and confidential information as a condition of the victim receiving services.

(d) This section does not prohibit a victim from providing testimony concerning an offense.

(e) The consent to disclose information on behalf of:
(1) a child who is less than eighteen (18) years of age and is unemancipated; or
(2) an incapacitated victim;

may be made by a custodial parent, custodian, guardian, guardian ad litem in a written authorization that contains the date the consent expires.

(f) A consent under subsection (e) may not be given by a custodial parent, custodian, guardian, or guardian ad litem of the victim if the custodial parent, custodian, guardian, or guardian ad litem:
(1) committed; or
(2) is alleged to have committed;

an offense against the victim.

SECTION 14. IC 35-37-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. A victim ~~counselor~~ **advocate** may not waive the protections afforded to a victim under this chapter. However, if:

(1) a victim brings suit against a victim ~~counselor,~~ **advocate** or victim ~~counseling center~~ **service provider** in which the victim ~~counselor~~ **advocate** was employed or served as a volunteer at the time of the counseling relationship; and

(2) the suit alleges malpractice during the ~~counseling~~ relationship;

the victim ~~counselor~~ **advocate** may testify or produce records regarding confidential communications with the victim and is not liable for doing so.

SECTION 15. IC 35-37-6-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 13. (a) Except as provided in subsection (d):**
(1) a victim; or
(2) in the case of a deceased victim, the victim's personal representative;

may authorize a victim advocate or victim service provider to release confidential information or other information by signing a written authorization that specifies what information will be released and to whom the information

will be released.

(b) The authorization described in subsection (a) must include a date the authorization expires.

(c) A victim advocate shall make reasonable attempts to notify a victim when a victim service provider or victim advocate is required to disclose confidential information or confidential communications.

(d) A consent for release may not be given by a personal representative of the victim if the personal representative:

(1) abused or killed the victim;

(2) is alleged to have abused or killed the victim; or

(3) assisted another person in abusing or killing the victim.

SECTION 16. IC 35-37-6-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 14. A victim does not waive any privileges or confidentiality protections under this chapter if the victim:**

(1) testifies about underlying acts of domestic violence, dating violence, sexual assault, or stalking; or

(2) reveals that he or she used or attempted to use the services of a victim service provider or victim advocate.

SECTION 17. IC 35-37-6-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 15. The partial disclosure of a confidential communication under this chapter does not waive any privilege concerning the remainder of the confidential communication.**

SECTION 18. IC 35-37-6-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 16. The fact that a victim or victim advocate refuses to testify or disclose information because of a privilege under this chapter does not raise any negative inferences or presumptions.**

SECTION 19. IC 35-37-6-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 17. A victim service provider may disclose information in the aggregate that does not identify a victim regarding services and demographic information to comply with federal or state data collection requirements.**

SECTION 20. IC 35-38-1-30 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 30. A sentencing court may require that, as a condition of a person's executed sentence, the person shall refrain from any direct or indirect contact with an individual.**

SECTION 21. IC 35-46-1-15.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15.1. A person who knowingly or intentionally violates:

(1) a protective order to prevent domestic or family violence issued under IC 34-26-5 (or, if the order involved a family or household member, under IC 34-26-2 or IC 34-4-5.1-5 before their repeal);

(2) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);

(3) a workplace violence restraining order issued under IC 34-26-6;

(4) a no contact order in a dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the person to refrain from direct or indirect contact with a child in need of services or a delinquent child;

(5) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion;

(6) a no contact order issued as a condition of probation;

(7) a protective order to prevent domestic or family violence issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before their repeal);

(8) a protective order to prevent domestic or family violence issued under IC 31-14-16-1 in a paternity action;

(9) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding;

(10) an order issued in another state that is substantially similar to an order described in subdivisions (1) through (9); ~~or~~

(11) an order that is substantially similar to an order described in subdivisions (1) through (9) and is issued by an Indian:

(A) tribe;

(B) band;

(C) pueblo;

(D) nation; or

(E) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians;

(12) an order issued under IC 35-33-8-3.2; or

(13) an order issued under IC 35-38-1-30;

commits invasion of privacy, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction for an offense under this section.".

Page 6, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 23. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 35-37-6-2; IC 35-37-6-4; IC 35-37-6-6.".

Page 7, line 6, delete "(a)," and insert "**(a)**".

Renumber all SECTIONS consecutively.

(Reference is to SB 227 as printed January 18, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

L. LAWSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Engrossed Senate Bill 247, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

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

"SECTION 1. IC 25-26-17-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 4.5. A nonresident pharmacy that dispenses more than twenty-five percent (25%) of the pharmacy's total prescription volume as a result of an original prescription order received or solicited through the Internet:**

(1) must be accredited:

(A) through the National Association of Boards of Pharmacy's Verified Internet Pharmacy Practice Sites (VIPPS); or

(B) under a program that is substantially similar to the program under clause (A) and that has been approved by the board; and

(2) shall obtain and display a seal of approval for:

(A) the National Association of Boards of Pharmacy; or

(B) the substantially similar program described in subdivision (1)(B);

anywhere that the nonresident pharmacy advertises.

SECTION 2. IC 25-26-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. The board may deny, revoke, or suspend the registration of a nonresident pharmacy for:

(1) failing to comply with sections 3, 4, **4.5,** and 6 of this chapter; or

(2) conduct that causes serious bodily or psychological harm to a customer who lives in Indiana or purchased drugs from the nonresident pharmacy while in Indiana, if the board reports the matter to the pharmacy regulatory or licensing agency in the state in which the nonresident pharmacy is located.".

Renumber all SECTIONS consecutively.

(Reference is to SB 247 as printed January 25, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

C. BROWN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Technology, Research and Development, to which was referred Engrossed Senate Bill 257, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT concerning state administration.

Delete everything after the enacting clause and insert the following:

SECTION 1. [EFFECTIVE UPON PASSAGE] **(a) The legislative council shall assign to an interim or a statutory committee the topic of modernizing the system for filing mechanic's liens through incorporation of a statewide online registry for mechanic's liens.**

(b) This SECTION expires November 1, 2008.

SECTION 2. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "system" refers to a legacy high-volume, transaction processing system.**

(b) The budget agency, in conjunction with the office of technology, shall review and make recommendations to the legislative council regarding the following:

(1) The use of a system by state agencies.

(2) The overall cost of maintaining a system.

(3) The efficiency of a system.

(4) The competitiveness of the market for a system.

(5) The ability to locate individuals who can repair and replace a system.

(6) The cost savings that could be realized if the system is replaced by other technologies.

(7) Any other issues the budget agency determines necessary to make the recommendations required by this SECTION.

(c) The budget agency shall submit a report containing the recommendations required by this SECTION to the legislative council before November 1, 2008. The report must be in an electronic format under IC 5-14-6.

(d) This SECTION expires November 1, 2008.

SECTION 3. **An emergency is declared for this act.**

(Reference is to SB 257 as printed January 15, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 0.

RESKE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Engrossed Senate Bill 258, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 38, delete "subdivisions" and insert "**subdivision**".

Page 2, after line 42, begin a new paragraph and insert:

"SECTION 2. IC 35-38-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. **(a)** If a convicted person is sentenced to a term of imprisonment, the court shall send a copy of:

(1) the presentence report;

(2) any presentence memorandum filed by the convicted person;

(3) the report of any physical or mental examination made incident to the question of sentence; ~~and~~

(4) any record made under IC 35-35-2 **or IC 35-35-3;**

(5) the abstract of judgment;

(6) the judgment of conviction; and

(7) the sentencing order;

to the department of correction.

(b) Copies of the information sent to the department of correction under subsection (a) may be sent through any electronic means approved by the department of correction.

SECTION 3. IC 35-38-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) When a convicted person is sentenced to imprisonment, the court shall, without delay, certify, under the seal of the court **or through any electronic means approved by the department of correction,** copies of the judgment of conviction and sentence to the receiving authority.

(b) The judgment must include:

(1) the crime for which the convicted person is adjudged guilty and the classification of the criminal offense;

(2) the period, if any, for which the person is rendered incapable of holding any office of trust or profit;

(3) the amount of the fines or costs assessed, if any, whether or not the convicted person is indigent, and the method by which the fines or costs are to be satisfied;

(4) the amount of credit, including credit time earned, for time spent in confinement before sentencing; and

(5) the amount to be credited toward payment of the fines or costs for time spent in confinement before sentencing.

(c) The judgment may specify the degree of security recommended by the court.

(d) A term of imprisonment begins on the date sentence is imposed, unless execution of the sentence is stayed according to law.".

(Reference is to SB 258 as printed January 25, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 1.

L. LAWSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Engrossed Senate Bill 281, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 7, nays 1.

L. LAWSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory

Reform, to which was referred Engrossed Senate Bill 302, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

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

Page 1, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 2. IC 25-1-2-2.1, AS AMENDED BY P.L.200-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: 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.
(33) Automatic fire sprinkler fitters.

SECTION 3. IC 25-1-2-6, AS AMENDED BY P.L.185-2007, SECTION 1, AND AS AMENDED BY P.L.200-2007, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) As used in this section, "license" includes all occupational and professional licenses, registrations, permits, and certificates issued under the Indiana Code, and "licensee" includes all occupational and professional licensees, registrants, permittees, and certificate holders regulated under the Indiana Code.

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

(1) Indiana board of accountancy.
(2) Indiana grain buyers and warehouse licensing agency.
(3) Indiana auctioneer commission.
(4) Board of registration for architects **and** landscape architects. ~~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*~~ *investigator and security guard* licensing board.
(20) State board of registration for professional engineers.
(21) Board of environmental health specialists.
(22) State psychology board.
(23) Indiana real estate commission.
(24) Speech-language pathology and audiology board.
(25) Department of natural resources.
(26) State boxing commission.
(27) Board of chiropractic examiners.
(28) Mining board.
(29) Indiana board of veterinary medical examiners.
(30) State department of health.
(31) Indiana physical therapy committee.
(32) Respiratory care committee.
(33) Occupational therapy committee.
(34) Social worker, marriage and family therapist, and mental health counselor board.
(35) Real estate appraiser licensure and certification board.
(36) State board of registration for land surveyors.
(37) Physician assistant committee.
(38) Indiana dietitians certification board.
(39) Indiana hypnotist committee.
(40) Attorney general (only for the regulation of athlete agents).
(41) Manufactured home installer licensing board.
(42) Home inspectors licensing board.
(43) State board of massage therapy.
(44) Fire prevention and building safety commission.
~~*(43)*~~ ~~*(44)*~~ **(45)** 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 25-1-4-0.3, AS AMENDED BY P.L.185-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 0.3. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).
(2) Board of registration for architects **and** landscape architects ~~and registered interior designers~~ (IC 25-4-1-2).
(3) Indiana athletic trainers board (IC 25-5.1-2-1).
(4) Indiana auctioneer commission (IC 25-6.1-2-1).
(5) State board of barber examiners (IC 25-7-5-1).
(6) State boxing commission (IC 25-9-1).

(7) Board of chiropractic examiners (IC 25-10-1).
(8) State board of cosmetology examiners (IC 25-8-3-1).
(9) State board of dentistry (IC 25-14-1).
(10) Indiana dietitians certification board (IC 25-14.5-2-1).
(11) State board of registration for professional engineers (IC 25-31-1-3).
(12) Board of environmental health specialists (IC 25-32-1).
(13) State board of funeral and cemetery service (IC 25-15-9).
(14) Indiana state board of health facility administrators (IC 25-19-1).
(15) Committee on hearing aid dealer examiners (IC 25-20-1-1.5).
(16) Home inspectors licensing board (IC 25-20.2-3-1).
(17) Indiana hypnotist committee (IC 25-20.5-1-7).
(18) State board of registration for land surveyors (IC 25-21.5-2-1).
(19) Manufactured home installer licensing board (IC 25-23.7).
(20) Medical licensing board of Indiana (IC 25-22.5-2).
(21) Indiana state board of nursing (IC 25-23-1).
(22) Occupational therapy committee (IC 25-23.5).
(23) Indiana optometry board (IC 25-24).
(24) Indiana board of pharmacy (IC 25-26).
(25) Indiana physical therapy committee (IC 25-27-1).
(26) Physician assistant committee (IC 25-27.5).
(27) Indiana plumbing commission (IC 25-28.5-1-3).
(28) Board of podiatric medicine (IC 25-29-2-1).
(29) Private investigator and security guard licensing board (IC 25-30-1-5.2).
(30) State psychology board (IC 25-33).
(31) Indiana real estate commission (IC 25-34.1-2).
(32) Real estate appraiser licensure and certification board (IC 25-34.1-8).
(33) Respiratory care committee (IC 25-34.5).
(34) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
(35) Speech-language pathology and audiology board (IC 25-35.6-2).
(36) Indiana board of veterinary medical examiners (IC 15-5-1.1).
(37) Fire prevention and building safety commission (IC 22-12-2-1).

SECTION 5. IC 25-1-7-1, AS AMENDED BY P.L.185-2007, SECTION 4, AS AMENDED BY P.L.193-2007, SECTION 4, AND AS AMENDED BY P.L.200-2007, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this chapter:

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

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

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

"Licensee" means a person who is:
(1) licensed, certified, or registered by a board listed in this section; and
(2) the subject of a complaint filed with the division.

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

"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:
(1) Indiana board of accountancy (IC 25-2.1-2-1).
(2) Board of registration for architects **and** landscape architects ~~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*~~ *investigator and security guard* licensing board ~~*(IC 25-30-1-5.1).*~~ *(IC 25-30-1-5.2).*
(26) Occupational therapy committee (IC 25-23.5).
(27) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
(28) Real estate appraiser licensure and certification board (IC 25-34.1-8).
(29) State board of registration for land surveyors (IC 25-21.5-2-1).
(30) Physician assistant committee (IC 25-27.5).
(31) Indiana athletic trainers board (IC 25-5.1-2-1).
(32) Indiana dietitians certification board (IC 25-14.5-2-1).
(33) Indiana hypnotist committee (IC 25-20.5-1-7).
(34) Indiana physical therapy committee (IC 25-27).
(35) Manufactured home installer licensing board (IC 25-23.7).
(36) Home inspectors licensing board (IC 25-20.2-3-1).
(37) State department of health.
~~*(37)*~~ **(38)** *State board of massage therapy (IC 25-21.8-2-1).*
(39) Fire prevention and building safety commission (IC 22-12-2-1).
~~(38)~~ **(40)** Any other occupational or professional agency created after June 30, 1981.

SECTION 6. IC 25-1-8-1, AS AMENDED BY P.L.185-2007, SECTION 5, AND AS AMENDED BY P.L.200-2007, SECTION 6, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this chapter, "board" means any of the following:
(1) Indiana board of accountancy (IC 25-2.1-2-1).
(2) Board of registration for architects **and** landscape architects ~~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*~~ *investigator and security guard* licensing board ~~*(IC 25-30-1-5.1).*~~ *(IC 25-30-1-5.2).*
(27) Occupational therapy committee (IC 25-23.5-2-1).
(28) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6-2-1).
(29) Real estate appraiser licensure and certification board (IC 25-34.1-8).
(30) State board of registration for land surveyors (IC 25-21.5-2-1).
(31) Physician assistant committee (IC 25-27.5).
(32) Indiana athletic trainers board (IC 25-5.1-2-1).
(33) Board of podiatric medicine (IC 25-29-2-1).
(34) Indiana dietitians certification board (IC 25-14.5-2-1).
(35) Indiana physical therapy committee (IC 25-27).
(36) Manufactured home installer licensing board (IC 25-23.7).
(37) Home inspectors licensing board (IC 25-20.2-3-1).
(38) State board of massage therapy (IC 25-21.8-2-1).
(39) Fire prevention and building safety commission (IC 22-12-2-1) for purposes of registering automatic fire sprinkler fitters.
~~*(38)*~~ ~~*(39)*~~ **(40)** Any other occupational or professional agency created after June 30, 1981.".

Page 3, line 7, strike "(IC 15-5-1.1)." and insert "**(IC 25-38.1).**".

Page 3, between lines 8 and 9, begin a new line block indented and insert:

"**(38) Fire prevention and building safety commission (IC 22-12-2-1).**".

Page 4, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 8. IC 25-1-11-1, AS AMENDED BY P.L.185-2007, SECTION 7, AND AS AMENDED BY P.L.200-2007, SECTION 7, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).
(2) Board of registration for architects **and** landscape architects ~~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 **and** certification board (IC 25-34.1-8).
(13) Private ~~*detectives*~~ *investigator and security guard* licensing board ~~*(IC 25-30-1-5.1).*~~ *(IC 25-30-1-5.2).*
(14) Manufactured home installer licensing board (IC 25-23.7).
(15) Home inspectors licensing board (IC 25-20.2-3-1).
(16) State board of massage therapy (IC 25-21.8-2-1).
(17) Fire prevention and building safety commission (IC 22-12-2-1).".

Page 4, delete lines 15 through 37, begin a new paragraph and insert:

"SECTION 9. IC 25-1-14-2, AS ADDED BY P.L.179-2007, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. **(a)** A member of a board, committee, or commission may participate in a meeting of the board, committee, or commission:

(1) **except as provided in subsections (b) and (c),** at which at least a quorum is physically present at the place where the meeting is conducted; and
(2) by using a means of communication that permits:
(A) all other members participating in the meeting; and
(B) all members of the public physically present at the place where the meeting is conducted;
to simultaneously communicate with each other during the meeting.

(b) A member of a board, committee, or commission may participate in an emergency meeting of the board, committee, or commission to consider disciplinary sanctions under IC 25-1-9-10 or IC 25-1-11-13 by using a means of communication that permits:

(1) all other members participating in the meeting; and
(2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(c) A member of the state boxing commission may participate in meetings of the commission to consider the final approval of a permit for a particular boxing or sparring match or exhibition under IC 25-9-1-6(b) by using a means of communication that permits:

(1) all other members participating in the meeting; and
(2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(d) A member who participates in a meeting under subsection (b) or (c):

(1) is considered to be present at the meeting;
(2) shall be counted for purposes of establishing a quorum; and
(3) may vote at the meeting.".

Page 6, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 13. IC 25-2.5-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) An applicant may, upon the payment of a fee established by the board, be granted a license if the applicant:

(1) submits satisfactory evidence to the board that the applicant has been licensed to practice acupuncture in another state or authorized in another country ~~under qualifications substantially equivalent to those specified in this chapter for a license~~ to practice acupuncture;
(2) meets the requirements of section 1(1) through 1(4) of this chapter; and
(3) shows to the satisfaction of the board that the applicant has:
(A) successfully completed a clean needle technique

course substantially equivalent to a clean needle technique course accepted by the National Certification Commission for Acupuncture and Oriental Medicine;

(B) successfully completed a three (3) year postsecondary training program or acupuncture college program that meets the standards substantially equivalent to the standards for a three (3) year postsecondary training program or acupuncture college program approved by the Accreditation Commission for Acupuncture and Oriental Medicine and that is accepted by the National Certification Commission of Acupuncture and Oriental Medicine; and

(C) passed an examination substantially equivalent to the examination required by the National Certification Commission for Acupuncture and Oriental Medicine for diplomate status.

(b) An applicant may, upon the payment of a fee established by the board, be granted a professional's license to practice acupuncture if the applicant submits satisfactory evidence to the board that the applicant is a:

(1) chiropractor licensed under IC 25-10;

(2) dentist licensed under IC 25-14; or

(3) podiatrist licensed under IC 25-29;

with at least two hundred (200) hours of acupuncture training.

(c) The board shall:

(1) compile, at least once every two (2) years, a list of courses and institutions that provide training approved for the purpose of qualifying an individual for a professional's license under subsection (b); and

(2) adopt rules that set forth procedures for the case by case approval of training under subsection (b).

(d) If an individual's license described in subsection (b)(1), (b)(2), or (b)(3) is subject to any restrictions as the result of disciplinary action taken against the individual by the board that regulates the individual's profession, the same restrictions shall be applied to the individual's professional's license to practice acupuncture.

(e) An individual's professional's license issued under subsection (b) shall be suspended if the individual's license described under subsection (b)(1), (b)(2), or (b)(3) is suspended.

(f) An individual's professional's license issued under subsection (b) shall be revoked if the individual's license described under subsection (b)(1), (b)(2), or (b)(3) is revoked.

(g) The practice of acupuncture by an individual issued a professional's license under subsection (b) is limited to the scope of practice of the individual's license described in subsection (b)(1), (b)(2), or (b)(3).".

Page 24, delete lines 40 through 42, begin a new paragraph and insert:

"SECTION 36. IC 25-16.5 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 16.5. FIRE SPRINKLER FITTERS

Chapter 1. Regulation of Fire Sprinkler Fitters

Sec. 1. "Automatic fire sprinkler system", for fire protection purposes, means an integrated system of underground and overhead piping designed in accordance with the rules of the commission. The system may include:

(1) a water supply, including:

(A) a gravity tank;

(B) a fire pump;

(C) a reservoir;

(D) a pressure tank; or

(E) a connection beginning at the supply side of a gate valve located at or near the property line where the pipe or piping system provides water used exclusively for fire protection and related appurtenances and to standpipes connected to automatic sprinkler systems;

(2) an aboveground network of specially sized or hydraulically designed piping installed in a building or part of a building to which sprinklers are connected in a systematic pattern;

(3) a controlling valve and a device for actuating an alarm when the system is in operation; and

(4) activation of the system by heat from a fire and discharge of water over the fire area.

Sec. 2. "Certificate holder" means a person who is registered under this chapter as an automatic fire sprinkler fitter.

Sec. 3. "Certified automatic fire sprinkler system fitter" means an individual who:

(1) has fulfilled the requirements of a sprinkler fitter apprenticeship program; and

(2) holds a Certificate of Completion issued by the Bureau of Apprenticeship and Training, United States Department of Labor.

Sec. 4. "Commission" means the fire prevention and building safety commission established by IC 22-12-2-1.

Sec. 5. "Sprinkler fitter apprenticeship program" means a program approved by the United States Department of Labor under Title 29 CFR Part 29.

Sec. 6. An individual who is not a certificate holder may not:

(1) profess to be a certified automatic fire sprinkler system fitter; or

(2) use the initials "CAFSF" or any other words, letters, abbreviations, or insignia indicating or implying that the individual is a certified automatic fire sprinkler system fitter unless the individual:

(A) has fulfilled the requirements of a sprinkler fitter apprenticeship program;

(B) holds a Certificate of Completion issued by the Bureau of Apprenticeship and Training, United States Department of Labor;

(C) has completed and submitted a certificate of registration to be a certified automatic fire sprinkler system fitter on a form prescribed by the commission; and

(D) has paid the registration fee established by the commission under rules adopted under section 8(a) of this chapter.

Sec. 7. The commission shall maintain a registry of certified automatic fire sprinkler system fitters.

Sec. 8. (a) The commission shall establish a fee for registration under this chapter by rules adopted under IC 4-22-2.

(b) The commission may adopt other rules under IC 4-22-2 to implement this chapter.

Sec. 9. An individual who knowingly, recklessly, or intentionally violates section 6 of this chapter commits a Class B misdemeanor.

Sec. 10. A person commits a Class B misdemeanor if the person:

(1) knowingly or intentionally:

(A) conducts a business involving the installation, maintenance, replacement, or repair of an automatic fire sprinkler system; or

(B) engages in the practical installation of an automatic fire sprinkler system; and

(2) does any of the following:

(A) Presents as a person's own the certificate of registration as a certified automatic fire sprinkler system fitter of another.

(B) Gives false or materially misleading information of any kind to lead a consumer to believe that service is to be or was provided by a certified automatic sprinkler system fitter.

(C) Impersonates another certificate holder.

SECTION 37. IC 25-19-1-2, AS AMENDED BY P.L.145-2006, SECTION 161, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) There is created the Indiana state board of health facility administrators composed of ~~fourteen (14)~~ **thirteen (13)** members as follows:

(1) The state health commissioner or the commissioner's designee.

(2) The director of the division of family resources or the director's designee.

(3) The state long term care ombudsman or the state long term care ombudsman's designee.

(4) The chief administrative officer of the Indiana University medical center at Indianapolis or the chief administrative officer's designee.

(5) One (1) member of the medical profession holding an unlimited license to practice medicine in Indiana.

~~(6) One (1) hospital administrator who must hold an executive position in an Indiana hospital.~~

~~(7)~~ **(6)** Four (4) administrators of licensed proprietary health facilities.

~~(8)~~ **(7)** Two (2) administrators of licensed nonproprietary health facilities.

~~(9)~~ **(8)** Two (2) members representing the public at large, who:

(A) are residents of Indiana; and

(B) have never been associated with health facility services or administration in any way other than as a resident or a family member of a resident of a health facility.

(b) Those members of the board other than the representatives of state agencies and institutions shall be appointed by the governor after consultation with the associations and societies appropriate to the disciplines and professions representative of the position to be filled. The original and all subsequent physician and hospital administrator appointments shall be for terms of four (4) years. All appointments shall be for four (4) year terms, except that in case of a vacancy prior to term completion, the appointment shall be for the remainder of the unexpired term. Any vacancy, either prior to or at term completion, shall be filled by the governor after consultation with the associations and societies appropriate to the discipline or professions representative of the vacancy. In all cases, the appointees shall serve until their successors are appointed and qualified.

(c) The governor may remove any member of the board other than the representative of a state agency or institution for misconduct, incapacity, incompetence, or neglect of duty after the member has been served with a written statement of charges and has been given an opportunity to be heard. Designated representatives of the state agencies or institutions may be removed by the original appointing authority for any of those causes.

SECTION 38. IC 25-19-1-6, AS AMENDED BY P.L.1-2006, SECTION 439, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) The board shall elect from its membership annually a ~~chairman, vice chairman and secretary~~ **chairperson and vice chairperson** and shall adopt rules to govern its proceedings.

(b) Each member of the board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Such a member is also 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.

(c) The Indiana professional licensing agency shall supply necessary personnel to assist the board in the performance of its duties.

~~(b) Eight (8)~~ **(d) Seven (7)** members of the board ~~including three (3) members who are health facility administrators and one (1) member who is an officer of the board,~~ constitute a quorum for consideration of all matters before the board. A majority vote of the quorum is required for action of the board.".

Delete page 25.

Page 26, delete lines 1 through 23.

Page 36, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 52. IC 25-27.5-6-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 8. (a) This section applies to a physician assistant:**

(1) licensed in Indiana or licensed or authorized to practice in any other state or territory of the United States; or

(2) credentialed as a physician assistant by a federal employer.

(b) As used in this section, "emergency" means an event or a condition that is an emergency, a disaster, or a public health emergency under IC 10-14.

(c) A physician assistant who responds to a need for medical care created by an emergency may render care that the physician assistant is able to provide without the supervision required under this chapter, but with such supervision as is available.

(d) A physician who supervises a physician assistant providing medical care in response to an emergency is not required to meet the requirements under this chapter for a supervising physician.".

Page 47, line 4, delete "[EFFECTIVE JULY 1, 2008]" and insert "[EFFECTIVE JANUARY 1, 2009]".

Page 47, line 9, delete "forty-eight (48)" and insert "**seventy-two (72)**".

Page 47, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 65. IC 35-48-7-3 IS REPEALED [EFFECTIVE JANUARY 1, 2009].".

Page 47, line 15, delete "IC 25-26-13-8;" and insert "IC 25-26-13-8.".

Page 47, delete line 16, begin a new paragraph and insert:

"SECTION 66. [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) Before July 1, 2008, the office shall apply to the United States Department of Health and Human Services for an amendment to the state Medicaid plan to provide coverage for adults and children for medically necessary umbilical cord transplants and other related procedures under the state Medicaid program (IC 12-15) if the Medicaid recipient's provider receives prior approval for the procedure from the office.

(c) The office may not implement the plan amendment until the office files an affidavit with the governor attesting that the plan amendment applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the plan amendment is approved.

(d) If the office receives a plan amendment under this SECTION from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (c), the office shall implement the plan amendment not more than sixty (60) days after the governor receives the affidavit.

(e) The office may adopt rules under IC 4-22-2 necessary to implement this SECTION.

(f) This SECTION expires December 31, 2013.

SECTION 67. [EFFECTIVE JULY 1, 2008] **(a) The definitions in IC 25-16.5-1, as added by this act, apply**

throughout this SECTION.

(b) Notwithstanding IC 25-16.5-1, as added by this act, an individual who, before July 1, 2010, professes to be an automatic fire system sprinkler system fitter does not violate IC 25-16.5-1, as added by this act, and may not be disciplined or sanctioned for the failure to be a certificate holder.

(c) This SECTION expires January 1, 2011.

SECTION 68. [EFFECTIVE JULY 1, 2008] **(a) Notwithstanding IC 25-16.5-1-8(b), as added by this act, the fire safety and building safety commission shall carry out the duties imposed upon the commission under IC 25-16.5, as added by this act, under interim written guidelines approved by the executive director of the department of homeland security.**

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

(1) The date rules are adopted under IC 25-16.5-1-8(b), as added by this act.

(2) December 31, 2009.

SECTION 69. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to SB 302 as printed January 25, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 3.

STEVENSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred Engrossed Senate Bill 312, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 11, delete "chief executive officer" and insert "**county executive**".

Page 3, line 7, delete "chief".

Page 3, line 7, after "executive" insert "**,**".

Page 3, line 7, delete "officer,".

Page 4, line 24, delete "chief".

Page 4, line 24, after "executive" insert "**,**".

Page 4, line 24, delete "officer,".

Page 5, line 28, delete "chief".

Page 5, line 28, after "executive" insert "**,**".

Page 5, line 28, delete "officer,".

Page 6, line 16, delete "chief executive officer" and insert "**county executive**".

Page 6, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 7. IC 36-2-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) If the resident voters in a specified territory in two (2) or more contiguous counties desire to change the boundaries of their respective counties, they may file a petition with the executives of their respective counties requesting that the territory be transferred. The petition must:

(1) be signed by at least the number of voters resident in the territory requested to be transferred required to place a candidate on the ballot under IC 3-8-6-3;

(2) contain a clear, distinct description of the requested boundary change; and

(3) not propose to decrease the area of any county below four hundred (400) square miles in compliance with Article 15, Section 7 of the Constitution of the State of Indiana.

(b) Whenever a petition under subsection (a) is filed with a county executive, the executive shall determine, at its first meeting after the petition is filed:

(1) whether the signatures on the petition are genuine; and

(2) whether the petition complies with subsection (a).

(c) If the determinations under subsection (b) are affirmative, the executive shall certify the question to the county election board of each affected county. The county election boards shall jointly order a special election to be held, scheduling the election so that the election is held on the same date in each county interested in the change, but not later than thirty (30) days and not on the same date as a general election. The election shall be conducted under IC 3-10-8-6. All voters of each interested county are entitled to vote on the question. The question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the boundaries of _____ County and _____ County change?".

(d) After an election under subsection (c), the clerk of each county shall make a certified copy of the election returns and not later than five (5) days after the election file the copy with the auditor of the county. The auditor shall, not later than five (5) days after the filing of the returns in the auditor's office, make a true and complete copy of the returns, certified under the auditor's hand and seal, and deposit the copy with the auditor of every other county interested in the change.

(e) After copies have been filed under subsection (d), the auditor of each county shall call a meeting of the executive of the county, which shall examine the returns. If a majority of the voters of each interested county voted in favor of change, the executive shall:

(1) enter an order declaring their boundaries to be changed as described in the petition; and

(2) if the county has received territory from the transfer, adopt revised descriptions of:

(A) county commissioner districts under IC 36-2-2-4; and

(B) county council districts under IC 36-2-3-4;

so that the transferred territory is assigned to at least one (1) county commissioner district and at least one (1) county council district. **If IC 36-2-3.7 is applicable to a county, the county council shall establish the county council districts under IC 36-2-3-4.6.**

(f) The executive of each county shall file a copy of the order described in subsection (e)(1) with:

(1) the office of the secretary of state; and

(2) the circuit court clerk of the county.

Except as provided in subsection (g), the transfer of territory becomes effective when the last county order is filed under this subsection.

(g) An order declaring county boundaries to be changed may not take effect during the year preceding a year in which a federal decennial census is conducted. An order that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

(h) An election under this section may be held only once every three (3) years.".

Page 6, line 42, delete "Local Public Question on County Government" and insert "**Reorganization of County Executive and Legislative Structure and Powers**".

Page 7, line 1, delete "(a)".

Page 7, delete lines 3 through 42, begin a new paragraph and insert:

"**Sec. 2. (a) Subject to subsection (b), the county executive may adopt an ordinance to reorganize the executive and legislative structure and functions of the county as provided in this chapter.**

(b) An ordinance adopted under this section must be adopted before July 1 of an even-numbered year.

Sec. 3. The county executive shall certify the adoption of the ordinance to the county election board as provided in IC 3-10-9.

Sec. 4. The county election board shall place the following public question on the ballot at the next general election held in the county:

"Shall the county government of (insert the name of the county) County be reorganized to place all executive powers in a single elected county executive and to place all legislative powers in the county council?".

Sec. 5. IC 3, except where inconsistent with this chapter, applies to a public question placed on the ballot under this chapter.

Sec. 6. If a majority of the voters who vote on the public question vote in favor of the public question, the following apply:

(1) IC 36-2-2.5 applies to the county instead of IC 36-2-2.

(2) The county executive consists of one (1) individual.

(3) The county may not subsequently be governed under IC 36-2-2.

(4) The county executive described in subdivision (2) shall:

(A) be elected at the second general election held after the year the ordinance is adopted; and

(B) take office January 1 after the individual's election.

(5) The term of office of each member of the county executive elected under IC 36-2-2 is as follows:

(A) The term of a member elected at the general election held in the year the public question is approved:

(i) is four (4) years; and

(ii) expires at the end of the day on December 31 after the election described in subdivision (4).

(B) The term of a member elected at the first general election held after the year the public question is approved:

(i) is two (2) years; and

(ii) expires at the end of the day on December 31 after the election described in subdivision (4).

(6) IC 36-2-3.7 applies to the county.".

Delete pages 8 through 9.

Page 10, delete lines 1 through 26.

Page 10, line 30, delete "County Chief Executive Officer" and insert "**Single Member County Executive**".

Page 10, line 35, delete ""chief executive officer"" and insert "**"county executive"**".

Page 10, line 36, delete "chief executive officer" and insert "**county executive**".

Page 10, line 40, delete "chief executive officer" and insert "**county executive**".

Page 11, line 6, delete ",".

Page 11, line 6, delete "chief" and insert "**county executive**".

Page 11, line 7, delete "executive officer".

Page 11, line 10, delete "chief executive officer" and insert "**county executive**".

Page 11, line 14, delete "chief executive officer" and insert "**county executive**".

Page 11, line 16, delete "legislative body" and insert "**council**".

Page 11, line 19, delete "legislative body" and insert "**council**".

Page 11, line 19, delete "chief executive" and insert "**county executive**".

Page 11, line 20, delete "officer".

Page 11, line 22, delete "legislative body" and insert "**council**".

Page 11, line 25, delete "chief executive" and insert "**county executive's**".

Page 11, line 26, delete "officer's".

Page 11, line 42, delete "legislative body" and insert "**council**".

Page 12, line 8, delete "legislative body" and insert "**council**".

Page 12, line 8, delete "7" and insert "**6**".

Page 12, line 11, delete "chief executive officer" and insert "**county executive**".

Page 12, line 12, delete "chief executive officer" and insert "**county executive**".

Page 12, line 13, delete "chief" and insert "**county executive's**".

Page 12, line 14, delete "executive officer's".

Page 12, line 15, delete "chief" and insert "**county executive's**".

Page 12, line 16, delete "executive officer's".

Page 12, line 21, delete "Notwithstanding IC 36-2-2-1(b), the chief" and insert "**The county**".

Page 12, line 22, delete "officer".

Page 12, line 23, delete "legislative body" and insert "**council**".

Page 12, line 26, delete "a chief executive officer" and insert "**the county executive**".

Page 12, line 31, delete "as provided in IC 36-2-3.7." and insert "**if IC 36-2-3.7 applies to the county.**".

Page 13, delete lines 6 through 42, begin a new paragraph and insert:

"SECTION 13. IC 36-2-3-4, AS AMENDED BY P.L.230-2005, SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) **This section does not apply to a county if IC 36-3-3.7 applies to the county.**

(b) This subsection does not apply to a county having a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

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

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

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

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

(1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);

(2) not cross precinct boundary lines;

(3) contain, as nearly as possible, equal population; and

(4) include whole townships, except when a division is clearly necessary to accomplish redistricting under this section.

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

(1) during the first year after a year in which a federal decennial census is conducted; and

(2) when the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

~~(f)~~ **(g)** A division under subsection ~~(a),~~ (b), **(c),** or ~~(c)~~ **(d)** may be made ~~in any odd-numbered year~~ **at a time** not described in subsection ~~(c).~~ **(f) only to make districts comply with subsection (e).**

SECTION 14. IC 36-2-3-4.6 IS ADDED TO THE INDIANA CODE AS **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4.6. (a) If IC 36-2-3.7 applies to the county:**

(1) this section applies to the county; and

(2) section 4 of this chapter does not apply to the county.

(b) Except as provided in subsections (c) and (d), the county council shall divide the county into four (4) single-member districts that comply with subsection (e). If necessary, the county auditor shall call a special meeting of the county council to establish or revise districts. One (1) member of the county council shall be elected by the voters of each of the four (4) districts. Three (3) at-large members of the county council shall be elected by all the voters of the county.

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

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

(e) Single-member districts established under this section must:

(1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);

(2) not cross precinct boundary lines;

(3) contain, as nearly as possible, equal population; and

(4) include whole townships, except when a division is clearly necessary to accomplish redistricting under this section.

(f) A division under this section shall be made:

(1) during the first year after a year in which a federal decennial census is conducted; and

(2) when the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(g) A division under this section may be made at a time not described in subsection (f) only to make districts comply with subsection (e).".

Delete page 14.

Page 15, delete lines 1 through 4.

Page 15, line 7, strike "fiscal body" and insert "**council**".

Page 15, line 8, strike "section 4 of".

Page 16, line 13, delete "before January".

Page 16, line 14, delete "1, 2011,".

Page 17, line 12, delete "19." and insert "10.".

Page 17, line 31, delete "IC 36-2-2.5." and insert "**IC 36-2-3.7.**".

Page 17, line 40, delete ""chief executive officer"" and insert "**"county executive"**".

Page 17, line 41, delete "chief executive officer" and insert "**county executive**".

Page 18, line 7, delete "chief executive officer" and insert "**county executive**".

Page 18, line 7, delete "county".

Page 18, line 8, delete "chief executive officer of the".

Page 18, line 8, after "county" insert "**executive**".

Renumber all SECTIONS consecutively.

(Reference is to SB 312 as reprinted January 29, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

PIERCE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred Engrossed Senate Bill 314, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 23, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 34. IC 14-32-8-6, AS AMENDED BY P.L.241-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) The clean water Indiana fund is established to carry out the purposes of this chapter. The fund shall be administered by the division of soil conservation subject to the direction of the board.

(b) The fund consists of:

(1) amounts deposited in the fund under IC 6-7-1-29.3;

(2) amounts appropriated by the general assembly; and

(3) donations, grants, and money received from any other source.

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

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund **or any other fund but remains available to the division to carry out the purposes of this chapter.**".

Page 27, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 47. IC 15-3-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The following definitions apply throughout this chapter:

(1) "Fertilizer material" means any substance containing nitrogen, phosphate, potash, or any recognized plant nutrient that is used for its plant nutrient content and that is designed to have value in promoting plant growth. The term includes unmanipulated animal and vegetable manures.

(2) "Mixed fertilizer" means any combination or mixture of fertilizer materials designed for use or claimed to have value in promoting plant growth.

(3) "Commercial fertilizer" includes mixed fertilizer or fertilizer materials, except nonprocessed manure, marl, lime, wood ashes, and plaster.

(4) "Brand" means a term, design, or trademark used in connection with one (1) or several grades of fertilizer.

(5) "Grade" means the minimum percentage of total nitrogen, available phosphate (P_2O_5), and soluble potash (K_2O) stated in the order given in this definition.

(6) "Official sample" means any sample of commercial fertilizer taken by the state chemist or the state chemist's agent.

(7) "Ton" means a net weight of two thousand (2,000) pounds avoirdupois.

(8) "Percent" or "percentage" means the percentage by

weight.

(9) "Person" includes an individual, partnership, association, firm, limited liability company, and corporation.

(10) "Distributor" means a person who offers for sale, sells, barters, or otherwise supplies commercial fertilizers.

(11) "Sell" or "sale" includes exchange.

(12) "Specialty fertilizer" means a fertilizer distributed for nonfarm use.

(13) "Bulk fertilizer" means a fertilizer distributed in nonpackaged form.

(14) "Registrant" means a person who registers fertilizer under this chapter.

(15) "Storage" means storage of bulk fertilizer by a person who manufactures or distributes bulk fertilizer or stores bulk fertilizer for personal use.

(16) "Board" means the Indiana fertilizer advisory board.

(17) "Blender" means a person ~~who is~~ **or system** engaged in the business of blending fertilizer materials.

(18) "Blending" means the physical mixing or combining of: ~~two (2) or more fertilizer materials, including the mixing, through the simultaneous application of two (2) or more fertilizer materials,~~

(A) one (1) or more fertilizer materials and one (1) or more filler materials;

(B) two (2) or more fertilizer materials; or

(C) two (2) or more fertilizer materials and filler materials;

including mixing through the simultaneous or sequential application of any of the combinations in clause (A), (B), or (C) to produce a uniform mixture.

(19) "Custom blend" means a fertilizer blended according to specifications provided to a blender in a soil test nutrient recommendation or to meet specific **requests of a** consumer ~~requirements~~ **(who is the end user)** before blending.

(20) "Use" means the ~~process of placing~~ **placement or usage of commercial** fertilizer ~~to promote plant growth.~~ **on a targeted growing area.**

(21) "Ammonium nitrate" means the ammonium salt of nitric acid, which must contain not less than thirty-three percent (33%) nitrogen, fifty percent (50%) of which is in the ammonium form and fifty percent (50%) of which is in the nitrate form.

SECTION 48. IC 15-3-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) Before distribution in Indiana, each brand and grade of commercial fertilizer shall be registered in the name of the person whose name appears on the label. The application for registration shall be submitted to the state chemist on a form furnished by the state chemist and shall be accompanied by a fee of twenty dollars ($20) for each grade of each brand. Fertilizers sold in packages of twelve (12) pounds or less shall be registered for a fee of fifty dollars ($50) for each grade of each brand. Upon approval by the state chemist, a copy of the registration shall be furnished to the applicant. All registrations expire on June 30 each year.

(b) In addition to the appropriate filing fee set forth in subsection (a), a late filing fee equal to one hundred percent (100%) of the appropriate filing fee shall be assessed:

(1) for an application to renew the registration of a commercial fertilizer under this section that is received after July 31; or

(2) on a product that must be registered under this section before distribution in Indiana but is found to be in distribution before registration.

(c) The application shall include the following information:

(1) The name and address of the registrant.

(2) The brand and grade.

(3) The guaranteed analysis showing the minimum percentage of plant food claimed in the following order and form:

Total Nitrogen **(N)**	percent
Available Phosphate (P_2O_5)	percent
Soluble Potash (K_2O)	percent

When applied to mixed fertilizers, grade shall be given in whole numbers only. However, the state chemist may permit fractional numbers to be used for specialty fertilizers or when additional plant food elements or other additives are added. Unacidulated mineral phosphatic materials and basic slag shall be guaranteed as to both total and available phosphate and the degree of fineness. In the case of bone, tankage, and other natural organic phosphate materials, only the total phosphate need be guaranteed. Additional plant food elements or other additives, determinable by chemical methods, may be guaranteed only by permission of the state chemist who shall grant such permission only if the state chemist determines that the granting of such permission would not constitute a misrepresentation and is correct with the advice of the dean of agriculture of Purdue University or the dean's designee. When any such additional plant foods are claimed, ~~they~~ **the plant foods** shall be included in the guarantee in the form of the element and shall be subject to inspection and analysis in accordance with the methods that may be prescribed by the state chemist.

(d) A distributor is not required to register a brand of commercial fertilizer that is registered under this chapter by another person if the label used by the distributor does not differ in any respect from that used by the registrant.

(e) A distributor who acts as a blender is not required under subsection (a) to register a custom blend that the distributor produces if the fertilizer materials blended together to produce the custom blend are registered under subsection (a). However, a distributor who acts as a blender shall provide the state chemist with the following information about each custom blend that the distributor produces:

(1) The name and address of the distributor.

(2) The brand and grade of the custom blend.

(3) The guaranteed analysis of the custom blend showing the minimum percentage of plant food claimed in the following order and form:

(A) The percent of total nitrogen **(N).**

(B) The percent of available phosphate (P_2O_5).

(C) The percent of soluble potash (K_2O).

SECTION 50. IC 15-3-3-15.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 15.5. (a) If a person violates this chapter or a rule adopted under this chapter, the state chemist may:**

(1) warn or issue a citation to the person; or

(2) deny, suspend, revoke, or amend the person's registration under this chapter.

(b) A person who knowingly or intentionally violates this chapter commits a Class A misdemeanor.

SECTION 51. IC 15-3-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) The Indiana fertilizer advisory board is established to study the regulation of fertilizer and to advise the state chemist on the administration of this chapter.

(b) The board consists of the following members:

(1) Two (2) representatives of the retail fertilizer industry.

(2) One (1) representative of fertilizer manufacturing, distributing, or manufacturing and distributing.

(3) Two (2) representatives of producers of agricultural crops.

(4) One (1) representative of the lawn care industry.

(5) One (1) representative of the Purdue School of Agriculture.

(6) One (1) representative of a public conservation organization.

(7) One (1) representative of the livestock industry.

~~(7)~~ **(8)** The president of the Indiana Plant Food and Agricultural Chemicals Association, who shall serve as a nonvoting member.

~~(8)~~ **(9)** One (1) representative of the department of environmental management, who shall serve as a nonvoting member.

~~(9)~~ **(10)** The fertilizer administrator for the office of the state chemist, who shall serve as a nonvoting member.

~~(10)~~ **(11)** The engineer specialist for the office of the state chemist, who shall serve as a nonvoting member.

(12) One (1) representative of the department of agriculture, who shall serve as a nonvoting member.

(c) The voting members of the board shall be appointed by the state chemist for terms of four (4) years.

(d) Voting members of the board may be appointed for successive terms at the discretion of the state chemist.

(e) The state chemist may remove a voting member of the board for cause before the expiration of the member's term.

(f) Vacancies created by the death, resignation, or removal for cause of a member of the board must be filled in the manner prescribed for appointment to that board position. Vacancies must be filled within thirty (30) days of the death, resignation, or removal for cause.

(g) The board shall elect one (1) of its voting members chairperson to serve for a term of two (2) years, unless the chairperson's appointment expires before the expiration of the term, in which case the term is for the duration of the chairperson's appointment.

(h) The board may meet at times specified by the chairperson or by a majority of the board, but shall not meet less than annually.

(i) Five (5) voting members of the board constitutes a quorum. Official actions require a majority of the voting members. The chairperson may actively participate in all decisions of the board.

(j) Each member of the board who is not a state employee is entitled to receive both of the following:

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

(2) Reimbursement for travel 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 Indiana department of administration and approved by the budget agency.

Each member of the board who is a state employee is entitled to reimbursement for travel expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(k) The board shall invite nonvoting members to serve at the pleasure of the board.

SECTION 52. IC 15-3-3.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter, unless otherwise provided:

(1) The term "active ingredient" means:

(A) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient that will:

(i) prevent;

(ii) destroy;

(iii) repel; or

(iv) mitigate;

insects, nematodes, fungi, rodents, weeds, or other pests;

(B) in the case of a plant regulator, an ingredient that, through physiological action, will accelerate or retard the rate of growth or rate of maturation or ~~otherwise~~ alter the behavior of:

(i) ornamental or crop plants; or

(ii) the produce of ornamental or crop plants;

(C) in the case of a defoliant, an ingredient that will cause the leaves or foliage to drop from a plant; ~~and~~

(D) in the case of a desiccant, an ingredient that will artificially accelerate the drying of plant tissue; **and**

(E) in the case of a nitrogen stabilizer, an ingredient that will prevent or hinder the process of nitrification, denitrification, ammonia volatilization, or urease production through an action affecting soil bacteria.

(2) The term "adulterated" means a pesticide that has its strength or purity fall below the professed standard or quality as expressed on labeling or under which it is sold, or if any substance has been substituted wholly or in part for the pesticide product or if any valuable constituent of the pesticide product has been wholly or in part abstracted.

(3) The term "antidote" means the most practical immediate treatment in case of poisoning and includes first aid treatment.

(4) The term "board" means the Indiana pesticide review board created by this chapter to collect, analyze, and interpret information on matters relating to the use of pesticides.

(5) The term "defoliant" means any substance or mixture of substances intended to cause leaves or foliage to drop from a plant with or without causing abscission.

(6) The term "desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissues.

(7) The term "device" means any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects or rodents or destroying, repelling, or mitigating fungi, weeds, nematodes, or other pests as may be designated by the board. The term does not include:

(A) equipment used for the application of pesticides when sold separately from the pesticides;

(B) firearms; or

(C) simple mechanical devices, such as barriers, traps, or adhesives, or other simple contrivances that are not subject to this chapter as determined by the pesticide review board.

(8) The term "distribute" means to offer for sale, sell, exchange, barter or otherwise supply or offer to supply pesticide products.

(9) The term "fungi" means all non-chlorophyll-bearing thallophytes (all non-chlorophyll-bearing plants of a lower order than mosses and liverworts), including rusts, smuts, mildews, molds, yeasts, bacteria, and viruses, except those on or in living man or other animals.

(10) The term "fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any fungi.

(11) The term "herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed.

(12) The term "highly volatile herbicide" means those herbicides that the board has determined to be capable of emitting vapors that may cause serious injury to desired plants by reason of movement of the vapors from the area of application of the herbicide to areas inhabited by the desired plants.

(13) The term "inert ingredient" means an ingredient that is not an active ingredient.

(14) The term "ingredient statement" means ~~either:~~ **any of the following:**

(A) A statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the pesticide. ~~or~~

(B) A statement of the name of each active ingredient in decreasing order of abundance and the total percentage

of active ingredients, together with the name of each and total percentage of the inert ingredients, if any, in the pesticide. ~~except clause (A) shall apply if the preparation is highly toxic to man, determined under section 10 of this chapter; and~~

~~in addition to clause (A) and clause (B), if a pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.~~

(15) The term "insect" means any small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six (6) legged, usually winged forms, including beetles, bugs, bees, flies, and other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, including spiders, mites, ticks, centipedes, and wood lice.

(16) The term "insecticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects that may be present in any environment.

(17) The term "label" means the written, printed, or graphic matter on, or attached to, a pesticide product or the immediate container of the pesticide product, and any outside container or wrapper of the retail package of the pesticide product.

(18) The term "labeling" means all labels and other written, printed, or graphic matter:

(A) upon the pesticide product or any of its containers or wrappers;

(B) accompanying the pesticide product at any time; or

(C) to which reference is made on the label or in literature accompanying the pesticide product, except when accurate, nonmisleading reference is made to current official publications of:

(i) the United States ~~Departments~~ **Department** of Agriculture; ~~or~~

(ii) the United States Department of Interior;

(iii) the United States ~~Public~~ **Department of** Health ~~Service,~~ **and Human Services;**

(iv) the United States Environmental Protection Agency;

(v) state experiment stations;

(vi) state agricultural colleges; or

(vii) other similar federal institutions or official agencies of this state or other states authorized by law to conduct research in the field of pesticides.

(19) The term "misbranded" means:

(A) any pesticide product if its labeling bears any statement, design, or graphic representation relative to the pesticide product or to its ingredients that is false or misleading;

(B) any pesticide product:

(i) if it is an imitation of or is offered for sale under the name of another pesticide product;

(ii) if its labeling bears any reference to registration under this chapter;

(iii) if the labeling accompanying it does not contain instructions for use that are necessary and, if complied with, adequate for the protection of the public;

(iv) if the label does not contain a warning or caution statement that may be necessary and, if complied with, adequate to prevent injury to living man and other vertebrate animals;

(v) if the label does not bear an ingredient statement on that part of the immediate container and on any outside container or wrapper through which the ingredient statement on the immediate container cannot be clearly read, of the retail package that is presented or displayed under customary conditions of purchase. However, a pesticide product is not misbranded under this definition if the size or form of the immediate container, or the outside container or wrapper of the retail package, makes it impracticable to place the ingredient statement on the part that is presented or displayed under customary conditions of purchase and the ingredient statement appears prominently on another part of the immediate container, or outside container or wrapping, or labeling, as permitted by the state chemist;

(vi) if any word, statement, or other information required under this chapter or the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) to appear on the labeling is not prominently placed on the labeling with conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in terms as to render it likely to be read and understood by the average individual under customary conditions of purchase and use;

(vii) if in the case of an insecticide, nematocide, fungicide, or herbicide, when used as directed or in accordance with commonly recognized practice, it shall be injurious to living man or other vertebrate animals or vegetation, except weeds, to which it is applied, or to the person applying the pesticide;

(viii) in the case of a plant regulator, defoliant, or desiccant when used as directed it shall be injurious to living man or other vertebrate animals, or vegetation to which it is applied, or to the person applying the pesticide. However, physical or physiological effects on plants or parts of plants shall not be deemed to be injurious, when this is the purpose for which the plant regulator, defoliant, or desiccant was applied, in accordance with the label claims and recommendations; or

(ix) if the immediate container does not clearly display the United States Environmental Protection Agency establishment number indicating the specific location where the pesticide product was produced.

(20) The term "nematocide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating nematodes.

(21) The term "nematode" means the invertebrate animals of the phylum nemathelminthes and class Nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts also called nemas or eelworms.

(22) The term "person" means any individual, partnership, association, fiduciary, corporation, or organized group of persons whether incorporated or not.

(23) The term "pesticide" means:

(A) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating a pest; and

(B) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

(24) The term "pesticides for use by prescription only" means any pesticide that the board has found to be more hazardous by one (1) criterion or another than a restricted use pesticide so that any specific use and application shall be determined and prescribed by a qualified pest management specialist approved by the state chemist.

(25) The term "plant regulator" means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of

ornamental or crop plants or the produce of ornamental or crop plants, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

(26) The term "registrant" means the person registering any pesticide product under this chapter.

(27) The term "restricted use pesticide" means any pesticide classified as a restricted use pesticide by the administrator of the United States Environmental Protection Agency or a pesticide that the board has determined to be unduly hazardous to persons, animals, plants, wildlife, waters, or lands, other than the pests it is intended to prevent, destroy, control, or mitigate.

(28) The term "rodenticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating rodents or any other vertebrate animal that the board shall declare to be a pest.

(29) The term "weed" means any plant that grows where the plant is not wanted.

(30) The term "aquatic ecologist" means a scientist with a degree in, or extensive training in, or experience in at least one (1) of the following:

(A) Aquatic ecology.
(B) Limnology.
(C) Invertebrate zoology.
(D) Invertebrate ecology.
(E) Ichthyology.
(F) Aquatic botany.
(G) Algology.
(H) Primary production ecology.

(31) The term "terrestrial ecologist" means a scientist with a degree in, or extensive training in, or experience in at least one (1) of the following:

(A) Animal ecology.
(B) Plant ecology.
(C) Vertebrate natural history.
(D) Herpetology.
(E) Ornithology.
(F) Mammalogy.
(G) Field zoology.

(32) The term "bulk pesticides" means any pesticide or mixture of pesticides that is transported or held in an immediate reusable container in undivided quantities greater than one hundred (100) pounds net dry weight or fifty-five (55) U.S. gallons liquid measure. The term does not include pesticides that are in the custody of the ultimate user and have been prepared for application by the ultimate user to use in dilution formula strength.

(33) "Final printed labeling" means the printed label and other labeling that will appear on or accompany a pesticide product.

(34) "Front panel" means the part of a label that is visible to a purchaser under normal conditions of sales displays.

(35) "Immediate container" means that part of a container that is in direct contact with a pesticide product.

(36) "Pest" has the meaning set forth in IC 15-3-3.6-2(22).

(37) "Pesticide formulation" means a pesticide product comprised of all active ingredients and inert ingredients.

(38) "Pesticide product" means a pesticide or device offered for distribution or use, including any labeling.

(39) "Produce" means to manufacture, prepare, compound, process, or change the container of a pesticide product or an active ingredient. The term does not include the dilution by individuals of formulated pesticides for the individual's use done according to the directions on a label.

(40) "Wildlife" has the meaning set forth in IC 15-3-3.6-2(29).

SECTION 53. IC 15-3-3.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. ~~It is unlawful for any~~ **Except as provided in section 4 of this chapter, a** person ~~to~~ **may not** produce, distribute, display, sell, or offer for sale within ~~this state~~ **Indiana** or deliver for transportation or transport in intrastate commerce or between points within ~~this state~~ **Indiana** through any point outside ~~this state~~ **Indiana** any of the following:

(1) Any pesticide product that has not been registered under section 5 of this chapter.

(2) Any pesticide product if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration.

(3) A pesticide product if the composition of the product differs from the composition as represented in connection with its registration. However, at the discretion of the state chemist, a change in the labeling or formula of a pesticide may be made within a registration period without requiring reregistration of the product.

(4) Any pesticide (except a bulk pesticide or a pesticide in a container **specifically** designed and constructed to accommodate the return and refill of ~~greater than fifty-five (55) gallons liquid or one hundred (100) pounds of dry material)~~ **the container** unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to that container, and to any outside container or wrapper of the retail package through which the required information on the immediate container cannot be clearly read, a label bearing:

(A) the name and address of the manufacturer, registrant, or person for whom manufactured;
(B) the name, brand, or trademark under which the pesticide product is sold; and
(C) the net weight or measure of the content, subject, however, to reasonable variations as the state chemist may permit.

~~(5) The pesticides commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, and barium fluosilicate unless they have been distinctly colored or discolored as provided by rules adopted under this chapter, or any other white powder pesticide that the state chemist, after investigation of and after public hearing on the necessity for action for the protection of the public health and the feasibility of coloration or discoloration, shall, by rule, require to be distinctly colored or discolored unless it has been so colored or discolored. The state chemist may exempt any pesticide to the extent that it is intended for a particular use or uses from the coloring or discoloring required or authorized by this section if the state chemist determines that coloring or discoloring is not necessary for the protection of the public health.~~

~~(6)~~ **(5)** Any pesticide product that is adulterated or misbranded.

~~(7)~~ **(6)** Any pesticide in containers violating rules adopted under section 10(3) of this chapter. Pesticides found in containers that are unsafe due to damage may be seized and impounded.

~~(8)~~ **(7)** A highly volatile herbicide, ~~(as defined in section 2(12) of this chapter)~~ except on written permission by the state chemist.

~~(9)~~ **(8)** Any bulk pesticide unless it is accompanied in all transfers of custody or ownership by or held in storage vessels to which is affixed a label bearing the information specified in subdivision (4).

SECTION 54. IC 15-3-3.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The state chemist shall require the submission of the complete formula of any pesticide product, including the confidential:

(1) statement of formula;

(2) analytical methods for the analysis of the pesticide formulation and the analysis of residues of the pesticide product in environmental media; and

(3) analytical standards of the pesticide product.

In the case of a federally registered product, this requirement may be waived.

(b) **The state chemist shall register a pesticide product,** if:

(1) the state chemist determines that the composition of the pesticide product ~~is such as to warrant~~ **warrants** the proposed claims for ~~it, and if~~ **the pesticide product;**

(2) the pesticide product, ~~and~~ its labeling, and other material required to be submitted comply with the requirements of section 5 of this chapter; ~~the state chemist shall register the pesticide product.~~ **and**

(3) the state chemist determines that the person submitting the application for registration has complied with the requirements of this chapter.

(c) **The state chemist shall notify the applicant that the pesticide product, labeling, or other material required to be submitted fails to comply with the law** if ~~it does not appear to~~ the state chemist **determines:**

(1) that the ~~pesticide product is such as to warrant the~~ proposed claims for ~~it~~ **the pesticide product;** or ~~if~~

(2) the pesticide product, ~~and~~ its labeling, and other material required to be submitted;

do not comply with this chapter.

(d) If the state chemist notifies an applicant under subsection (c), the state chemist shall ~~notify~~ **give** the applicant ~~of the manner in which the pesticide product, labeling, or other material required to be submitted fail to comply with the law so as to afford the applicant~~ an opportunity to make the necessary corrections. If upon receipt of notice, the applicant does not make the corrections, the state chemist may refuse to register the pesticide product.

~~(d)~~ **(e)** The state chemist, in accordance with the procedures specified in this section, may **deny,** suspend, or cancel the registration of a pesticide whenever the state chemist determines that the:

(1) pesticide product; ~~or its~~

(2) pesticide product's labeling; **or**

(3) the person submitting the application for registration of the pesticide product;

does not comply with this chapter.

~~(e) Whenever~~ **(f) If:**

(1) an application for registration is refused; or

(2) the state chemist proposes to **deny,** suspend, or cancel a registration;

notice of ~~such~~ **the** action ~~shall~~ **and information concerning the person's right to obtain a review under section 7.5 of this chapter must** be given to the applicant or registrant. ~~who shall have fifteen (15) days from the date of such notice to request a hearing on the proposed action in accordance with IC 4-21.5.~~

SECTION 55. IC 15-3-3.5-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 7.5. (a) A person who is:**

(1) regulated under this chapter; and

(2) aggrieved by any decision of the state chemist;

may obtain a review by the board, if the person files a written petition with the board not later than thirty (30) days after the state chemist's decision.

(b) The board shall provide a copy of a petition filed under subsection (a) to the state chemist not later than seven (7) days after receiving the petition.

(c) Not more than fifteen (15) days after receiving a petition under subsection (b), the state chemist shall certify and file with the board a transcript of any record related to the petition, including a transcript of any evidence received.

(d) Whenever a hearing is held under this section, the board may designate one (1) or more persons as the board's agent or representative to conduct the hearing. The agent or representative shall conduct the hearing in the manner provided by IC 4-21.5-3.

(e) After hearing the appeal, the board shall affirm, set aside, or modify the action of the state chemist. However, the state chemist's finding of facts that are supported by the substantial evidence is considered conclusive.

(f) A person aggrieved by any action of the board may obtain judicial review under IC 4-21.5-5.

SECTION 56. IC 15-3-3.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) ~~There is created~~ The Indiana pesticide review board ~~consisting~~ **is established. The board consists** of the following members:

(1) One (1) representative of the state department of health.

~~(2) One (1) representative of the state toxicologist.~~

~~(3) One (1) representative of the state veterinarian.~~

~~(4)~~ **(2)** One (1) representative of the department of natural resources.

~~(5)~~ **(3)** One (1) representative of the department of environmental management.

~~(6)~~ **(4)** One (1) representative of the Purdue University office of agricultural research programs.

~~(7)~~ **(5)** One (1) representative of the Purdue University cooperative extension service.

~~(8)~~ **(6)** Two (2) ecologists with earned doctorate degrees:

(A) one (1) a terrestrial ecologist; and

(B) one (1) an aquatic ecologist.

~~No more than one (1) ecologist may be from a state supported university or college and no~~ **Not** more than one (1) ecologist may be a plant ecologist.

~~(9)~~ **(7)** One (1) public representative.

~~(10)~~ **(8)** One (1) representative of the pesticide industry.

~~(11)~~ **(9)** Two (2) representatives of producers of agricultural crops or products on which pesticides are applied or that may be affected by the application of pesticides:

(A) one (1) of whom represents producers of agronomic crops; and

(B) one (1) of whom represents producers of nonagronomic crops.

~~(12)~~ **(10)** One (1) public representative from conservation organizations.

~~(13)~~ **(11)** Three (3) qualified scientists, one (1) each in the fields of entomology, plant pathology, and weed science. One (1) scientist must be the representative of either the Purdue University office of agricultural research programs or the Purdue University cooperative extension service.

~~(14)~~ **(12)** Three (3) certified and licensed commercial applicators of pesticides who must represent three (3) different certificate or license categories established under IC 15-3-3.6-5.

~~(15)~~ **(13)** The state chemist, who **is an ex officio member and** shall serve as a nonvoting member.

~~(16)~~ **(14)** The pesticide administrator for the office of the state chemist, who shall serve as a nonvoting member.

~~(17)~~ **(15)** The pesticide training coordinator, who shall serve as a nonvoting member.

(b) The voting members shall be appointed by the governor for terms of four (4) years **and, subject to subsection (d), continue until the member's successor is approved and qualified.** Appointments shall be made so that no more than five (5) terms expire annually.

(c) Voting members may be appointed for successive terms at the discretion of the governor.

(d) The governor may remove a voting member of the board prior to the expiration of the member's term for cause.

SECTION 57. IC 15-3-3.5-16 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. ~~Ten (10)~~ **(a) Nine (9)** members of the board shall constitute a quorum. ~~and~~

(b) Official actions ~~will be~~ **are** subject to approval by a simple majority of board members present at a called meeting.

(c) The ~~chairman~~ **chairperson** shall actively participate in all decisions of the board.

SECTION 58. IC 15-3-3.5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. ~~State officials and staff members of state offices as well as Purdue University office of agricultural research programs and cooperative extension service staff members appointed to the board shall serve without compensation but shall be entitled to receive per diem payments at rates and under conditions incident to these positions.~~ **The following individuals appointed to the board shall serve without compensation but are entitled to receive per diem payments at rates and under conditions incident to these positions:**

(1) State officials.

(2) Staff members of state offices.

(3) Staff members of the Purdue University office of agricultural research programs.

(4) Cooperative extension service staff members.

Other members are entitled to reimbursement for traveling and other expenses as provided in the ~~state~~ **Purdue University** travel policies and procedures, established by the ~~Indiana~~ **Purdue University** department of ~~administration~~ **transportation** and approved by the ~~budget agency.~~ **Purdue University vice president of business services.**

SECTION 59. IC 15-3-3.5-18, AS AMENDED BY P.L.40-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. The state chemist ~~individually~~ or ~~through~~ the state chemist's agent may do the following:

(1) Enter any public or private premises, including any vehicle of transport during regular business hours: ~~in order~~

(A) to:

(i) have access to; and ~~to~~

(ii) obtain samples of;

pesticide products; and

(B) to:

(i) examine; and

(ii) copy;

records relating to ~~their~~ **the production,** use, transportation, and sale **of pesticide products,** subject to this chapter and the rules adopted under this chapter.

(2) Enter at ~~all~~ **a** reasonable ~~times~~ **time** in or upon any:

(A) private; or

(B) public property;

for the purpose of inspection and investigating conditions possibly resulting from the use or misuse of a pesticide product.

SECTION 60. IC 15-3-3.5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. **(a)** The examination of pesticide products shall be made under the direction of the state chemist for the purpose of determining whether the pesticide products comply with ~~the requirements of~~ this chapter.

(b) If it appears after an examination that a pesticide product fails to comply with this chapter, and the state chemist contemplates instituting proceedings against any person, the state chemist shall ~~cause~~ **give** appropriate notice to ~~be given to~~ the person. ~~Any~~

(c) A person notified **under subsection (b)** shall be given an opportunity to present the person's views, either orally or in writing, with regard to the contemplated proceedings, ~~and,~~ **to the state chemist.**

(d) If ~~in the opinion of~~ the state chemist ~~it shall appear that~~ **determines that a person violated** this chapter, ~~has been violated by the person, then~~ **subject to subsection (e),** the state chemist ~~shall~~ **may** refer the facts to the prosecuting attorney for the county in which the violation occurred with a copy of the results of the analysis or the examination of the pesticide product. ~~Nothing in~~

(e) This chapter may **not** be construed as requiring the state chemist to report for prosecution or for the institution of other proceedings minor violations of this chapter whenever the state chemist believes that the public interests will be best served by other action.

SECTION 61. IC 15-3-3.5-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 25. (a) Except as provided in subsection ~~(c),~~ **(f),** ~~whenever~~ **if the state chemist:**

(1) finds any pesticide product: ~~is found by the state chemist~~

(A) upon any premises; or

(B) in any means of conveyance;

where it is held for purposes of, or during or after, distribution, ~~or~~ sale, **or use;** and

(2) ~~there is reason to believe~~ **determines** that the pesticide product:

(A) is in violation of this chapter; or ~~that the pesticide product~~

(B) has been or is intended to be:

(i) distributed; ~~or~~

(ii) sold; **or**

(iii) used;

in violation of this chapter;

the state chemist may issue ~~a written or printed stop sale, use, or removal order to the owner or custodian of the pesticide product, and after receipt of the order, the owner or custodian may not sell, use, or remove the pesticide product described in the order except in accordance with the provisions of the order or until the pesticide product is released in writing by the state chemist or by order of a proper court.~~ **an order under subsection (b).**

(b) The state chemist may issue a written or printed:

(1) stop sale;

(2) use; or

(3) removal;

order to the owner or custodian of a pesticide product.

(c) Except as provided in subsection (d), after receiving an order under subsection (b), the owner or custodian of a pesticide product may not:

(1) sell;

(2) use; or

(3) remove;

the pesticide product described in the order.

(d) The owner or custodian of a pesticide product who receives an order under subsection (b) may:

(1) sell;

(2) use; or

(3) remove;

the pesticide product only in accordance with the provisions of the order or until the pesticide product is released in writing by the state chemist or by order of a court.

~~(b)~~ **(e)** When a stop sale order is issued under subsection ~~(a),~~ **(b),** the state chemist shall immediately issue a notification to the dealer or registrant of the pesticide product that states the following:

(1) A stop sale order has been issued on the pesticide product.

(2) A reference to the specific language of the law or ~~regulation~~ **rule** that is believed to have been violated.

~~(c)~~ **(f)** Labels of pesticide devices may be submitted to the state chemist for approval before the sale of the pesticide device.

SECTION 62. IC 15-3-3.5-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 35. ~~(Delegation of Duties) All authority~~ **The state chemist may delegate to an employee or agent any function that is** vested in the state chemist by ~~virtue of the provisions of~~ this chapter. ~~may with like~~

~~force and effect be executed by his authorized agent or agents.~~

SECTION 63. IC 15-3-3.6-2, AS AMENDED BY P.L.40-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter:

(1) "Agricultural commodity" means any plant, or part of a plant, and animals or animal products produced primarily for sale, consumption, propagation, or other use by man or animals.

(2) "Animal" means all vertebrate and invertebrate species, including man and other mammals, birds, fish, and shellfish.

(3) "Beneficial insects" means insects that, during some part of their life cycles, are effective pollinators of plants, are parasites or predators of pests, or are otherwise useful to man.

(4) "Board" means the Indiana pesticide review board established by IC 15-3-3.5.

(5) "Certified applicator" means any individual who is certified under this chapter as qualified to use or supervise the use of pesticides and has been issued a certificate as evidence of the individual's qualifications.

(6) "Private applicator" means a certified applicator who uses or supervises the use of pesticides for purposes of producing any agricultural commodity on property owned, rented, or managed by the employer or the applicator, if applied without compensation on the property of another person.

(7) "Commercial applicator" means a certified applicator, whether or not a private applicator with respect to some uses, who uses or supervises the use of pesticides for any purpose or on any property other than as provided by subdivision (6).

(8) "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

(9) "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

(10) "Device" means any instrument or contrivance, other than a firearm, that is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life other than man, bacteria, virus, or other microorganism on or in living man or other living animals. This term does not include equipment used for the application of pesticides when sold separately from the pesticides.

(11) "Distribute" means to offer for sale, sell, exchange, barter, or otherwise supply or offer to supply a pesticide.

(12) "Environment" includes water, air, land, and all plants and man and other animals living in water, air, or on land and the interrelationships that exist among these.

(13) "Equipment" means any type of ground, water, or aerial apparatus or contrivance using motorized, mechanical, or pressurized power, used to apply any pesticide.

(14) "Fungus" means any nonchlorophyll-bearing plant of a lower order than mosses and liverworts, including rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other animals, and those on or in processed food, beverages, or pharmaceuticals.

(15) "Insect" means any small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six (6) legged, usually winged forms, including beetles, bugs, bees, flies, and other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, including spiders, mites, ticks, centipedes, and wood lice.

(16) "Licensed pesticide business" means any licensed person that owns, operates, or manages a business that is engaged in or professes to be engaged in:

(A) using any pesticide, including restricted use pesticides; or

(B) making diagnostic inspections or reports to determine infestations of wood destroying pests.

(17) "Licensed applicator for hire" means any licensed certified commercial applicator who is employed by a licensed pesticide business to use or to supervise the use of any pesticide on the property of another and who has assumed direct responsibility for the use or supervision of the use of pesticides by the business.

(18) "Licensed public applicator" means a licensed certified commercial applicator who uses or supervises the use of a restricted use pesticide as an employee of a state agency, municipal corporation, or other governmental agency. The term includes a commercial applicator using a pesticide in a potentially hazardous situation or site as determined by the board.

(19) "Nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda. These are unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts. Nematodes may also be called nemas or eelworms.

(20) "Permit" means a written certificate issued by the state chemist or the state chemist's authorized agent to a private applicator, authorizing the purchase, possession, or use of restricted use pesticides.

(21) "Person" means any individual, partnership, association, fiduciary, corporation, or any organized group of persons whether incorporated or not.

(22) "Pest" means:

(A) any insect, rodent, nematode, fungus, or weed; or

(B) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other microorganisms on or in living man or other living animals) that is declared to be a pest by the administrator of the United States Environmental Protection Agency or by the board.

(23) "Pesticide" means:

(A) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; or

(B) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

(24) "Plant regulator" means any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation or for otherwise altering the behavior of plants or the produce of plants. The term does not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

(25) "Property" means all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances, **vehicles,** and machinery, appurtenant to or situated on land and water areas, fixed or mobile, including any used for transportation.

(26) "Restricted use pesticide" means:

(A) any pesticide classified as restricted by the Administrator of the United States Environmental Protection Agency; or

(B) a pesticide that the board has determined to be unduly hazardous to persons, animals, plants, wildlife, waters, or lands other than the pests the pesticide is intended to prevent, destroy, control, or mitigate.

(27) "Unreasonable adverse effects on the environment"

means an unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

(28) "Weed" means any plant which grows where it is not wanted.

(29) "Wildlife" means all living things that are not human, domesticated, or pests. This term includes mammals, birds, reptiles, and aquatic life.

(30) "Certificate of financial responsibility" means a notarized statement from an officer of a bank or other financial institution attesting to the fact that a licensee under this chapter has adequate financial resources equal to the amount of liability insurance or bonding required by rule under section 13 of this chapter to protect persons who may suffer legal damages as a result of the applicator's pesticide operations or the pest inspector's inspections.

(31) "Registered pesticide dealer" means any person who distributes any restricted use pesticide.

(32) "Licensed applicator not for hire" means a licensed certified commercial applicator who is employed by a private employer to use or supervise the use of a restricted use pesticide only on the property of the employer. The term includes a commercial applicator using a pesticide in a potentially hazardous situation or site as determined by the board.

(33) "Pesticide consultant" means a person engaged in the retail sale of pesticides who:

(A) offers or supplies technical advice to;

(B) aids; or

(C) makes recommendations to;

another person concerning the use of a pesticide as part of business.

(34) "Pesticide formulation" means a pesticide product comprised of all active ingredients and inert ingredients.

(35) "Pesticide product" means a pesticide or device offered for distribution or use, including any labeling.

(36) "Registered technician" means a person who:

(A) is not licensed under this chapter;

(B) has registered with the state chemist; and

(C) is authorized to engage in pesticide use and related activities under the direct supervision of a licensed and certified applicator.

(37) "Use" means an act of handling, releasing, or exposing individuals or the environment to a pesticide. The term includes the following:

(A) Application or supervision of an application of a pesticide, including mixing or loading the pesticide.

(B) Storage of pesticides and pesticide containers by the intended applicator of the pesticides.

(C) Transportation of pesticides and pesticide containers by the intended applicator of the pesticides.

(D) Disposal of pesticides and pesticide containers by the intended applicator of the pesticides.

(38) "Licensed pest inspector" means an individual licensed under this chapter to make diagnostic inspections or reports to determine infestations of wood destroying pests on the property of another person and meets the requirements under section 13 of this chapter.

SECTION 64. IC 15-3-3.6-6, AS AMENDED BY P.L.40-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) **Subject to section 10 of this chapter,** a person may not engage in or profess to engage in the business of:

(1) using a pesticide; or

(2) making diagnostic inspections or reports to determine infestations of wood destroying pests;

on the property of another for hire at any time without a pesticide business license issued by the state chemist. The state chemist shall require an annual license fee of forty-five dollars ($45) for each pesticide business license **that is** issued.

(b) A pesticide business license must be obtained for each business location from which pesticide use or application is conducted.

(c) The application for a license ~~shall be made~~ **must be** on a form provided by the state chemist. Each application ~~shall~~ **must** contain information necessary for the administration of this chapter.

(d) The state chemist may not issue a pesticide business license until the applicant or a pesticide applicator in the applicant's hire who uses or supervises the use of a pesticide on the property of another is certified by passing an examination to demonstrate to the state chemist the applicant's or applicator's knowledge of the:

(1) use of pesticides under the category for which the applicant or applicator has applied; and ~~the applicant's or applicator's knowledge of the~~

(2) nature and effect of pesticides the applicant or applicator may apply under the categories.

At least one (1) licensed applicator for hire must be associated with each location from which pesticides are used for hire.

(e) The state chemist may renew any **pesticide** business license.

(f) **Subject to subsections (a), (b), (c), and (d) and section 14 of this chapter,** if:

(1) the state chemist finds the applicant qualified to engage in the business of using pesticides **or making diagnostic inspections or reports to determine infestations of wood destroying pests** on the property of another;

(2) the applicant files evidence of financial responsibility required under section 13 of this chapter; and

(3) the applicant applying for a license involving aerial application of pesticides has met all of the requirements of:

(A) the Federal Aviation Administration;

(B) the Indiana department of transportation; and

(C) any other applicable federal or state statutes or regulations to operate the equipment described in the application;

the state chemist ~~shall~~ **may** issue a pesticide business license limited to the categories for which the applicant or a pesticide applicator in the applicant's hire is qualified. The license ~~shall expire~~ **expires** January 1 of the year following issue unless it has been invalidated, revoked, or suspended earlier by the state chemist. ~~Any~~ **A** surety bond or certificate of liability insurance in force or certificate of financial responsibility required under section 13 of this chapter must be maintained and in effect on a continuing basis.

(g) The state chemist may limit a license or the operation of a business to the use of certain pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified.

(h) If a license is not issued as applied for, the state chemist shall inform the applicant in writing of the reasons the license was not issued.

SECTION 65. IC 15-3-3.6-8.1, AS AMENDED BY P.L.40-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8.1. (a) A person applying for a license described under section 7, 7.1, or 8 of this chapter must:

(1) submit an application to the state chemist on a form provided by the state chemist;

(2) pass the appropriate examination provided under section 5 of this chapter;

(3) except for a person applying for a licensed public applicator's license, submit a fee of forty-five dollars ($45) to the state chemist; and

(4) if the person will engage in the aerial application of pesticides, submit proof to the state chemist that the person has satisfied aerial application requirements under

applicable state and federal laws.

(b) **Subject to section 14 of this chapter,** if a person meets the requirements under subsection (a), the state chemist ~~shall~~ **may** issue the appropriate license to the person.

(c) If the state chemist does not issue a license to a person ~~that~~ **who** applied for a license described under subsection (a), the state chemist shall inform the person in writing of the reason the license was not issued.

(d) A person ~~that~~ **who** has been issued a license under subsection (b):

(1) shall notify the state chemist in writing within ten (10) days after a change in or termination of the person's employment as a licensed applicator for hire, a licensed applicator not for hire, or a licensed public applicator; and

(2) may apply to the state chemist to transfer or amend the person's license by submitting an updated application form described under subsection (a)(1).

(e) A license issued under subsection (b):

(1) expires January 1 of each year; and

(2) **subject to section 14 of this chapter,** may be renewed by the person holding the license if the person:

(A) submits a renewal application on a form provided by the state chemist; and

(B) except for a person renewing a licensed public applicator's license, pays a forty-five dollar ($45) renewal fee;

before January 1.

SECTION 66. IC 15-3-3.6-13, AS AMENDED BY P.L.40-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) The state chemist may not issue a pesticide business license or a pest inspector license until the applicant for the license has furnished a surety bond, a certificate of liability insurance in force, or a certificate of financial responsibility to protect persons who may suffer legal damages as a result of the pesticide operations or pest inspections of the applicant. If the surety bond, liability insurance, or financial responsibility is not maintained at all times during the licensing period, the pesticide business license, pest inspector license, and any associated commercial applicator licenses **and technical registrations** are invalid. The applicant may not engage in or profess to be engaged in the business of using pesticides or pest inspection until the financial responsibility is ~~brought into~~ **in** compliance and the applicant's license is reinstated by the state chemist.

(b) ~~Nothing in~~ This chapter ~~relieves~~ **does not relieve** any person from liability for any damage to the person or property of another caused by the use of pesticides even though the use conforms to the rules adopted under this chapter.

SECTION 67. IC 15-3-3.6-14, AS AMENDED BY P.L.40-2006, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. Subject to section 14.5 of this chapter, the state chemist under IC 4-21.5-3-6 may warn, cite, or impose a civil penalty on a person for a violation under this chapter. The state chemist may also deny, suspend, revoke, or modify any provision of any license, permit, registration, or certification issued under this chapter if the state chemist finds that the applicant or the holder of a license, permit, registration, or certification has committed any of the following acts, each of which is a violation of this chapter:

(1) Made false or fraudulent claims **either verbally or** through any media misrepresenting the effect of pesticides or methods to be ~~utilized.~~ **used.**

(2) Recommended, used, or supervised the use of any registered pesticide in a manner inconsistent with its labeling approved by the United States Environmental Protection Agency or Indiana state registration for that pesticide, or in violation of the United States Environmental Protection Agency or Indiana state restrictions on the use of that pesticide.

(3) Used known ineffective or improper pesticides **or known ineffective amounts of pesticides.**

(4) Operated faulty or unsafe equipment.

(5) Operated in a careless or negligent manner.

(6) Neglected or, after notice, refused to comply with this chapter, the rules adopted under this chapter, or of any lawful order of the state chemist **or the board.**

(7) Refused or neglected to:

(A) keep and maintain the records required by this chapter; or ~~to~~

(B) make reports and supply information when required **or requested by the state chemist in the course of an investigation or inspection.**

(8) Made false or fraudulent records, invoices, or reports.

(9) Engaged in or professed to be engaged in the business of:

(A) using a pesticide; or

(B) making a diagnostic inspection to determine infestations of a wood destroying pest;

for hire on the property of another without having a pesticide business license.

(10) Used a restricted use pesticide without having an applicator who is licensed or permitted under this chapter in direct supervision.

(11) Used fraud or misrepresentation in making an application for, or renewal of, a license, permit, registration, or certification.

(12) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license, permit, registration, or certification.

(13) Aided or abetted a person to evade the provisions of this chapter, conspired with a person to evade the provisions of this chapter, or allowed a license, permit, registration, or certification to be used by another person.

(14) Made false or misleading statements during or after an inspection concerning any infestation or infection of pests.

(15) Impersonated any federal, state, county, or city inspector, investigator, or official.

(16) Knowingly purchased or used a pesticide that was not registered under IC 15-3-3.5.

(17) Failed to continuously maintain financial responsibility required under section 13 of this chapter **or to provide proof of financial responsibility to the state chemist when requested.**

(18) Intentionally altered a duly issued license, permit, registration, or certification.

(19) Recklessly, knowingly, or intentionally impeded or prevented the state chemist or the state chemist's agent from performing a duty of the state chemist.

SECTION 68. IC 15-3-3.6-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) A person who **recklessly, knowingly, or intentionally:**

(1) violates this chapter; or

(2) impedes ~~hinders,~~ or prevents the state chemist or the state chemist's ~~authorized~~ agent ~~in performance~~ **from performing a duty** of the state ~~chemist's duty~~ **chemist;**

commits a Class C misdemeanor.

(b) A person who **recklessly,** knowingly, or intentionally:

(1) violates section 14(9) of this chapter after the state chemist has issued written notification to that person regarding a previous violation of section 14(9) of this chapter; **or**

(2) physically assaults the state chemist or the state chemist's agent while performing a duty of the state chemist;

commits a Class A misdemeanor.

(c) The state chemist may bring an action to enjoin the violation or threatened violation of this chapter or ~~any~~ **a** rule ~~made~~ under this chapter. A court may not allow the recovery of

damages for **an** administrative action taken **under this subsection** if the court finds that there was probable cause for the action.

SECTION 69. IC 15-3-3.6-18, AS AMENDED BY P.L.40-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. (a) The state chemist may enter upon any public or private property at reasonable times, in order to do the following:

(1) Observe the use and application of a pesticide.

(2) Inspect ~~any~~ equipment subject to this chapter.

(3) Inspect and sample property actually or reported to be exposed to pesticides.

(4) Inspect storage or disposal areas.

(5) Inspect or investigate complaints of injury to humans or property.

(6) Sample pesticides being used or to be used.

(7) Inspect and obtain copies of pesticide sale, distribution, purchase, use, storage, and disposal records.

(b) ~~If the state chemist is denied access to any property for the purposes set forth in this chapter,~~ The state chemist may, upon showing a need, apply to any court ~~of competent~~ **with** jurisdiction for a search warrant authorizing access to the property. ~~for said purposes.~~ The court may, ~~upon such~~ **after receiving the** application and ~~after~~ finding a need, issue the search warrant for the purposes requested.

(c) ~~Each~~ **A** prosecuting attorney to whom ~~any~~ **a** violation of this chapter is reported may institute and prosecute the violation in a court ~~of competent~~ **with** jurisdiction of that county without delay. The state chemist may apply for and the court grant a temporary or permanent injunction restraining any person from violating or continuing to violate this chapter or any rule adopted under this chapter notwithstanding the existence of other remedies at law. The injunction may be issued without bond.

SECTION 70. IC 15-3-3.6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. **(a)** Commercial applicators and licensed pest inspectors shall maintain records ~~with respect to applications~~ **concerning:**

(1) the application of restricted use pesticides; ~~and~~

(2) diagnostic inspections to determine infestations of wood destroying pests; **and**

(3) any relevant information **that** the state chemist ~~may deem~~ **determines by rule is** necessary ~~to further~~ **for** the purposes of this chapter. ~~may be specified by rule.~~

(b) The state chemist may require certified applicators to maintain records related to applications of state restricted pesticide uses. ~~These~~

(c) Records ~~shall~~ **required under this section must** be kept for a period of two (2) years from the date of the **inspection or the** application of the pesticide, ~~to which the records refer, and~~ **or for the time specified by rule.**

(d) The state chemist shall be provided access to the records by the commercial applicator **or licensed pest inspector.**

SECTION 71. IC 15-3-3.6-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. **(a)** The state chemist may ~~by regulation~~ **adopt rules to** require the reporting of significant pesticide accidents or incidents.

(b) Any person:

(1) claiming damages from a pesticide accident ~~shall~~ **or incident; and**

(2) requesting an investigation of those damages by the state chemist;

must file a ~~claim on a form provided by a~~ **report with the** state chemist. ~~This report must be filed within sixty (60) days after the date that damages occurred.~~ If a growing crop is alleged to have been damaged, the report must be filed before twenty-five percent (25%) of the crop has been harvested. ~~The state chemist shall, within seven (7) days after the receipt of such statement, notify the licensee and the owner or lessee of the property or other persons who may be charged with the responsibility for the damages claimed, and furnish copies of such statements as may be requested.~~

SECTION 72. IC 15-3-3.6-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. The state chemist may cooperate with, and enter into agreements with, any other agency of ~~this~~ **the** state, any federal agency, or any other state agency or nongovernmental organization for the purpose of carrying out this chapter to:

(1) secure uniformity of rules;

(2) cooperate in the enforcement of the federal pesticide control laws through the use of state or federal personnel and facilities and to implement cooperative enforcement programs;

(3) develop and administer state plans for certification of applicators consistent with federal standards;

(4) contract or cooperate with agencies or organizations for the purpose of training applicators;

(5) contract for monitoring pesticides; ~~for the national plan;~~

(6) prepare and submit state plans to meet federal certification standards;

(7) ~~regulate certified applicators;~~ **administer and enforce requirements under this chapter;** and

(8) make reports to the United States Environmental Protection Agency as the agency ~~may require.~~ **requires.**

SECTION 73. IC 15-3-3.6-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. The state chemist may waive all or part of the requirements provided for in sections 3, 5, 6, 7, 7.1, 8, 8.1, 8.3, 9, **10.1,** and 12 of this chapter on a reciprocal basis with any other state agency or federal agency that has substantially the same standards.

SECTION 74. IC 15-3-3.6-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 24. **(a)** A person may not transport, store, or dispose of any pesticide or pesticide containers in a manner ~~as to~~ **that may** cause injury to humans, beneficial vegetation, crops, livestock, wildlife, beneficial insects, or to pollute any waterway in a way harmful to any wildlife in a waterway.

(b) The board may adopt rules governing the storage and disposal of pesticides or pesticide containers. In determining these standards, the board shall take into consideration any regulations issued by the United States Environmental Protection Agency.".

Page 28, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 79. IC 15-5-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. A commercial feed, except a custom-mixed feed, ~~shall~~ **must** be accompanied by a label bearing the following information:

(1) The net weight.

(2) The product name and the brand name, if any, under which the commercial feed is distributed.

(3) The guaranteed analysis stated in ~~such~~ **the** terms ~~as~~ **that** the ~~director,~~ **state chemist,** by ~~regulation~~ **rule,** determines ~~is~~ **are** required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods such as the methods published by ~~the Association of Official Analytical Chemists.~~ **AOAC International.**

(4) The common or usual name of each ingredient used in the manufacture of the commercial feed. ~~Provided, That~~ **However,** the ~~director,~~ **state chemist,** by ~~regulation~~ **rule,** may:

~~(i)~~ **(A)** permit the use of a collective term for a group of ingredients ~~which~~ **that** perform a similar function; or

~~(ii)~~ **(B)** exempt ~~such~~ **a** commercial ~~feeds,~~ **feed** or ~~any~~ group ~~thereof,~~ **of commercial feeds** from ~~this~~ **the** requirement ~~of~~ **for** an ingredient statement if ~~he~~ **the state chemist** finds that such **a** statement is not required

in the interest of consumers.

(5) The name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed.

(6) Adequate directions for use for: ~~all~~

(A) commercial feeds containing drugs; and ~~such~~

(B) other feeds ~~as~~ **that** the ~~director may require~~ **state chemist requires** by ~~regulation~~ **rule** as necessary for their safe and effective use.

(7) ~~Such~~ Precautionary statements ~~as~~ **that** the ~~director~~ **state chemist** by ~~regulation~~ **rule** determines are necessary for the safe and effective use of the commercial feed.

SECTION 80. IC 15-5-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. Custom-mixed feed ~~shall~~ **must** be accompanied by a label, invoice, delivery slip, or other shipping document bearing the following information:

(1) Name and address of the manufacturer.

(2) Name and address of the purchaser.

(3) Date of delivery.

(4) The product name and brand name, if any, and the net weight of each ~~registered~~ commercial feed used in the mixture, and the common or usual name and net weight of each other ingredient used, and the specific content, stated in terms as required in section 6 of this chapter, of any nutrients and nonnutritive additives added at the request of the purchaser.

(5) Adequate directions for use for: ~~all~~

(A) custom-mixed feeds containing drugs; and ~~for such~~

(B) other feeds ~~as~~ **that** the ~~director may require~~ **state chemist requires** by ~~regulation~~ **rule** as necessary for their safe and effective use.

(6) ~~Such~~ Precautionary statements ~~as~~ **that** the ~~director~~ **state chemist** by ~~regulation~~ **rule** determines are necessary for the safe and effective use of the custom-mixed feed.".

Page 31, line 35, delete "(a) The department may implement voluntary" and insert "**The department may keep records submitted to the department by a livestock producer under a voluntary certification program confidential.**".

Page 31, delete lines 36 through 40.

Page 32, line 26, strike "a" and insert "**an**".

Page 32, line 26, delete "biannual" and insert "**annual**".

Page 32, delete lines 34 through 35.

Page 32, line 36, strike "(4)" and insert "**(3)**".

Page 32, reset in roman line 37.

Page 32, line 38, reset in roman "Indiana.".

Page 32, line 38, delete "initiative plans before each session of the general".

Page 32, delete line 39.

Page 32, line 40, strike "(5)" and insert "**(4)**".

Page 33, line 3, strike "(6)" and insert "**(5)**".

Page 33, line 5, strike "(7)" and insert "**(6)**".

Page 33, line 8, strike "(8)" and insert "**(7)**".

Renumber all SECTIONS consecutively.

(Reference is to SB 314 as reprinted January 29, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

PFLUM, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Engrossed Senate Bill 315, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

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

"SECTION 1. IC 12-7-2-114 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 114. "Incapacitated individual", for purposes of ~~IC 12-10-7,~~ **IC 12-9-7,** has the meaning set forth in ~~IC 12-10-7-1.~~ **IC 12-9-7-1.**

SECTION 2. IC 12-7-2-116 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 116. "Indigent adult", for purposes of ~~IC 12-10-7,~~ **IC 12-9-7,** has the meaning set forth in ~~IC 12-10-7-2.~~ **IC 12-9-7-2.**

SECTION 3. IC 12-7-2-149.1, AS AMENDED BY P.L.145-2006, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 149.1. "Provider" means the following:

(1) For purposes of ~~IC 12-10-7,~~ **IC 12-9-7,** the meaning set forth in ~~IC 12-10-7-3.~~ **IC 12-9-7-3.**

(2) For purposes of the following statutes, an individual, a partnership, a corporation, or a governmental entity that is enrolled in the Medicaid program under rules adopted under IC 4-22-2 by the office of Medicaid policy and planning:

(A) IC 12-14-1 through IC 12-14-9.5.

(B) IC 12-15, except IC 12-15-32, IC 12-15-33, and IC 12-15-34.

(C) IC 12-17.6.

(3) Except as provided in subdivision (4), for purposes of IC 12-17.2, a person who operates a child care center or child care home under IC 12-17.2.

(4) For purposes of IC 12-17.2-3.5, a person that:

(A) provides child care; and

(B) is directly paid for the provision of the child care under the federal Child Care and Development Fund voucher program administered under 45 CFR 98 and 45 CFR 99.

The term does not include an individual who provides services to a person described in clauses (A) and (B), regardless of whether the individual receives compensation.

SECTION 4. IC 12-7-2-159 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 159. "Region", for purposes of ~~IC 12-10-7,~~ **IC 12-9-7,** has the meaning set forth in ~~IC 12-10-7-4.~~ **IC 12-9-7-4.**

SECTION 5. IC 12-9-7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 7. Adult Guardianship Services

Sec. 1. As used in this chapter, "incapacitated individual" means an individual who:

(1) cannot be located upon reasonable inquiry;

(2) is unable:

(A) to manage in whole or in part the individual's property;

(B) to provide self-care; or

(C) to do either of the functions described in clauses (A) and (B);

because of mental illness, dementia, physical illness, infirmity, habitual drunkenness, excessive use of drugs, confinement, detention, duress, fraud, undue influence of others on the individual, or other disability (as that term is used in IC 12-10-10-3 or IC 12-14-15-1); or

(3) has a developmental disability.

Sec. 2. As used in this chapter, "indigent adult" means an individual who:

(1) is at least eighteen (18) years of age;

(2) has no appropriate person to serve as guardian; and

(3) either:

(A) has an annual gross income of not more than one hundred twenty-five percent (125%) of the federal income poverty level as determined annually by the federal Office of Management and Budget under 42 U.S.C. 9902; or

(B) demonstrates the inability to obtain privately provided guardianship services.

Sec. 3. As used in this chapter, "provider" refers to a regional guardianship services provider.

Sec. 4. As used in this chapter, "region" means a service provision region established by the division by rule adopted under IC 4-22-2.

Sec. 5. The adult guardianship services program is established to provide services within the limits of available funding for indigent incapacitated adults.

Sec. 6. The director shall administer the program on a statewide basis.

Sec. 7. The director of the division shall adopt rules under IC 4-22-2 to implement this chapter.

Sec. 8. (a) The division shall contract in writing for the provision of the guardianship services required in each region with a nonprofit corporation that is:

(1) qualified to receive tax deductible contributions under Section 170 of the Internal Revenue Code; and

(2) located in the region.

(b) The division shall establish qualifications to determine eligible providers in each region.

(c) Each contract between the division and a provider must specify a method for the following:

(1) The establishment of a guardianship committee within the provider, serving under the provider's board of directors.

(2) The provision of money and services by the provider in an amount equal to at least twenty-five percent (25%) of the total amount of the contract and the provision by the division of the remaining amount of the contract. The division shall establish guidelines to determine the value of services provided under this subdivision.

(3) The establishment of procedures to avoid a conflict of interest for the provider in providing necessary services to each incapacitated individual.

(4) The identification and evaluation of indigent adults in need of guardianship services.

(5) The adoption of individualized service plans to provide the least restrictive type of guardianship or related services for each incapacitated individual, including the following:

(A) Designation as a representative payee by:

(i) the Social Security Administration;

(ii) the United States Office of Personnel Management;

(iii) the United States Department of Veterans Affairs; or

(iv) the United States Railroad Retirement Board.

(B) Limited guardianship under IC 29-3.

(C) Guardianship of the person or estate under IC 29-3.

(D) The appointment of:

(i) a health care representative under IC 16-36-1-7; or

(ii) a power of attorney under IC 30-5.

(6) The periodic reassessment of each incapacitated individual.

(7) The provision of legal services necessary for the guardianship.

(8) The training and supervision of paid and volunteer staff.

(9) The establishment of other procedures and programs required by the division.

Sec. 9. (a) Each provider is subject to periodic audit of the adult guardianship services program by an independent certified public accountant.

(b) The results of the audit required under subsection (a) must be submitted to the division.

SECTION 6. IC 12-10-1-3, AS AMENDED BY P.L.99-2007, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The bureau shall administer the following programs:

(1) The federal Older Americans Act under IC 12-9.1-4-1.

(2) Area agencies on aging services under this article.

(3) Adult protective services under IC 12-10-3.

(4) Room and board assistance and assistance to residents in county homes under IC 12-10-6.

(5) Adult guardianship program under IC ~~12-10-7.~~ **IC 12-9-7.**

(6) Community and home options for the elderly and individuals with a disability under IC 12-10-10.

(7) Nursing home preadmission screening under IC 12-10-12.

(8) Long term care advocacy under IC 12-10-13.

(9) Nutrition services and home delivered meals.

(10) Title III B supportive services.

(11) Title III D in-home services.

(12) Aging programs under the Social Services Block Grant.

(13) United States Department of Agriculture elderly feeding program.

(14) Title V senior employment.

(15) PASARR under older adult services.

SECTION 7. IC 12-10-6-2.1, AS AMENDED BY P.L.99-2007, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.1. (a) An individual who is incapable of residing in the individual's own home may apply for residential care assistance under this section. The determination of eligibility for residential care assistance is the responsibility of the division. Except as provided in subsections (g) and (i), an individual is eligible for residential care assistance if the division determines that the individual:

(1) is a recipient of Medicaid or the federal Supplemental Security Income program;

(2) is incapable of residing in the individual's own home because of dementia, mental illness, or a physical disability;

(3) requires a degree of care less than that provided by a health care facility licensed under IC 16-28; ~~and~~

(4) can be adequately cared for in a residential care setting; **and**

(5) has not made any asset transfer prohibited under the state plan or in 42 U.S.C. 1396p(c) in order to be eligible for Medicaid.

(b) Individuals with mental retardation may not be admitted to a home or facility that provides residential care under this section.

(c) A service coordinator employed by the division may:

(1) evaluate a person seeking admission to a home or facility under subsection (a); or

(2) evaluate a person who has been admitted to a home or facility under subsection (a), including a review of the existing evaluations in the person's record at the home or facility.

If the service coordinator determines the person evaluated under this subsection has mental retardation, the service coordinator may recommend an alternative placement for the person.

(d) Except as provided in section 5 of this chapter, residential care consists of only room, board, and laundry, along with minimal administrative direction. State financial assistance may be provided for such care in a boarding or residential home of the applicant's choosing that is licensed under **IC 12-22-2,** IC 16-28, or a Christian Science facility listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc., that meets certain life safety standards considered necessary by the state fire marshal. Payment for such care shall be made to the provider of the care

according to division directives and supervision. The amount of nonmedical assistance to be paid on behalf of a recipient living in a boarding home, residential home, or Christian Science facility shall be based on the daily rate established by the division. The rate for facilities that are referred to in this section and licensed under IC 16-28 may not exceed an upper rate limit established by a rule adopted by the division. The recipient may retain from the recipient's income a monthly personal allowance of fifty-two dollars ($52). This amount is exempt from income eligibility consideration by the division and may be exclusively used by the recipient for the recipient's personal needs. However, if the recipient's income is less than the amount of the personal allowance, the division shall pay to the recipient the difference between the amount of the personal allowance and the recipient's income. A reserve or an accumulated balance from such a source, together with other sources, may not be allowed to exceed the state's resource allowance allowed for adults eligible for state supplemental assistance or Medicaid as established by the rules of the office of Medicaid policy and planning.

(e) In addition to the amount that may be retained as a personal allowance under this section, an individual shall be allowed to retain an amount equal to the individual's state and local income tax liability. The amount that may be retained during a month may not exceed one-third (1/3) of the individual's state and local income tax liability for the calendar quarter in which that month occurs. This amount is exempt from income eligibility consideration by the division. The amount retained shall be used by the individual to pay any state or local income taxes owed.

(f) In addition to the amounts that may be retained under subsections (d) and (e), an eligible individual may retain a Holocaust victim's settlement payment. The payment is exempt from income eligibility consideration by the division.

(g) The rate of payment to the provider shall be determined in accordance with a prospective prenegotiated payment rate predicated on a reasonable cost related basis, with a growth of profit factor, as determined in accordance with generally accepted accounting principles and methods, and written standards and criteria, as established by the division. The division shall establish an administrative appeal procedure to be followed if rate disagreement occurs if the provider can demonstrate to the division the necessity of costs in excess of the allowed or authorized fee for the specific boarding or residential home. The amount may not exceed the maximum established under subsection (d).

(h) The personal allowance for one (1) month for an individual described in subsection (a) is the amount that an individual would be entitled to retain under subsection (d) plus an amount equal to one-half (½) of the remainder of:

(1) gross earned income for that month; minus

(2) the sum of:

(A) sixteen dollars ($16); plus

(B) the amount withheld from the person's paycheck for that month for payment of state income tax, federal income tax, and the tax prescribed by the federal Insurance Contribution Act (26 U.S.C. 3101 et seq.); plus

(C) transportation expenses for that month; plus

(D) any mandatory expenses required by the employer as a condition of employment.

(i) An individual who, before September 1, 1983, has been admitted to a home or facility that provides residential care under this section is eligible for residential care in the home or facility.

(j) The director of the division may contract with the division of mental health and addiction or the division of disability and rehabilitative services to purchase services for individuals with a mental illness or a developmental disability by providing money to supplement the appropriation for community residential care programs established under IC 12-22-2 or community residential programs established under IC 12-11-1.1-1.

(k) A person with a mental illness may not be placed in a Christian Science facility listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc., unless the facility is licensed under IC 16-28.

SECTION 8. IC 12-10-6-3, AS AMENDED BY P.L.1-2007, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The division, in cooperation with:

(1) the state department of health taking into account licensure requirements under IC 16-28; and

(2) the division of mental health and addiction taking into account the licensure and certification requirements under IC 12-22-2;

shall adopt rules under IC 4-22-2 governing the reimbursement to facilities under section 2.1 of this chapter. The rules must be designed to determine the costs that must be incurred by efficiently and economically operated facilities in order to provide room, board, laundry, and other services, along with minimal administrative direction to individuals who receive residential care in the facilities under section 2.1 of this chapter.

(b) A rule adopted under ~~this~~ subsection **(a)** by:

(1) the division; or

(2) the state department of health;

must conform to the rules for residential care facilities that are licensed under IC 16-28.

~~(b)~~ **(c)** Any rate established under section 2.1 of this chapter may be appealed according to the procedures under IC 4-21.5.

~~(c)~~ **(d)** The division shall annually review each facility's rate using the following:

(1) Generally accepted accounting principles.

(2) The costs incurred by efficiently and economically operated facilities in order to provide care and services in conformity with quality and safety standards and applicable laws and rules.".

Page 2, line 5, delete "and".

Page 2, line 7, delete "." and insert "**; and**

(3) a biannual review of Medicaid waiver reimbursement rates.".

Page 2, line 24, delete "division, the office," and insert "division, ~~or~~ the office,".

Page 2, after line 30, begin a new paragraph and insert:

"SECTION 10. IC 12-10-7 IS REPEALED [EFFECTIVE JULY 1, 2008].

SECTION 11. [EFFECTIVE JULY 1, 2008] **(a) On July 1, 2008, all rules, contracts, assets, and liabilities of the division of aging's guardianship program under IC 12-10-7 (before its repeal by this act) are transferred to the division of disability and rehabilitative services under IC 12-9-7 (as added by this act) and are considered rules, contracts, assets, and liabilities of the division of disability and rehabilitative services.**

(b) This SECTION expires July 1, 2013.

SECTION 12. [EFFECTIVE JULY 1, 2008] **(a) This SECTION does not apply to the conversion of acute care beds to comprehensive care beds pursuant to IC 16-29-3.**

(b) 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.

(c) 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. This term includes comprehensive care beds that are certified for

participation in:

(1) the state Medicaid program; or

(2) both the state Medicaid program and federal Medicare program.

(d) Except as provided in subsection (e), 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 the state Medicaid program unless the statewide comprehensive care bed occupancy rate is more than ninety-five percent (95%), as calculated annually on January 1 by the state department of health.

(e) This SECTION does not apply to a health facility that:

(1) seeks a replacement bed exception under subsection (d);

(2) is licensed or is to be licensed under IC 16-28;

(3) applies to the state department of health to certify a comprehensive care bed for participation in the Medicaid program if the comprehensive care bed for which the health facility is seeking certification is a replacement bed for an existing comprehensive care bed;

(4) applies to the division of aging in the manner:

(A) described in subsection (e); and

(B) prescribed by the division; and

(5) meets the licensure, survey, and certification requirements of IC 16-28.

(f) An application described in subsection (e)(4) for a replacement bed exception must include the following:

(1) The total number and identification of the existing comprehensive care beds that the applicant requests be replaced by health facility location and by provider.

(2) A verification from the health facility holding the comprehensive care bed certification that the health facility has agreed to transfer the beds to the applicant health facility.

(3) A copy of the complete agreement between the health facility transferring the beds and the applicant health facility.

(4) Any other information requested by the division of aging that is necessary to evaluate the transaction.

(g) This SECTION expires June 30, 2011.".

Renumber all SECTIONS consecutively.

(Reference is to SB 315 as reprinted January 29, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 1.

C. BROWN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Engrossed Senate Bill 334, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 5 through 17, begin a new paragraph and insert:

"**Sec. 1. As used in this chapter, "department" refers to:**

(1) the department of homeland security established by IC 10-19-2-1; or

(2) an appropriate division within the department of homeland security, as determined by the executive director of the department of homeland security.

Sec. 2. As used in this chapter, "infrastructure agency", with respect to an area in a county, means:

(1) a political subdivision; or

(2) an agency;

responsible for planning for, acquiring, operating, maintaining, or testing one (1) or more severe weather warning sirens in the area.

Sec. 3. As used in this chapter, "plan" refers to a siren coverage plan adopted by a county under section 13 of this chapter.

Sec. 4. As used in this chapter, "planning agency", with respect to an area, means:

(1) a unit that has planning and zoning jurisdiction over all or any part of the area; or

(2) a plan commission that has planning jurisdiction over all or any part of the area.

Sec. 5. As used in this chapter, "planned siren" refers to a siren that satisfies all of the following:

(1) The siren has a definite location within the county.

(2) The funding for the siren has been identified.

(3) An approximate date for the siren's acquisition and installation has been determined.

Sec. 6. As used in this chapter, "report" refers to a siren coverage report prepared by a county under section 11 of this chapter.

Sec. 7. As used in this chapter, "severe weather" means:

(1) a tornado; or

(2) any other storm, weather condition, or emergency designated by the department in a rule adopted under section 9 of this chapter.

Sec. 8. As used in this chapter, "severe weather warning siren" or "siren" means a siren that can be activated within a specified range to warn residents of an occurrence or imminent threat of severe weather.

Sec. 9. Before January 1, 2010, the department shall adopt rules under IC 4-22-2 to provide for the following:

(1) Minimum technical standards, including a minimum range, for any siren that is to be acquired and installed in a county under a county's siren coverage plan.

(2) A specification of any permissible storm, weather condition, or emergency, other than a tornado, for which a severe weather warning siren may be activated.

(3) Requirements for any test, activation, or failure rate data that the department may require a county to submit with respect to any siren identified by a county in a:

(A) siren coverage report prepared under this chapter; or

(B) siren coverage plan prepared under this chapter.

(4) Any other rules necessary for the department to:

(A) assess the number, location, and condition of existing severe weather warning sirens in each county in Indiana; and

(B) determine the need for additional sirens in order to ensure comprehensive severe weather warning siren coverage for all Indiana residents.

Sec. 10. (a) At the request of the county legislative body, the department shall assist the county in development of a siren coverage plan for the county.

(b) In developing a siren coverage plan for a county, the department may require the county to develop a siren coverage report.

Sec. 11. (a) Except for the recommendation required by subsection (b)(3), the county legislative body may designate one (1) or more:

(1) infrastructure agencies; or

(2) other departments, divisions, or agencies;

to prepare a siren coverage report.

(b) A siren coverage report must include the following:

(1) A description of all existing and planned severe weather warning sirens in the county as of the date of the report. For each severe weather warning siren identified, the following information must be included:

(A) The location of the siren within the county, including an identification of any political

subdivision in which the siren is or will be located. The information provided under this clause must include a map depicting the location of each siren within the county.

(B) The following technical and other specifications for the siren:

(i) The manufacturer and model year.

(ii) For an existing siren, the date of installation.

(iii) For a planned siren, the planned dates for installation and first operation.

(iv) The range of the siren, identified in miles or some other appropriate measure of distance.

(v) The number of persons living within the range identified under item (iv), as determined by the most recent federal census block data available.

(vi) For an existing siren, siren activation data for the most recent twelve (12) month period, including the date of each activation and whether the siren was activated for testing purposes or for an actual severe weather event. If an existing siren has been in operation for less than twelve (12) months, the data required by this item must cover all activations occurring since the date the siren first came online.

(vii) For an existing siren, the siren's failure rate, as determined from the data reported under item (vi).

(2) An identification of the areas in the county that are not within the range of an existing or a planned siren. For each area identified under this subdivision, the following information must be included:

(A) The number of persons living in the area, as determined by the most recent federal census block data available.

(B) Any development planned for the area, as determined through consultation with all appropriate planning agencies. The information required by this clause must include:

(i) the type of development proposed;

(ii) the number of new dwelling units or other buildings proposed; and

(iii) the status of the proposal, including the status of any needed permits or approvals.

(3) Subject to subsection (e), a recommendation by the county legislative body as to the county's need for any additional sirens, other than those sirens identified as planned sirens under subdivision (1). The county legislative body may recommend under this subdivision additional sirens to provide coverage for:

(A) any of the areas identified under subdivision (2) as not within the range of an existing or a planned siren; or

(B) any area identified under subdivision (1) as within the range of an existing siren, if the county legislative body determines that the existing siren does not provide consistent or adequate coverage for the area, based on the existing siren's failure rate, as determined under subdivision (1)(B)(vii).

(c) In making a recommendation under subsection (b)(3), the county legislative body:

(1) may consult with the department; and

(2) shall consult with each:

(A) infrastructure agency; and

(B) planning agency;

with jurisdiction in an area identified by the county legislative body as needing one (1) or more sirens.

(d) Before adopting the siren coverage report prepared under this section, the county legislative body must do the following:

(1) Give notice of and hold at least one (1) public hearing on the report.

(2) Publish, in accordance with IC 5-3-1, a schedule stating the time and place of each hearing. The schedule must also state where the entire report is on file and may be examined in its entirety for at least ten (10) days before the hearing.

(e) After considering any comments made at the hearing required by subsection (d), the county legislative body shall:

(1) adopt the report:

(A) as originally proposed; or

(B) as modified by the county legislative body after the hearing required by subsection (d); and

(2) submit the report to the department.

Sec. 12. The department shall do the following not later than six (6) months after a county submits a report under section 11 of this chapter:

(1) Review the siren coverage report.

(2) Make any recommendations to the county that the department determines is necessary to ensure comprehensive severe weather warning siren coverage for all residents of the county.

Sec. 13. (a) A county's siren coverage plan must contain the following information:

(1) The information included in the county's siren coverage report under section 11 of this chapter, including the following:

(A) Information concerning any areas in the county that are not within the range of an existing or a planned siren, as:

(i) identified by the county in its siren coverage report; and

(ii) updated or revised by the county as needed to provide an accurate and current assessment of the county's existing and planned sirens and need for additional sirens.

(B) Information concerning any areas in the county that are within the range of an existing siren if the department has determined that the existing siren does not provide consistent or adequate coverage for the area. As necessary, the county shall update the information provided under this clause as follows:

(i) To include any additional existing sirens that the county legislative body has determined do not provide consistent or adequate coverage for an area. The county shall provide the test, activation, or failure rate data to support its determination as may be required by a rule adopted by the department under this chapter.

(ii) To exclude any siren that the department has determined does not provide consistent or adequate coverage for an area. The county shall provide such proof as may be required by a rule adopted by the department under this chapter that the siren has been repaired or replaced.

(C) Any additional or revised information that:

(i) was not included in the county's siren coverage report; and

(ii) is necessary to provide an accurate and current assessment of the county's existing and planned sirens and need for additional sirens.

(2) An estimate of the nature and location of development that is expected to occur in each area identified under subdivision (1) during the ten (10) years immediately following the date of the adoption of the plan.

(3) An estimate of the type, location, and cost of the siren or sirens that are necessary to provide complete siren coverage for the areas identified under subdivision (1). The plan must indicate:

(A) the proposed timing and sequencing of the

acquisition and installation of each siren; and

(B) the infrastructure agency that is responsible for acquiring and providing for the installation of each siren.

(4) A general description of the sources and amounts of money used to pay for any sirens installed in the county during the five (5) years immediately preceding the date of the plan.

(b) For each area in which the plan provides for the acquisition and installation of a siren, the plan must:

(1) provide for the acquisition and installation within the ten (10) years immediately following the date of the plan's adoption; and

(2) identify the revenue sources and estimate the amount of the revenue sources that the county intends to use to acquire and install the sirens identified under subsection (a)(3).

(c) In preparing, or causing to be prepared, the plan required by this section, the county:

(1) may consult with:

(A) the department; or

(B) a qualified engineer licensed to perform engineering services in Indiana; and

(2) shall consult with each:

(A) infrastructure agency; and

(B) planning agency;

with jurisdiction in an area described in subsection (a)(1).

(d) Before adopting the siren coverage plan prepared under this section, the county legislative body must do the following:

(1) Give notice of and hold at least one (1) public hearing on the plan.

(2) Publish, in accordance with IC 5-3-1, a schedule stating the time and place of each hearing. The schedule must also state where the entire plan is on file and may be examined in its entirety for at least ten (10) days before the hearing.

(e) After considering any comments made at the hearing required by subsection (d), the county legislative body shall:

(1) adopt the plan:

(A) as originally proposed; or

(B) as modified by the county legislative body after the hearing required by subsection (e); and

(2) submit the plan to the department.

(f) A siren coverage plan adopted under this section takes effect on January 1 after its adoption. Each unit having planning and zoning jurisdiction in an area described in subsection (a)(1) shall incorporate the siren coverage plan as part of the unit's comprehensive plan and capital improvement plan, as appropriate.

Sec. 14. The department shall assist a county that adopts a siren coverage plan to do the following:

(1) Implementation of the plan.

(2) Obtain federal and other grants to enable the county in implementation of the plan.".

Delete pages 2 through 16.

Page 17, delete lines 1 through 33.

Page 17, line 37, delete "36-8-21.5-22" and insert "**36-8-21.5-9**".

Page 17, line 42, delete "36-8-21.5-22" and insert "**36-8-21.5-9**".

Renumber all SECTIONS consecutively.

(Reference is to SB 334 as reprinted January 29, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

V. SMITH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Engrossed Senate Bill 336, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 14, delete "internal medicine".

Page 2, line 5, strike "Health and".

Page 3, line 31, delete "tissue plasmingen activator" and insert "**thrombolytic**".

(Reference is to SB 336 as reprinted January 29, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

C. BROWN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred Engrossed Senate Bill 339, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 9, delete "either".

Page 3, line 35, delete "driver's" and insert "**driver**".

Page 4, line 36, delete "number of semester hours of".

Page 5, delete lines 2 through 16, begin a new paragraph and insert:

"**(d) The institute shall issue an instructor's license to an individual:**

(1) who:

(A) meets the requirements of subsection (a);

(B) does not have more than the maximum number of points for violating traffic laws specified by the bureau by rules adopted under IC 4-22-2; and

(C) has a good moral character, physical condition, knowledge of the rules of the road, and work history; or

(2) who holds a driver and traffic safety education endorsement issued by the department of education established by IC 20-19-3-1 and meets the requirements of subdivision (1)(B) and (1)(C).".

Page 5, line 17, before "Only" insert "**The institute shall adopt rules under IC 4-22-2 that specify the requirements, including requirements about criminal convictions, necessary to satisfy the conditions of subdivision (1)(C).**".

Page 5, line 19, after "license" insert "**issued under section 8 or 9 of this chapter**".

Page 5, line 28, after "renewal" insert "**commercial driver training**".

Page 5, line 42, delete "School" and insert "**Commercial driver training school**".

Page 6, line 1, after "applicants" insert "**for licenses**".

Page 6, line 1, delete "licensees." and insert "**licensees under this chapter.**".

Page 6, line 12, after "a" insert "**commercial driver training**".

Page 6, line 15, delete "The" and insert "**A**".

Page 8, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 4. IC 8-6-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A railroad company operating in this state shall equip every locomotive engine with a whistle and a bell, maintained in good working order, such as are used by other railroad companies. Except when approaching a crossing to which an ordinance adopted under subsection ~~(c)~~ **(d)** applies, the engineer or other person in charge of or operating an engine upon the line of a railroad shall, when the engine approaches the crossing of a turnpike, public highway,

or street in this state, beginning not less than one-fourth (1/4) mile from the crossings:

(1) sound the whistle on the engine distinctly not less than four (4) times, which sounding shall be prolonged or repeated until the crossing is reached; and

(2) ring the bell attached to the engine continuously from the time of sounding the whistle until the engine has fully passed the crossing.

(b) A railroad shall erect and maintain a whistle post in advance of public crossings for the protection of the public and the railroad's employees.

~~(b)~~ **(c)** It is unlawful for an engineer or other person in charge of a locomotive to move the locomotive, or allow it to be moved, over or across a turnpike, public highway, or street crossing if the whistle and bell are not in good working order. It is unlawful for a railroad company to order or permit a locomotive to be moved over or across a turnpike, public highway, or street crossing if the whistle and bell are not in good working order. When a whistle or bell is not in good working order, the locomotive must stop before each crossing and proceed only after manual protection is provided at the crossing by a member of the crew unless manual protection is known to be provided.

~~(c)~~ **(d)** A city, town, or county may adopt an ordinance to regulate the sounding of a whistle or the ringing of a bell under subsection (a) in the city, the town, or the county. However, an ordinance may not prohibit the sounding of a whistle or the ringing of a bell at a crossing that does not have an automatic train activated warning signal as set forth in IC 8-6-7.7-2. An ordinance adopted after June 30, 2003, that prohibits the sounding of a whistle or the ringing of a bell at a crossing must require that signs be posted at the crossing to warn the public that trains do not sound whistles or ring bells at that crossing. Before an ordinance adopted under this subsection goes into effect, the city, town, or county must receive the written permission of the department to regulate the sounding or the ringing. The department shall grant permission only if the department determines, based upon a study conducted by the department, that the ordinance, as applied to the rail corridor identified in the ordinance, increases the overall safety of the corridor for the public. Notwithstanding anything to the contrary in this subsection, the department shall grant permission to a city or a town to regulate the sounding of a whistle or the ringing of a bell if the city or town had an ordinance regulating the sounding of a whistle or the ringing of a bell that was approved and in effect on January 1, 1991, if the city or town amended or repealed the ordinance, and if the city or town adopts a subsequent ordinance on the same subject. In making its determination during the course of the study, the department shall consider:

(1) school bus routes;
(2) emergency service routes;
(3) hazardous materials routes;
(4) pedestrian traffic;
(5) trespassers;
(6) recreational facilities;
(7) trails; and
(8) measures to increase safety in the corridor, including:
(A) four (4) quadrant gates;
(B) median barriers;
(C) crossing closures;
(D) law enforcement programs; and
(E) public education.

The study by the department required under this subsection must be completed not later than one hundred twenty (120) days after the department receives notice of the passage of the ordinance from the city, town, or county.

~~(d)~~ **(e)** Notwithstanding a contrary provision in an ordinance adopted under subsection ~~(c),~~ **(d),** an engineer or other person who is operating an engine shall sound the engine's whistle if, in the determination of the engineer or other person who is operating the engine, an apparent emergency exists.

~~(e)~~ **(f)** A railroad company and the employees of the railroad company are immune from criminal or civil liability for injury or property damage that results from an accident that occurs at a crossing to which an ordinance described in subsection ~~(c)~~ **(d)** applies if the injury or property damage was proximately caused solely by the railroad company and the employees failing to sound a whistle.

~~(f)~~ **(g)** The Indiana department of transportation shall review crossing safety at each crossing to which an ordinance adopted under subsection ~~(c)~~ **(d)** applies not less than one (1) time in a five (5) year period.

~~(g)~~ **(h)** The Indiana department of transportation may not revoke the permission granted under subsection ~~(c)~~ **(d)** for an ordinance.

~~(h)~~ **(i)** The Indiana department of transportation may create pilot railroad crossing safety projects to improve railroad crossing safety.".

Page 8, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 6. IC 9-13-2-42, AS AMENDED BY P.L.41-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 42. (a) "Dealer" means, except as otherwise provided in this section, a person who sells to the general public, including a person who sells directly by the Internet or other computer network, at least twelve (12) vehicles each year for delivery in Indiana. **The term includes a person who sells off-road vehicles.** A dealer must have an established place of business that meets the minimum standards prescribed by the bureau under rules adopted under IC 4-22-2.

(b) The term does not include the following:

(1) A receiver, trustee, or other person appointed by or acting under the judgment or order of a court.
(2) A public officer while performing official duties.
(3) A person who is a dealer solely because of activities as a transfer dealer.
~~(4) A person who sells off-road vehicles.~~

(c) "Dealer", for purposes of IC 9-31, means a person that sells to the general public for delivery in Indiana at least six (6):

(1) boats; or
(2) trailers:
(A) designed and used exclusively for the transportation of watercraft; and
(B) sold in general association with the sale of watercraft;

per year.

SECTION 7. IC 9-13-2-150.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 150.5. "Registered importer" has the meaning set forth in IC 9-17-2-0.5.**

SECTION 8. IC 9-17-2-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.5. As used in this chapter, "registered importer" means a person that is:**

(1) registered as an importer with the National Highway Traffic Safety Administration;
(2) a licensed dealer currently in good standing with the state; and
(3) a validated member of the United States Department of Homeland Security's Customs-Trade Partnership Against Terrorism (C-TPAT) administered by the United States Customs and Border Protection.

SECTION 9. IC 9-17-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) As used in this section, "dealer" refers to a dealer that has:

(1) been in business for not less than five (5) years; and
(2) sold not less than one hundred fifty (150) motor

vehicles during the preceding year.

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

(1) A new motor vehicle or recreational vehicle sold by a dealer licensed by the state.

(2) A motor vehicle or recreational vehicle transferred or assigned on a certificate of title issued by the bureau.

(3) A motor vehicle that is registered under the International Registration Plan.

(4) A motor vehicle that is titled in the name of a financial institution, lending institution, or insurance company in Canada and imported by a registered importer, if:

(A) the registered importer complies with section 12.5(a) of this chapter; and

(B) section 12.5(d) of this chapter does not apply to the motor vehicle.

(5) A motor vehicle that is titled in another state and is in the lawful possession of a financial institution, a lending institution, or an insurance company, if:

(A) the financial institution, lending institution, or insurance company complies with section 12.5(b) of this chapter; and

(B) section 12.5(d) of this chapter does not apply to the motor vehicle.

(c) An application for a certificate of title for a motor vehicle or recreational vehicle may not be accepted by the bureau unless the motor vehicle or recreational vehicle has been inspected by one (1) of the following:

(1) An employee of a dealer designated by the bureau to perform an inspection.

(2) A military policeman assigned to a military post in Indiana.

(3) A police officer.

(4) A designated employee of the bureau.

(d) A person described in subsection (c) inspecting a motor vehicle, semitrailer, or recreational vehicle shall do the following:

(1) Make a record of inspection upon the application form prepared by the bureau.

(2) Verify the facts set out in the application.

SECTION 10. IC 9-17-2-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 12.5. (a) Except as provided in subsection (d), the bureau may accept an application for a certificate of title for a motor vehicle that is titled in the name of a financial institution, a lending institution, or an insurance company in Canada and imported by a registered importer without requiring an inspection under section 12(c) of this chapter if the registered importer presents the bureau with the following documentation relating to the motor vehicle:**

(1) A copy of the registered importer's validation agreement issued by the United States Customs and Border Protection (CBP).

(2) A copy of the entry summary issued by the United States Customs and Border Protection (CBP Form 7501).

(3) A vehicle history report issued by an independent provider of vehicle history information that includes:

(A) the vehicle's title information;

(B) the vehicle's odometer readings; and

(C) the number of owners of the vehicle.

(b) Except as provided in subsection (d), the bureau may accept an application for a certificate of title for a motor vehicle that is titled in another state and is in the lawful possession of a financial institution, a lending institution, or an insurance company if the financial institution, lending institution, or insurance company presents to the bureau a vehicle history report issued by an independent provider of vehicle history information that includes:

(1) the motor vehicle's title information;

(2) the motor vehicle's odometer readings; and

(3) the number of owners of the motor vehicle.

(c) A:

(1) registered importer; or

(2) financial institution, a lending institution, or an insurance company;

must maintain a copy of all documentation required by this section for at least ten (10) years.

(d) An inspection of a motor vehicle described in subsection (a) or (b) is required under section 12(c) of this chapter if:

(1) the registered importer; or

(2) the financial institution, lending institution, or insurance company;

is unable to provide the bureau with the documentation required by this section.".

Page 11, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 12. IC 9-22-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. An officer who finds or is notified of a vehicle or parts believed to be abandoned shall attach in a prominent place a notice tag containing the following information:

(1) The date, time, officer's name, public agency, and address and telephone number to contact for information.

(2) That the vehicle or parts are considered abandoned.

(3) That the vehicle or parts will be removed after:

(A) thirty-six (36) hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under IC 8-23-4; or

(B) seventy-two (72) hours, **for any other vehicle.**

(4) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle.

(5) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within:

(A) thirty-six (36) hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under IC 8-23-4; or

(B) seventy-two (72) hours, **for any other vehicle.**

SECTION 12. IC 9-22-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. If a vehicle or a part tagged under section 11 of this chapter is not removed within the ~~seventy-two (72) hour~~ **applicable** period, the officer shall prepare a written abandoned vehicle report of the vehicle or parts, including information on the condition, missing parts, and other facts that might substantiate the estimated market value of the vehicle or parts. Photographs shall be taken to describe the condition of the vehicle or parts.

SECTION 13. IC 9-23-2-7, AS AMENDED BY P.L.184-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) Except as provided in subsections (b) through (g), the secretary of state shall issue an offsite sales license to a dealer licensed under this chapter who submits an application for the license not later than ten (10) business days or two (2) calendar weeks before the offsite sale date. License applications under this section shall be made public upon the request of any person.

(b) The secretary of state may not issue an offsite sales license to a dealer who does not have an established place of business within Indiana.

(c) The secretary of state may not issue an offsite sales license to a licensed dealer proposing to conduct the sale outside a radius of twenty (20) miles from its established place of business. This subsection does not apply to:

(1) new manufactured housing dealers;

(2) recreational vehicle dealers; ~~or~~

(3) a rental company that is a dealer conducting a sale at a site within twenty (20) miles of any of its company owned affiliates; **or**

(4) off-road vehicle dealers.

(d) A vehicle display is not considered an offsite sale if it is conducted by a new vehicle franchised dealer in an open area where no sales personnel and no sales material are present.

(e) The secretary of state may not issue an offsite sales license to a licensed dealer proposing to conduct the offsite sale for more than ten (10) calendar days.

(f) As used in this subsection, "executive" has the meaning set forth in IC 36-1-2-5. The secretary of state may not issue an offsite sales license to a licensed dealer if the dealer does not have authorization that the offsite sale would be in compliance with local zoning ordinances or other local ordinances. Authorization under this subsection may only be obtained from the following:

(1) If the offsite sale would be located within the corporate boundaries of a city or town, the executive of the city or town.

(2) If the offsite sale would be located outside the corporate boundaries of a city or town:

(A) except as provided in clause (B), the executive of the county; or

(B) if the city or town exercises zoning jurisdiction under IC 36-7-4-205(b) over the area where the offsite sale would be located, the executive of the city or town.

(g) The secretary of state may not issue an offsite sales license to a licensed dealer who has held more than three (3) nonconsecutive offsite sales in the year ending on the date of the offsite sale for which the current license application is being submitted.

(h) The requirements of section 2(c) of this chapter do not apply to the application or issuance of an offsite sales license under this section.

SECTION 15. IC 9-24-6-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 4.5. (a) An employer that is a motor carrier (as defined in IC 8-2.1-17-10) engaged in the business of the transportation of property may provide:**

(1) an advance of wages not yet earned or business expenses not yet incurred to the holder of a commercial driver's license issued according to rules adopted pursuant to section 2 of this chapter; and

(2) take as a deduction from subsequent wages earned by the holder of the commercial driver's license the amount of the advance that exceeds the amount that is substantiated with a receipt or other appropriate documentary evidence that complies with the requirements applicable to a reimbursement or other expense allowance arrangements under 26 U. S.C. 62(c).

(b) The amount of the advance, in accordance with this section, deducted from subsequent wages earned by the holder of the commercial driver's license is not considered an invalid assignment of wages if the following conditions are satisfied:

(1) The advance is made at the request of the holder of the commercial driver's license.

(2) The motor carrier employer provided notice to the holder of the commercial driver's license that the amount advanced may be deducted from a subsequent wage statement to the extent that the amount of the advance exceeds the amount substantiated under this section.".

Page 12, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 19. [EFFECTIVE JULY 1, 2008] **(a) Notwithstanding IC 9-13-2-42, as amended by this act, a person who engages in the business of selling at least twelve (12) off-road vehicles to the general public each year for delivery in Indiana whose business name begins with the letters A through L, inclusive, is not required to apply for a dealer's license under IC 9-23-2 with the bureau of motor vehicles until the month in 2009 required by IC 9-23-2-8.**

(b) This SECTION expires December 31, 2009.".

Page 12, line 37, after "IC 9-13-2-80;" insert "IC 9-23-0.5-1;".

Renumber all SECTIONS consecutively.

(Reference is to SB 339 as printed January 23, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 1.

AUSTIN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 350, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 41, delete "The" and insert "**Except as provided in subsection (h), the**".

Page 4, line 41, after "pay" insert "**to the division of mental health and addiction the part of**".

Page 4, line 41, delete "in the amount".

Page 4, line 42, delete "to the division of mental health and addiction." and insert "**that is appropriated solely for funding the operations of a community health center.**".

Page 5, line 1, after "section" insert "**for operations of a community health center**".

Page 5, between lines 7 and 8, begin a new line blocked left and insert:

"**All other funding appropriated for the purposes allowed under section 1.2(b)(1) of this chapter shall be paid by the county directly to the community mental health center semiannually at the times that the payments are made under subsection (e).**".

Page 5, line 8, after "funds" insert "**for operations**".

Page 5, between lines 37 and 38, begin a new paragraph and insert:

"**(h) The health and hospital corporation of Marion County created by IC 16-22-8-6 may make payments to the division for the operation of a community mental health center as described in this chapter.**

SECTION 4. IC 12-29-2-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. (a) As used in this section, "mental health transformation pilot project" refers to a project that is funded from sources that are not used to fund the community mental health system as of July 1, 2008.**

(b) The division shall do the following:

(1) Determine the total funding amount provided to each community mental health center for the 2006-2007 state fiscal year, including specifying the sources of the funding provided to the community mental health center.

(2) Determine the percentage of total funding provided to each community mental health center from the total amount of funding the division provided.

(3) Ensure that each community mental health center receives the same funding distribution percentage calculated in subdivision (2) in subsequent fiscal years based upon the total amount of funding available to community mental health centers.

(4) Provide notice to a community mental health center, before the beginning of a state fiscal year, of the total

amount of funding available to the community mental health center for use as eligible nonfederal funds under the community mental health rehabilitation services program. The eligible nonfederal share must be specifically identified as follows:

(A) State match eligible dollars.

(B) Dedicated state dollars.

(C) Federal grant dollars.

(D) Performance based funding dollars.

(c) If the division determines that additional funds are available to community mental health centers as part of a mental health transformation pilot project administered by the office of the secretary, the additional available funds may not be included as part of the allocation percentage determined in subsection (b)(2).".

Page 6, line 30, after "for" insert "**operations of**".

Page 6, line 33, delete "monies are" and insert "**money is appropriated by a county for purposes allowed under section 1.2(b)(1) of this chapter or is**".

Page 7, after line 19, begin a new paragraph and insert:

"SECTION 8. IC 12-29-4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 4. SEA 350-2008 Moratorium

Sec. 1. As used in this chapter, "restricted rules" means the rules that the United States Secretary of Health and Human Services is restricted from implementing under the congressional moratorium enacted as part of H.R. 2206 (Iraq War Supplement; May 25, 2007), including the following:

(1) The proposed rule published on January 18, 2007, in volume 72 of the Federal Register (relating to 42 CFR, parts 433, 447, and 457).

(2) The final form of the proposed rule described in subdivision (1) as published in volume 72 of the Federal Register on May 29, 2007.

Sec. 2. Notwithstanding any other law, the additions and amendments to the Indiana Code set forth in SEA 350-2008 are applicable only to the extent that:

(1) the congressional moratorium on the implementation of the restricted rules by the United States Secretary of Health and Human Services is not extended; and

(2) the restricted rules are implemented.

SECTION 9. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "secretary" refers to the secretary of family and social services appointed under IC 12-8-1-2.**

(b) This SECTION applies to money appropriated to community mental health centers from:

(1) the state general fund; and

(2) the tobacco master settlement agreement fund;

by P.L.234-2007, SECTION 8.

(c) Notwithstanding P.L.234-2007, SECTION 8, the office of the secretary and the budget agency shall allocate the amount appropriated to community mental health centers for the 2008-2009 state fiscal year in the manner required by subsection (d).

(d) The office of the secretary and the budget agency shall allocate the amount appropriated to community mental health centers for the 2008-2009 state fiscal year using the same allocation formula used under the Hoosier assurance program for distributions made in the 2007-2008 state fiscal year.

(e) The authority of:

(1) the office of the secretary to determine an allocation formula for the appropriations described in subsection (b); and

(2) the budget agency to approve the allocation formula determined by the office of the secretary;

granted by P.L.234-2007, SECTION 8 is voided by this SECTION.

(f) This SECTION expires July 1, 2009.

SECTION 10. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to SB 350 as reprinted January 29, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 13, nays 6.

CRAWFORD, Chair

Report adopted.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 3:45 p.m. with the Speaker in the Chair.

Representative Thomas was excused for the rest of the day.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 19, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

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

"SECTION 1. IC 6-1.1-12.1-4.5, AS AMENDED BY P.L.137-2007, SECTION 3, AND AS AMENDED BY P.L.219-2007, SECTION 31, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: 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 *criminal* violation under *IC 13, including* IC 13-7-13-3 (repealed) *or* 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) **This subsection applies only to new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment whose statement of benefits was initially approved by a designating body after December 31, 2005.** 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 2. IC 6-1.1-40-10, AS AMENDED BY P.L.219-2007, SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: 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) **This subsection applies only to new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment whose statement of benefits was initially approved by a designating body after December 31, 2005.** 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.".

Page 1, line 16, after "leases" insert "**or rents**".

Page 1, line 17, after "lessee" insert "**or renter**".

Page 2, line 1, after "lease" insert "**or rental**".

Page 2, line 4, delete "lessor" and insert "**retail merchant**".

Page 2, line 4, after "lease" insert "**or rental**".

Page 2, line 5, after "lessee" insert "**or renter**".

Page 2, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 5. IC 6-2.5-5-41, AS AMENDED BY P.L.235-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 41. (a) As used in this section, "qualified media production" has the meaning set forth in IC 6-3.1-32-5.

(b) Except as provided in ~~subsections~~ **subsection** (d), ~~and (c),~~ a transaction involving tangible personal property is exempt from the state gross retail tax if the person acquiring the property acquires it for the person's direct use in a qualified media production in Indiana after December 31, 2006.

(c) For purposes of this section, the following are not considered to be directly used in the production of a qualified media production:

(1) Food and beverage services.

(2) A vehicle or other means of transportation used to transport actors, performers, crew members, or any other individual involved in a qualified media production.

(3) Fuel, parts, supplies, or other consumables used in a vehicle or other means of transportation used to transport actors, performers, crew members, or any other individual involved in a qualified media production.

(4) Lodging.

(5) Packaging materials.

(d) A person is not entitled to an exemption under this section with respect to a transaction involving tangible personal property that is:

(1) a qualified production expenditure (as defined in IC 6-3.1-32-6) for which a tax credit is claimed under IC 6-3.1-32; or

(2) acquired for direct use in a qualified media production in Indiana if the transaction occurs after December 31, ~~2008.~~ **2011.**".

Page 4, delete lines 9 through 42.

Delete page 5.

Page 6, delete lines 1 through 14.

Page 8, delete lines 24 through 42.

Page 9, delete lines 1 through 2.

Page 15, delete lines 34 through 42.

Page 16, delete lines 1 through 9, begin a new paragraph and insert:

"SECTION 11. IC 6-3-4-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 16. For individual income tax returns filed after December 31, 2010, the department shall develop procedures to implement a system of crosschecks between:**

(1) employer WH-3 forms (annual withholding tax reports) with accompanying W-2 forms; and

(2) individual taxpayer W-2 forms.

SECTION 12. IC 6-3-4-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 17. Beginning after December 31, 2010, the department and the office of management and budget shall:**

(1) develop a quarterly report that summarizes the amount reported to and processed by the department under section 4.1(h) of this chapter, section 15.7(a)(3) of this chapter, IC 6-3.5-1.1-18(c), IC 6-3.5-6-22(c), IC 6-3.5-7-18(c), and IC 6-3.5-8-22(c) for each county; and

(2) make the quarterly report available to county auditors within forty-five (45) days after the end of the calendar quarter.".

Page 16, between lines 28 and 29, begin a new paragraph and insert:

"SECTION 14. IC 6-3.1-32.3 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]:

Chapter 32.3. Indiana New Markets Development Program

Sec. 1. As used in this chapter, "applicable percentage" means five percent (5%) for each credit allowance date.

Sec. 2. As used in this chapter, "corporation" refers to the Indiana economic development corporation.

Sec. 3. As used in this chapter, "credit allowance date", with respect to any qualified equity investment, means:

(1) the date on which the investment is initially made; and

(2) each of the subsequent six (6) anniversary dates of the date described in subdivision (1).

Sec. 4. As used in this chapter, "direct tracing" means the tracking, by accepted accounting methods, of the proceeds of qualified equity investments into qualified low income community investments.

Sec. 5. As used in this chapter, "long term debt security" means any debt instrument issued by a qualified community development entity, at par value or a premium, with an original maturity date of at least seven (7) years after the date of its issuance, with no acceleration of repayment, amortization, or prepayment features before its original maturity date, and with no distribution, payment, or interest features related to the profitability of the qualified community development entity or the performance of the qualified community development entity's investment portfolio. This section does not limit the holder's ability to accelerate payments on the debt instrument in situations in

which the issuer has defaulted on covenants designed to ensure compliance with this chapter or Section 45D of the Internal Revenue Code.

Sec. 6. As used in this chapter, "purchase price" means the amount paid to the issuer of a qualified equity investment for the qualified equity investment.

Sec. 7. As used in this chapter, "qualified active low-income community business" has the meaning set forth in Section 45D of the Internal Revenue Code.

Sec. 8. As used in this chapter, "qualified community development entity" means a qualified community development entity (as defined in Section 45D of the Internal Revenue Code) that has entered into an allocation agreement with the Community Development Financial Institutions Fund of the United States Treasury Department with respect to credits authorized by Section 45D of the Internal Revenue Code that includes Indiana within the service area set forth in the allocation agreement.

Sec. 9. As used in this chapter, "qualified equity investment" means any equity investment in, or long term debt security issued by, a qualified community development entity that:

(1) is acquired after December 31, 2008, at its original issuance solely in exchange for cash;

(2) has at least eighty-five percent (85%) of its cash purchase price used by the issuer to make qualified low income community investments; and

(3) is designated by the issuer as a qualified equity investment under this chapter.

The term includes an investment that does not meet the provisions of subdivision (1) if the investment was a qualified equity investment in the hands of a prior holder.

Sec. 10. As used in this chapter, "qualified low income community investment" means any capital or equity investment in, or loan to, any qualified active low-income community business. With respect to any one (1) qualified active low-income community business, the maximum amount of qualified low income community investments made in the business, on a collective basis with all of its affiliates, may not exceed ten million dollars ($10,000,000) whether issued to one (1) or several qualified community development entities.

Sec. 11. As used in this chapter, "pass through entity" means a:

(1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) partnership;

(3) trust;

(4) limited liability company; or

(5) limited liability partnership;

that is not subject to state tax liability.

Sec. 12. As used in this chapter, "state credit" refers to a credit granted under this chapter against state tax liability.

Sec. 13. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

(2) IC 27-1-18-2 (the insurance premiums tax); and

(3) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 14. As used in this chapter, "taxpayer" means an individual, a corporation, a partnership, or another entity that has state tax liability.

Sec. 15. A taxpayer that makes a qualified equity investment earns a vested right to state tax credits as follows:

(1) On each credit allowance date of the qualified equity investment, the taxpayer, or subsequent holder of the qualified equity investment, is entitled to a state tax credit during the taxable year including the credit allowance date.

(2) The state tax credit amount is equal to the applicable percentage multiplied by the purchase price paid to the issuer of the qualified equity investment.

(3) The amount of the state tax credit claimed may not exceed the amount of the taxpayer's state tax liability for the tax year for which the tax credit is claimed.

Sec. 16. A tax credit claimed under this chapter is not refundable or saleable on the open market.

Sec. 17. (a) If:

(1) a pass through entity does not have state tax liability against which the state credit may be applied; and

(2) the pass through entity would be eligible for a state credit if the pass through entity were a taxpayer;

a shareholder, partner, or member of the pass through entity is entitled to a state credit under this chapter.

(b) Tax credits earned by a pass through entity may be allocated to the partners, members, or shareholders of the pass through entity for their direct use in accordance with the provisions of any agreement among the partners, members, or shareholders.

Sec. 18. (a) If the amount of a state credit 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 not more than five (5) subsequent taxable years. The amount of the state credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a state credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of an unused state credit.

Sec. 19. The issuer of a qualified equity investment shall certify to the corporation the anticipated dollar amount of the investments to be made in Indiana during the first twelve (12) month period following the initial credit allowance date. If on the second credit allowance date, the actual dollar amount of the investments is different than the amount estimated, the corporation shall adjust the credits arising on the second allowance date to account for the difference.

Sec. 20. If the proceeds of a qualified equity investment are invested completely in qualified low income community investments in Indiana, the purchase price, for the purpose of calculating the state credit created by this chapter, equals one hundred percent (100%) of the qualified equity investment, regardless of the location of investments made with the proceeds of other qualified equity investments issued by the same qualified community development entity.

Sec. 21. To the extent a part of a qualified equity investment is not invested in Indiana, the purchase price must be reduced by the same ratio, independently of the location of investments made with proceeds of other qualified equity investments issued by the same qualified community development entity. In this case, the burden is on the qualified community development entity to establish the extent to which the qualified equity investments are fully invested in Indiana, either by:

(1) establishing that the qualified community development entity itself invests exclusively in Indiana; or

(2) otherwise establishing, through direct tracing, the part of a qualified equity investment invested solely in Indiana.

Sec. 22. The corporation shall recapture the tax credit allowed under this chapter from a taxpayer that claimed the credit on a return, if:

(1) any amount of the federal tax credit available with respect to a qualified equity investment that is eligible for a tax credit under this section is recaptured under Section 45D of the Internal Revenue Code; or

(2) subject to section 23 of this chapter, the issuer redeems or makes a principal repayment with respect to a qualified equity investment before the seventh anniversary of the issuance of the qualified equity investment.

If subdivision (1) applies, the corporation's recapture is proportionate to the federal recapture with respect to the qualified equity investment. If subdivision (2) applies, the corporation's recapture is proportionate to the amount of the redemption or repayment with respect to the qualified equity investment.

Sec. 23. For purposes of section 22(2) of this chapter, an investment shall be considered held by an issuer even if the investment has been sold or repaid if the issuer reinvests an amount equal to the capital returned to or recovered by the issuer from the original investment, exclusive of any profits realized, in another qualified low income community investment within twelve (12) months after receipt of the capital. An issuer may not be required to reinvest capital returned from qualified low income community investments after the sixth anniversary of the issuance of the qualified equity investment, the proceeds of which were used to make the qualified low income community investment. The qualified low income community investment shall be considered held by the issuer through the seventh anniversary of the qualified equity investment's issuance.

Sec. 24. The corporation shall give notice of an action taken under this chapter in the manner determined by the corporation.

Sec. 25. To apply a state credit against the taxpayer's state tax liability, a taxpayer must claim the state credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. A taxpayer claiming a state credit shall submit to the department the information the department determines is necessary for the department to determine whether the taxpayer is eligible for the state credit.

SECTION 15. IC 6-3.5-1.1-9, AS AMENDED BY P.L.224-2007, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) Revenue derived from the imposition of the county adjusted gross income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount to be distributed to a county during an ensuing calendar year equals the amount of county adjusted gross income tax revenue that the department, after reviewing the recommendation of the budget agency, determines has been:

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

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

as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county adjusted gross income tax made in the state fiscal year.

(b) Before August 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall certify to the county auditor of each adopting county the amount determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified shall be adjusted under subsections (c), (d), (e), (f), (g), and (h). The ~~department~~ **budget agency** shall provide **the county council** with ~~the certification~~ an informative summary of the calculations used to determine the certified distribution. **The summary of calculations must include:**

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

(2) adjustments for over distributions in prior years;

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

(4) adjustments for tax rate changes; and

(5) the amount of excess account balances to be distributed under IC 6-3.5-1.1-21.1.

The department shall also certify information concerning the part of the certified distribution that is attributable to a tax rate under section 24, 25, or 26 of this chapter. This information must be certified to the county auditor and to the department of local government finance not later than September 1 of each calendar year. The part of the certified distribution that is attributable to a tax rate under section 24, 25, or 26 of this chapter may be used only as specified in those provisions.

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

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

(e) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the distribution required under section 10(b) of this chapter.

(f) This subsection applies to a county that:

(1) initially imposes the county adjusted gross income tax; or

(2) increases the county adjusted income tax rate;

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

(g) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the distribution required under section 3.3 of this chapter beginning not later than the tenth month after the month in which additional revenue from the tax authorized under section 3.3 of this chapter is initially collected.

(h) This subsection applies in the year in which a county initially imposes a tax rate under section 24 of this chapter. Notwithstanding any other provision, the department shall adjust the part of the county's certified distribution that is attributable to the tax rate under section 24 of this chapter to provide for a distribution in the immediately following calendar year equal to the result of:

(1) the sum of the amounts determined under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(a) in the year in which the county initially imposes a tax rate under section 24 of this chapter; multiplied by

(2) two (2).".

Page 17, delete lines 9 through 42.

Delete page 18.

Page 19, delete lines 1 through 18, begin a new paragraph and insert:

"SECTION 17. IC 6-3.5-1.1-27 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 27. (a) As used in this section, "qualified residential property" has the meaning set forth in IC 6-1.1-20.6-4.**

(b) As used in this section, "school allocation area" means the area located within the boundaries of the area within a county served by a school corporation.

(c) As used in this section, "school allocation area account" means an account established by a county treasurer for each school allocation area located within the county.

(d) Notwithstanding any other law, revenues from a tax rate imposed under sections 24, 25, or 26 of this chapter may be distributed to each school allocation area account based on the proportion of the total assessed value of all qualified residential property located within the county in each school allocation area as compared to the total assessed value of all qualified residential property located in the county.

(e) Revenue in a school allocation area account may be used for one (1) or more of the following purposes:

(1) To replace all or part of the county's revenues reduced as a result of the application of the credits under IC 6-1.1-20.6 to property located within the school allocation area.

(2) If a county replaces all of the county's reduced revenues referred to in subdivision (1), the county may allocate additional revenue remaining in the school allocation area account as provided under subsection (g) to be held by the county auditor and applied as a uniform percentage to reduce property taxes levied by the county on qualified residential property within the school allocation area.

(3) To fund property tax relief, including replacement of revenues reduced as a result of the application of the credits under IC 6-1.1-20.6, in any:

(A) school corporation; or

(B) civil taxing unit, other than the county, within the school allocation area;

as determined by the county council.

The ordinance imposing a tax rate under this section must specify the purpose or purposes for which revenues from the tax rate will be used.

(f) If a county allocates revenue from a school allocation area account to replace the county's reduced revenues referred to in subsection (e)(1) attributable to a particular school allocation area, the county shall allocate revenues from all school allocation area accounts to replace the reduced revenues for all school allocation areas within the county. The amount of revenue that may be allocated by the county from each school allocation area account for purposes of this subsection is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the total amount of revenue that will be allocated for the purpose of replacing the county's reduced revenues referred to in subsection (e)(1).

STEP TWO: Determine the sum of all credits under IC 6-1.1-20.6 applied to property located within the school allocation area that are attributable to the county unit.

STEP THREE: Determine the sum of all credits under IC 6-1.1-20.6 applied to property located within the county that are attributable to the county unit.

STEP FOUR: Divide the STEP TWO result by the STEP THREE result.

STEP FIVE: Multiply the STEP FOUR quotient by the STEP ONE result.

If the amount of revenue remaining in a school allocation area account is insufficient to make the allocation required under this subsection, the county shall reduce the total amount of revenue that will be allocated for the purpose of replacing the county's reduced revenues referred to in subsection (e)(1) and recalculate the allocations that must be made from each school allocation area account under this subsection.

(g) If a county chooses to allocate additional revenue from a school allocation area account for the purpose of reducing property taxes levied by the county as allowed under subsection (e)(2), the county must allocate revenues from all school allocation area accounts for that purpose. The amount of revenue allocated from each account must be equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the total amount of revenue that will be allocated for the purpose of reducing property taxes levied by the county as allowed under subsection (e)(2).

STEP TWO: Determine the total assessed value of all qualified residential property located within the school allocation area.

STEP THREE: Determine the total assessed value of all qualified residential property located within the county.

STEP FOUR: Divide the STEP TWO result by the STEP THREE result.

STEP FIVE: Multiply the STEP FOUR quotient by the STEP ONE result.

If the amount of revenue remaining in a school allocation area account is insufficient to make the allocation required under this subsection, the county shall reduce the total amount of revenue that will be allocated for the purpose of reducing property taxes levied by the county as allowed under subsection (e)(2) and recalculate the allocations that must be made from each school allocation area account under this subsection.

(h) If a county chooses to fund property tax relief in a civil taxing unit under subsection (e)(3) and the civil taxing unit is located in more than one (1) school allocation area, the county shall fund the property tax relief from the school allocation area account of each school allocation area containing part of the civil taxing unit. The amount of revenue that shall be distributed from each school allocation area account is equal to the amount determined under STEP FOUR of the following formula:

STEP ONE: Determine the total assessed value of all qualified residential property located within both:

(A) the civil taxing unit; and

(B) the school allocation area.

STEP TWO: Determine the total assessed value of all qualified residential property located within the civil taxing unit.

STEP THREE: Divide the STEP ONE result by the STEP TWO result.

STEP FOUR: Multiply the STEP THREE quotient by the total funding the county council is choosing to provide to the civil taxing unit under subsection (e)(3).

If the amount of revenue remaining in a school allocation area account is insufficient to provide the funding allowed under this subsection, the county shall reduce the total amount of revenue that will be used for the purpose of funding property tax relief as allowed under subsection (e)(3) and recalculate the funding that will be provided from each school allocation area account under this subsection.

SECTION 18. IC 6-3.5-6-17, AS AMENDED BY P.L.224-2007, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) Revenue

derived from the imposition of the county option income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount that is to be distributed to a county during an ensuing calendar year equals the amount of county option income tax revenue that the department, after reviewing the recommendation of the budget agency, determines has been:

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

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

as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county option income tax made in the state fiscal year.

(b) Before August 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall certify to the county auditor of each adopting county the amount determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified shall be adjusted, as necessary, under subsections (c), (d), (e), and (f). The ~~department~~ **budget agency** shall provide **the county council** with ~~the certification~~ an informative summary of the calculations used to determine the certified distribution. **The summary of calculations must include:**

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

(2) adjustments for over distributions in prior years;

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

(4) adjustments for tax rate changes; and

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

The department shall also certify information concerning the part of the certified distribution that is attributable to a tax rate under section 30, 31, or 32 of this chapter. This information must be certified to the county auditor and to the department of local government finance not later than September 1 of each calendar year. The part of the certified distribution that is attributable to a tax rate under section 30, 31, or 32 of this chapter may be used only as specified in those provisions.

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

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

(e) This subsection applies to a county that:

(1) initially imposed the county option income tax; or

(2) increases the county option income tax rate;

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

(f) This subsection applies in the year a county initially imposes a tax rate under section 30 of this chapter. Notwithstanding any other provision, the department shall adjust the part of the county's certified distribution that is attributable to the tax rate under section 30 of this chapter to provide for a distribution in the immediately following calendar year equal to the result of:

(1) the sum of the amounts determined under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(a) in the year in which the county initially imposes a tax rate under section 30 of this chapter; multiplied by

(2) the following:

(A) In a county containing a consolidated city, one and five-tenths (1.5).

(B) In a county other than a county containing a consolidated city, two (2).

(g) One-twelfth (1/12) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 16 of this chapter to the appropriate county treasurer on the first day of each month of that calendar year.

(h) Upon receipt, each monthly payment of a county's certified distribution shall be allocated among, distributed to, and used by the civil taxing units of the county as provided in sections 18 and 19 of this chapter.

(i) All distributions from an account established under section 16 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.

SECTION 19. IC 6-3.5-6-18, AS AMENDED BY P.L.224-2007, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. (a) The revenue a county auditor receives under this chapter shall be used to:

(1) replace the amount, if any, of property tax revenue lost due to the allowance of an increased homestead credit within the county;

(2) fund the operation of a public communications system and computer facilities district as provided in an election, if any, made by the county fiscal body under IC 36-8-15-19(b);

(3) fund the operation of a public transportation corporation ~~as provided in an election, if any, made by the county fiscal body under IC 36-9-4-42;~~ **established under IC 36-9-4;**

(4) make payments permitted under IC 36-7-15.1-17.5;

(5) make payments permitted under subsection (i);

(6) make distributions of distributive shares to the civil taxing units of a county; and

(7) make the distributions permitted under sections 27, 28, 29, 30, 31, 32, and 33 of this chapter.

(b) The county auditor shall retain from the payments of the county's certified distribution, an amount equal to the revenue lost, if any, due to the increase of the homestead credit within the county. This money shall be distributed to the civil taxing units and school corporations of the county as though they were property tax collections and in such a manner that no civil taxing unit or school corporation shall suffer a net revenue loss due to the allowance of an increased homestead credit.

(c) The county auditor shall retain:

(1) the amount, if any, specified by the county fiscal body

for a particular calendar year under subsection (i), IC 36-7-15.1-17.5, IC 36-8-15-19(b), and IC 36-9-4-42 from the county's certified distribution for that same calendar year; and

(2) the amount of an additional tax rate imposed under section 27, 28, 29, 30, 31, 32, or 33 of this chapter.

The county auditor shall distribute amounts retained under this subsection to the county.

(d) All certified distribution revenues that are not retained and distributed under subsections (b) and (c) shall be distributed to the civil taxing units of the county as distributive shares.

(e) The amount of distributive shares that each civil taxing unit in a county is entitled to receive during a month equals the product of the following:

(1) The amount of revenue that is to be distributed as distributive shares during that month; multiplied by

(2) A fraction. The numerator of the fraction equals the allocation amount for the civil taxing unit for the calendar year in which the month falls. The denominator of the fraction equals the sum of the allocation amounts of all the civil taxing units of the county for the calendar year in which the month falls.

(f) The department of local government finance shall provide each county auditor with the fractional amount of distributive shares that each civil taxing unit in the auditor's county is entitled to receive monthly under this section.

(g) Notwithstanding subsection (e), if a civil taxing unit of an adopting county does not impose a property tax levy that is first due and payable in a calendar year in which distributive shares are being distributed under this section, that civil taxing unit is entitled to receive a part of the revenue to be distributed as distributive shares under this section within the county. The fractional amount such a civil taxing unit is entitled to receive each month during that calendar year equals the product of the following:

(1) The amount to be distributed as distributive shares during that month; multiplied by

(2) A fraction. The numerator of the fraction equals the budget of that civil taxing unit for that calendar year. The denominator of the fraction equals the aggregate budgets of all civil taxing units of that county for that calendar year.

(h) If for a calendar year a civil taxing unit is allocated a part of a county's distributive shares by subsection (g), then the formula used in subsection (e) to determine all other civil taxing units' distributive shares shall be changed each month for that same year by reducing the amount to be distributed as distributive shares under subsection (e) by the amount of distributive shares allocated under subsection (g) for that same month. The department of local government finance shall make any adjustments required by this subsection and provide them to the appropriate county auditors.

(i) Notwithstanding any other law, a county fiscal body may pledge revenues received under this chapter (other than revenues attributable to a tax rate imposed under section 30, 31, or 32 of this chapter) to the payment of bonds or lease rentals to finance a qualified economic development tax project under IC 36-7-27 in that county or in any other county if the county fiscal body determines that the project will promote significant opportunities for the gainful employment or retention of employment of the county's residents.".

Page 19, line 41, after "(2)" insert "**annually**".

Page 19, line 41, strike "other" and insert "**annual**".

Page 19, delete line 42.

Delete pages 20 through 21.

Page 22, delete lines 1 through 38, begin a new paragraph and insert:

"SECTION 21. IC 6-3.5-6-34 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 34. (a) As used in this section, "qualified residential property" has the meaning set forth in IC 6-1.1-20.6-4.**

(b) As used in this section, "school allocation area" means the area located within the boundaries of the area within a county served by a school corporation.

(c) As used in this section, "school allocation area account" means an account established by a county treasurer for each school allocation area located within the county.

(d) Notwithstanding any other law, revenues from a tax rate imposed under sections 30, 31, or 32 of this chapter may be distributed to each school allocation area account based on the proportion of the total assessed value of all qualified residential property located within the county in each school allocation area as compared to the total assessed value of all qualified residential property located in the county.

(e) Revenue in a school allocation area account may be used for one (1) or more of the following purposes:

(1) To replace all or part of the county's revenues reduced as a result of the application of the credits under IC 6-1.1-20.6 to property located within the school allocation area.

(2) If a county replaces all of the county's reduced revenues referred to in subdivision (1), the county may allocate additional revenue remaining in the school allocation area account as provided under subsection (g) to be held by the county auditor and applied as a uniform percentage to reduce property taxes levied by the county on qualified residential property within the school allocation area.

(3) To fund property tax relief, including replacement of revenues reduced as a result of the application of the credits under IC 6-1.1-20.6, in any:

(A) school corporation; or

(B) civil taxing unit, other than the county, within the school allocation area;

as determined by the county council.

The ordinance imposing a tax rate under this section must specify the purpose or purposes for which revenues from the tax rate will be used. In the case of a county containing a consolidated city, the county council may replace reduced revenues of the consolidated city as allowed under subdivision (1), and may allocate additional revenue as allowed under subdivision (2) to reduce property taxes levied by the consolidated city. In the case of a county containing a consolidated city, the county council may not fund property tax relief of the county or consolidated city under subdivision (3).

(f) If a county allocates revenue from a school allocation area account to replace the county's reduced revenues referred to in subsection (e)(1) attributable to a particular school allocation area, the county shall allocate revenues from all school allocation area accounts to replace the reduced revenues for all school allocation areas within the county. The amount of revenue that may be allocated by the county from each school allocation area account for purposes of this subsection is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the total amount of revenue that will be allocated for the purpose of replacing the county's reduced revenues referred to in subsection (e)(1).

STEP TWO: Determine the sum of all credits under IC 6-1.1-20.6 applied to property located within the school allocation area that are attributable to the county unit.

STEP THREE: Determine the sum of all credits under IC 6-1.1-20.6 applied to property located within the county that are attributable to the county unit.

STEP FOUR: Divide the STEP TWO result by the STEP THREE result.

STEP FIVE: Multiply the STEP FOUR quotient by the STEP ONE result.

If the amount of revenue remaining in a school allocation area account is insufficient to make the allocation required under this subsection, the county shall reduce the total amount of revenue that will be allocated for the purpose of replacing the county's reduced revenues referred to in subsection (e)(1) and recalculate the allocations that must be made from each school allocation area account under this subsection.

(g) If a county chooses to allocate additional revenue from a school allocation area account for the purpose of reducing property taxes levied by the county as allowed under subsection (e)(2) the county must allocate revenues from all school allocation area accounts for that purpose. The amount of revenue allocated from each account must be equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the total amount of revenue that will be allocated for the purpose of reducing property taxes levied by the county as allowed under subsection (e)(2).

STEP TWO: Determine the total assessed value of all qualified residential property located within the school allocation area.

STEP THREE: Determine the total assessed value of all qualified residential property located within the county.

STEP FOUR: Divide the STEP TWO result by the STEP THREE result.

STEP FIVE: Multiply the STEP FOUR quotient by the STEP ONE result.

If the amount of revenue remaining in a school allocation area account is insufficient to make the allocation required under this subsection, the county shall reduce the total amount of revenue that will be allocated for the purpose of reducing property taxes levied by the county as allowed under subsection (e)(2) and recalculate the allocations that must be made from each school allocation area account under this subsection.

(h) If a county chooses to fund property tax relief in a civil taxing unit under subsection (e)(3) and the civil taxing unit is located in more than one (1) school allocation area, the county shall fund the property tax relief from the school allocation area account of each school allocation area containing part of the civil taxing unit. The amount of revenue that shall be distributed from each school allocation area account is equal to the amount determined under STEP FOUR of the following formula:

STEP ONE: Determine the total assessed value of all qualified residential property located within both:

(A) the civil taxing unit; and

(B) the school allocation area.

STEP TWO: Determine the total assessed value of all qualified residential property located within the civil taxing unit.

STEP THREE: Divide the STEP ONE result by the STEP TWO result.

STEP FOUR: Multiply the STEP THREE quotient by the total funding the county council is choosing to provide to the civil taxing unit under subsection (e)(3).

If the amount of revenue remaining in a school allocation area account is insufficient to provide the funding allowed under this subsection, the county shall reduce the total amount of revenue that will be used for the purpose of funding property tax relief as allowed under subsection (e)(3) and recalculate the funding that will provided from each school allocation area account under this subsection.

SECTION 22. IC 6-3.5-7-11, AS AMENDED BY P.L.207-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) Revenue derived from the imposition of the county economic development income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it.

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

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

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

as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county economic development income tax made in the state fiscal year plus the amount of interest in the county's account that has been accrued and has not been included in a certification made in a preceding year. The amount certified is the county's certified distribution, which shall be distributed on the dates specified in section 16 of this chapter for the following calendar year. The amount certified shall be adjusted under subsections (c), (d), (e), (f), and (g). The ~~department~~ **budget agency** shall provide **the county council** with ~~the certification~~ an informative summary of the calculations used to determine the certified distribution. **The summary of calculations must include:**

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

(2) adjustments for over distributions in prior years;

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

(4) adjustments for tax rate changes; and

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

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

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

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

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

(g) This subsection applies to a county that:

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

(2) increases the county economic development income rate;

under this chapter in the same calendar year in which the department makes a certification under this section. The

department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (b)(1) through (b)(2) in the manner provided in subsection (c).".

Page 23, line 38, strike "annually".

Page 23, line 41, after "(2)" insert "**annually**".

Page 23, line 41, after "employer's" insert "**annual**".

Page 26, line 41, delete ";" and insert ", **including information such as brands, supplies, distributors, or package types that is information necessary for industry statistical analysis;**".

Page 27, between lines 41 and 42, begin a new paragraph and insert:

"SECTION 29. IC 8-23-28 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 28. Funding to Establish a Regional Transportation Authority

Sec. 1. The regional transportation authority formation fund is established.

Sec. 2. The department shall administer the fund.

Sec. 3. Expenditures from the fund may be made only in accordance with this chapter.

Sec. 4. The department may use the money in the fund to provide matching grants to cities or counties that wish to establish a regional transportation authority under IC 36-9-3. The expenses in administering the fund and the grants shall be paid from the money in the fund.

Sec. 5. The amount of a grant provided under this chapter may not exceed twenty percent (20%) of the costs incurred by a city or county in establishing a regional transportation authority under IC 36-9-3.

Sec. 6. Each grant provided under this chapter must be matched by funds provided by the city or county applying for the grant under this chapter. The matching funds required by a city or county may be provided by any source except other state funds.

Sec. 7. A city or county must apply for a grant under this chapter in the manner prescribed by the department.

Sec. 8. (a) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund to be used for any purpose for which funds may be used under this chapter.

Sec. 9. The fund consists of the following:

(1) Funds deposited by regional transit authorities under IC 36-9-42.

(2) Money received from any other source, including appropriations.

Sec. 10. The department shall notify all regional transit authorities (as defined in IC 36-9-42) when the total of all deposits by the regional transit authorities under IC 36-9-42 has reached one million dollars ($1,000,000).

SECTION 30. IC 9-17-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The form described under section 2 of this chapter must include the following printed statement:

"I swear or affirm that the information I have entered on this form is correct. I understand that making a false statement on this form may constitute the crime of perjury.".

(b) The person applying for the certificate of title must sign the form directly below the printed statement.

(c) The form described under section 2 of this chapter must include the statement required by IC 9-17-3-3.2.

SECTION 31. IC 9-17-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) If a vehicle for which a certificate of title has been issued is sold or if the ownership of the vehicle is otherwise transferred, the person who holds the certificate of title must do the following:

(1) Endorse on the certificate of title an assignment of the certificate of title with warranty of title, in a form printed on the certificate of title, with a statement describing all liens or encumbrances on the vehicle.

(2) Except as provided in subdivisions ~~(3) and~~ (4) **and (5),** deliver the certificate of title to the purchaser or transferee at the time of the sale or delivery to the purchaser or transferee of the vehicle, if the purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.

(3) Unless the vehicle is being sold or transferred to a dealer licensed under IC 9-23-2, complete all information concerning the purchase on the certificate of title, including, but not limited to:

(A) the name and address of the purchaser; and

(B) the sale price of the vehicle.

~~(3)~~ **(4)** In the case of a sale or transfer between vehicle dealers licensed by this state or another state, deliver the certificate of title within twenty-one (21) days after the date of the sale or transfer.

~~(4)~~ **(5)** Deliver the certificate of title to the purchaser or transferee within twenty-one (21) days after the date of sale or transfer to the purchaser or transferee of the vehicle, if all of the following conditions exist:

(A) The seller or transferor is a vehicle dealer licensed by the state under IC 9-23.

(B) The vehicle dealer is not able to deliver the certificate of title at the time of sale or transfer.

(C) The vehicle dealer reasonably believes that it will be able to deliver the certificate of title, without a lien or an encumbrance on the certificate of title, within the twenty-one (21) day period.

(D) The vehicle dealer provides the purchaser or transferee with an affidavit under section 3.1 of this chapter.

(E) The purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.

(b) A licensed dealer may offer for sale a vehicle for which the dealer does not possess a certificate of title, if the dealer can comply with subsection ~~(a)(3)~~ **(a)(4)** or ~~(a)(4)~~ **(a)(5)** at the time of the sale.

(c) A vehicle dealer who fails to deliver a certificate of title within the time specified under this section is subject to the following civil penalties:

(1) One hundred dollars ($100) for the first violation.

(2) Two hundred fifty dollars ($250) for the second violation.

(3) Five hundred dollars ($500) for all subsequent violations.

Payment shall be made to the bureau and deposited in the state general fund. In addition, if a purchaser or transferee does not receive a valid certificate of title within the time specified by this section, the purchaser or transferee shall have the right to return the vehicle to the vehicle dealer ten (10) days after giving the vehicle dealer written notice demanding delivery of a valid certificate of title and the dealer's failure to deliver a valid certificate of title within that ten (10) day period. Upon return of the vehicle to the dealer in the same or similar condition as delivered to the purchaser or transferee under this section, the vehicle dealer shall pay to the purchaser or transferee the

purchase price plus sales taxes, finance expenses, insurance expenses, and any other amount paid to the dealer by the purchaser.

(d) For purposes of this subsection, "timely deliver", with respect to a third party, means to deliver to the purchaser or transferee with a postmark dated or hand delivered not more than ten (10) business days after there is no obligation secured by the vehicle. If the dealer's inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver a valid certificate of title to the dealer, the dealer is entitled to claim against the third party one hundred dollars ($100). If:

(1) the dealer's inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver the certificate of title in the third party's possession to the dealer; and

(2) the failure continues for ten (10) business days after the dealer gives the third party written notice of the failure;

the dealer is entitled to claim against the third party all damages sustained by the dealer in rescinding the dealer's sale with the purchaser or transferee, including the dealer's reasonable attorney's fees.

(e) If a vehicle for which a certificate of title has been issued by another state is sold or delivered, the person selling or delivering the vehicle must deliver to the purchaser or receiver of the vehicle a proper certificate of title with an assignment of the certificate of title in a form prescribed by the bureau.

(f) The original certificate of title and all assignments and subsequent reissues of the certificate of title shall be retained by the bureau and appropriately classified and indexed in the most convenient manner to trace title to the vehicle described in the certificate of title.

(g) A dealer shall make payment to a third party to satisfy any obligation secured by the vehicle within five (5) days after the date of sale.

SECTION 32. IC 9-17-3-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3.1. The affidavit required by ~~IC 9-17-3-3(a)(4)~~ **IC 9-17-3-3(a)(5)** shall be printed in the following form:

STATE OF
INDIANA)
) ss:
COUNTY OF _____)

I affirm under the penalties for perjury that all of the following are true:

(1) That I am a dealer licensed under IC 9-23-1.

(2) That I cannot deliver a valid certificate of title to the retail purchaser of the vehicle described in paragraph (3) at the time of sale of the vehicle to the retail purchaser. The identity of the previous seller or transferor is _____. Payoff of lien was made on (date)_____. I expect to deliver a valid and transferable certificate of title not later than (date)_____ from the (State of)_____ to the purchaser.

(3) That I will undertake reasonable commercial efforts to produce the valid certificate of title. The vehicle identification number is _____.

Signed _____, Dealer

By_____

Dated _____, ____

CUSTOMER ACKNOWLEDGES RECEIPT OF A COPY OF THIS AFFIDAVIT.

_____
Customer Signature

NOTICE TO THE CUSTOMER

If you do not receive a valid certificate of title within the time specified by this affidavit, you have the right to return the vehicle to the vehicle dealer ten (10) days after giving the vehicle dealer written notice demanding delivery of a valid certificate of title and after the vehicle dealer's failure to deliver a valid certificate of title within that ten (10) day period. Upon return of the vehicle to the vehicle dealer in the same or similar condition as when it was delivered to you, the vehicle dealer shall pay you the purchase price plus sales taxes, finance expenses, insurance expenses, and any other amount that you paid to the vehicle dealer.

If a lien is present on the previous owner's certificate of title, it is the responsibility of the third party lienholder to timely deliver the certificate of title in the third party's possession to the dealer not more than ten (10) business days after there is no obligation secured by the vehicle. If the dealer's inability to deliver a valid certificate of title to you within the above-described ten (10) day period results from the acts or omissions of a third party who has failed to timely deliver the certificate of title in the third party's possession to the dealer, the dealer may be entitled to claim against the third party the damages allowed by law.

SECTION 33. IC 9-17-3-3.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 3.2. The form furnished by the bureau under IC 9-17-2-2 must contain the following language immediately below the signature of the seller:**

"If this vehicle is sold or transferred to a person other than a dealer licensed in Indiana, the seller or transferor is required to fill in all blanks relating to buyer information, including the sale price. The knowing or intentional failure of the seller or transferor to fill in all buyer information is a Class A misdemeanor or a Class D felony for the second or subsequent offense under IC 9-17-3-7(c)(2).".

SECTION 34. IC 9-17-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) This section does not apply to section 5 of this chapter.

(b) Except as provided in subsection (c), a person who violates this chapter commits a Class C infraction.

(c) A person who **knowingly or intentionally** violates: ~~section 3~~

(1) section 3(a)(1), 3(a)(2), 3(a)(4), or 3(a)(5) of this chapter commits a Class B misdemeanor; **or**

(2) section 3(a)(3) of this chapter commits a:

(A) Class A misdemeanor for the first violation; and

(B) Class D felony for the second and any subsequent violation.

SECTION 35. IC 36-7-26-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. This chapter applies to the following:

(1) A city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(2) A city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000).

(3) A city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000).

(4) A city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000).

(5) A county having a population of more than fifty thousand (50,000) but less than fifty-five thousand (55,000).

SECTION 36. IC 36-7-26-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) Present economic conditions in certain areas of certain cities are stagnant or deteriorating.

(b) Present economic conditions in such areas are beyond remedy and control by existing regulatory processes because of

the substantial public financial commitments necessary to encourage significant increases in economic activities in such areas.

(c) Economic development of certain reclaimed coal land near the Blue Grass Fish and Wildlife Area and Interstate Highway 164 is vital for a county described in section 1(5) of this chapter.

~~(c)~~ **(d)** Encouraging economic development in these areas will:

(1) attract new businesses and encourage existing business to remain or expand;

(2) increase temporary and permanent employment opportunities and private sector investment;

(3) protect and increase state and local tax bases; and

(4) encourage overall economic growth in Indiana.

~~(d)~~ **(e)** Redevelopment and stimulation of economic development benefit the health and welfare of the people of Indiana, are public uses and purposes for which the public money may be spent, and are of public utility and benefit.

~~(e)~~ **(f)** Economic development in such areas can be accomplished only by a coordinated effort of local and state governments.

~~(f)~~ **(g)** This chapter shall be liberally construed to carry out the purposes of this chapter and to provide **the county and** cities with maximum flexibility to accomplish those purposes.

SECTION 37. IC 36-7-26-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "adjustment factor" means the amount, stated as a percentage, that the:

(1) board, **for a city described in section 1(1), 1(2), 1(3), or 1(4) of this chapter; or**

(2) corporation, for a county described in section 1(5) of this chapter;

determines under section 22 of this chapter should be applied in determining the district's net increment. However, the adjustment factor may not exceed eighty percent (80%).

SECTION 38. IC 36-7-26-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 6.5. As used in this chapter, "corporation" refers to the Indiana economic development corporation.**

SECTION 39. IC 36-7-26-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. **(a) Except as provided by subsection (b),** as used in this chapter, "district" refers to an economic development project district established under this chapter.

(b) For a county described in section 1(5) of this chapter, "district" refers to an economic development project district established under this chapter that is located completely or in part on reclaimed coal land near the Blue Grass Fish and Wildlife Area and Interstate Highway 164. However, the economic development project district may not be within a distance of one hundred (100) yards of the Blue Grass Fish and Wildlife Area.

SECTION 40. IC 36-7-26-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. In addition to the powers and duties set forth in any other statute, a commission, the department, **the corporation,** and the board have the powers and duties set forth in this chapter.

SECTION 41. IC 36-7-26-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) **Except as provided in subsection (b),** upon adoption of a resolution designating a district under section 15 of this chapter, the commission shall submit the resolution to the board for approval. In submitting the resolution to the board, the commission shall deliver to the board:

(1) the data required under section 14 of this chapter;

(2) the information concerning the proposed redevelopment and economic development of the proposed district; and

(3) the proposed utilization of the revenues to be received under section 23 of this chapter.

This information may be modified from time to time after the initial submission. The commission shall provide to the board any additional information that the board may request from time to time.

(b) This subsection applies to a county described in section 1(5) of this chapter. Upon adoption of a resolution designating a district under section 15 of this chapter, the commission shall submit the resolution to the fiscal body and the county commissioners of the county for ratification and then shall submit the resolution to the corporation for approval. In submitting the resolution to the corporation, the commission shall deliver to the corporation:

(1) the data required under section 14 of this chapter;

(2) the information concerning the proposed redevelopment and economic development of the proposed district; and

(3) the proposed use of the revenues to be received under section 23 of this chapter.

This information may be modified periodically after the initial submission. The commission shall provide to the corporation any additional information that the corporation requests.

~~(b)~~ **(c)** Upon adoption of a resolution designating a district under section 15 of this chapter, and upon approval of the resolution by the board under subsection (a) **or the corporation under subsection (b),** the commission shall publish (in accordance with IC 5-3-1) notice of the adoption and ~~purport~~ **purpose** of the resolution and of the hearing to be held. The notice must provide a general description of the boundaries of the district and state that information concerning the district can be inspected at the commission's office. The notice must also contain a date when the commission will hold a hearing to receive and hear remonstrances and other testimony from persons interested in or affected by the establishment of the district. All affected persons, including all persons or entities owning property or doing business in the district, shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and resolutions of the commission by the notice given under this section.

SECTION 42. IC 36-7-26-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. **(a) Except as provided in subsection (b),** the determination of the commission to create a district under this chapter, after approval by the board, must be approved by ordinance of the legislative body of the city.

(b) For a county described in section 1(5) of this chapter, the determination of the commission to create a district under this chapter, after approval by the corporation, must be approved by ordinance of the fiscal body of the county.

SECTION 43. IC 36-7-26-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. **(a) Except as provided in subsection (b),** after the approval of the creation of the district under section 20 of this chapter, the commission shall transmit to the board for delivery to the department the following:

(1) A certified copy of the resolution designating the district, as confirmed by the commission.

(2) A complete list of street names and the range of street numbers of each street situated within the district.

(b) This subsection applies to a county described in section 1(5) of this chapter. After the approval of the creation of the district under section 20 of this chapter, the commission shall transmit to the corporation for delivery to the department the following:

(1) A certified copy of the resolution designating the district, as confirmed by the commission.

(2) A complete list of street names and the range of street numbers of each street located within the district.

SECTION 44. IC 36-7-26-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. (a) **Except as provided in subsection (b),** within sixty (60) days after receipt from the commission of the information transmitted under section 21 of this chapter the board shall do the following:

(1) Request that the department determine the base period amount. The department shall certify the base period amount to the board, and the board shall transmit the certification to the commission.

(2) Determine the adjustment factor. The adjustment factor must account for the portion of the incremental state gross retail and use tax revenues attributable to investment in the district and resulting from the redevelopment and economic development project. The adjustment factor may not be decreased after the factor is determined by the board.

(b) This subsection applies to a county described in section 1(5) of this chapter. Within sixty (60) days after receipt from the commission of the information transmitted under section 21 of this chapter, the corporation shall do the following:

(1) Request that the department determine the base period amount. The department shall certify the base period amount to the corporation, and the corporation shall transmit the certification to the commission.

(2) Determine the adjustment factor. The adjustment factor must account for the part of the incremental state gross retail and use tax revenues attributable to investment in the district and resulting from the redevelopment and economic development project. The adjustment factor may not be decreased after the factor is determined by the corporation.

~~(b)~~ **(c)** If a business that operates or did operate in the district also has or had one (1) or more other places of business operating in Indiana but outside the district, the business shall, in the manner and for the periods of time requested by the department, certify to the department the amount of taxes remitted by the business under IC 6-2.5 for the business's places of operation that are or were in the district.

SECTION 45. IC 36-7-26-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. (a) Before the first business day in October of each year, the board, **or the corporation for a county described in section 1(5) of this chapter,** shall require the department to calculate the net increment for the preceding state fiscal year. The department shall transmit to the board, **or the corporation for a county described in section 1(5) of this chapter,** a statement as to the net increment in sufficient time to permit the board **or the corporation** to review the calculation and permit the transfers required by this section to be made on a timely basis.

(b) There is established a sales tax increment financing fund to be administered by the treasurer of state. The fund is comprised of two (2) accounts called the net increment account and the credit account.

(c) On the first business day in October of each year, that portion of the net increment calculated under subsection (a) that is needed:

(1) to pay debt service on the bonds issued under section 24 of this chapter or to pay lease rentals under section 24 of this chapter; and

(2) to establish and maintain a debt service reserve established by the commission or by a lessor that provides local public improvements to the commission;

shall be transferred to and deposited in the fund and credited to the net increment account. Money credited to the net increment account is pledged to the purposes described in subdivisions (1) and (2), subject to the other provisions of this chapter.

(d) On the first business day of October in each year, the remainder of:

(1) eighty percent (80%) of the gross increment; minus

(2) the amount credited to the net increment account on the same date;

shall be transferred and credited to the credit account.

(e) The remainder of:

(1) the gross increment; minus

(2) the amounts credited to the net increment account and the credit account;

shall be deposited by the auditor of state as other gross retail and use taxes are deposited.

(f) A city described in section 1(2), 1(3), or 1(4) of this chapter may receive not more than fifty percent (50%) of the net increment each year. During the time a district exists in a city described in section 1(3) or 1(4) of this chapter, not more than a total of one million dollars ($1,000,000) of net increment may be paid to the city described in section 1(3) or 1(4) of this chapter. During each year that a district exists in a city described in section 1(2) of this chapter, not more than one million dollars ($1,000,000) of net increment may be paid to the city described in section 1(2) of this chapter.

(g) The auditor of state shall disburse all money in the fund that is credited to the net increment account to the commission in equal semiannual installments on November 30 and May 31 of each year.

SECTION 46. IC 36-7-26-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 24. (a) The commission may issue bonds, payable in whole or in part, from money distributed from the fund to the commission, to finance a local public improvement under IC 36-7-14-25.1 or may make lease rental payments for a local public improvement under IC 36-7-14-25.2 and IC 36-7-14-25.3. The term of any bonds issued under this section may not exceed ~~twenty (20)~~ **twenty-five (25)** years, nor may the term of any lease agreement entered into under this section exceed ~~twenty (20)~~ **twenty-five (25)** years. The commission shall transmit to the board, **or the corporation for a county described in section 1(5) of this chapter,** a transcript of the proceedings with respect to the issuance of the bonds or the execution and delivery of a lease agreement as contemplated by this section. The transcript must include a debt service or lease rental schedule setting forth all payments required in connection with the bonds or the lease rentals.

(b) On January 15 of each year, the commission shall remit to the treasurer of state the money disbursed from the fund that is credited to the net increment account that exceeds the amount needed to pay debt service or lease rentals and to establish and maintain a debt service reserve under this chapter in the prior year and before May 31 of that year. Amounts remitted under this subsection shall be deposited by the auditor of state as other gross retail and use taxes are deposited.

(c) The commission in a city described in section 1(2) of this chapter may distribute money from the fund only for the following:

(1) Road, interchange, and right-of-way improvements.

(2) Acquisition costs of a commercial retail facility and for real property acquisition costs in furtherance of the road, interchange, and right-of-way improvements.

(3) Demolition of commercial property and any related expenses incurred before or after the demolition of the commercial property.

(4) For physical improvements or alterations of property that enhance the commercial viability of the district.

(d) The commission in a city described in section 1(3) of this chapter may distribute money from the fund only for the following purposes:

(1) For road, interchange, and right-of-way improvements and for real property acquisition costs in furtherance of the road, interchange, and right-of-way improvements.

(2) For the demolition of commercial property and any related expenses incurred before or after the demolition of the commercial property.

(e) The commission in a city described in section 1(4) of this

chapter may distribute money from the fund only for the following purposes:

(1) For:

(A) the acquisition, demolition, and renovation of property; and

(B) site preparation and financing;

related to the development of housing in the district.

(2) For physical improvements or alterations of property that enhance the commercial viability of the district.

(f) The commission in a county described in section 1(5) of this chapter may distribute money from the fund for the following district project costs associated with the development or redevelopment of the district:

(1) The total cost of acquisition of all land, rights-of-way, and other property to be acquired, developed, or redeveloped for the project.

(2) Site preparation, including utilities and infrastructure.

(3) Costs associated with the construction or establishment of a multisport athletic complex that is owned or leased by an entity that is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code.

(4) Costs associated with the construction or establishment of a museum and education complex that is owned or leased by an entity that is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code.

(5) Road, interchange, and right-of-way improvements.

(6) Public parking facilities.

(7) All reasonable and necessary architectural, engineering, legal, financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and development or redevelopment of the property or the issuance of bonds.

(8) Debt service, lease payments, capitalized interest, or debt service reserve for the bonds to the extent the commission determines that a reserve is reasonably required.

SECTION 47. IC 36-7-26-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 25. **This section does not apply to a county described in section 1(5) of this chapter.** The board may not approve a resolution under section 16 of this chapter until the board has satisfied itself that the city in which the proposed district will be established has maximized the use of tax increment financing under IC 36-7-14 or IC 36-7-14.5 to finance public improvements within or serving the proposed district, subject to the granting of an additional credit under IC 36-7-14-39.5. The city may not grant property tax abatements to the taxpayers within the proposed district or a district, except that the board may approve a resolution under section 16 of this chapter in the proposed district or a district in which real property tax abatement not to exceed three (3) years has been granted.

SECTION 48. IC 36-7-26-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 26. **(a) Except as provided by subsection (b),** to the extent prescribed by the board, and subject to the terms and conditions established by the board, any money credited to the credit account may be used by the commission, and, if desired by the board, irrevocably pledged by the board, to further secure bonds or a lease agreement issued or entered into under this chapter. Further security includes the following:

(1) Holding money in the credit account and pledging sums to payment of debt service on bonds issued under or lease rentals payable under this chapter, or maintenance of debt service reserves.

(2) Transferring money from the credit account to the net increment account or, if desired by the board, to the commission to enable the commission to finance local public improvements.

(3) Payment of bond insurance premiums or other credit enhancement fees and expenses.

(b) This subsection applies to a county described in section 1(5) of this chapter. To the extent prescribed by the corporation, and subject to the terms and conditions established by the corporation, any money credited to the credit account may be used by the commission and, if desired by the corporation, irrevocably pledged by the corporation to further secure bonds or a lease agreement issued or entered into under this chapter. Further security includes the following:

(1) Holding money in the credit account and pledging sums to payment of debt service on bonds issued under or lease rentals payable under this chapter, or maintenance of debt service reserves.

(2) Transferring money from the credit account to the net increment account or, if desired by the corporation, to the commission to enable the commission to finance local public improvements.

(3) Payment of bond insurance premiums or other credit enhancement fees and expenses.

SECTION 49. IC 36-8-8-8.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 8.3. (a) If the requirements of subsection (b) are satisfied, a fund member who:**

(1) completes at least one (1) year of active service for which the 1977 fund gives credit;

(2) serves on active duty in the armed services of the United States for at least six (6) months;

(3) receives an honorable discharge from the armed services;

(4) is not entitled to receive a benefit from the armed services of the United States or another governmental retirement system for the active duty service; and

(5) has not received credit in the 1977 fund for the active duty service under another section of this chapter;

is entitled to service credit in the 1977 fund in an amount equal to the length of the fund member's military service. However, not more than six (6) years of service credit in the 1977 fund may be granted under this section. The service credit granted under this section may be used only in the computation of benefits to be paid after June 30, 2008, and only after the PERF board determines that the fund member is eligible for the service credit in the 1977 fund.

(b) A fund member is entitled to receive service credit in the 1977 fund for the active duty service described in subsection (a) if:

(1) the fund member pays in a lump sum or in a series of payments determined by the PERF board, not to exceed five (5) annual payments, the amount the fund member would have contributed to the 1977 fund, if the fund member had been a member of the 1977 fund during the active duty service; and

(2) the fund member's employer contributes to the 1977 fund the amount the PERF board determines necessary to amortize the active duty service liability over a period determined by the PERF board, but not more than ten (10) years.

(c) An amortization schedule for contributions paid under subsection (b)(1) or (b)(2) must include interest at a rate determined by the PERF board.

(d) A fund member who:

(1) terminates service before satisfying the requirements for eligibility to receive a retirement benefit payment from the 1977 fund; or

(2) receives a retirement benefit for the same service from another retirement system, other than under the federal Social Security Act;

may withdraw the fund member's contributions made under this section plus accumulated interest after submitting to the 1977 fund a properly completed application for a refund.

(e) The following apply to the granting of service credit in the 1977 fund under this section:

(1) The PERF board may not grant credit for the service if doing so would exceed the limitations set forth in Section 415 of the Internal Revenue Code.

(2) A fund member may not claim the service credit for purposes of determining eligibility or computing benefits unless the fund member has made all payments required under subsection (b)(1).

(f) To the extent permitted by the Internal Revenue Code and applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

(h) Notwithstanding any provision in this section, a fund member is entitled to service credit and benefits in the amount and to the extent required by the federal Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.), including all later amendments.

(i) Before implementing this section, the PERF board may request from the Internal Revenue Service any rulings or determination letters that the PERF board considers necessary or appropriate.

SECTION 50. IC 36-8-8-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 8.5. (a) This section applies to a fund member who, after June 30, 2008, completes active service for which the 1977 fund gives credit.**

(b) A fund member may purchase not more than two (2) years of service credit for the fund member's service on active duty in the armed services of the United States if the fund member meets the following conditions:

(1) The fund member has at least one (1) year of active service for which the 1977 fund gives credit.

(2) The fund member serves on active duty in the armed services of the United States for at least six (6) months.

(3) The fund member receives an honorable discharge from the armed services.

(4) Before the fund member applies to receive a retirement benefit payment, the fund member makes contributions to the 1977 fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The salary of a first class patrolman or firefighter at the time the fund member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the 1977 fund, that is based on the age of the fund member at the time the fund member actually makes a contribution for service credit and is computed to result in a contribution amount that approximates the actuarial present value of the retirement benefit attributable to the service credit purchased.

(iii) The number of years of service credit the fund member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary of the 1977 fund, for the period from the fund member's initial membership in the 1977 fund to the date payment is made by the fund member.

(c) A fund member may not receive service credit under this section if the military service for which the fund member requests credit also qualifies the fund member for a benefit in a military or another governmental retirement system.

(d) A fund member who:

(1) terminates service before satisfying the requirements for eligibility to receive a retirement benefit payment from the 1977 fund; or

(2) receives a retirement benefit for the same service from another retirement system, other than under the federal Social Security Act;

may withdraw the fund member's contributions made under this section plus accumulated interest after submitting to the 1977 fund a properly completed application for a refund.

(e) The following apply to the purchase of service credit under this section:

(1) The PERF board may allow a fund member to make periodic payments of the contributions required for the purchase of service credit. The PERF board shall determine the length of the period during which the payments are to be made.

(2) The PERF board may deny an application for the purchase of service credit if the purchase would exceed the limitations set forth in Section 415 of the Internal Revenue Code.

(3) A fund member may not claim the service credit for purposes of determining eligibility or computing benefits unless the fund member has made all payments required for the purchase of the service credit.

(f) To the extent permitted by the Internal Revenue Code and applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

(h) Notwithstanding any provision in this section, a fund member is entitled to service credit and benefits in the amount and to the extent required by the federal Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.), including all later amendments.

(i) Before implementing this section, the PERF board may request from the Internal Revenue Service any rulings or determination letters that the PERF board considers necessary or appropriate.

SECTION 51. IC 36-9-4-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 42. (a) A municipality or a public transportation corporation that expends money for the establishment or maintenance of an urban mass transportation system under this chapter may acquire the money for these expenditures:

(1) by issuing bonds under section 43 or 44 of this chapter;

(2) by borrowing money made available for such purposes by any source;

(3) by accepting grants or contributions made available for such purposes by any source;

(4) in the case of a municipality, by appropriation from the general fund of the municipality, or from a special fund that the municipal legislative body includes in the municipality's budget; or

(5) in the case of a public transportation corporation, **one (1) or both of the following:**

(A) By levying a tax under section 49 of this chapter. ~~or~~

(B) By ~~recommending an election~~ **electing** to use revenue from the county option income taxes, as provided in subsection (c).

(b) Money may be acquired under this section for the purpose of exercising any of the powers granted by or incidental to this chapter, including:

(1) studies under section 4, 9, or 11 of this chapter;

(2) grants in aid;

(3) the purchase of buses or real property by a municipality for lease to an urban mass transportation system, including the payment of any amount outstanding under a mortgage, contract of sale, or other security device that may attach to the buses or real property;

(4) the acquisition by a public transportation corporation of property of an urban mass transportation system, including the payment of any amount outstanding under a mortgage, contract of sale, or other security device that may attach to the property;

(5) the operation of an urban mass transportation system by a public transportation corporation, including the acquisition of additional property for such a system; and

(6) the retirement of bonds issued and outstanding under this chapter.

(c) This subsection applies only to a public transportation corporation located in a county having a consolidated city. ~~In order to provide revenue to a~~ **During each year that the county option income tax is in effect in the county, the** public transportation corporation ~~during a year, the public transportation corporation board may recommend and the county fiscal body may elect to provide revenue to the corporation~~ **shall receive three percent (3%)** from **the** part of the certified distribution, if any, that the county is to receive during that same year under IC 6-3.5-6-17. ~~To make the election, the county fiscal body must adopt an ordinance before September 1 of the preceding year. The county fiscal body must specify in the ordinance the amount of the certified distribution that is to be used to provide revenue to the corporation. If such an ordinance is adopted, the county fiscal body shall immediately send a copy of the ordinance to the county auditor.~~

SECTION 52. IC 36-9-42 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 42. Transit Development Districts

Sec. 1. This chapter applies only to units:

(1) that are not townships; and

(2) that are located within the boundaries of a regional transit authority.

Sec. 2. As used in this chapter, "gross retail base period amount" means the total amount of state gross retail and use taxes remitted under IC 6-2.5 by the businesses operating in the territory comprising a transit development district during the full state fiscal year that precedes the date on which the transit development district was established under section 5 of this chapter.

Sec. 3. As used in this chapter, "gross retail incremental amount" means the remainder of:

(1) the total amount of state gross retail and use taxes that are remitted under IC 6-2.5 by businesses operating in the territory comprising a transit development district during a state fiscal year; minus

(2) the gross retail base period amount plus the amount of growth of the state gross retail and use tax based on the Consumer Price Index that would be expected to occur without the presence of the transit district;

as determined by the department of state revenue.

Sec. 4. As used in this chapter, "regional transit authority" means an entity:

(1) that is eligible to receive federal transportation funding under Title 49 of the United States Code; and

(2) that is either:

(A) a regional transportation authority established under IC 36-9-3; or

(B) the northwest Indiana regional development authority established under IC 36-7.5-2-1.

Sec. 5. The fiscal body of a unit may adopt an ordinance to establish a transit development district. The ordinance creating a transit development district must specify the territorial boundaries of the district. The territorial boundaries of the district may not extend beyond the boundaries of the regional transit authority within which the unit is located.

Sec. 6. The fiscal body of a unit may adopt an ordinance to dissolve a transit development district that was created by the unit. However, the fiscal body of a unit may not adopt an ordinance to dissolve the transit development district under this subsection earlier than the date three (3) years after the date on which the ordinance creating the transit development district was adopted.

Sec. 7. Before the first business day in October of each year, the department of state revenue shall calculate the gross retail incremental amount for the preceding state fiscal year for each transit development district designated under this chapter.

Sec. 8. (a) The treasurer of state shall establish an incremental tax financing fund. The treasurer of state shall establish an account within the incremental tax financing fund for each transit development district designated under this chapter. The treasurer of state shall administer the fund. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) Subject to subsection (c), during each state fiscal year, the department of state revenue shall deposit in the account established for a transit development district under subsection (a) the total amount of state gross retail and use taxes that are remitted under IC 6-2.5 by businesses operating in the transit development district, until the amount of state gross retail and use taxes deposited equals the gross retail incremental amount for the transit development district.

(c) Not more than five million dollars ($5,000,000) may be deposited in a particular account established under subsection (a) for a transit development district over the life

of the transit development district.

(d) On or before the twentieth day of each month, the treasurer of state shall distribute all amounts held in the account established under subsection (a) for a transit development district to the unit that established the transit development district for deposit in the transit development district tax increment fund established under section 9(a) of this chapter.

Sec. 9. (a) Each unit that establishes a transit development district under this chapter shall establish a transit development district tax increment fund to receive money distributed to the unit under section 8 of this chapter.

(b) The fiscal body of a unit that creates a transit development district shall appropriate money deposited in the unit's transit development district tax increment fund to the regional transit authority whose boundaries contain the transit development district.

Sec. 10. (a) Except as provided in subsection (b), a regional transit authority shall use the funds appropriated to the regional transit authority under section 9(b) of this chapter for the purposes authorized by the statute under which the regional transit authority was established as referred to in section 4(2) of this chapter.

(b) Except as provided in subsection (c), each regional transit authority receiving an appropriation under section 9(b) of this chapter shall deposit twenty-five percent (25%) of each appropriation into the regional transportation authority formation fund established under IC 8-23-28-1.

(c) A regional transit authority is not required to make the deposit required under subsection (b) if the total of all deposits made by regional transit authorities under subsection (b) has reached one million dollars ($1,000,000).

SECTION 53. IC 6-3-4-1.5 IS REPEALED [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)].

SECTION 54. IC 8-9.5-7 IS REPEALED [EFFECTIVE JULY 1, 2008].

SECTION 55. P.L.196-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001 (RETROACTIVE)]: SECTION 7. (a) The definitions in IC 6-1.1-1 apply to this SECTION.

(b) This SECTION applies only to an entity that meets all of the following conditions:

(1) The entity is:

(A) a nonprofit:

(i) corporation; **or**

(ii) limited liability company;

that is organized for educational, literary, scientific, religious, or charitable purposes; or

(B) a local chapter of a nonprofit ~~corporation~~ **entity** referred to in clause (A).

(2) For the assessment date in a calendar year after 2000:

(A) tangible property owned by the entity was, except for the entity's failure to timely file an application under IC 6-1.1-11 for property tax exemption, otherwise eligible for an exemption;

(B) the entity failed to timely file an application under IC 6-1.1-11 for property tax exemption for the tangible property for the assessment date; and

(C) the entity's tangible property was subject to taxation for the assessment date.

(3) The tangible property, or other property owned by the entity in the same county, was exempt from taxation in either:

(A) the calendar year before the year containing the assessment date described in subdivision (2); or

(B) the calendar year two (2) years before the year containing the assessment date described in subdivision (2).

(c) Notwithstanding any provision of IC 6-1.1-11 or any other law specifying the date by which an application for property tax exemption must be filed to claim an exemption for a particular assessment date, an entity described in subsection (b) may before January 1, 2008, file with the county assessor an application for property tax exemption for an assessment date described in subsection (b)(2).

(d) Notwithstanding any provision of IC 6-1.1-11 or any other law, an application for property tax exemption filed under subsection (c) is considered to be timely filed, and the county property tax assessment board of appeals shall grant an exemption claimed for the assessment date on the application upon the county property tax assessment board of appeals's determination that:

(1) the entity's application for property tax exemption satisfies all other applicable requirements; and

(2) the entity's tangible property was, except for the failure to timely file an application for property tax exemption, otherwise eligible for the claimed exemption.

(e) If an entity has previously paid the tax liability for tangible property for an assessment date and the property is granted an exemption under this SECTION for that assessment date, the county auditor shall issue a refund of the property tax paid by the entity. An entity is not required to apply for any refund due under this SECTION. The county auditor shall, without an appropriation being required, issue a warrant to the entity payable from the county general fund for the amount of the refund, if any, due the entity. No interest is payable on the refund.

(f) This SECTION expires January 1, 2009.

SECTION 56. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] **IC 6-1.1-12.1-4.5 and IC 6-1.1-40-10, both as amended by this act, applies to property taxes imposed for an assessment date after January 15, 2007.**

SECTION 57. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "eligible district" means a fire protection district established under IC 36-8-11:**

(1) that expanded its territory after 1998; and

(2) for which the quotient of:

(A) the taxable assessed value of all tangible property in the district for the assessment date (as defined in IC 6-1.1-1-2) in 2004; divided by

(B) subject to subsection (b), the taxable assessed value of all tangible property in the district for the assessment date (as defined in IC 6-1.1-1-2) in 1999;

is at least one and one-half (1.5).

(b) To account for the change in the definition of "assessed value" reflected in IC 6-1.1-1-3(a)(1) and IC 6-1.1-1-3(a)(2), the taxable assessed value to be used for purposes of subsection (a)(2)(B) is the product of:

(1) the actual taxable assessed value; multiplied by

(2) three (3).

(c) An eligible district may, before September 20, 2008, appeal to the department of local government finance for relief from the levy limitations imposed by IC 6-1.1-18.5 for property taxes first due and payable in 2009. In the appeal, the district must:

(1) state that the district will be unable to carry out the governmental functions committed to the district by law unless the appeal is approved; and

(2) present evidence that the district is an eligible district.

(d) The maximum increase in an eligible district's levy allowed under this SECTION is two hundred twelve thousand five hundred dollars ($212,500).

(e) The department of local government finance shall process the appeal in the same manner that the department processes appeals under IC 6-1.1-18.5-12.

(f) For purposes of computing an eligible district's ad valorem property tax levy for taxes first due and payable in 2010, the district's maximum permissible ad valorem property tax levy for property taxes first due and payable in

2009 under STEP ONE of IC 6-1.1-18.5-3(a) or STEP ONE of IC 6-1.1-18.5-3(b) includes the amount of any increase in the district's levy approved under this SECTION for property taxes first due and payable in 2009.

(g) This SECTION expires January 1, 2011.".

Page 28, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 59. [EFFECTIVE UPON PASSAGE] **The amendment of IC 6-2.3-3-5 by this act shall be interpreted to clarify and not to change the general assembly's intent with respect to IC 6-2.5-3-5.**".

Page 28, delete lines 7 through 9.

Page 28, delete lines 20 through 22, begin a new paragraph and insert:

"SECTION 64. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] **(a) The definitions in IC 6-1.1-1 apply in subsection (b).**

(b) A civil taxing unit may appeal for an excessive ad valorem property tax levy for property taxes first due and payable in 2008 under IC 6-1.1-18.5-12 and IC 6-1.1-18.5-16 on the grounds stated in IC 6-1.1-18.5-16(a) except that:

(1) the deadline of December 31, 2007, under IC 6-1.1-18.5-12(a) does not apply to the appeal; and

(2) the deadline for the appeal is May 1, 2008.

(c) The definitions in IC 20-18-2 apply in subsection (d).

(d) A school corporation may appeal for an excessive ad valorem property tax levy for property taxes first due and payable in 2008 under IC 6-1.1-19, IC 20-45-4-4, and IC 20-45-6-5 on the grounds stated in IC 20-45-6-5(a)(2)(A) except that:

(1) the deadline of December 31, 2007, under IC 20-45-4-4 does not apply to the appeal; and

(2) the deadline for the appeal is May 1, 2008.

(e) If an appeal under this SECTION is approved:

(1) the deadline of February 15, 2008, under IC 6-1.1-17-16(h) does not apply to the actions of the department of local government finance under IC 6-1.1-17-16 for property taxes first due and payable in 2008 with respect to the following:

(A) The county in which the following are located:

(i) One (1) or more civil taxing units for which the appeal is approved.

(ii) One (1) or more school corporations for which the appeal is approved.

(B) The civil taxing units and school corporations located wholly or partially in the county referred to in clause (A);

(2) the deadlines under IC 6-1.1-22 do not apply in the county referred to in subdivision (1)(A) to the mailing or transmitting of statements and information and the payment of property taxes; and

(3) subject to subsection (f), the county treasurer shall set a schedule for the mailing or transmitting of statements and information and the payment of property taxes.

(f) Subsection (e) does not affect the authority of the county treasurer to use provisional statements under IC 6-1.1-22.5 if that chapter applies.

(g) This SECTION expires January 1, 2009.

SECTION 65. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies only to salaries paid for pay periods beginning after June 30, 2008.**

(b) As used in this SECTION, "district forester" means any position on the state staffing table with a job code of "001LE2" and a description of "Forester Specialist 2".

(c) As used in this SECTION, "natural sciences manager" means any position on the state staffing table with a job code of "00ENS7" and a description of "Natural Sciences Manager E7".

(d) As used in this SECTION, "state staffing table" means a position classification plans and salary and wage schedule adopted by the state personnel department (established by IC 4-15-1.8-2) under IC 4-15-1.8-7.

(e) For pay periods beginning after June 30, 2008, the state personnel department shall equalize the salary and wage schedules for the positions of district forester and natural sciences manager so that both positions share the higher of the two (2) wage and salary schedules for these positions existing on April 1, 2008. For pay periods beginning after June 30, 2008, the department of natural resources (created by IC 14-9-1-1) shall increase the wages and salaries of all district foresters and natural sciences managers to bring the wages and salaries into conformity with the salary and wage schedules required by this SECTION.

SECTION 66. [EFFECTIVE UPON PASSAGE] **The trustees of the following institution may issue and sell bonds under IC 21-34, subject to the approvals required by IC 21-33-3, for the following project if the sum of principal costs of any bond issued under this SECTION, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed the total authority listed below for that institution:**

Indiana University, Purdue University at Fort Wayne

Student Services and Library Complex $16,000,000

Bonds issued under this SECTION are not eligible for fee replacement appropriations. The bonding authority granted by this SECTION is in addition to any bonding authority granted to the trustees of the institution for a student services and library complex by P.L.234-2007, SECTION 179(a).

SECTION 67. P.L.234-2007, SECTION 173, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 173. (a) As used in this SECTION, "commission" refers to the commission on disproportionality in youth services.

(b) As used in this SECTION, "youth services" means the following:

(1) Juvenile justice services.

(2) Child welfare services.

(3) Education services.

(4) Mental health services.

(c) The commission on disproportionality in youth services is established to develop and provide an implementation plan to evaluate and address disproportionate representation of youth of color in the use of youth services.

(d) The commission consists of the following members appointed not later than August 15, 2007:

(1) The dean or a faculty member of an Indiana accredited graduate school of public administration, social work, education, mental health, or juvenile justice, who shall serve as chairperson of the commission.

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

(3) The director of the division of mental health and addiction, or the director's designee.

(4) The executive director of the Indiana criminal justice institute, or the executive director's designee.

(5) The director of the department of child services, or the director's designee.

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

(7) A division of child services county director from a densely populated county.

(8) A faculty member of an Indiana accredited college or university that offers undergraduate degrees in public administration, social work, education, mental health, or juvenile justice.

(9) A prosecuting attorney.

(10) A juvenile court judge.

(11) An attorney who specializes in juvenile law.

(12) A representative of the Indiana Minority Health

Coalition.
(13) A health care provider who specializes in pediatric or emergency medicine.
(14) A public agency family case manager.
(15) A private agency children's service social worker.
(16) A school counselor or social worker.
(17) A representative of law enforcement.
(18) A guardian ad litem, court appointed special advocate, or other child advocate.
(19) The chairperson of an established advocacy group in Indiana that has previously investigated the issue of disproportionality in use of youth services.
(20) A young adult who has previous involvement with at least one (1) youth service.
(21) A representative of foster parents or adoptive parents.
(22) A representative of a state teacher's association or a public school teacher.
(23) A child psychiatrist or child psychologist.
(24) A representative of a family support group.
(25) A representative of the National Alliance on Mental Illness.
(26) A representative of the commission on the social status of black males.
(27) A representative of the Indiana Juvenile Detention Association.
(28) A representative of the commission on Hispanic/Latino affairs.
(29) A representative of the civil rights commission.
(30) Two (2) members of the house of representatives appointed by the speaker of the house of representatives. The members appointed under this subdivision may not be members of the same political party and serve as nonvoting members.
(31) Two (2) members of the senate appointed by the president pro tempore of the senate. The members appointed under this subdivision may not be members of the same political party and serve as nonvoting members.

The governor shall appoint the members under subdivisions (1), (7), (10), (13), (16), (19), (22), (25), (28), and (29). The speaker of the house of representatives shall appoint the members under subdivisions (8), (11), (14), (17), (20), (23), (26), and (30). The president pro tempore of the senate shall appoint the members under subdivisions (9), (12), (15), (18), (21), (24), (27), and (31). Vacancies shall be filled by the appointing authority for the remainder of the unexpired term.

(e) Each member of the commission shall have an interest in or influence on evaluating and addressing disproportionate representation of youth of color in the use of youth services.

(f) A majority of the voting members of the commission constitutes a quorum.

(g) The Indiana accredited graduate school represented by the chairperson of the commission under subsection (d)(1) shall staff the commission.

(h) The commission shall meet at the call of the chairperson and shall meet as often as necessary to carry out the purposes of this SECTION.

(i) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(j) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(k) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

(l) The commission's responsibilities include the following:
(1) Reviewing Indiana's public and private child welfare, juvenile justice, mental health, and education service delivery systems to evaluate disproportionality rates in the use of youth services by youth of color.
(2) Reviewing federal, state, and local funds appropriated to address disproportionality in the use of youth services by youth of color.
(3) Reviewing current best practice standards addressing disproportionality in the use of youth services by youth of color.
(4) Examining the qualifications and training of youth service providers and making recommendations for a training curriculum and other necessary changes.
(5) Recommending methods to improve use of available public and private funds to address disproportionality in the use of youth services by youth of color.
(6) Providing information concerning identified unmet youth service needs and providing recommendations concerning the development of resources to meet the identified needs.
(7) Suggesting policy, program, and legislative changes related to youth services to accomplish the following:
(A) Enhancement of the quality of youth services.
(B) Identification of potential resources to promote change to enhance youth services.
(C) Reduction of the disproportionality in the use of youth services by youth of color.
(8) Preparing a report consisting of the commission's findings and recommendations, and the presentation of an implementation plan to address disproportionate representation of youth of color in use of youth services.

(m) In carrying out the commission's responsibilities, the commission shall consider pertinent studies concerning disproportionality in use of youth services by youth of color.

(n) The affirmative votes of a majority of the commission's voting members are required for the commission to take action on any measure, including recommendations included in the report required under subsection (l)(8).

(o) The commission shall submit the report required under subsection (l)(8) to the governor and to the legislative council not later than ~~August 15, 2008.~~ **October 15, 2008.** The report to the legislative council must be in an electronic format under IC 5-14-6. The commission shall make the report available to the public upon request not later than December 1, 2008.

(p) There is appropriated from the state general fund one hundred twenty-five thousand ($125,000) dollars for the period beginning July 1, 2007, and ending December 31, 2008, to carry out the purposes of this SECTION, including the hiring by the chairperson of an individual to serve only to assist the chairperson and members with research, statistical analysis, meeting support, and drafting of the report required under subsection (l)(8).

(q) This SECTION expires January 1, 2009.

SECTION 68. [EFFECTIVE JANUARY 1, 2009] **(a) The definitions in IC 6-3.1-32, as added by this act, apply throughout this SECTION.**

(b) IC 6-3.1-32, as added by this act, applies only to:
(1) federally qualified equity investments initially made; and

(2) taxable years beginning;
after December 31, 2008.".

Renumber all SECTIONS consecutively.

(Reference is to SB 19 as reprinted January 29, 2008.)
and when so amended that said bill do pass.

Committee Vote: yeas 18, nays 5.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 148, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

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

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

"SECTION 1. IC 4-10-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter:

"Adjusted personal income" for a particular calendar year means the adjusted state personal income for that year as determined under section 3(b) of this chapter.

"Annual growth rate" for a particular calendar year means the percentage change in adjusted personal income for the particular calendar year as determined under section 3(c) of this chapter.

"Budget director" refers to the director of the budget agency established under IC 4-12-1.

"Costs" means the cost of construction, equipment, land, property rights (including leasehold interests), easements, franchises, leases, financing charges, interest costs during and for a reasonable period after construction, architectural, engineering, legal, and other consulting or advisory services, plans, specifications, surveys, cost estimates, and other costs or expenses necessary or incident to the acquisition, development, construction, financing, and operating of an economic growth initiative.

"Current calendar year" means a calendar year during which a transfer to or from the fund is initially determined under sections 4 and 5 of this chapter.

"Economic growth initiative" means:

(1) the construction, extension, or completion of sewerlines, waterlines, streets, sidewalks, bridges, roads, highways, public ways, and any other infrastructure improvements;

(2) the leasing or purchase of land and any site improvements to land;

(3) the construction, leasing, or purchase of buildings or other structures;

(4) the rehabilitation, renovation, or enlargement of buildings or other structures;

(5) the leasing or purchase of machinery, equipment, or furnishings; or

(6) the training or retraining of employees whose jobs will be created or retained as a result of the initiative.

"Fund" means the counter-cyclical revenue and economic stabilization fund established under this chapter.

"General fund revenue" means all general purpose tax revenue and other unrestricted general purpose revenue of the state, including federal revenue sharing monies, credited to the state general fund and from which appropriations may be made. The term "general fund revenue" does not include revenue held in the reserve for tuition support under IC 4-12-1-12 **or transferred to the state family and children's reserve fund.**

"Implicit price deflator for the gross national product" means the implicit price deflator for the gross national product, or its closest equivalent, which is available from the United States Bureau of Economic Analysis.

"Political subdivision" has the meaning set forth in IC 36-1-2-13.

"Qualified economic growth initiative" means an economic growth initiative that is:

(1) proposed by or on behalf of a political subdivision to promote economic growth, including the creation or retention of jobs or the infrastructure necessary to create or retain jobs;

(2) supported by a financing plan by or on behalf of the political subdivision in an amount at least equal to the proposed amount of the grant under section 15 of this chapter; and

(3) estimated to cost not less than twelve million five hundred thousand dollars ($12,500,000).

"State personal income" means state personal income as that term is defined by the Bureau of Economic Analysis of the United States Department of Commerce or its successor agency.

"Total state general fund revenue" for a particular state fiscal year means the amount of that revenue for the particular state fiscal year as finally determined by the auditor of state.

"Transfer payments" means transfer payments as that term is defined by the Bureau of Economic Analysis of the United States Department of Commerce or its successor agency.

SECTION 2. IC 4-1-12-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 19. Not later than February 1, May 1, August 1, and November 1, the budget agency shall prepare a general summary setting forth aggregate figures showing:**

(1) the total of actual and proposed state expenditures;

(2) the total of actual and anticipated state income; and

(3) the estimated surplus or deficit for the remainder of the current state fiscal year and the current budget period.

The summary must include an estimate of the amount of money that the budget agency anticipates will be needed in the current state fiscal year and the current budget period from the state family and children's reserve fund to fund the expenditures of the department of child services. A summary under this section must be based on the best information available at the time that the summary is prepared and must reflect reversions and allotment decisions that affect the surplus and deficient estimates.

SECTION 3. IC 12-8-1-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16. This chapter expires January 1, 2010.**

SECTION 4. IC 12-8-2-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13. This chapter expires January 1, 2010.**

SECTION 5. IC 12-8-6-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11. This chapter expires January 1, 2010.**

SECTION 6. IC 12-8-8-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8. This chapter expires January 1, 2010.**

SECTION 7. IC 4-12-1-15.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2008]: **Sec. 15.8. (a) As used in this section, "fund" refers to the c.**

(b) The state family and children's reserve fund is established for the following purposes:

(1) To fund the costs incurred by the department of

child services whenever the budget director determines that state general fund cash balances are insufficient to cover the expenditures.

(2) To meet revenue shortfalls whenever the budget director, after review by the budget committee, determines that state tax revenues available for deposit in the state general fund will be insufficient to fully fund costs incurred by the department of child services in any particular state fiscal year.

(c) The fund consists of the following:

(1) Money appropriated to the fund by the general assembly.

(2) Money transferred to the fund under any law.

(3) Interest earned on the balance of the fund.

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

(e) Money in the fund at the end of a state fiscal year does not revert for any other purpose of the state general fund.

(f) The budget agency shall administer the fund. Whenever the budget director makes a determination under subsection (b)(1) or (b)(2), the budget agency shall notify the auditor of state of the amount from the fund to be used for the department of child services. The auditor of state shall transfer the amount from the fund to the appropriate fund for used by the department of child services. The amount transferred may be used only for the purposes of paying the costs incurred by the department of child services. If the amount is transferred under subsection (b)(1), the amount shall be repaid to the fund from the state general fund before the end of the state fiscal year in which the transfer is made.

(g) This subsection applies in any state fiscal year in which money is reverted to the state general fund from appropriations for the state fiscal year. Not later than June 30 of the state fiscal year the budget agency shall:

(1) determine whether the balance of the fund is at least equal to five percent (5%) of the amount appropriated to the department of child services from state revenues for the immediately following state fiscal year; and

(2) provide for the transfer of an amount to the fund that is equal to the lesser of the following:

(A) The total amount reverted to the state general fund from appropriations made in the state fiscal year.

(B) The amount necessary to maintain a balance in the fund on the immediately following July 1 that is at least equal to five percent (5%) of the amount appropriated from state revenues to the department of child services for the state fiscal year.

SECTION 8. IC 4-13-1-4, AS AMENDED BY P.L.1-2006, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. The department shall, subject to this chapter, do the following:

(1) Execute and administer all appropriations as provided by law, and execute and administer all provisions of law that impose duties and functions upon the executive department of government, including executive investigation of state agencies supported by appropriations and the assembly of all required data and information for the use of the executive department and the legislative department.

(2) Supervise and regulate the making of contracts by state agencies.

(3) Perform the property management functions required by IC 4-20.5-6.

(4) Assign office space and storage space for state agencies in the manner provided by IC 4-20.5-5.

(5) Maintain and operate the following for state agencies:

(A) Central duplicating.

(B) Printing.

(C) Machine tabulating.

(D) Mailing services.

(E) Centrally available supplemental personnel and other essential supporting services.

The department may require state agencies to use these general services in the interests of economy and efficiency. The general services rotary fund is established through which these services may be rendered to state agencies. The budget agency shall determine the amount for the general services rotary fund.

(6) Control and supervise the acquisition, operation, maintenance, and replacement of state owned vehicles by all state agencies. The department may establish and operate, in the interest of economy and efficiency, a motor vehicle pool, and may finance the pool by a rotary fund. The budget agency shall determine the amount to be deposited in the rotary fund.

(7) Promulgate and enforce rules relative to the travel of officers and employees of all state agencies when engaged in the performance of state business. These rules may allow reimbursement for travel expenses by any of the following methods:

(A) Per diem.

(B) For expenses necessarily and actually incurred.

(C) Any combination of the methods in clauses (A) and (B).

The rules must require the approval of the travel by the commissioner and the head of the officer's or employee's department prior to payment.

(8) Administer IC 4-13.6.

(9) Prescribe the amount and form of certified checks, deposits, or bonds to be submitted in connection with bids and contracts when not otherwise provided for by law.

(10) Rent out, with the approval of the governor, any state property, real or personal:

(A) not needed for public use; or

(B) for the purpose of providing services to the state or employees of the state;

the rental of which is not otherwise provided for or prohibited by law. Property may not be rented out under this subdivision for a term exceeding ten (10) years at a time. However, if property is rented out for a term of more than four (4) years, the commissioner must make a written determination stating the reasons that it is in the best interests of the state to rent property for the longer term. This subdivision does not include the power to grant or issue permits or leases to explore for or take coal, sand, gravel, stone, gas, oil, or other minerals or substances from or under the bed of any of the navigable waters of the state or other lands owned by the state.

(11) Have charge of all central storerooms, supply rooms, and warehouses established and operated by the state and serving more than one (1) agency.

(12) Enter into contracts and issue orders for printing as provided by IC 4-13-4.1.

(13) Sell or dispose of surplus property under IC 5-22-22, or if advantageous, to exchange or trade in the surplus property toward the purchase of other supplies, materials, or equipment, and to make proper adjustments in the accounts and inventory pertaining to the state agencies concerned.

(14) With respect to power, heating, and lighting plants owned, operated, or maintained by any state agency:

(A) inspect;

(B) regulate their operation; and

(C) recommend improvements to those plants to promote economical and efficient operation.

(15) Administer, determine salaries, and determine other personnel matters of the department of correction ombudsman bureau established by IC 4-13-1.2-3.

(16) Adopt rules to establish and implement a "Code Adam" safety protocol as described in IC 4-20.5-6-9.2.

(17) Adopt policies and standards for making state owned property reasonably available to be used free of charge as locations for making motion pictures.

(18) Administer, determine salaries, and determine other personnel matters of the department of child services ombudsman bureau established by IC 4-13-19-3.

SECTION 9. IC 4-13-19 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 19. Department of Child Services Ombudsman Bureau

Sec. 1. As used in this chapter, "bureau" refers to the department of child services ombudsman bureau established by section 3 of this chapter. The term includes individuals approved to act in the capacity of ombudsmen by the department of child services ombudsman bureau.

Sec. 2. As used in this chapter, "ombudsman" means an employee of the bureau or an individual approved by the bureau to investigate and resolve complaints that the department of child services endangered the health and safety of any person, or that the department of child services violated specific laws, rules, or written policies.

Sec. 3. The department of child services ombudsman bureau is established as a separate bureau within the department of administration.

Sec. 4. (a) The governor shall appoint a director of the bureau. The governor shall appoint a successor director within thirty (30) days after a vacancy occurs in the position of the director. The director serves at the pleasure of the governor.

(b) The director may employ technical experts and other employees to carry out the purposes of this chapter. However, the director may not hire an individual to serve as an ombudsman who has been employed by the department of child services during the preceding twelve (12) months.

Sec. 5. (a) The ombudsman may receive, investigate, and attempt to resolve complaints that the department of child services:

(1) violated a specific law, rule, or department written policy; or

(2) endangered the health or safety of any person by an action or omission.

(b) The ombudsman may, on the ombudsman's own initiative, review a child's death that is sudden, unexpected, or unexplained to determine whether the department of child services:

(1) violated a specific law, rule, or department written policy; or

(2) endangered the health or safety of any person by an action or omission.

(c) The ombudsman shall not investigate a complaint from an employee of the department of child services that relates to the employee's employment relationship with the department of child services.

(d) At the conclusion of an investigation of a complaint, the ombudsman shall report the ombudsman's findings to the complainant.

(e) If the ombudsman does not investigate a complaint, the ombudsman shall notify the complainant of the decision not to investigate and the reasons for the decision.

Sec. 6. (a) An ombudsman shall be given:

(1) appropriate access to the records of an offender who files a complaint under this chapter; and

(2) immediate access to any correctional facility administered or supervised by the department of correction.

(b) A state or local government agency or entity that has records that are relevant to a complaint or an investigation conducted by the ombudsman shall provide the ombudsman with access to the records.

(c) A person is immune from:

(1) civil or criminal liability; and

(2) actions taken under a professional disciplinary procedure or procedures related to the termination or imposition of penalties under a contract dealing with an employee or contractor of the department of child services;

for the release or disclosure of records to the ombudsman under this chapter.

Sec. 7. (a) The ombudsman shall do the following:

(1) Establish procedures to receive and investigate complaints.

(2) Establish access controls for all information maintained by the bureau.

(3) Except as is necessary to investigate and resolve a complaint, ensure that the identity of a complainant will not be disclosed without:

(A) the complainant's written consent; or

(B) a court order.

(b) The correspondence and communication between the ombudsman and any person is a privileged communication.

Sec. 8. The bureau may adopt rules under IC 4-22-2 necessary to carry out this chapter.

Sec. 9. The ombudsman is not civilly liable for the good faith performance of official duties.

Sec. 10. (a) The director of the bureau shall prepare a report each year on the operations of the bureau.

(b) A copy of the report shall be provided to the following:

(1) The governor.

(2) The legislative council.

(3) The department.

(4) The department of child services.

A report provided under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

Sec. 11. A person who:

(1) intentionally interferes with or prevents the completion of the work of the ombudsman;

(2) knowingly offers compensation to the ombudsman in an effort to affect the outcome of an investigation or a potential investigation;

(3) knowingly or intentionally retaliates against an offender or another person who provides information to the ombudsman; or

(4) makes threats because of an investigation or potential investigation against the ombudsman, a person who has filed a complaint, or a person who provides information to the ombudsman;

commits a Class A misdemeanor.

Sec. 12. The department of administration shall provide and maintain office space for the bureau.

SECTION 10. IC 31-19-19-2, AS AMENDED BY P.L.145-2006, SECTION 254, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) All files and records pertaining to the adoption proceedings in:

(1) the county office of family and children;

(2) the department; or

(3) any of the licensed child placing agencies;

are confidential and open to inspection only as provided in IC 31-19-13-2(2), IC 31-19-17, or IC 31-19-25.

(b) The files and records described in subsection (a), including investigation records under IC 31-19-8-5 (or IC 31-3-1-4 before its repeal):

(1) are open to the inspection of the court hearing the petition for adoption; ~~and~~

(2) on order of the court, may be:
(A) introduced into evidence; and
(B) made a part of the record;
in the adoption proceeding; **and**
(3) are open to the inspection of the department of child services ombudsman bureau.

SECTION 11. IC 31-25-2-20.4, AS ADDED BY P.L.138-2007, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20.4. (a) The department shall establish at least three (3) citizen review panels in accordance with the requirements of the federal Child Abuse Prevention and Treatment Act under 42 U.S.C. 5106a.

(b) A citizen review panel consists of volunteer members who broadly represent the community in which the panel is established, including members who have expertise in the prevention and treatment of child abuse and neglect.

(c) The department shall appoint the citizen review panels in the following manner:

(1) One (1) panel must be a community child protection team established in a county under IC 31-33-3-1, selected by the director of the department with the consent of the team.

(2) One (1) panel must be either:
(A) the statewide child fatality review committee established under IC 31-33-25-6; or
(B) a local child fatality review team established under IC 31-33-24-6;
selected by the director of the department with the consent of the committee or team.

(3) One (1) panel must be a foster care advisory panel consisting of at least five (5) and not more than eleven (11) members, selected to the extent feasible from the membership of any foster care advisory group previously established or recognized by the department. If the panel consists of seven (7) or fewer members, the panel must include at least one (1) foster parent licensed by the department through a county office and one (1) foster parent licensed by the department through a child placing agency licensed under IC 31-27-6. If the panel consists of more than seven (7) members, the panel must include two (2) foster parents licensed by the department through a county office and two (2) foster parents licensed by the department through a child placing agency licensed under IC 31-27-6. Additional members of the panel must include one (1) or more individuals who are employed by a child placing agency licensed under IC 31-27-6 and who provide services to foster families and children placed by the department in out-of-home placements, and may include other representatives of child welfare service providers or persons who provide training to current or prospective foster parents. All members of this panel must be individuals who are not employees of the department.

(4) The membership of any additional citizen review panels established under this section shall be determined by the director of the department, consistent with the guidelines for panel membership stated in subsection (b) and the purposes and functions of the panels as described in this section.

(5) Each citizen review panel shall be appointed for a term of three (3) years beginning July 1, 2007. Upon expiration of the term of the panel described in subdivision (1), the director of the department shall select a community child protection team established in a different county for the succeeding term. Upon expiration of the term of the panel described in subdivision (2), the director of the department shall select a different fatality review team, or committee, if available, for the succeeding term. Panels appointed under subdivision (3) or (4) may be reappointed for successive terms, in the discretion of the director of the department. The director may appoint individuals as needed to fill vacancies that occur during the term of any panel appointed under subdivision (3) or (4).

(d) A citizen review panel shall evaluate the extent to which a child welfare agency is effectively discharging the agency's child protection responsibilities by examining:
(1) the policies and procedures of child welfare agencies;
(2) if appropriate, specific child protective services cases; and
(3) other criteria the citizen review panel considers important to ensure the protection of children.

(e) Each citizen review panel shall:
(1) meet at least one (1) time every three (3) months; and
(2) prepare and make available to the department and the public an annual report that contains a summary of the activities of the citizen review panel.

(f) The department shall, not more than six (6) months after the date the department receives a report from a citizen review panel under subsection (e), submit to the citizen review panel a written response indicating whether and how the department will incorporate the recommendations of the citizen review panel. The department shall at the same time provide appropriate child welfare agencies with copies of the department's written response.

(g) A child welfare agency shall make all reports and other materials in the child welfare agency's possession available to a citizen review panel established under this section, including any reports and materials that the child welfare agency has received from other agencies.

(h) A member of a citizen review panel may not disclose to a person or government official any identifying information that is provided to the citizen review panel about:
(1) a specific child protective services case or child welfare agency case;
(2) a child or member of the child's family who is the subject of a child protective services investigation; or
(3) any other individuals identified in confidential reports, documents, or other materials.

(i) If a member of a citizen review panel violates subsection (h), the department may remove the member from the citizen review panel.

(j) A child welfare agency shall cooperate and work with each citizen review panel established under this section.

SECTION 12. IC 31-25-5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 5. Cooperation with Department of Child Services Ombudsman

Sec. 1. As used in this chapter, "bureau" refers to the department of child services ombudsman bureau established within the department of administration by IC 4-13-19-3. The term includes individuals approved to act in the capacity of ombudsmen by the department of correction ombudsman bureau.

Sec. 2. As used in this chapter, "ombudsman" means an employee of the bureau or an individual approved by the bureau to investigate and resolve complaints regarding the health and safety of any person, and violations by the department of specific laws, rules, or written policies.

Sec. 3. The department and each juvenile court shall provide an ombudsman with:
(1) appropriate access to the records of a child who is the subject of an investigation by the ombudsman; and
(2) immediate access to any facility in which a child who is the subject of an investigation by the ombudsman is placed or is receiving services funded by the department.

SECTION 13. IC 31-27-3-18, AS AMENDED BY P.L.138-2007, SECTION 49, IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. (a) A licensee shall keep records regarding each child in the control and care of the licensee as the department requires and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the child caring institution.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

(4) An agency having the legal responsibility to care for a child placed at the child caring institution.

(5) The parent, guardian, or custodian of the child at the child caring institution.

(6) A citizen review panel established under IC 31-25-2-20.4.

(7) The department of child services ombudsman bureau.

SECTION 14. IC 31-27-4-21, AS AMENDED BY P.L.138-2007, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the foster family home.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

(4) An agency having the legal responsibility to care for a child placed at the foster family home.

(5) The parent, guardian, or custodian of the child at the foster family home.

(6) A citizen review panel established under IC 31-25-2-20.4.

(7) The department of child services ombudsman bureau.

SECTION 15. IC 31-27-5-18, AS AMENDED BY P.L.138-2007, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department, upon request, the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the group home.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

(4) An agency having the legal responsibility to care for a child placed at the group home.

(5) The parent, guardian, or custodian of the child at the group home.

(6) A citizen review panel established under IC 31-25-2-20.4.

(7) The department of child services ombudsman bureau.

SECTION 16. IC 31-27-6-15, AS AMENDED BY P.L.138-2007, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the child placing agency.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

(4) A citizen review panel established under IC 31-25-2-20.4.

(5) The department of child services ombudsman bureau.

SECTION 17. IC 31-33-18-1, AS AMENDED BY P.L.145-2006, SECTION 283, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Except as provided in section 1.5 of this chapter, the following are confidential:

(1) Reports made under this article (or IC 31-6-11 before its repeal).

(2) Any other information obtained, reports written, or photographs taken concerning the reports in the possession of:

(A) the division of family resources;

(B) the county office; or

(C) the department.

(b) Except as provided in section 1.5 of this chapter, all records held by:

(1) the division of family resources;

(2) a county office;

(3) the department;

(4) a local child fatality review team established under IC 31-33-24; ~~or~~

(5) the statewide child fatality review committee established under IC 31-33-25; **or**

(6) the department of child services ombudsman bureau;

regarding the death of a child determined to be a result of abuse, abandonment, or neglect are confidential and may not be disclosed.

SECTION 18. IC 31-33-18-1.5, AS AMENDED BY P.L.145-2006, SECTION 284, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.5. (a) This section applies to records held by:

(1) the division of family resources;

(2) a county office;

(3) the department;

(4) a local child fatality review team established under IC 31-33-24; ~~or~~

(5) the statewide child fatality review committee established under IC 31-33-25; **or**

(6) the department of child services ombudsman bureau;

regarding a child whose death or near fatality may have been the result of abuse, abandonment, or neglect.

(b) For purposes of subsection (a), a child's death or near fatality may have been the result of abuse, abandonment, or neglect if:

(1) an entity described in subsection (a) determines that the child's death or near fatality is the result of abuse, abandonment, or neglect; or

(2) a prosecuting attorney files:
(A) an indictment or information; or
(B) a complaint alleging the commission of a delinquent act;
that, if proven, would cause a reasonable person to believe that the child's death or near fatality may have been the result of abuse, abandonment, or neglect.

Upon the request of any person, or upon its own motion, the court exercising juvenile jurisdiction in the county in which the child's death or near fatality occurred shall determine whether the allegations contained in the indictment, information, or complaint described in subdivision (2), if proven, would cause a reasonable person to believe that the child's death or near fatality may have been the result of abuse, abandonment, or neglect.

(c) As used in this section:
(1) "identifying information" means information that identifies an individual, including an individual's:
(A) name, address, date of birth, occupation, place of employment, and telephone number;
(B) employer identification number, mother's maiden name, Social Security number, or any identification number issued by a governmental entity;
(C) unique biometric data, including the individual's fingerprint, voice print, or retina or iris image;
(D) unique electronic identification number, address, or routing code;
(E) telecommunication identifying information; or
(F) telecommunication access device, including a card, a plate, a code, an account number, a personal identification number, an electronic serial number, a mobile identification number, or another telecommunications service or device or means of account access; and
(2) "near fatality" has the meaning set forth in 42 U.S.C. 5106a.

(d) Unless information in a record is otherwise confidential under state or federal law, a record described in subsection (a) that has been redacted in accordance with this section is not confidential and may be disclosed to any person who requests the record. The person requesting the record may be required to pay the reasonable expenses of copying the record.

(e) When a person requests a record described in subsection (a), the entity having control of the record shall immediately transmit a copy of the record to the court exercising juvenile jurisdiction in the county in which the death or near fatality of the child occurred. However, if the court requests that the entity having control of a record transmit the original record, the entity shall transmit the original record.

(f) Upon receipt of the record described in subsection (a), the court shall, within thirty (30) days, redact the record to exclude:
(1) identifying information described in subsection (c)(1)(B) through (c)(1)(F) of a person; and
(2) all identifying information of a child less than eighteen (18) years of age.

(g) The court shall disclose the record redacted in accordance with subsection (f) to any person who requests the record, if the person has paid:
(1) to the entity having control of the record, the reasonable expenses of copying under IC 5-14-3-8; and
(2) to the court, the reasonable expenses of copying the record.

(h) The court's determination under subsection (f) that certain identifying information or other information is not relevant to establishing the facts and circumstances leading to the death or near fatality of a child is not admissible in a criminal proceeding or civil action.

SECTION 19. IC 31-33-18-2, AS AMENDED BY P.L.138-2007, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. The reports and other material described in section 1(a) of this chapter and the unredacted reports and other material described in section 1(b) of this chapter shall be made available only to the following:
(1) Persons authorized by this article.
(2) A legally mandated public or private child protective agency investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.
(3) A police or other law enforcement agency, prosecuting attorney, or coroner in the case of the death of a child who is investigating a report of a child who may be a victim of child abuse or neglect.
(4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.
(5) An individual legally authorized to place a child in protective custody if:
(A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and
(B) the individual requires the information in the report or record to determine whether to place the child in protective custody.
(6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.
(7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.
(8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.
(9) A court, for redaction of the record in accordance with section 1.5 of this chapter, or upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, except for disclosure of a redacted record in accordance with section 1.5 of this chapter, access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.
(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.
(11) An appropriate state or local official responsible for child protection services or legislation carrying out the official's official functions.
(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.
(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.
(14) A person about whom a report has been made, with protection for the identity of:
(A) any person reporting known or suspected child abuse or neglect; and
(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or

safety of the person.

(15) An employee of the department, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 31-26-5, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(A) child at imminent risk of placement;

(B) child in need of services; or

(C) delinquent child.

The results of a criminal history check conducted under this subdivision must be disclosed to a court determining the placement of a child described in clauses (A) through (C).

(16) A local child fatality review team established under IC 31-33-24-6.

(17) The statewide child fatality review committee established by IC 31-33-25-6.

(18) The department.

(19) The division of family resources, if the investigation report:

(A) is classified as substantiated; and

(B) concerns:

(i) an applicant for a license to operate;

(ii) a person licensed to operate;

(iii) an employee of; or

(iv) a volunteer providing services at;

a child care center licensed under IC 12-17.2-4 or a child care home licensed under IC 12-17.2-5.

(20) A citizen review panel established under IC 31-25-2-20.4.

(21) The department of child services ombudsman bureau.

SECTION 20. IC 31-33-24-9, AS AMENDED BY P.L.225-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: 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.

(10) A representative from the department of child services ombudsman bureau.

(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 21. IC 31-33-25-6, AS ADDED BY P.L.145-2006, SECTION 288, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) The statewide child fatality review committee is established to review a child's death that is:

(1) sudden;

(2) unexpected; or

(3) unexplained;

if the county where the child died does not have a local child fatality review team or if the local child fatality review team requests a review of the child's death by the statewide committee.

(b) The statewide child fatality review committee may also review the death of a child upon request by an individual **or the department of child services ombudsman bureau.**.

(c) A request submitted under subsection (b) must set forth:

(1) the name of the child;

(2) the age of the child;

(3) the county where the child died;

(4) whether a local child fatality review team reviewed the death; and

(5) the cause of death of the deceased child.

SECTION 22. IC 31-33-25-8, AS AMENDED BY P.L.225-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. The statewide child fatality review committee consists of the following members appointed by the governor:

(1) a coroner or deputy coroner;

(2) a representative from:

(A) the state department of health established by IC 16-19-1-1;

(B) a local health department established under IC 16-20-2; or

(C) a multiple county health department established under IC 16-20-3;

(3) a pediatrician;

(4) a representative of law enforcement;

(5) a representative from an emergency medical services provider;

(6) the director or a representative of the department;

(7) a representative of a prosecuting attorney;

(8) a pathologist who is:

(A) certified by the American Board of Pathology in forensic pathology; and

(B) licensed to practice medicine in Indiana;

(9) a mental health provider;

(10) a representative of a child abuse prevention program; ~~and~~

(11) a representative of the department of education; **and**

(12) a representative of the department of child services ombudsman bureau.

SECTION 23. IC 31-33-26-5, AS ADDED BY P.L.138-2007, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Subject to the accessibility to files provided in subsection (b), at least ten (10) levels of security for confidentiality in the index must be

maintained.

(b) The index must have a comprehensive system of limited access to information as follows:

(1) The index must be accessed only by the entry of an operator identification number and a password.

(2) A child welfare caseworker must be allowed to access only:

(A) cases that are assigned to the caseworker; and

(B) other cases or investigations that involve:

(i) a family member of a child; or

(ii) a child;

who is the subject of a case described in clause (A).

(3) A child welfare supervisor may access only the following:

(A) Cases assigned to the supervisor.

(B) Cases assigned to a caseworker who reports to the supervisor.

(C) Other cases or investigations that involve:

(i) a family member of a child; or

(ii) a child;

who is the subject of a case described in clause (A) or (B).

(D) Cases that are unassigned.

(4) To preserve confidentiality in the workplace, child welfare managers, as designated by the department, may access any case, except restricted cases involving:

(A) a state employee; or

(B) the immediate family member of a state employee;

who has access to the index. Access to restricted information under this subdivision may be obtained only if an additional level of security is implemented.

(5) Access to records of authorized users, including passwords, is restricted to:

(A) users designated by the department as administrators; and

(B) the administrator's level of access as determined by the department.

(6) Ancillary programs that may be designed for the index may not be executed in a manner that would circumvent the index's log-on security measures.

(7) Certain index functions must be accessible only to index operators with specified levels of authorization as determined by the department.

(8) Files containing passwords must be encrypted.

(9) There must be two (2) additional levels of security for confidentiality as determined by the department.

(10) The department of child services ombudsman bureau shall have unlimited access to the index concerning:

(A) complaints filed with; or

(B) cases being investigated by;

the department of child services ombudsman bureau.

SECTION 24. IC 31-34-21-1, AS AMENDED BY P.L.146-2006, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) At any time after the date of an original dispositional decree, the juvenile court may order the department to file a report on the progress made in implementing the decree.

(b) The juvenile court shall order the department to file a report every three (3) months after the dispositional decree is entered on the progress made in implementing the decree.

(c) If, after reviewing the report, the juvenile court seeks to consider modification of the dispositional decree, the juvenile court shall proceed under IC 31-34-23.

(d) A juvenile court may refer a case to the department of child services ombudsman bureau to investigate the implementation of a dispositional decree.

SECTION 25. IC 31-38-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. Each committee has the following members:

(1) The director of the county office of family and children or the director's designee.

(2) The director of the community mental health center or a managed care provider (as defined in IC 12-7-2-127(b)) serving the child's area of residence or the director's designee.

(3) The superintendent of the school corporation in which the child is legally settled or the superintendent's designee.

(4) The child's parent or guardian, who is a nonvoting member.

(5) If a guardian ad litem has been appointed, the child's guardian ad litem, who is a nonvoting member.

(6) If a special advocate has been appointed, the child's court appointed special advocate, who is a nonvoting member.

(7) If requested by the chairman, a representative of the local health department, who is a nonvoting member.

(8) If requested by the chairman, a representative of any other agency or community organization, who is a nonvoting member.

SECTION 26. IC 31-39-2-6, AS AMENDED BY P.L.145-2006, SECTION 359, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. The records of the juvenile court are available without a court order to:

(1) the attorney for the department of child services; or

(2) any authorized staff member of:

(A) the county office;

(B) the department of child services; ~~or~~

(C) the department of correction; **or**

(D) the department of child services ombudsman bureau.

SECTION 27. IC 31-39-4-7, AS AMENDED BY P.L.145-2006, SECTION 361, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. The records of a law enforcement agency are available, without specific permission from the head of the agency, to: ~~the:~~

(1) the attorney for the department of child services or any authorized staff member; **or**

(2) any authorized staff member of the department of child services ombudsman bureau.

SECTION 28. IC 31-39-9-1, AS ADDED BY P.L.67-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The following entities and agencies may exchange records of a child who is a child in need of services or has been determined to be a delinquent child under IC 31-37-1-2, if the information or records are not confidential under state or federal law:

(1) A court.

(2) A law enforcement agency.

(3) The department of correction.

(4) The department of child services.

(5) The office of the secretary of family and social services.

(6) A primary or secondary school, including a public or nonpublic school.

(7) The department of child services ombudsman bureau.

SECTION 29. IC 34-30-2-39.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 39.6. IC 4-13-19-6 (Concerning a person who releases information to the department of child services ombudsman).**

SECTION 30. IC 34-30-2-39.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 39.7. IC 4-13-19-9 (Concerning the department of child services ombudsman).**".

Page 1, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 32. [EFFECTIVE JULY 1, 2008] **There is appropriated one hundred fifty thousand dollars ($150,000) to the department of administration from the state general fund for the purposes of the total operating expenses of the department of child services ombudsman bureau, beginning July 1, 2008, and ending June 30, 2009.**".

Renumber all SECTIONS consecutively.

(Reference is to SB 148 as printed January 11, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 23, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Engrossed Senate Bill 157, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

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

"SECTION 1. IC 12-7-2-118.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 118.3. "Initiative", for purposes of IC 12-31-2, has the meaning set forth in IC 12-31-2-1.**

SECTION 2. IC 12-7-2-132.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 132.5. "Nonprofit corporation", for purposes of IC 12-31, has the meaning set forth in IC 12-31-1-1.**".

Page 1, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 4. IC 12-7-2-142.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 142.7. "Postnatal donation", for purposes of IC 12-31, has the meaning set forth in IC 12-31-1-2.**".

Page 2, line 31, after "that" insert "**: (1)**".

Page 2, line 32, delete "." and insert "; **and**".

Page 2, between lines 32 and 33, begin a new line block indented and insert:

"**(2) includes in the opioid treatment program's diversion control plan the program's drug testing procedure for testing a patient during the patient's treatment by the program as required by section 2.5 of this chapter.**".

Page 2, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 9. IC 12-23-18-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. (a) An opioid treatment program must periodically and randomly test a patient for the following during the patient's treatment by the program:**

(1) Methadone.
(2) Cocaine.
(3) Opiates.
(4) Amphetamines.
(5) Barbiturates.
(6) Tetrahydrocannabinol.
(7) Benzodiazepines.
(8) Any other drug that has been determined to be abused in the program's locality or any other drug that may have been abused by the patient.

(b) If a patient tests positive under a test described in subsection (a) for:

(1) a controlled substance other than a drug for which the patient has a prescription or that is part of the patient's treatment plan at the opioid treatment program; or
(2) an illegal drug other than the drug that is part of the patient's treatment plan at the opioid treatment program;

the opioid treatment program must administer an administrative medical detoxification program not to exceed fourteen (14) days.".

Page 3, line 5, after "patient" delete ".".

Page 3, after line 42, begin a new line double block indented and insert:

"**(E) A statement to be used by opioid treatment facilities that:**

(i) acknowledges that the patient will be driven from the facility by another responsible person after receiving opioid treatment medications; and
(ii) is signed by the patient and person who will drive the patient at the time the patient arrives to receive opioid treatment medications.".

Page 6, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 16. IC 12-31 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 31. UMBILICAL CORD BLOOD

Chapter 1. Public Umbilical Cord Blood Bank

Sec. 1. As used in this article, "nonprofit corporation" refers to the Indiana nonprofit corporation formed by the office of the secretary under section 3 of this chapter to establish and operate a public umbilical cord blood bank.

Sec. 2. As used in this article, "postnatal donation" means any of the following donations by a patient to the public umbilical cord blood bank:

(1) Postnatal fluid, including umbilical cord blood.
(2) Postnatal tissue, including the placenta and tissue extracted from an umbilical cord.

Sec. 3. (a) The office of the secretary shall form a nonprofit corporation to establish and provide for the operation of a public umbilical cord blood bank to promote public health and to exercise other essential governmental functions.

(b) The office of the secretary shall adopt rules under IC 4-22-2 concerning the protection of individual identifiable health information regarding the operation of the public umbilical cord blood bank.

Sec. 4. (a) The board of directors of the nonprofit corporation consists of the following:

(1) The state health commissioner or the commissioner's designee.
(2) The secretary or the secretary's designee.
(3) The secretary of commerce appointed under IC 5-28-3-4 or the secretary's designee.
(4) The director of the state department of health's office of minority health.
(5) The following individuals appointed by the governor:

(A) One (1) president or chief executive officer of an Indiana based hospital.
(B) One (1) research scientist with expertise in umbilical cord blood research.
(C) One (1) ethicist with expertise in bioethics.
(D) One (1) physician licensed under IC 25-22.5 who specializes in birthing and delivery.
(E) One (1) representative of a donor umbilical cord blood bank facility.
(F) One (1) member of the interagency state council on black and minority health established under IC 16-46-6.

(b) The board of directors shall appoint an advisory

board. At least fifty-one percent (51%) of the advisory board members must be research scientists with expertise in stem cell research.

(c) The advisory board, using criteria established by the board of directors, is responsible for reviewing applications from research scientists, research institutions, and other persons interested in receiving a postnatal donation that is ineligible for transplant use from the public umbilical cord blood bank.

(d) The board of directors may contract with a person to perform the management and administrative operations of the public umbilical cord blood bank. The person shall follow the federal Food and Drug Administration's current good tissue practices.

(e) Subject to approval by the budget agency, the board of directors may, without the approval of the attorney general, employ legal counsel, technical experts, and other officers, agents, and employees that the board of directors considers necessary to carry out the efficient operation of a public umbilical cord blood bank.

(f) The board of directors shall determine the terms and conditions of the participating agreement that is executed with each participating hospital.

Sec. 5. The nonprofit corporation shall do the following:

(1) Establish procedures and guidelines for collecting, maintaining, and receiving postnatal donations.

(2) Educate health care professionals about the procedures and requirements for collecting and maintaining postnatal donations following the birth of a newborn infant.

(3) Establish procedures concerning patient informed consent and privacy that are approved by an independent institutional review board selected by the board of directors.

Sec. 6. (a) The nonprofit corporation shall accept postnatal donations at no charge or cost to the donor.

(b) The nonprofit corporation may allow the following to use the postnatal donations:

(1) Transplant centers.

(2) Research centers approved by the nonprofit corporation that will use the postnatal donation to promote medical advances, life science research, or biotechnology research.

(3) Any other entity approved by the nonprofit corporation if the entity will use the postnatal donation to promote medical advances, life science research, or biotechnology research.

(c) Any postnatal donations maintained by the public umbilical cord blood bank must be allocated as follows:

(1) Postnatal donations that are of transplantable quality according to the National Marrow Donor Program, the federal Food and Drug Administration's approved protocol, or other relevant national practice and quality standards must be allocated for medical transplants.

(2) Postnatal donations that do not meet the transplant quality standards referred to in subdivision (1) and that are suitable for research must be made available for scientific research or medical treatments that comply with relevant national practice and quality standards.

(d) The nonprofit corporation shall acquire and maintain adequate liability insurance coverage.

Sec. 7. The nonprofit corporation may maintain postnatal donations at no charge or cost to the donor.

Sec. 8. The nonprofit corporation may award a grant to a person for work with postnatal donations.

Sec. 9. The nonprofit corporation shall report annually to the health finance commission established by IC 2-5-23-3 concerning the following:

(1) The implementation of the umbilical cord blood bank.

(2) The number of postnatal donations used for transplants and the number of postnatal donations used for research.

Chapter 2. Umbilical Cord Blood Donation Initiative

Sec. 1. As used in this chapter, "initiative" refers to the umbilical cord blood donation initiative established under section 2 of this chapter.

Sec. 2. The nonprofit corporation shall establish an umbilical cord blood donation initiative to promote public awareness concerning the following:

(1) A pregnant woman's option to make a postnatal donation upon the birth of a newborn infant.

(2) The medical benefits of postnatal tissue and postnatal fluids.

(3) The importance of donating umbilical cord blood to the public umbilical cord blood bank.

Sec. 3. The nonprofit corporation may accept a grant from the federal government, money from the state government, and private contributions to establish and implement the initiative.

Sec. 4. (a) The initiative must include the dissemination of written material that includes the following:

(1) Information concerning the option that is available to a pregnant woman to make a postnatal donation upon the birth of a newborn infant.

(2) An explanation of the benefits of public umbilical cord blood banking.

(3) The benefits of umbilical cord blood in accordance with the National Marrow Donor Program or another federal Food and Drug Administration approved protocol and the use of umbilical cord blood for medical treatment, including the following:

(A) A list of the diseases or conditions that have been treated through the use of umbilical cord blood.

(B) A list of the diseases or conditions for which scientific research indicates that treatment through the use of umbilical cord blood is promising.

(4) Information on the public umbilical cord blood bank.

(5) Information concerning the process by which postnatal tissue and postnatal fluid are collected and the steps that a pregnant woman must take before her child is born to arrange to have the postnatal tissue and postnatal fluid collected and donated.

(b) The nonprofit corporation shall:

(1) update the material described in subsection (a); and

(2) distribute the material to the following persons that treat pregnant women:

(A) Physicians licensed under IC 25-22.5.

(B) Participating hospitals.

(C) Ambulatory surgical centers.

(D) Health clinics.

(E) Maternity homes registered under IC 16-26-1.

(F) Nurse midwives licensed under IC 25-23-1-13.1.

Sec. 5. The nonprofit corporation shall develop a process for physicians, nurse midwives, birthing centers, and participating hospitals to inform eligible candidates of the opportunity to make postnatal donations to the public umbilical cord blood bank following delivery of a newborn infant.

Sec. 6. The nonprofit corporation that establishes the initiative described in this chapter must meet all the requirements and responsibilities set forth in IC 23-17.

Sec. 7. (a) Any intellectual property developed by the nonprofit corporation establishing the initiative under this chapter is the property of the nonprofit corporation. A donor must consent to release to the public umbilical cord blood bank any property right related to the postnatal donation, including any claim of intellectual property rights derived

from the postnatal donation.

(b) The entire right, title, and interest in and to any intellectual property derived from a postnatal donation transfers with the postnatal tissue and postnatal fluid after the postnatal donation is allocated by the public umbilical cord blood bank for research purposes.

SECTION 21. IC 16-18-2-36.5, AS ADDED BY P.L.96-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 36.5. (a) "Birthing center", for purposes of IC 16-21-2 **and IC 16-21-7.5,** means a freestanding entity that has the sole purpose of delivering a normal or uncomplicated pregnancy.

(b) The term does not include a hospital that is licensed as a hospital under IC 16-21-2.

SECTION 22. IC 16-21-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 7.5. Hospital and Birthing Center Requirement Regarding Umbilical Cord Blood Donation

Sec. 1. As used in this chapter, "postnatal donation" has the meaning set forth in IC 12-31-1-2.

Sec. 2. Before a hospital or birthing center participates in collecting donations for the public umbilical cord blood bank established under IC 12-31-1-3(a), the hospital or birthing center shall enter into a written agreement with the public umbilical cord blood bank establishing the:

(1) conditions of the hospital's or birthing center's participation; and

(2) obligations of the hospital or birthing center;

in the umbilical cord blood donation initiative established under IC 12-31-2-2.

Sec. 3. (a) Except as provided in section 4 of this chapter, a participating hospital or birthing center licensed under this article must offer a patient who delivers a newborn infant at the participating hospital or birthing center the option of making a postnatal donation following delivery of the newborn infant.

(b) A patient may not be charged for the collection, storage, or donation to the public umbilical cord blood bank established under IC 12-31-1-3(a).

Sec. 4. (a) A participating hospital or birthing center is not required to collect a postnatal donation if either of the following applies:

(1) In the professional judgment of a physician licensed under IC 25-22.5 or a nurse midwife licensed under IC 25-23-1-13.1, the collection would threaten the health of the mother or the infant.

(2) The postnatal donation is contrary to the moral principles or beliefs of the religious denomination with which the participating hospital or birthing center is affiliated.

(b) An employee of a participating hospital or birthing center is not required to collect a postnatal donation if the postnatal donation is contrary to the religious principles or beliefs of the employee.

Sec. 5. A participating hospital or birthing center shall cooperate with the nonprofit corporation (as defined in IC 12-31-1-1) in accomplishing the public health goal of maximizing postnatal donations.

Sec. 6. A hospital or birthing center is not required to enter into an agreement with the public umbilical cord blood bank and may enter into contracts concerning postnatal tissue and postnatal fluids with any person.".

Page 6, after line 12, begin a new paragraph and insert:

"SECTION 27. [EFFECTIVE JULY 1, 2008] **(a) The office of the secretary of family and social services shall adopt the rules required by IC 12-31-1-3(b), as added by this act, in the manner provided in IC 4-22-2-37.1. The office shall immediately begin the adoption of the rules and shall adopt the final rules before March 1, 2009.**

(b) This SECTION expires July 1, 2009.".

Renumber all SECTIONS consecutively.

(Reference is to SB 157 as printed January 25, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

C. BROWN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred Engrossed Senate Bill 166, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

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

"SECTION 1. IC 27-4-1-4, AS AMENDED BY P.L.131-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:

(A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;

(B) making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies;

(C) making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;

(D) using any name or title of any policy or class of policies misrepresenting the true nature thereof; or

(E) making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender the policyholder's insurance.

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to any person in the conduct of the person's insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by a concerted action committing any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or

delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; however, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; however, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:

(i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;

(ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or

(iii) policies or contracts of any other kind or kinds of insurance whatsoever.

However, nothing contained in clause (C) shall be construed to apply to any of the kinds of insurance referred to in clauses (A) and (B) nor to reinsurance in relation to such kinds of insurance. Nothing in clause (A), (B), or (C) shall be construed as making or permitting any excessive, inadequate, or unfairly discriminatory charge or rate or any charge or rate determined by the department or commissioner to meet the requirements of any other insurance rate regulatory law of this state.

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or insurance producer thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed insurance producer thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, an insurance producer, or a solicitor duly licensed under the laws of this state, but such broker, insurance producer, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance producer or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of the lender's right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of

insurance producers or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, insurance producer, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon of the right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

(i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;

(ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;

(iii) insures against baggage loss during the flight to which the ticket relates; or

(iv) insures against a flight cancellation to which the ticket relates.

(14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.

(15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage, solely because of that individual's blindness or partial blindness, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or physical condition.

(18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).

(19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1 concerning motor vehicle insurance rates.

(20) Violating IC 27-8-21-2 concerning advertisements referring to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-8-26 concerning genetic screening or testing.

(23) Violating IC 27-1-15.6-3(b) concerning licensure of insurance producers.

(24) Violating IC 27-1-38 concerning depository institutions.

(25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning the resolution of an appealed grievance decision.

(26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) or IC 27-8-5-19.2.

(27) Violating IC 27-2-21 concerning use of credit information.

(28) Violating IC 27-4-9-3 concerning recommendations to consumers.

(29) Engaging in dishonest or predatory insurance practices in marketing or sales of insurance to members of the United States Armed Forces as:

(A) described in the federal Military Personnel Financial Services Protection Act, P.L.109-290; or

(B) defined in rules adopted under subsection (b).

(30) Violating IC 27-8-11-10, IC 27-8-11.1, or IC 27-13-15-5 concerning dialysis treatment.

(b) Except with respect to federal insurance programs under Subchapter III of Chapter 19 of Title 38 of the United States Code, the commissioner may, consistent with the federal Military Personnel Financial Services Protection Act (P.L.109-290), adopt rules under IC 4-22-2 to:

(1) define; and

(2) while the members are on a United States military installation or elsewhere in Indiana, protect members of the United States Armed Forces from;

dishonest or predatory insurance practices.

SECTION 2. IC 27-8-11-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10. (a) The definitions in IC 27-8-11.1 apply throughout this section.**

(b) An agreement entered into under section 3 of this chapter after April 30, 2008, must provide that if the insurer fails to pay, as specified by the agreement, for health care services rendered at a network dialysis facility, the insured is not liable for any sums owed by the insurer.

SECTION 3. IC 27-8-11.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 11.1. Dialysis Treatment

Sec. 1. Except as provided in this chapter, the definitions in IC 27-8-11-1 apply throughout this chapter.

Sec. 2. As used in this chapter, "dialysis facility" means an outpatient facility in Indiana at which a dialysis treatment provider renders dialysis treatment.

Sec. 3. As used in this chapter, "insured" refers only to an insured who requires dialysis treatment.

Sec. 4. As used in this chapter, "insurer" includes the following:

(1) An administrator licensed under IC 27-1-25.

(2) An agent of an insurer.

Sec. 5. As used in this chapter, "network" refers to a group of providers, each of which has:

(1) individually; or

(2) as a member of a group;

entered into an agreement with a particular insurer under IC 27-8-11-3.

Sec. 6. As used in this chapter, "network dialysis facility" means a dialysis facility that has entered into an agreement with a particular insurer under IC 27-8-11-3.

Sec. 7. As used in this chapter, "out of network dialysis facility" means a dialysis facility that has not entered into an agreement with a particular insurer under IC 27-8-11-3.

Sec. 8. As used in this chapter, "policy of accident and sickness insurance" has the meaning set forth in IC 27-8-5-1. 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) Worker's compensation or similar insurance.

(4) Automobile medical payment insurance.

(5) A specified disease policy issued as an individual policy.

(6) A limited benefit health insurance policy issued as an individual policy.

(7) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(8) 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.

Sec. 9. To the extent that IC 27-8-11-4.5(c) and IC 27-8-11-4.5(d) conflict with the requirements of this chapter, IC 27-8-11-4.5(c) and IC 27-8-11-4.5(d) do not apply with respect to the requirements of this chapter.

Sec. 10. A policy of accident and sickness insurance must provide coverage for dialysis treatment regardless of whether an insured obtains dialysis treatment from a network dialysis facility or an out of network dialysis facility.

Sec. 11. An insurer that uses a network shall establish a payment rate for a health care service rendered by a dialysis treatment provider at an out of network dialysis facility:

(1) in consultation with the dialysis treatment provider; and

(2) based on the following:

(A) The type of health care service rendered.

(B) The fees usually charged by the dialysis treatment provider.

(C) The prevailing rate paid to a dialysis treatment provider by insurers in the same geographic area during the preceding twelve (12) months.

Sec. 12. In establishing a payment rate under section 11 of this chapter, an insurer shall:

(1) not consider Medicaid and Medicare payment rates; and

(2) establish the payment rate at an amount equal to not less than the greatest of the following payment rates paid by the insurer during the previous twelve (12) months:

(A) The highest payment rate paid to the dialysis treatment provider for health care services rendered at a network dialysis facility.

(B) The highest payment rate paid to the dialysis treatment provider for health care services rendered at an out of network dialysis facility.

(C) The highest payment rate paid to any dialysis treatment provider for health care services rendered at a network dialysis facility.

Sec. 13. An insurer may not do any of the following at any time after an insured elects coverage under a policy of accident and sickness insurance:

(1) Restrict benefits or increase costs to the insured in relation to dialysis treatment, including the insured's out-of-pocket expenses.

(2) Change coverage or benefits in any way that would affect dialysis treatment provided at an out of network dialysis facility.

Sec. 14. An insurer shall not do the following:

(1) Make changes in coverage under a policy of accident and sickness in an attempt to cause an insured to elect Medicare as the insured's primary coverage.

(2) Require an insured, as a condition of coverage, to travel more than fifteen (15) miles or for longer than thirty (30) minutes from the insured's home to obtain dialysis treatment, regardless of whether the insured chooses to receive dialysis treatment at a network dialysis facility or an out of network dialysis facility.

Sec. 15. An insurer shall do the following:

(1) Make all claim payments for health care services provided by a dialysis treatment provider payable only to the dialysis treatment provider and not to the insured, regardless of whether the health care services are rendered in a network dialysis facility or an out of network dialysis facility.

(2) File with the department, not later than December 31 of each year, an annual evaluation of the following:

(A) Whether the insurer's network of all dialysis treatment providers is sufficient to provide health care services to insureds covered under a policy of accident and sickness insurance issued by the insurer.

(B) A detailed analysis of whether the requirements of section 14(2) of this chapter are reflected in the actual distance and travel time required for insureds to obtain dialysis treatment.

(3) Maintain a network that at all times includes not less than fifty percent (50%) of the dialysis facilities in the geographic area in which health care services are provided by the network.

Sec. 16. The commissioner shall, not more than thirty (30) days after receiving a filing under section 15(2) of this chapter, approve the filing or make recommendations for changes to the network.

Sec. 17. The department may adopt rules under IC 4-22-2 to implement this section.

SECTION 4. IC 27-13-1-11.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11.6. "Dialysis facility" means an outpatient facility in Indiana at which a dialysis treatment provider renders dialysis treatment.**

SECTION 5. IC 27-13-15-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. (a) Notwithstanding IC 27-13-1-12, as used in this section, "enrollee" refers only to an enrollee who requires dialysis treatment.**

(b) As used in this section, "health maintenance organization" includes the following:

(1) A limited service health maintenance organization.

(2) An agent of a health maintenance organization or a limited service health maintenance organization.

(c) To the extent that IC 27-13-15-1(b) and IC 27-13-15-1(c) conflict with the requirements of this section, IC 27-13-15-1(b) and IC 27-13-15-1(c) do not apply with respect to the requirements of this section.

(d) An individual contract or a group contract must provide coverage for dialysis treatment regardless of

whether the dialysis facility from which an enrollee obtains dialysis treatment is a participating provider.

(e) A health maintenance organization shall establish a payment rate for a health care service rendered by a dialysis treatment provider at a dialysis facility that is not a participating provider:

(1) in consultation with the dialysis treatment provider; and

(2) based on the following:

(A) The type of health care service rendered.

(B) The fees usually charged by the dialysis treatment provider.

(C) The prevailing rate paid to a dialysis treatment provider by health maintenance organizations in the same geographic area during the preceding twelve (12) months.

(f) In establishing a payment rate under subsection (e), a health maintenance organization shall:

(1) not consider Medicaid and Medicare payment rates; and

(2) establish the payment rate at an amount equal to not less than the greatest of the following payment rates paid by the health maintenance organization during the previous twelve (12) months:

(A) The highest payment rate paid to the dialysis treatment provider for health care services rendered at a dialysis facility that is a participating provider.

(B) The highest payment rate paid to the dialysis treatment provider for health care services rendered at a dialysis facility that is not a participating provider.

(C) The highest payment rate paid to any dialysis treatment provider for health care services rendered at a dialysis facility that is a participating provider.

(g) A health maintenance organization may not do any of the following at any time after an enrollee elects coverage under an individual contract or a group contract:

(1) Restrict benefits or increase costs to the enrollee in relation to dialysis treatment, including the enrollee's out-of-pocket expenses.

(2) Change coverage or benefits in any way that would affect dialysis treatment rendered at a dialysis facility that is not a participating provider.

(h) A health maintenance organization shall not do the following:

(1) Make changes in coverage under an individual contract or a group contract in an attempt to cause an enrollee to elect Medicare as the enrollee's primary coverage.

(2) Require an enrollee, as a condition of coverage, to travel more than fifteen (15) miles or for longer than thirty (30) minutes from the enrollee's home to obtain dialysis treatment, regardless of whether the enrollee chooses to receive dialysis treatment at a dialysis facility that is a participating provider or a dialysis facility that is not a participating provider.

(i) A health maintenance organization shall do the following:

(1) Make all claim payments for health care services provided by a dialysis treatment provider payable only to the dialysis treatment provider and not to the enrollee, regardless of whether the health care services are provided in a dialysis facility that is a participating provider or a dialysis facility that is not a participating provider.

(2) File with the department, not later than December 31 of each year, an annual evaluation of the following:

(A) Whether the health maintenance organization's network of all dialysis treatment providers is sufficient to provide health care services to enrollees covered under an individual contract or a group contract entered into by the health maintenance organization.

(B) A detailed analysis of whether the requirements of subsection (h)(2) are reflected in the actual distance and travel time required for enrollees to obtain dialysis treatment.

(3) Maintain a participating provider network that at all times includes not less than fifty percent (50%) of the dialysis facilities in the health maintenance organization's service area.

(j) The commissioner shall, not more than thirty (30) days after receiving a filing under subsection (i)(2), approve the filing or make recommendations for changes to the network.

(k) The department may adopt rules under IC 4-22-2 to implement this section.".

Page 1, line 1, delete "1. IC 27-1-3-30, AS AMENDED BY P.L.125-2005," and insert "6. IC 27-1-3-30 IS REPEALED".

Page 1, line 2, delete "SECTION 1, IS AMENDED TO READ AS FOLLOWS".

Page 1, line 3, delete ": Sec. 30. (a) As used in this section, "accident and" and insert ".".

Page 1, delete lines 4 through 17.

Delete pages 2 through 5, begin a new paragraph and insert:

"SECTION 7. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to SB 166 as printed January 25, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 2.

FRY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred Engrossed Senate Bill 195, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

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

"SECTION 1. IC 8-2.1-22-46, AS AMENDED BY P.L.1-2006, SECTION 152, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 46. (a) Notwithstanding any other provision of this chapter, common and contract carriers and other carriers engaged in the transportation of passengers or household goods for hire, over regular or irregular routes, whether operating pursuant to a certificate or permit or as an exempt carrier under section 2.1(5) of this chapter, shall file with the department proof of financial responsibility in the form of surety bonds or policies of insurance or shall qualify as a self-insured. The minimum level of financial responsibility required shall be **as follows:**

(1) For a contract carrier that transports railroad employees, a combined single limit of three million dollars ($3,000,000) for bodily injury and property damage in any one (1) accident.

(2) For a contract carrier, common carrier, or other carrier not described in subdivision (1), the minimum level established under 49 U.S.C. 13906(a)(1).

(b) A person who violates this section commits a Class C infraction. However, the offense is a Class A misdemeanor if the person has a prior unrelated judgment for violating this section.

(c) In addition to any other penalty imposed upon a person for a conviction of a Class A misdemeanor under subsection (b), the law enforcement agency may impound the vehicles owned by the person. Unless the vehicle is impounded or forfeited under a law other than this section, the vehicle shall be released to the carrier when the carrier complies with this section.

SECTION 2. IC 9-24-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. **(a)** Except as provided in section 7 of this chapter, an individual must:

(1) have a valid Indiana operator's, chauffeur's, or public passenger chauffeur's license; and

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

to drive a medical services vehicle upon an Indiana highway.

(b) Except as provided in section 7 of this chapter, an individual must have a valid public passenger chauffeur's license to operate a contract carrier vehicle that:

(1) is regulated under IC 8-2.1-22; and

(2) transports railroad employees upon an Indiana highway.".

Page 2, line 7, delete "shall" and insert "**may**".

Page 2, line 8, delete "at least" and insert "**not more than**".

Page 2, line 8, delete "and not".

Page 2, line 9, delete "more than ten (10)".

Page 2, between lines 26 and 27, begin a new paragraph and insert:

"SECTION 4. IC 9-25-10 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 10. Judicial Reinstatement of Driving Privileges

Sec. 1. This chapter applies only to a person whose driving privileges have been suspended under IC 9-25-8-2 for failure to maintain proof of financial responsibility for a motor vehicle.

Sec. 2. As used in this chapter, "petitioner" means a person seeking to have the person's driving privileges reinstated or the period of suspension modified in accordance with this chapter.

Sec. 3. (a) A person whose driving privileges have been suspended under IC 9-25-8-2 may petition a court to:

(1) reinstate the person's driving privileges; or

(2) modify the period of suspension;

by filing a petition with the court that suspended the person's driving privileges.

(b) A petition filed under this section must include the following:

(1) The date on which the person's driving privileges were suspended.

(2) The period for which the person's driving privileges were suspended.

(3) A description of any other penalties imposed on the person for failure to maintain proof of financial responsibility.

(4) A list of all convictions or judgments the person has accumulated for failure to maintain proof of financial responsibility.

(5) A brief description of why the person is entitled to relief under section 4(b) of this chapter.

(6) A brief description of any other reasons that the person believes that the person is entitled to have the person's driving privileges reinstated or the period of suspension modified.

(c) A petition filed under this section must be verified.

Sec. 4. (a) After receiving a petition filed under this chapter, a court may:

(1) summarily dismiss the petition; or

(2) give notice to the prosecuting attorney and set the matter for hearing to determine whether the person's driving privileges should be reinstated or the period of suspension should be modified.

(b) A court may grant a petition filed under this chapter if the court finds that:

(1) the circumstances that caused the petitioner to fail to maintain proof of financial responsibility:

(A) no longer exist; or

(B) are unlikely to reoccur;

(2) the petitioner:

(A) is able to provide proof of financial responsibility; or

(B) will be able to provide proof of financial responsibility when the period of suspension is no longer in effect; and

(3) the petitioner is likely to maintain proof of financial responsibility in the future.

Sec. 5. (a) If the court grants a petition under this chapter, the court shall recommend that the bureau reinstate the person's driving privileges or modify the period of suspension.

(b) Upon receiving the recommendation from the court under subsection (a), the bureau shall:

(1) reinstate the person's driving privileges; or

(2) modify the period of suspension;

in accordance with the recommendation of the court.

SECTION 5. IC 27-18 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 18. VEHICLE PROTECTION PRODUCTS

Chapter 1. Definitions

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

Sec. 2. "Administrator" means a third party other than the warrantor that is designated by the warrantor to be responsible for the administration of vehicle protection product warranties.

Sec. 3. "Commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.

Sec. 4. "Department" refers to the department of insurance created by IC 27-1-1-1.

Sec. 5. "Incidental costs" means the expenses specified in the warranty that are incurred by the warranty holder related to the failure of the vehicle protection product to perform as provided in the warranty. Incidental costs include:

(1) insurance policy deductibles;

(2) rental vehicle charges;

(3) the difference between the:

(A) actual value of the stolen vehicle at the time of theft; and

(B) cost of a replacement vehicle;

(4) sales taxes;

(5) registration fees;

(6) transaction fees; and

(7) mechanical inspection fees.

Sec. 6. "Vehicle protection product" means a product that is designed to prevent the loss of or damage to a vehicle resulting from theft.

Sec. 7. (a) "Vehicle protection product warrantor" or "warrantor" means a person that is contractually obligated to the warranty holder under the terms of the vehicle protection product warranty agreement.

(b) The term does not include an authorized insurer providing a warranty reimbursement insurance policy.

Sec. 8. "Vehicle protection product warranty" or "warranty" means a written agreement by a warrantor that provides that if the vehicle protection product fails to prevent the loss of or damage to a vehicle from a specific cause, the warrantor will pay to or on behalf of the warranty holder specified incidental costs as a result of the failure of the vehicle protection product to perform under the terms of the warranty.

Sec. 9. "Warranty holder" means a person that:

(1) purchases a vehicle protection product; or

(2) is a permitted transferee of a vehicle protection product.

Sec. 10. "Warranty reimbursement insurance policy" means a policy of insurance that is issued to the vehicle protection product warrantor to:

(1) provide reimbursement to the warrantor for; or
(2) pay on behalf of the warrantor;
all covered contractual obligations incurred by the warrantor under the terms and conditions of the vehicle protection product warranties issued by the warrantor.

Chapter 2. Applicability

Sec. 1. A vehicle protection product may not be sold or offered for sale unless a seller, warrantor, or administrator complies with this article.

Sec. 2. A warranty, indemnity agreement, or guarantee that is not provided as a part of a vehicle protection product is not subject to the provisions of this article.

Chapter 3. Registration of Vehicle Protection Product Warrantors

Sec. 1. Except as provided in section 5 of this chapter, a person may not:
(1) operate as a warrantor; or
(2) represent to the public that the person is a warrantor;
unless the person is registered with the department under this chapter.

Sec. 2. (a) A person who:
(1) operates as a warrantor; or
(2) represents to the public that the person is a warrantor;
must register with the department by filing an application on a form prescribed by the commissioner.

(b) An application filed under subsection (a) must contain the following information:
(1) The warrantor's name, any fictitious name under which the warrantor does business in Indiana, the principal location, mailing address, and telephone number of the warrantor, and corresponding information for any offices maintained in Indiana.
(2) The name and address of the agent of the warrantor for service of process in Indiana, if other than the warrantor.
(3) The names of the warrantor's executive officer or officers directly responsible for the warrantor's vehicle protection product business.
(4) The name, address, and telephone number of any administrators designated by the warrantor to be responsible for the administration of vehicle protection product warranties.
(5) A copy of the warranty reimbursement insurance policy or policies or other financial information required by IC 27-18-4-1.
(6) A copy of each warranty that the warrantor proposes to use.
(7) A statement indicating under which subdivision of IC 27-18-4-1 the warrantor qualifies to do business as a warrantor.

Sec. 3. (a) A registration must be:
(1) updated not later than thirty (30) days after any change that makes information previously provided under section 2(b) of this chapter no longer correct; and
(2) renewed on an annual basis.

(b) If a warrantor registered under section 2 of this chapter fails to renew the registration by the registration deadline, and a renewal is not filed within thirty (30) days, the warrantor shall be made inactive by the commissioner.

Sec. 4. The department may establish:
(1) a fee for the issuance of a registration; and
(2) a fee for the renewal of registration;
under this chapter in an amount sufficient to implement this article. Fees collected under this section shall be deposited in the department of insurance fund established by IC 27-1-3-28.

Sec. 5. An administrator or person that sells or solicits a sale of a vehicle protection product but is not a warrantor is not required to register as a warrantor or to be licensed under this title to sell a vehicle protection product.

Chapter 4. Financial Responsibility

Sec. 1. A vehicle protection product shall not be sold or offered for sale unless the conditions set forth in at least one (1) of the following subdivisions are met to ensure adequate performance under the warranty:
(1) All of the following apply:
(A) The vehicle protection product warrantor is insured under a warranty reimbursement insurance policy that is issued by an insurer authorized to do business in Indiana.
(B) The warranty reimbursement insurance policy provides that the insurer will pay to, or on behalf of, the warrantor one hundred percent (100%) of all sums that the warrantor legally is obligated to pay according to the warrantor's contractual obligations under the warrantor's vehicle protection product warranty.
(C) A true and exact copy of the warranty reimbursement insurance policy has been filed with the department by the warrantor.
(D) The warranty reimbursement insurance policy contains the provisions required under IC 27-18-5-1.
(2) All of the following apply:
(A) The vehicle protection product warrantor or its parent company maintains a net worth or stockholders' equity of at least fifty million dollars ($50,000,000).
(B) The warrantor provides the commissioner with a copy of:
(i) the warrantor's most recent audited financial statement; or
(ii) the warrantor's parent company's audited financial statement;
showing a net worth of at least fifty million dollars ($50,000,000).
(C) If clauses (A) and (B) are satisfied through the warrantor's parent company, the warrantor's parent company agrees to guarantee the obligations of the warrantor relating to warranties issued by the warrantor.
The financial information filed under this subdivision is confidential as a trade secret of the entity filing the information.

Sec. 2. No financial security requirements or financial standards for warrantors other than those set forth in section 1 of this chapter are required under this article.

Chapter 5. Warranty Reimbursement Policy Requirements

Sec. 1. A warranty reimbursement insurance policy may not be issued, sold, or offered for sale unless the policy meets the following conditions:
(1) The policy states that the issuer of the policy will:
(A) reimburse or pay on behalf of the vehicle protection product warrantor all covered sums that the warrantor is legally obligated to pay; or
(B) provide all service that the warrantor is legally obligated to perform according to the warrantor's contractual obligations under the provisions of the insured warranties issued by the warrantor.
(2) The policy states that if payment due under the terms of the warranty is not provided by the warrantor within sixty (60) days after proof of loss has been filed according to the terms of the warranty by the warranty holder, the warranty holder may file directly with the warranty reimbursement insurance company for reimbursement.
(3) The policy provides that:

(A) a warranty reimbursement insurance company that insures a warranty shall be considered to have received payment of the premium if the warranty holder paid for the vehicle protection product; and
(B) the insurer's liability under the policy shall not be reduced or relieved by a failure of the warrantor, for any reason, to report the issuance of a warranty to the insurer.
(4) The policy has the following provisions regarding cancellation of the policy:
(A) The issuer of a reimbursement insurance policy may not cancel the policy until a notice of cancellation in writing has been mailed or delivered to the commissioner and each insured warrantor.
(B) The cancellation of a reimbursement insurance policy may not reduce the issuer's responsibility for vehicle protection products sold before the date of cancellation.
(C) If an insurer cancels a policy that a warrantor has filed with the commissioner, the warrantor shall do one (1) of the following:
(i) File a copy of a new policy with the commissioner before the termination of the prior policy, to ensure that there is no lapse in coverage following the termination of the prior policy.
(ii) Discontinue offering warranties as of the termination date of the policy until a new policy becomes effective and is accepted by the commissioner.

Chapter 6. Disclosure to Warranty Holder; Incidental Costs

Sec. 1. A vehicle protection product warranty may not be sold or offered unless the warranty does the following:
(1) States:
(A) "The obligations of the warrantor to the warranty holder are guaranteed under a warranty reimbursement insurance policy" if the warrantor elects to meet its financial responsibility obligations under IC 27-18-4-1(1); or
(B) "The obligations of the warrantor under this warranty are backed by the full faith and credit of the warrantor" if the warrantor elects to meet its financial responsibility obligations under IC 27-18-4-1(2).
(2) States that if a warranty holder must make a claim against a party other than the warranty reimbursement insurance policy holder, the warranty holder may make a direct claim against the insurer upon the failure of the warrantor to pay any claim or meet any obligation under the terms of the warranty within sixty (60) days after proof of loss has been filed with the warrantor, if the warrantor elects to meet its financial obligations under IC 27-18-4-1(1).
(3) States the name and address of the issuer of the warranty reimbursement insurance policy. This information does not need to be preprinted on the warranty form, but may be added to or stamped on the warranty, if the warrantor elects to meet its financial obligations under IC 27-18-4-1(1).
(4) Identifies the:
(A) warrantor;
(B) seller; and
(C) warranty holder.
(5) Sets forth the total purchase price and the terms under which the purchase price is to be paid. However, the purchase price is not required to be preprinted on the vehicle protection product warranty and may be negotiated with the consumer at the time of sale.
(6) Sets forth the procedure for making a claim, and includes the name, mailing address, and telephone number of a contact representing the warrantor.
(7) Sets forth the payments or performance to be provided under the warranty, including:
(A) payment for incidental costs;
(B) the manner of calculation or determination of payment or performance; and
(C) any limitations, exceptions, or exclusions.
(8) Sets forth all the obligations and duties of the warranty holder, including:
(A) the duty to protect against any further damage to the vehicle;
(B) the obligation to notify the warrantor in advance of any repair; or
(C) a similar requirement.
(9) Sets forth any terms, restrictions, or conditions governing transferability and cancellation of the warranty, if any.
(10) Contains a disclosure that reads substantially as follows:
"This agreement is a product warranty and is not insurance.".

Sec. 2. Incidental costs may be reimbursed under the provisions of a vehicle protection product warranty by:
(1) a fixed amount specified in the warranty or sales agreement; or
(2) the use of a formula itemizing specific incidental costs incurred by the warranty holder.

Chapter 7. Record Keeping

Sec. 1. All vehicle protection product warrantors shall keep accurate accounts, books, and records concerning transactions subject to this article.

Sec. 2. A vehicle protection product warrantor's accounts, books and records must include:
(1) copies of all vehicle protection product warranties;
(2) the name and address of each warranty holder; and
(3) the dates, amounts, and descriptions of all receipts, claims, and expenditures.

Sec. 3. A vehicle protection product warrantor shall retain all required accounts, books, and records related to each warranty holder for at least two (2) years after the specified period of coverage has expired. A warrantor discontinuing business shall maintain the records of the business until the warrantor furnishes satisfactory proof to the commissioner that the warrantor has discharged all obligations to warranty holders in Indiana.

Sec. 4. A vehicle protection product warrantor shall make all accounts, books, and records concerning transactions regulated under this article available to the commissioner for examination at the expense of the warrantor.

Chapter 8. Rulemaking

Sec. 1. The department may adopt rules under IC 4-22-2 to implement this article. If rules are adopted, they must address the following issues:
(1) Disclosures for the benefit of the warranty holder.
(2) Record keeping.
(3) Procedures for public complaints.
(4) Conditions under which surplus line insurers may be rejected for the purpose of underwriting vehicle protection product warranty agreements.

Chapter 9. Prohibited Acts

Sec. 1. A vehicle protection product warrantor shall not use in the name, contracts, or literature of the vehicle protection product warrantor the words "insurance", "casualty", "surety", "mutual", or other words descriptive of the insurance, casualty, or surety business or deceptively similar to the name or description of an insurance or a surety corporation, or another vehicle protection product warrantor.

Sec. 2. A vehicle protection product seller or warrantor may not require that a retail purchaser of a vehicle purchase

a vehicle protection product as a condition of financing.

Chapter 10. Sanctions and Administrative Penalties

Sec. 1. The commissioner may:

(1) conduct examinations of warrantors, administrators, and other persons to enforce this article; and

(2) take action necessary or appropriate to enforce this article and the rules of the department;

to protect warranty holders.

Sec. 2. If a warrantor engages in a pattern or practice of conduct that appears to violate this article and that the commissioner reasonably believes threatens to render the warrantor insolvent or cause irreparable loss or injury to the property or business of a person, the commissioner shall:

(1) notify the warrantor in writing specifically stating the alleged grounds for sanctions; and

(2) hold a hearing under IC 4-21.5.

Sec. 3. If, after a hearing under section 2 of this chapter, the commissioner finds grounds for sanction, the commissioner may issue:

(1) an order directed to the warrantor to cease and desist from engaging in further acts, practices, or transactions that are causing the conduct that violates this article;

(2) an order prohibiting the warrantor from selling or offering for sale vehicle protection products in violation of this article;

(3) an order imposing a civil penalty on the warrantor; or

(4) a combination of orders under subdivisions (1) through (3), as applicable.

Sec. 4. The decision, determination, or order of the commissioner under section 3 of this chapter is subject to judicial review under IC 4-21.5.

Sec. 5. The commissioner may bring a civil action in the name of the state through the attorney general, in a circuit or superior court having jurisdiction in a county in which the warrantor does business or in which the property or business of a person may suffer loss or injury from the warrantor, to restrain the warrantor from commencing or continuing to violate any of the following:

(1) This article.

(2) A rule adopted under this article.

(3) An order entered under this article.

Sec. 6. (a) In addition to an order issued against a warrantor under section 3 of this chapter, the commissioner may order the warrantor to pay the department a civil penalty in an amount determined by the commissioner of not more than five hundred dollars ($500) per violation and not more than ten thousand dollars ($10,000) total for all violations of a similar nature.

(b) For purposes of this section, violations are of a similar nature if the violations consist of the same or similar course of conduct, action, or practice, regardless of the number of times the conduct, action, or practice that is determined to be a violation of this article occurred.

(c) Civil penalties collected under this section shall be deposited in the department of insurance fund established by IC 27-1-3-28.

SECTION 6. [EFFECTIVE JULY 1, 2008] **(a) As used in this SECTION, "vehicle protection product" has the meaning set forth in IC 27-18-1-6, as added by this act.**

(b) IC 27-18, as added by this act, applies only to a vehicle protection product sold or offered for sale after June 30, 2008.

SECTION 7. [EFFECTIVE JULY 1, 2008] **(a) The definitions in IC 27-18-1, as added by this act, apply throughout this SECTION.**

(b) The failure of a person to comply with IC 27-18, as added by this act, before July 1, 2008, is not admissible in a court proceeding, an administrative proceeding, arbitration, or an alternative dispute resolution proceeding and may not be used to prove that the action of a person or the affected vehicle protection product was unlawful or otherwise improper.

(c) The enactment of IC 27-18, as added by this act, does not imply that a vehicle protection product warranty was insurance before July 1, 2008.".

Renumber all SECTIONS consecutively.

(Reference is to SB 195 as printed January 25, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 2.

FRY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 329, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

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

"SECTION 1. IC 5-10.2-1-8, AS AMENDED BY P.L.88-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) ~~Except as provided in subsection (b),~~ **For a member of:**

(1) the Indiana state teachers' retirement fund; or

(2) the public employees' retirement fund who retires before January 1, 2009;

"vested status" as used in this article means the status of having ten (10) years of creditable service.

(b) For a member of the public employees' retirement fund who retires after December 31, 2008, "vested status" as used in this article means the status of having at least eight (8) years of creditable service.

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

(1) at least eight (8) years of creditable service as an elected county official in an office described in IC 5-10.2-4-1.7;

(2) been elected at least two (2) times if the person would have had at least eight (8) years of creditable service as an elected county official in an office described in IC 5-10.2-4-1.7 had the person's term of office not been shortened under a statute enacted under Article 6, Section 2(b) of the Constitution of the State of Indiana; or

(3) **after December 31, 2008,** at least ~~ten (10)~~ **eight (8)** years of creditable service as a member of the fund based on a combination of service as an elected county official and as a full-time employee in a covered position.

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

SECTION 2. IC 5-10.2-3-1.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.2. (a) **After December 31, 2008,** a member who has earned at least:

(1) eight (8) years of service in a position covered by PERF; or

(2) ten (10) years of service in a position covered by ~~PERF,~~ TRF or a combination of the two (2) funds;

may purchase one (1) year of service credit for each five (5) years of service that the member has completed in a position covered by PERF or TRF.

(b) Before a member retires, a member who desires to purchase additional service credit under subsection (a) must contribute to the fund as follows:

(1) Contributions that are equal to the product of the following:

(A) The member's salary at the time the member actually makes a contribution for the service credit.

(B) A rate, determined by the actuary for the fund, that is based on the age of the member at the time the member actually makes a contribution for the service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(C) The number of years of service credit the member intends to purchase.

(2) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(c) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for the purpose of computing benefits unless the member has made all payments required for the purchase of the service credit.

(4) To the extent permitted by the Internal Revenue Code and applicable regulations, a member may purchase service credit under this section by a rollover distribution to the fund from any of the following:

(A) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(B) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(C) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(D) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(d) A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly benefit may withdraw the purchase amount, plus accumulated interest, after submitting a properly completed application for a refund to the fund. However, the member must also apply for a refund of the member's entire annuity savings account under section 6 of this chapter to be eligible for a refund of the member's rollover amount.

(e) For a member who is a state employee, the employer may pay all or a part of the member contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (c)(1), (c)(3), (c)(4), and (d) do not apply.

(f) For a member who is an employee of a participating political subdivision, the employer may adopt an ordinance to pay all or a part of the member contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (c)(1), (c)(3), (c)(4), and (d) do not apply.

SECTION 3. IC 5-10.2-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) This subsection applies to:

(1) members of the public employees' retirement fund who retire before July 1, 1995; and

(2) members of the Indiana state teachers' retirement fund who retire before May 2, 1989.

A member who has reached age sixty-five (65) and has at least ten (10) years of creditable service is eligible for normal retirement.

(b) This subsection applies to members of the Indiana state teachers' retirement fund who retire after May 1, 1989, and to members of the public employees' retirement fund who retire after June 30, 1995, **and before January 1, 2009,** except as provided in section 1.7 of this chapter. A member is eligible for normal retirement if:

(1) the member is at least sixty-five (65) years of age and has at least ten (10) years of creditable service;

(2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or

(3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.

(c) This subsection applies to a member of the public employees' retirement fund who retires after December 31, 2008. A member is eligible for normal retirement if:

(1) the member is at least sixty-five (65) years of age and has at least eight (8) years of creditable service;

(2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or

(3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.

~~(c)~~ **(d)** A member who has reached age fifty (50) and has at least fifteen (15) years of creditable service is eligible for early retirement with a reduced pension.

~~(d)~~ **(e)** A member who is eligible for normal or early retirement is entitled to choose a retirement date on which the member's benefit begins if the following conditions are met:

(1) The application for retirement benefits and the choice of the date is filed on a form provided by the board.

(2) The date must be after the cessation of the member's service and be the first day of a month.

(3) The retirement date is not more than six (6) months before the date the application is received by the board. However, if the board determines that a member is incompetent to file for benefits and choose a retirement date, the retirement date may be any date that is the first of the month after the time the member became incompetent.

SECTION 4. IC 5-10.2-4-1.7, AS AMENDED BY P.L.88-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.7. (a) This section applies only to members of the public employees' retirement fund who retire after June 30, 2002.

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

(1) has:

(A) served as an elected county official in an office described in Article 6, Section 2 of the Constitution of the State of Indiana for at least eight (8) years; or

(B) been elected at least two (2) times and would have served at least eight (8) years as an elected county official in an office described in Article 6, Section 2 of the Constitution of the State of Indiana had the member's term of office not been shortened under a statute enacted under Article 6, Section 2(b) of the Constitution of the State of Indiana; and

(2) is prohibited by Article 6, Section 2 of the Constitution of the State of Indiana from serving in that office for more

than eight (8) years in any period of twelve (12) years.

(c) A member who:

(1) has served as an elected county official; and

(2) does not meet the requirements of subsection (b);

is eligible for normal retirement if the member has attained vested status (as defined in IC ~~5-10.2-1-8(b)(3))~~ **IC 5-10.2-1-8(c)(3))** and meets the requirements of section 1 of this chapter.

SECTION 5. IC 5-10.3-3-1, AS AMENDED BY P.L.62-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) The board is composed of six (6) trustees.

(b) Five (5) of the trustees shall be appointed by the governor, as follows:

(1) One (1) must be a member of the fund with at least ~~ten (10)~~ **eight (8)** years of creditable service.

(2) Not more than three (3) may be members of the same political party.

(3) One (1) must be:

(A) a:

(i) member of the fund or retired member of the fund; or

(ii) member of a collective bargaining unit of state employees represented by a labor organization; or

(B) an individual who is:

(i) an officer or a member of a local, a national, or an international labor union that represents state or university employees; and

(ii) an Indiana resident.

(c) The director of the budget agency or the director's designee is an ex officio voting member of the board. An individual appointed under this subsection to serve as the director's designee:

(1) is subject to the provisions of section 3 of this chapter; and

(2) serves as a permanent designee until replaced by the director.

(d) The governor shall fill by appointment vacancies on the board in the manner described in subsection (b).

(e) In making the appointments under subsection (b)(1) or (b)(2), the governor may consider whether at least one (1) trustee is a retired member of the fund under subsection (b)(3)(A)(i).

SECTION 6. IC 5-10.3-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) As used in this section, "withdrawing political subdivision" means a political subdivision that takes an action described in subsection (b).

(b) Subject to the provisions of this section, a political subdivision may do the following:

(1) Stop its participation in the fund and withdraw all of the political subdivision's employees from participation in the fund.

(2) Withdraw a departmental, an occupational, or other definable classification of employees from participation in the fund.

(3) Stop the political subdivision's participation in the fund by:

(A) selling all of the political subdivision's assets; or

(B) ceasing to exist as a political subdivision.

(c) The withdrawal of a political subdivision's participation in the fund is effective on a termination date established by the board. The termination date may not occur before all of the following have occurred:

(1) The withdrawing political subdivision has provided written notice of the following to the board:

(A) The withdrawing political subdivision's intent to cease participation.

(B) The names of the withdrawing political subdivision's current employees and former employees as of the date on which the notice is provided.

(2) The expiration of:

(A) a ninety (90) day period following the filing of the notice with the board, for a withdrawing political subdivision that sells all of the withdrawing political subdivision's assets or that ceases to exist as a political subdivision; or

(B) a two (2) year period following the filing of the notice with the board, for all other withdrawing political subdivisions.

(3) The withdrawing political subdivision takes all actions required in subsections (d) through (h).

(d) With respect to retired members who have creditable service with the withdrawing political subdivision, the withdrawing political subdivision must contribute to the fund any additional amounts that the board determines are necessary to provide for reserves with sufficient assets to pay all future benefits from the fund to those retired members. The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments determined by the board.

(e) A member who is an employee of the political subdivision as of the date of the notice under subsection (c) is vested in the pension portion of the member's retirement benefit. The withdrawing political subdivision must contribute to the fund the amount the board determines is necessary to fund fully the vested benefit. The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments determined by the board.

(f) A member who is covered by subsection (e) and who is at least sixty-five (65) years of age may elect to retire under IC 5-10.2-4-1 even if the member has fewer than ~~ten (10)~~ **eight (8)** years of service. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of service.

(g) With respect to members of the fund who have creditable service with the withdrawing political subdivision and who are not employees as of the date of the notice under subsection (c), the withdrawing political subdivision must contribute the amount that the board determines is necessary to fund fully the service for those members that is attributable to service with the withdrawing political subdivision. The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments determined by the board.

(h) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a)(4) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny a political subdivision permission to withdraw if the denial is necessary to achieve compliance with Section 401(a)(4) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

SECTION 7. IC 5-10.3-6-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8.5. (a) This section only applies if:

(1) certain employees of a state university in a departmental, occupational, or other definable classification involved in health care are terminated from employment with the state university as a result of:

(A) a lease or other transfer of university property to a nongovernmental entity; or

(B) a contractual arrangement with a nongovernmental entity to perform certain state university functions;

(2) the state university requests coverage under this section from the board; and

(3) the board approves the request.

(b) The withdrawal of the employees described in subsection (a) from the fund is effective on a termination date established by the board. The board may not establish a termination date that occurs before all of the following have occurred:

(1) The state university has requested coverage under this

section and provided written notice of the following to the board:

(A) The intent of the state university to terminate the employees from employment.

(B) The names of the terminated employees as of the date that the termination is to occur.

(2) The expiration of a thirty (30) day period following the filing of the notice with the board.

(3) The state university fully complies with subsection (c).

(c) A member who is an employee of the state university described in subsection (a) as of the date of the notice under subsection (b) and who is listed in the notice under subsection (b) is vested in the pension portion of the member's retirement benefit. The state university must contribute to the fund the amount the board determines is necessary to completely fund the vested benefit. The contribution by the state university must be made in a lump sum or in a series of payments determined by the board.

(d) A member who is covered by subsection (c) and who is at least sixty-five (65) years of age may elect to retire under IC 5-10.2-4-1 even if the member has less than ~~ten (10)~~ **eight (8)** years of service. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service.

(e) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny an employee permission to withdraw if the denial is necessary to achieve compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

SECTION 8. IC 5-10.3-6-8.9, AS ADDED BY P.L.158-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8.9. (a) This section applies when certain employees of the state in particular departmental, occupational, or other definable classifications are terminated from employment with the state as a result of:

(1) a lease or other transfer of state property to a nongovernmental entity; or

(2) a contractual arrangement with a nongovernmental entity to perform certain state functions.

(b) The governor shall request coverage under this section from the board whenever an employee of the state is terminated as described in subsection (a).

(c) The board must approve a request from the governor under subsection (b) unless approval violates subsection (k), federal or state law, or the terms of the fund.

(d) As used in this section, "early retirement" means a member is eligible to retire with a reduced pension under IC 5-10.2-4-1, because the member:

(1) is at least fifty (50) years of age; and

(2) has at least fifteen (15) years of creditable service.

(e) As used in this section, "normal retirement" means a member is eligible to retire under IC 5-10.2-4-1, because:

(1) the member is at least sixty-five (65) years of age and has at least ~~ten (10)~~ **eight (8)** years of creditable service;

(2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or

(3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.

(f) The withdrawal of the employees described in subsection (a) from the fund is effective on a termination date established by the board. The board may not establish a termination date that occurs before all of the following have occurred:

(1) The governor has requested coverage under this section and provided written notice of the following to the board:

(A) The intent of the state to terminate the employees from employment.

(B) The names of the terminated employees as of the date that the termination is to occur.

(2) The expiration of a thirty (30) day period following the filing of the notice with the board.

(3) The state complies with subsections (g) and (i).

(g) A member who:

(1) is an employee of the state described in subsection (a) with at least twenty-four (24) months of creditable service as of the date of the notice under subsection (f); and

(2) is listed in the notice under subsection (f);

is vested in the pension portion of the member's retirement benefit. The state must contribute to the fund the amount the board determines is necessary to completely fund the vested benefit. The contribution by the state must be made in a lump sum or in a series of payments determined by the board. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service.

(h) A member who is covered by subsection (g) and who is at least sixty-five (65) years of age as of the date of the notice under subsection (f) may elect to retire under IC 5-10.2-4-1 even if the member has less than ~~ten (10)~~ **eight (8)** years of service. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service.

(i) A member who is covered by subsection (f) and who, as of the date of the notice under subsection (f), is less than twenty-four (24) months from being eligible for normal or early retirement under IC 5-10.2-4-1 may elect to retire by purchasing the service credit needed for retirement under the following conditions:

(1) The state shall contribute to the fund an amount determined under IC 5-10.2-3-1.2 and payable from the sources described in subsection (j) sufficient to pay the member's contributions required for the member's purchase of the service credit the member needs to retire.

(2) The maximum amount of creditable service that the state may purchase for a member under this subsection is twenty-four (24) months.

(3) The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service plus all other service for which the fund gives credit, including the creditable service purchased under this subsection.

(j) The amounts that the state is required to contribute to the fund under subsection (i) must come from the following sources:

(1) If the state receives monetary payments under the lease or contractual arrangement described in subsection (a), the proceeds of the monetary payments received by the state. The state may not require, as a condition of the transaction to transfer state property or have certain state functions performed by a nongovernmental entity, that the nongovernmental entity directly or indirectly pay the amounts that the state is required to contribute under subsection (i).

(2) If the state does not receive any monetary payments under the lease or contractual arrangement described in subsection (a), any remaining appropriations made to the state department, agency, or other entity terminating the employees described in subsection (a).

(3) If the sources described in subdivisions (1) and (2) do not fully fund the amounts that the state is required to contribute to the fund under subsection (i), the board shall request that the general assembly appropriate the amount necessary to fully fund the state's required contribution under subsection (i) in the next biennial state budget.

(k) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny an employee permission to withdraw if the denial is necessary to

achieve compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

SECTION 9. IC 5-10.3-7-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.5. (a) As used in this section, "out-of-state service" means service in another state in a comparable position that would be creditable service if performed in Indiana.

(b) Subject to subsections (c) through (f), a member may purchase out-of-state service credit if the member meets the following requirements:

(1) The member has at least one (1) year of creditable service in the fund.

(2) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of out-of-state service the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(3) The member has received verification from the fund that the out-of-state service is, as of that date, valid.

(c) Out-of-state years that qualify a member for retirement in an out-of-state system or in any federal retirement system may not be granted under this section.

(d) At least ~~ten (10)~~ **eight (8)** years of service in Indiana is required before a member may receive a benefit based on out-of-state service credits.

(e) A member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the Social Security Act;

may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(f) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

SECTION 10. IC 5-10.3-7-4.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.6. (a) Subject to the provisions of this section, a member may purchase service credit for the member's prior service in a position covered by the 1925 police pension fund under IC 36-8-6, the 1937 firefighters' pension fund under IC 36-8-7, or the 1953 police pension fund under IC 36-8-7.5 if the member meets the following requirements:

(1) The member has at least one (1) year of credited service in the fund.

(2) The member has not attained vested status in and is not an active member of the 1925 police pension fund, the 1937 firefighters' pension fund, or the 1953 police pension fund.

(3) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(4) The member has received verification from the fund that the service in the 1925 police pension fund, the 1937 firefighters' pension fund, or the 1953 police pension fund is, as of that date, valid.

(b) At least ~~ten (10)~~ **eight (8)** years of service in Indiana is required before a member may receive a benefit based on service credits purchased under this section.

(c) A member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the Social Security Act;

may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(d) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

SECTION 11. IC 5-10.3-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) A member who:

(1) enters the United States armed services;

(2) leaves ~~his~~ **the member's** contributions in the fund;

(3) except as provided in subsection (c), resumes service with ~~his~~ **the member's** employer within one hundred twenty (120) days after ~~his~~ **the member's** unconditional discharge; and

(4) would be entitled to service credit for military service under the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.) if the member had resumed service with the member's employer within ninety (90) days after discharge;

is entitled to service credit for the armed service.

(b) A state employee who left employment before January 1, 1946, or an employee of a political subdivision who left employment before the participation date, to enter the United States armed services is entitled to service credit for the armed service if ~~he:~~ **the employee:**

(1) except as provided in subsection (c), resumes service with the employer within one hundred twenty (120) days after ~~his~~ **the employee's** unconditional discharge; and

(2) would be entitled to service credit for military service under the applicable requirements of federal law in effect at the time of reemployment if the employee had resumed service with the employee's employer within ninety (90) days after discharge.

(c) The board shall extend the one hundred twenty (120) day reemployment requirement contained in subsection (a)(3) or (b)(1) if the board determines that an illness, an injury, or a disability related to the member's military service prevented the member from resuming employment within one hundred twenty (120) days after the member's discharge from military service. However, the board may not extend the deadline beyond thirty (30) months after the member's discharge.

(d) If a member retires and the board subsequently determines that the member is entitled to additional service credit due to the extension of a deadline under subsection (c), the board shall recompute the member's benefit. However, the additional service credit may be used only in the computation of benefits to be paid after the date of the board's determination, and the member is not entitled to a recomputation of benefits received before the date of the board's determination.

(e) Notwithstanding any provision of this section, a member is entitled to service credit and benefits in the amount and to the extent required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

(f) Subject to the provisions of this section, an active member may purchase not more than two (2) years of service credit for the member's service on active duty in the armed services if the member meets the following conditions:

(1) The member has at least one (1) year of credited service in the fund.

(2) The member serves on active duty in the armed services of the United States for at least six (6) months.

(3) The member receives an honorable discharge from the armed services.

(4) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, that is based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

However, a member is entitled to purchase service credit under this subsection only to the extent that service credit is not granted for that time under another provision of this section. At least ~~ten (10)~~ **eight (8)** years of service in Indiana is required before a member may receive a benefit based on service credits purchased under this section. A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance or receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(g) The following apply to the purchase of service credit under subsection (f):

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.".

Page 23, after line 12, begin a new paragraph and insert:

"SECTION 36. [EFFECTIVE JULY 1, 2008] **(a) IC 5-10.2-3-1.2, as amended by this act, applies to a member of the public employees' retirement fund who purchases service credit after December 31, 2008.**

(b) IC 5-10.3-3-1, as amended by this act, applies to appointments to the board of the public employees' retirement fund that are made after December 31, 2008.

(c) IC 5-10.3-6-8, IC 5-10.3-6-8.5, and IC 5-10.3-6-8.9, all as amended by this act, apply to members who retire after December 31, 2008.

(d) IC 5-10.3-7-4.5, as amended by this act, applies to benefits provided after December 31, 2008, based on out-of-state service credit purchased under IC 5-10.3-7-4.5.

(e) IC 5-10.3-7-4.6, as amended by this act, applies to benefits provided after December 31, 2008, based on service credit for prior service purchased under IC 5-10.3-7-4.6.

(f) IC 5-10.3-7-5, as amended by this act, applies to benefits provided after December 31, 2008, based on service credit for prior service purchased under IC 5-10.2-7-5.".

Renumber all SECTIONS consecutively.

(Reference is to SB 329 as printed January 25, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 20, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred Engrossed Senate Bill 331, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

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

"SECTION 12. IC 27-4-1-4, AS AMENDED BY P.L.131-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:

(A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;

(B) making any false or misleading statement as to the

dividends or share of surplus previously paid on similar policies;

(C) making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;

(D) using any name or title of any policy or class of policies misrepresenting the true nature thereof; or

(E) making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender the policyholder's insurance.

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to any person in the conduct of the person's insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by a concerted action committing any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; however, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; however, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:

(i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;

(ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or

(iii) policies or contracts of any other kind or kinds of insurance whatsoever.

However, nothing contained in clause (C) shall be construed to apply to any of the kinds of insurance referred to in clauses (A) and (B) nor to reinsurance in relation to such kinds of insurance. Nothing in clause (A), (B), or (C) shall be construed as making or permitting any excessive, inadequate, or unfairly discriminatory charge or rate or any charge or rate determined by the department or commissioner to meet the requirements of any other insurance rate regulatory law of this state.

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made

premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or insurance producer thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed insurance producer thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, an insurance producer, or a solicitor duly licensed under the laws of this state, but such broker, insurance producer, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance producer or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of the lender's right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of insurance producers or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, insurance producer, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon of the right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

(i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;

(ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;

(iii) insures against baggage loss during the flight to which the ticket relates; or

(iv) insures against a flight cancellation to which the ticket relates.

(14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.

(15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage, solely because of that individual's blindness or partial blindness, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or physical condition.

(18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).

(19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1 concerning motor vehicle insurance rates.

(20) Violating IC 27-8-21-2 concerning advertisements referring to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-8-26 concerning genetic screening or testing.

(23) Violating IC 27-1-15.6-3(b) concerning licensure of insurance producers.

(24) Violating IC 27-1-38 concerning depository institutions.

(25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning the resolution of an appealed grievance decision.

(26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) or IC 27-8-5-19.2.

(27) Violating IC 27-2-21 concerning use of credit information.

(28) Violating IC 27-4-9-3 concerning recommendations to consumers.

(29) Engaging in dishonest or predatory insurance practices in marketing or sales of insurance to members of the United States Armed Forces as:

(A) described in the federal Military Personnel Financial Services Protection Act, P.L.109-290; or

(B) defined in rules adopted under subsection (b).

(30) Violating IC 27-8-11-10, IC 27-8-11.1, or IC 27-13-15-5 concerning dialysis treatment.

(b) Except with respect to federal insurance programs under Subchapter III of Chapter 19 of Title 38 of the United States Code, the commissioner may, consistent with the federal Military Personnel Financial Services Protection Act (P.L.109-290), adopt rules under IC 4-22-2 to:

(1) define; and

(2) while the members are on a United States military installation or elsewhere in Indiana, protect members of the United States Armed Forces from;

dishonest or predatory insurance practices.".

Page 1, line 15, delete "is a:" and insert "**is:**".

Page 1, line 16, after "(A)" insert "**a**".

Page 1, line 16, after "child" insert "**of the policyholder or certificate holder**".

Page 2, line 1, delete "child" and insert "**an individual**".

Page 2, line 5, delete "dependent's" and insert "**individual's**".

Page 2, line 36, delete "policy holder," and insert "**policyholder,**".

Page 3, line 1, delete "the policyholder" and insert "**the:**

(i) policyholder;".

Page 3, line 1, after "or" begin a new line triple block indented and insert:

"**(ii) policyholder's**".

Page 3, line 1, after "spouse" insert "**;**".

Page 3, line 1, beginning with "until" begin a new line double block indented.

Page 11, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 7. IC 27-8-5-29 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 29. An insurer shall, for purposes of coverage of a dependent of a policyholder or certificate holder under this chapter, do all of the following:**

(1) Provide to each policyholder or certificate holder at the time of application, amendment, or renewal of a policy of accident and sickness insurance written notice that:

(A) is provided in a document that is separate from any other document provided to the policyholder or certificate holder; and

(B) clearly explains:

(i) that a dependent of the policyholder or certificate holder will be covered upon the request of the policyholder or certificate holder; and

(ii) the manner and form in which the policyholder or certificate holder must request the coverage.

(2) Allow at least thirty (30) days after a policyholder or certificate holder receives the notice required by subdivision (1) for the policyholder or certificate holder to make a request for the coverage.

(3) If:

(A) the dependent's coverage was previously terminated due to the dependent's age; and

(B) the dependent is not yet twenty-four (24) years of age;

allow the dependent to re-enroll for coverage under the policyholder's or certificate holder's policy or certificate.

(4) Comply with the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) concerning exclusions or limitations of coverage related to a disease or physical condition of the dependent that exists before re-enrollment under subdivision (3).

SECTION 8. IC 27-8-11-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10. (a) The definitions in IC 27-8-11.1 apply throughout this section.**

(b) An agreement entered into under section 3 of this chapter after April 30, 2008, must provide that if the insurer fails to pay, as specified by the agreement, for health care services rendered at a network dialysis facility, the insured is not liable for any sums owed by the insurer.

SECTION 9. IC 27-8-11.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 11.1. Dialysis Treatment

Sec. 1. Except as provided in this chapter, the definitions in IC 27-8-11-1 apply throughout this chapter.

Sec. 2. As used in this chapter, "dialysis facility" means an outpatient facility in Indiana at which a dialysis treatment provider renders dialysis treatment.

Sec. 3. As used in this chapter, "insured" refers only to an insured who requires dialysis treatment.

Sec. 4. As used in this chapter, "insurer" includes the following:

(1) An administrator licensed under IC 27-1-25.

(2) An agent of an insurer.

Sec. 5. As used in this chapter, "network" refers to a group of providers, each of which has:

(1) individually; or

(2) as a member of a group;

entered into an agreement with a particular insurer under IC 27-8-11-3.

Sec. 6. As used in this chapter, "network dialysis facility" means a dialysis facility that has entered into an agreement with a particular insurer under IC 27-8-11-3.

Sec. 7. As used in this chapter, "out of network dialysis facility" means a dialysis facility that has not entered into an agreement with a particular insurer under IC 27-8-11-3.

Sec. 8. As used in this chapter, "policy of accident and sickness insurance" has the meaning set forth in IC 27-8-5-1. 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) Worker's compensation or similar insurance.

(4) Automobile medical payment insurance.

(5) A specified disease policy issued as an individual policy.

(6) A limited benefit health insurance policy issued as an individual policy.

(7) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(8) 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.

Sec. 9. To the extent that IC 27-8-11-4.5(c) and IC 27-8-11-4.5(d) conflict with the requirements of this chapter, IC 27-8-11-4.5(c) and IC 27-8-11-4.5(d) do not apply with respect to the requirements of this chapter.

Sec. 10. A policy of accident and sickness insurance must provide coverage for dialysis treatment regardless of whether an insured obtains dialysis treatment from a network dialysis facility or an out of network dialysis facility.

Sec. 11. An insurer that uses a network shall establish a payment rate for a health care service rendered by a dialysis treatment provider at an out of network dialysis facility:

(1) in consultation with the dialysis treatment provider; and

(2) based on the following:

(A) The type of health care service rendered.

(B) The fees usually charged by the dialysis treatment provider.

(C) The prevailing rate paid to a dialysis treatment provider by insurers in the same geographic area during the preceding twelve (12) months.

Sec. 12. In establishing a payment rate under section 11 of this chapter, an insurer shall:

(1) not consider Medicaid and Medicare payment rates; and

(2) establish the payment rate at an amount equal to not less than the greatest of the following payment rates paid by the insurer during the previous twelve (12) months:

(A) The highest payment rate paid to the dialysis treatment provider for health care services rendered at a network dialysis facility.

(B) The highest payment rate paid to the dialysis treatment provider for health care services rendered at an out of network dialysis facility.

(C) The highest payment rate paid to any dialysis treatment provider for health care services rendered at a network dialysis facility.

Sec. 13. An insurer may not do any of the following at any time after an insured elects coverage under a policy of accident and sickness insurance:

(1) Restrict benefits or increase costs to the insured in relation to dialysis treatment, including the insured's out-of-pocket expenses.

(2) Change coverage or benefits in any way that would affect dialysis treatment provided at an out of network dialysis facility.

Sec. 14. An insurer shall not do the following:

(1) Make changes in coverage under a policy of accident and sickness in an attempt to cause an insured to elect Medicare as the insured's primary coverage.

(2) Require an insured, as a condition of coverage, to travel more than fifteen (15) miles or for longer than thirty (30) minutes from the insured's home to obtain dialysis treatment, regardless of whether the insured chooses to receive dialysis treatment at a network dialysis facility or an out of network dialysis facility.

Sec. 15. An insurer shall do the following:

(1) Make all claim payments for health care services provided by a dialysis treatment provider payable only to the dialysis treatment provider and not to the insured, regardless of whether the health care services are rendered in a network dialysis facility or an out of network dialysis facility.

(2) File with the department, not later than December 31 of each year, an annual evaluation of the following:

(A) Whether the insurer's network of all dialysis treatment providers is sufficient to provide health care services to insureds covered under a policy of accident and sickness insurance issued by the insurer.

(B) A detailed analysis of whether the requirements of section 14(2) of this chapter are reflected in the actual distance and travel time required for insureds to obtain dialysis treatment.

(3) Maintain a network that at all times includes not less than fifty percent (50%) of the dialysis facilities in the geographic area in which health care services are provided by the network.

Sec. 16. The commissioner shall, not more than thirty (30) days after receiving a filing under section 15(2) of this chapter, approve the filing or make recommendations for changes to the network.

Sec. 17. The department may adopt rules under IC 4-22-2 to implement this section.".

Page 11, line 19, delete "is a:" and insert "**is:**".

Page 11, line 20, after "(A)" insert "**a**".

Page 11, line 20, after "child" insert "**of the subscriber**".

Page 11, line 22, delete "child" and insert "**an individual**".

Page 11, line 22, delete "," and insert "**or who is a**".

Page 11, line 23, after "relative" insert "**of the subscriber and**".

Page 11, line 26, delete "is an Indiana resident;" and insert "**resides with the subscriber at least six (6) months of the year, with exceptions for divorce, separation, or temporary absences, including absences for illness, education, business, vacation, or military service;**".

Page 11, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 11. IC 27-13-1-11.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11.6. "Dialysis facility" means an outpatient facility in Indiana at which a dialysis treatment provider renders dialysis treatment.**".

Page 12, between lines 31 and 32, begin a new paragraph and insert:

"**(c) A health maintenance organization shall, for purposes of coverage of a dependent of a subscriber as required by subsection (a)(26), do all of the following:**

(1) Provide to each subscriber at the time of application, amendment, or renewal of a contract referred to in section 1 of this chapter written notice that:

(A) is provided in a document that is separate from any other document provided to the subscriber; and

(B) clearly explains:

(i) that a dependent of the subscriber will be covered upon the request of the subscriber; and

(ii) the manner and form in which the subscriber must request the coverage.

(2) Allow at least thirty (30) days after a subscriber receives the notice required by subdivision (1) for the subscriber to make a request for the coverage.

(3) If:

(A) the dependent's coverage was previously terminated due to the dependent's age; and

(B) the dependent is not yet twenty-four (24) years of age;

allow the dependent to re-enroll for coverage under the subscriber's individual contract or group contract.

(4) Comply with the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) concerning exclusions or limitations of coverage related to a disease or physical condition of the dependent that exists before re-enrollment under subdivision (3).

SECTION 13. IC 27-13-15-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. (a) Notwithstanding IC 27-13-1-12, as used in this section, "enrollee" refers only to an enrollee who requires dialysis treatment.**

(b) As used in this section, "health maintenance organization" includes the following:

(1) A limited service health maintenance organization.

(2) An agent of a health maintenance organization or a limited service health maintenance organization.

(c) To the extent that IC 27-13-15-1(b) and IC 27-13-15-1(c) conflict with the requirements of this section, IC 27-13-15-1(b) and IC 27-13-15-1(c) do not apply with respect to the requirements of this section.

(d) An individual contract or a group contract must provide coverage for dialysis treatment regardless of whether the dialysis facility from which an enrollee obtains

dialysis treatment is a participating provider.

(e) A health maintenance organization shall establish a payment rate for a health care service rendered by a dialysis treatment provider at a dialysis facility that is not a participating provider:

(1) in consultation with the dialysis treatment provider; and

(2) based on the following:

(A) The type of health care service rendered.

(B) The fees usually charged by the dialysis treatment provider.

(C) The prevailing rate paid to a dialysis treatment provider by health maintenance organizations in the same geographic area during the preceding twelve (12) months.

(f) In establishing a payment rate under subsection (e), a health maintenance organization shall:

(1) not consider Medicaid and Medicare payment rates; and

(2) establish the payment rate at an amount equal to not less than the greatest of the following payment rates paid by the health maintenance organization during the previous twelve (12) months:

(A) The highest payment rate paid to the dialysis treatment provider for health care services rendered at a dialysis facility that is a participating provider.

(B) The highest payment rate paid to the dialysis treatment provider for health care services rendered at a dialysis facility that is not a participating provider.

(C) The highest payment rate paid to any dialysis treatment provider for health care services rendered at a dialysis facility that is a participating provider.

(g) A health maintenance organization may not do any of the following at any time after an enrollee elects coverage under an individual contract or a group contract:

(1) Restrict benefits or increase costs to the enrollee in relation to dialysis treatment, including the enrollee's out-of-pocket expenses.

(2) Change coverage or benefits in any way that would affect dialysis treatment rendered at a dialysis facility that is not a participating provider.

(h) A health maintenance organization shall not do the following:

(1) Make changes in coverage under an individual contract or a group contract in an attempt to cause an enrollee to elect Medicare as the enrollee's primary coverage.

(2) Require an enrollee, as a condition of coverage, to travel more than fifteen (15) miles or for longer than thirty (30) minutes from the enrollee's home to obtain dialysis treatment, regardless of whether the enrollee chooses to receive dialysis treatment at a dialysis facility that is a participating provider or a dialysis facility that is not a participating provider.

(i) A health maintenance organization shall do the following:

(1) Make all claim payments for health care services provided by a dialysis treatment provider payable only to the dialysis treatment provider and not to the enrollee, regardless of whether the health care services are provided in a dialysis facility that is a participating provider or a dialysis facility that is not a participating provider.

(2) File with the department, not later than December 31 of each year, an annual evaluation of the following:

(A) Whether the health maintenance organization's network of all dialysis treatment providers is sufficient to provide health care services to enrollees covered under an individual contract or a group contract entered into by the health maintenance organization.

(B) A detailed analysis of whether the requirements of subsection (h)(2) are reflected in the actual distance and travel time required for enrollees to obtain dialysis treatment.

(3) Maintain a participating provider network that at all times includes not less than fifty percent (50%) of the dialysis facilities in the health maintenance organization's service area.

(j) The commissioner shall, not more than thirty (30) days after receiving a filing under subsection (i)(2), approve the filing or make recommendations for changes to the network.

(k) The department may adopt rules under IC 4-22-2 to implement this section.".

Page 12, after line 40, begin a new paragraph and insert:

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

Renumber all SECTIONS consecutively.

(Reference is to SB 331 as reprinted January 29, 2008.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 1.

FRY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Joint Resolution 1, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 34, delete "gross assessed value of the property that is the" and insert "**combined household income (as computed by law) of the individuals who use the tangible property as their principal place of residence.**".

Page 2, delete line 35.

Page 3, line 9, delete "after being approved by the voters" and insert "**for debt service on indebtedness incurred or payments on capital leases or lease-purchase agreements entered into before January 1, 2009,**".

Page 3, line 10, delete "in a referendum or local public question".

and when so amended that said bill do pass.

(Reference is to SJR 1 as printed January 23, 2008.)

and when so amended that said joint resolution do pass.

Committee Vote: yeas 21, nays 2.

CRAWFORD, Chair

Report adopted.

OTHER BUSINESS ON THE SPEAKER'S TABLE

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed, without amendments, Engrossed House Bill 1016 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 Engrossed House Bills 1036, 1105, and 1197 with amendments and the same are herewith returned to the House for concurrence.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House

that the Senate has passed House Concurrent Resolutions 12, 14, 9, 28, and 35 and the same are herewith returned to the House.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolution 26 and the same are herewith returned to the House.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Acts 26, 46, 233, 250, and 305 for signature of the Speaker of the House.

MARY C. MENDEL
Principal Secretary of the Senate

HOUSE MOTION

Mr. Speaker: I move that Representative Buck be added as coauthor of House Concurrent Resolution 35.

McCLAIN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Porter be added as cosponsor of Engrossed Senate Bill 262.

BATTLES

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Blanton and Tincher be added as cosponsors of Engrossed Senate Bill 345.

NIEZGODSKI

Motion prevailed.

ENGROSSED SENATE BILLS ON SECOND READING

Engrossed Senate Bill 345

Representative Niezgodski called down Engrossed Senate Bill 345 for second reading. The bill was read a second time by title.

HOUSE MOTION

Mr. Speaker: I move that, pursuant to House Rule 86, Engrossed Senate Bill 345 on second reading be made a special order of business for Monday, February 25, 2008, at 11:00 a.m.

FOLEY

The Speaker ordered a division of the House and appointed Representatives Stilwell and Bosma to count the yeas and nays. Yeas 48, nays 48. Motion failed.

HOUSE MOTION
(Amendment 345–3)

Mr. Speaker: I move that Engrossed Senate Bill 345 be amended to read as follows:

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

"SECTION 1. IC 6-8.1-3-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 21. (a) This section applies after December 31, 2008.**

(b) The department shall cooperate with the:

(1) department of labor created by IC 22-1-1-1;

(2) worker's compensation board of Indiana created by IC 22-3-1-1(a); and

(3) department of workforce development established by IC 22-4.1-2-1;

by sharing information concerning any suspected misclassification by a contractor (as defined in IC 22-2-14-5) of an employee as an independent contractor. Information shared pursuant to this section is confidential and may not be published or open to public inspection.

Page 3, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 3. IC 6-8.1-9-14, AS AMENDED BY P.L.103-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) Except as provided in subsection (n), the department shall establish, administer, and make available a centralized debt collection program for use by state agencies to collect delinquent accounts, charges, fees, loans, taxes, **civil penalties under IC 22-2-14-13,** or other indebtedness owed to or being collected by state agencies. The department's collection facilities shall be available for use by other state agencies only when resources are available to the department.

(b) The commissioner shall prescribe the appropriate form and manner in which collection information is to be submitted to the department.

(c) The debt must be delinquent and not subject to litigation, claim, appeal, or review under the appropriate remedies of a state agency.

(d) The department has the authority to collect for the state or claimant agency (as defined in IC 6-8.1-9.5-1) delinquent accounts, charges, fees, loans, taxes, or other indebtedness due the state or claimant agency that has a formal agreement with the department for central debt collection.

(e) The formal agreement must provide that the information provided to the department be sufficient to establish the obligation in court and to render the agreement as a legal judgment on behalf of the state. After transferring a file for collection to the department for collection, the claimant agency shall terminate all collection procedures and be available to provide assistance to the department. Upon receipt of a file for collection, the department shall comply with all applicable state and federal laws governing collection of the debt.

(f) The department may use a claimant agency's statutory authority to collect the claimant agency's delinquent accounts, charges, fees, loans, taxes, or other indebtedness owed to the claimant agency.

(g) The department's right to credit against taxes due may not be impaired by any right granted the department or other state agency under this section.

(h) The department of state revenue may charge the claimant agency a fee not to exceed fifteen percent (15%) of any funds the department collects for a claimant agency. Notwithstanding any law concerning delinquent accounts, charges, fees, loans, taxes, or other indebtedness, the fifteen percent (15%) fee shall be added to the amount due to the state or claimant agency when the collection is made.

(i) Fees collected under subsection (h) shall be retained by the department after the debt is collected for the claimant agency and are appropriated to the department for use by the department in administering this section.

(j) The department shall transfer any funds collected from a debtor to the claimant agency within thirty (30) days after the end of the month in which the funds were collected.

(k) When a claimant agency requests collection by the department, the claimant agency shall provide the department with:

(1) the full name;

(2) the Social Security number or federal identification number, or both;

(3) the last known mailing address; and

(4) additional information that the department may request; concerning the debtor.

(l) The department shall establish a minimum amount that the department will attempt to collect for the claimant agency.

(m) The commissioner shall report, not later than March 1 for the previous calendar year, to the governor, the budget director, and the legislative council concerning the implementation of the centralized debt collection program, the number of debts, the dollar amounts of debts collected, and an estimate of the future costs and benefits that may be associated with the collection program. A report to the legislative council under this subsection must be in an electronic format under IC 5-14-6.

(n) The department may not assess a fee to a state agency or a custodial parent for seeking a setoff to a state or federal income tax refund for past due child support.

SECTION 4. IC 22-1-1-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 23. The department of labor shall cooperate with the:**

(1) department of workforce development established by IC 22-4.1-2-1;

(2) department of state revenue established by IC 6-8.1-2-1; and

(3) worker's compensation board of Indiana created by IC 22-3-1-1(a);

by sharing information concerning any suspected misclassification by a contractor (as defined in IC 22-2-14-5) of an employee as an independent contractor. Information shared pursuant to this section is confidential and may not be published or open to public inspection.

SECTION 5. IC 22-2-14 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 14. Employee Classification Act

Sec. 1. This chapter applies after December 31, 2008.

Sec. 2. This chapter is intended to address the practice of misclassifying employees as independent contractors.

Sec. 3. As used in this chapter, "agent of the contractor" means:

(1) an individual having management authority or enforcement powers with respect to a practice or policy of the contractor regarding the classification of an employee;

(2) a corporate officer; or

(3) a member of the board of directors;

of the contractor.

Sec. 4. As used in this chapter, "construction" means any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintenance, landscaping, improving, wrecking, painting, decorating, demolishing, and adding to or subtracting from any building, structure, airport facility, highway, roadway, street, bridge, alley, bridge, sewer, drain, ditch, sewage disposal plant, waterworks, parking facility, railroad, excavation, or other project, development, real property or improvement, or doing any part of these actions. It is immaterial whether or not the performance of the work described involves the addition of any material or article of merchandise to, or fabrication into, a structure, project, development, real property, or improvement described in this section. The term includes moving construction related materials to or from the job site.

Sec. 5. As used in this chapter, "contractor" means any sole proprietor, partnership, firm, corporation, limited liability company, association, or other legal entity that engages in construction authorized by law to do business within Indiana. The term includes a general contractor, a subcontractor, and a lower tiered contractor. The term does not include the state, the federal government, or a political subdivision.

Sec. 6. As used in this chapter, "department" means the department of labor created by IC 22-1-1-1. The term includes the commissioner, employees of the department, and agents authorized by the commissioner to act on behalf of the department.

Sec. 7. As used in this chapter, "interested party" means a person with an interest in compliance with this chapter. The term does not require that a person be aggrieved in order to be considered an interested party.

Sec. 8. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

Sec. 9. As used in this chapter, "performing services" means performing construction services.

Sec. 10. As used in this chapter, "public work" includes any public building, structure, airport facility, highway, roadway, street, alley, bridge, sewer, drain, ditch, sewage disposal plant, water works, parking facility, railroad, excavation, or other project, development, real property, or improvement that is paid for in whole or in part out of public funds or a special assessment. The term also includes any public work leased by a political subdivision under a lease containing an option to purchase.

Sec. 11. (a) An individual performing services for a contractor is considered to be an employee of the contractor unless:

(1) the:

(A) individual has been and will continue to be free from control or direction over the performance of the service for the contractor, both under the individual's contract of service and in fact; and

(B) individual is engaged in an independently established trade, occupation, profession, or business;

(2) the individual is determined to be a legitimate sole proprietor or partnership because:

(A) the sole proprietor or partnership is performing the service without substantial direction and control as to the means and manner of providing the services, subject only to the right of the contractor, for whom the service is provided, to specify the desired result;

(B) the sole proprietor or partnership has a substantial investment of capital in the sole proprietorship;

(C) the sole proprietor or partnership owns the capital goods, gains the profits, and bears the losses of the sole proprietorship or partnership;

(D) the sole proprietor or partnership makes its services available to the general public or the business community on a continuing basis;

(E) the sole proprietor or partnership includes services rendered on a federal income tax schedule as an independent business or profession;

(F) the sole proprietor or partnership performs services for the contractor under the sole proprietor's or partnership's name and the contractor pays the sole proprietor or partnership a flat fee or other agreed amount of compensation that is not based on an established rate for any time period of work;

(G) the sole proprietor or partnership obtains and pays for the license or permit in the sole proprietor's or partnership's name when the services being provided require a license or permit;

(H) the sole proprietor or partnership furnishes the tools and equipment necessary to provide the service;

(I) if necessary, the sole proprietor or partnership

hires its own employees, pays the employees without reimbursement from the contractor, and reports the employees' income to the Internal Revenue Service;
(J) the contractor does not:
(i) represent the sole proprietor or partnership as an employee of the contractor to its customers; or
(ii) reimburse the sole proprietor or partnership for its business expenses;
(K) the sole proprietor or partnership has the right to choose to perform similar services for others; and
(L) the sole proprietorship or partnership has a written agreement with the contractor describing the intended business relationship;
(3) the individual is an owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376, to a motor carrier; or
(4) the individual provides professional services to construction projects, including a realtor, a decorator, a project developer, a surveyor, or an office employee.

(b) A sole proprietor or partnership that is performing services for a contractor as a subcontractor and does not meet the requirements of subsection (a)(2) is considered an individual for purposes of this chapter.

(c) In determining whether a contractor properly classifies an individual as an employee, the department shall consider whether the contractor does the following on behalf of the individual:
(1) Withholds, reports, and remits payroll taxes.
(2) Pays contributions to the unemployment insurance benefit fund established by IC 22-4-26-1.
(3) Maintains worker's compensation insurance as required by IC 22-3-5.
(4) Pays one and one-half (1 ½) times the regular hourly rate of wages for hours worked in excess of forty (40) hours in a workweek.

(d) A contractor shall maintain records for a period of not less than three (3) years for an individual performing services for the contractor, regardless of whether the individual is classified as:
(1) an employee;
(2) an independent contractor;
(3) a sole proprietor; or
(4) a partnership.

(e) Records to be maintained by the contractor must include all documents related to, or tending to establish the nature of, the relationship between the contractor and an individual performing services for the contractor. Records that must be maintained for an individual performing services for the contractor include, but are not limited to:
(1) the:
(A) name;
(B) address;
(C) phone number; and
(D) Social Security number, individual taxpayer identification number, or federal tax identification number;
(2) the type of work performed;
(3) all invoices, billing statements, payroll records, or other payment records, including the dates of payments, and any miscellaneous income paid or deductions made;
(4) copies of all contracts with the individual, agreements with the individual, applications for employment by the individual with the contractor; and
(5) any federal and state tax documents.

Sec. 12. (a) It is a violation of section 11(a) of this chapter for a contractor or an agent of a contractor to fail to properly classify an individual as an employee unless the relationship between the individual and the contractor is excluded under section 11(a) of this chapter.

(b) A contractor is not liable under this chapter for the failure of a subcontractor or a lower tiered subcontractor to properly classify persons performing services as employees.

Sec. 13. (a) A contractor or an agent of the contractor that violates this chapter is subject to a civil penalty not to exceed one thousand five hundred dollars ($1,500) for each violation found by the first audit or investigation performed by the department. After a second or subsequent audit or investigation, a contractor or an agent of the contractor is subject to a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each repeat violation found by the department within a five (5) year period after the first violation. For purposes of this section, each violation of this chapter for each person and for each day the violation continues shall constitute a separate and distinct violation.

(b) The department shall consider the appropriateness of the amount of a penalty to the contractor or agent of the contractor charged upon the determination of the gravity of the violation.

(c) The department may assess up to twice the civil penalty under subsection (a) against a contractor or an agent of a contractor that:
(1) intentionally violates this chapter; or
(2) obstructs the department during an inspection of a place of employment during an investigation authorized under section 17(a) of this chapter concerning this chapter.

The amount of the penalty determined may be recovered, if necessary, in a civil action brought by the attorney general on behalf of the department. Any uncollected amount under this subsection or subsection (a) is subject to IC 6-8.1-9-14.

Sec. 14. (a) The department shall post a summary of the requirements of this chapter on its official Internet web site.

(b) The department also shall maintain the list set forth in section 18(e) of this chapter concerning contractors that are barred from performing public works contracts.

Sec. 15. A contractor for which one (1) or more individuals perform services who are not classified as employees under section 11(a) of this chapter shall post and keep posted a notice, prepared by the department, summarizing the requirements of this chapter. The notice shall be posted in a conspicuous place on a job site where the individual performs services and in each of the offices of the contractor. The department shall furnish copies of summaries without charge to a contractor upon request.

Sec. 16. (a) An interested party may file a complaint with the department against a contractor or an agent of the contractor if the interested party has a reasonable belief that the contractor or the agent of the contractor is in violation of this chapter. The complaint shall be filed on a form to be supplied by the department and in a manner prescribed by the department. The department may not investigate a complaint for a violation alleged to have occurred before January 1, 2009.

(b) The department shall conduct an investigation to ascertain the facts relating to the violation alleged in the complaint and determine whether a violation under this chapter has occurred. The investigation may be made by written or oral inquiry, field visit, conference, or any method or combination of methods the department considers suitable. The following apply to the investigation:
(1) If a contractor refuses to cooperate, the department may make a finding that there is a violation of this chapter.
(2) Complainants must provide the department with a notice of a change of address or telephone number or a prolonged absence from the current address so that the department can fully investigate the complaint. A complainant shall cooperate with the department,

provide necessary information, and be available for interviews and conferences upon reasonable notice or request by the department. If a complainant cannot be located or does not respond to reasonable requests by the department, the department may dismiss the individual from the complaint.

(3) The department may investigate alleged violations not longer than three (3) years preceding the date the complaint was filed.

(4) Before making a final determination of a violation, the department shall notify the contractor of the substance of the department's investigation and afford the contractor an opportunity to present any written information within fifteen (15) calendar days for the department to consider in reaching its final determination.

(c) As part of its investigation, the department may convene a factfinding conference in person or by telephone to obtain additional information or evidence, identify the issues in dispute, ascertain the positions of the parties, and explore the possibility of settlement. The factfinding conference must be limited to those issues the department believes to be relevant. The following apply to the conference:

(1) Notice of the conference shall:

(A) be given to all parties at least ten (10) calendar days before the conference; and

(B) identify the individual requested to attend on behalf of each party.

(2) A party may be accompanied to a factfinding conference by:

(A) the party's attorney or other representative; and

(B) a translator if necessary.

(3) A departmental investigator shall conduct the conference and control the proceedings. No tape recording, stenographic report, or other verbatim record of the conference may be made. If an individual fails to cooperate at the conference and becomes so disruptive or abusive that a full and fair conference cannot be conducted, the departmental investigator shall exclude the individual from the conference.

(4) A complainant who fails to attend a factfinding conference may be dismissed from the complaint. If a contractor fails to attend a factfinding conference, the department may make a finding that there is a violation of this chapter.

Sec. 17. (a) The department:

(1) may conduct investigations in connection with the administration and enforcement of this chapter;

(2) shall enforce the provisions of this chapter; and

(3) may hire investigators and other personnel necessary to carry out the purpose of this chapter.

(b) An employee of the department has authority to visit and inspect, at all reasonable times, a worksite subject to the provisions of this chapter and has authority to inspect, at all reasonable times, documents related to the determination of whether an individual is an employee under section 11(a) of this chapter.

(c) The commissioner or a representative of the commissioner may:

(1) compel, by subpoena, the attendance and testimony of witnesses and the production of books, payrolls, records, papers, and other evidence in an investigation; and

(2) administer oaths to witnesses.

Sec. 18. (a) Whenever the department believes, after investigation, that a violation of this chapter has occurred, the department may:

(1) issue and cause to be served on a person an order to cease and desist from further violation of the chapter;

(2) take affirmative or other action considered reasonable to eliminate the effect of the violation;

(3) collect the amount of wages, salary, employment benefits, or other compensation denied or lost to an individual; or

(4) assess a civil penalty allowed under section 13 of this chapter.

A civil penalty assessed by the department and any other relief requested by the department is recoverable in an action brought by the attorney general.

(b) When it appears to the department that a contractor or an agent of the contractor has violated a valid order of the department issued under this chapter, the department may:

(1) commence an action through the attorney general; and

(2) seek an order from the superior or circuit court in the county in which the contractor does business, mandating the contractor or the agent of the contractor to obey the order of the department.

The failure of the contractor or the agent of the contractor to obey the order of the court is contempt of court.

(c) Whenever the department determines that a violation of this chapter has occurred, the department shall notify the contractor or agent of the contractor in writing of the violation. A contractor or an agent of a contractor that receives:

(1) an order based on a violation;

(2) a civil penalty assessment;

(3) a cease and desist order; or

(4) any combination of subdivisions (1) through (3);

from the department may seek a hearing on the determination by filing a written petition for review with the department within ten (10) business days after receipt of the determination and in accordance with IC 4-21.5-3-2. The petition for review must contain a statement of the basis for the contest. The department shall mail a copy of the petition for review to the complainant and to any interested party designated on the complaint. The contractor shall post a copy of the petition for review contemporaneously with the filing of the petition at or near the place where the alleged violation occurred, or if the contractor is no longer performing services at the place where the alleged violation occurred, at the contractor's principal place of business in a conspicuous place where labor notices regularly are posted. Further, the contractor shall post a bond in an amount sufficient to pay wages, salary, employment benefits, or other compensation lost or denied to the individual as determined by the department and civil penalties assessed by the department contemporaneously with the filing of the petition. If the contractor or an agent of the contractor does not file a petition for review and post a bond within the ten (10) business day period, the department's determination shall be final.

(d) If the contractor or agent of the contractor files a timely petition for review, the commissioner shall set a hearing on the alleged violation. The hearing must take place not more than forty-five (45) calendar days after the receipt of the request for the hearing by the department. The hearing must be held in accordance with IC 4-21.5.

(e) After the second or subsequent violation determined by the department that occurs within five (5) years of an earlier violation, the department shall place the contractor's name on a list maintained on the Internet web site of the department as required under section 14(b) of this chapter. A contract for a public work may not be awarded by the state or a political subdivision to:

(1) a contractor whose name appears on the list; or

(2) a firm, a corporation, a partnership, or an association in which the contractor has an interest;

until four (4) years have elapsed after the posting of the

name on the list. If a contractor or agent of the contractor files a timely petition for review as set forth under subsection (c), the contractor's name shall not be added to the list until the department's determination that the contractor or agent of the contractor has violated this chapter is final.

Sec. 19. (a) The employee classification fund is established to:

(1) administer this chapter;

(2) investigate contractors and agents of contractors; and

(3) fund other expenses incurred in carrying out the duties of the department under this chapter.

The fund consists of civil penalties collected by the department under this chapter. The fund shall be administered by the department.

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

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

Sec. 20. (a) It is a violation of this chapter for a contractor or an agent of a contractor to retaliate through discharge or in any other manner against a person for exercising a right granted under this chapter. Retaliation subjects a contractor or an agent of a contractor to civil penalties under section 13 of this chapter or a private cause of action, or both.

(b) It is a violation of this chapter for a contractor or an agent of a contractor to retaliate against a person for:

(1) making a complaint to a contractor or an agent of a contractor, to a coworker, to a community organization, to a state or federal agency, or within a public hearing that rights guaranteed under this chapter have been violated;

(2) causing a proceeding under or related to this chapter to be instituted; or

(3) testifying or preparing to testify in an investigation or proceeding under this chapter.

Sec. 21. (a) A person aggrieved by a contractor or an agent of a contractor for a violation of this chapter may file suit in circuit court in the county where the alleged offense occurred or where any person who is a party to the action resides, without regard to exhaustion of any alternative administrative remedies provided in this chapter. A person whose rights have been violated under this chapter by a contractor or an agent of a contractor is entitled to collect:

(1) the amount of any wages, salary, employment benefits, or other compensation denied or lost to the person because of the violation;

(2) any other compensatory damages;

(3) in the case of an intentional violation, punitive damages in an amount equal to the civil penalties assessed under section 13(c) of this chapter;

(4) in the case of unlawful retaliation as set forth in section 20 of this chapter, all legal or equitable relief, or both, as appropriate; and

(5) attorney's fees and costs.

(b) The right of an interested party or aggrieved person to bring an action under this chapter terminates three (3) years after the final date of performing services for the contractor by the affected employee. The period of limitation is tolled if the contractor or an agent of the contractor has deterred a person's exercise of rights under this chapter.

Sec. 22. A person may not waive any provision of this chapter.

Sec. 23. A finding made under this chapter:

(1) is for the purpose of enforcing this chapter; and

(2) is not admissible or binding against a party in another proceeding.

Sec. 24. The department, the department of workforce development established by IC 22-4.1-2-1, the department of state revenue established by IC 6-8.1-2-1, and the worker's compensation board of Indiana created by IC 22-3-1-1(a) shall cooperate under this chapter by sharing information concerning any suspected misclassification of an employee as an independent contractor by a contractor or an agent of a contractor. Upon determining that a contractor or an agent of a contractor has classified an employee as an independent contractor in violation of this chapter, the department shall notify the:

(1) department of workforce development, which shall check the contractor's compliance with laws under IC 22-4 and IC 22-4.1;

(2) the department of state revenue, which shall check the contractor's compliance with laws under IC 6; and

(3) the worker's compensation board of Indiana, which shall check the contractor's compliance with laws under IC 22-3.

SECTION 6. IC 22-3-1-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5. (a) This section applies after December 31, 2008.**

(b) The worker's compensation board of Indiana shall cooperate with the:

(1) department of state revenue established by IC 6-8.1-2-1;

(2) department of labor created by IC 22-1-1-1; and

(3) department of workforce development established by IC 22-4.1-2-1;

by sharing information concerning any suspected misclassification by a contractor (as defined in IC 22-2-14-5) of an employee as an independent contractor. Information shared pursuant to this section is confidential and may not be published or open to public inspection.

SECTION 7. IC 22-4-18-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 8. (a) This section applies after December 31, 2008.**

(b) The department of workforce development shall cooperate with the:

(1) department of labor created by IC 22-1-1-1;

(2) department of state revenue established by IC 6-8.1-2-1; and

(3) worker's compensation board of Indiana created by IC 22-3-1-1(a);

by sharing information concerning any suspected misclassification by a contractor (as defined in IC 22-2-14-5) of an employee as an independent contractor. Information shared pursuant to this section is confidential and may not be published or open to public inspection.".

Page 8, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 11. IC 34-11-2-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 13. (a) This section applies beginning January 1, 2009.**

(b) An action brought by an aggrieved person under IC 22-2-14 must be commenced not later than three (3) years after the final date of performing services to the contractor as provided in IC 22-2-14-21(b).".

Renumber all SECTIONS consecutively.

(Reference is to ESB 345 as printed February 15, 2008.)

NIEZGODSKI

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

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Niezgodski's amendment (345–3) to Engrossed Senate Bill 345 does not violate House Rule 80. The amendment establishes an employee classification act and requires the Department of Revenue to share information regarding incorrect classification of employees. Engrossed Senate Bill 345, however, deals with collecting unemployment contributions. There is no viable nexus between the amendment and the under lying bill and the amendment is most assuredly not germane to the bill.

BOSMA
FOLEY

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

The question was, Shall the ruling of the Chair be sustained? Roll Call 206: yeas 48, nays 47. The ruling of the Chair was sustained.

The question then was on the motion of Representative Niezgodski (345–3). Upon request of Representatives Avery and Oxley, the Speaker ordered the roll of the House to be called. Roll Call 207: yeas 57, nays 37. Motion prevailed.

HOUSE MOTION
(Amendment 345–4)

Mr. Speaker: I move that Engrossed Senate Bill 345 be amended to read as follows:

Delete the title and insert the following:

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

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

"SECTION 1. IC 5-2-18 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 18. Citizenship and Immigration Status Information

Sec. 1. As used in this chapter, "governmental body" has the meaning set forth in IC 5-22-2-13.

Sec. 2. A governmental body may not enact an ordinance, a resolution, a rule, or a policy that prohibits or in any way restricts another governmental body, including a law enforcement officer (as defined in IC 5-2-1-2), a state or local official, or a state or local government employee, from taking the following actions with regard to information concerning the citizenship or immigration status, lawful or unlawful, of an individual:

(1) Communicating or cooperating with federal officials.

(2) Sending to or receiving information from the United States Department of Homeland Security.

(3) Maintaining information.

(4) Exchanging information with another federal, state, or local government entity.

Sec. 3. If a governmental body violates this chapter, a person lawfully domiciled in Indiana may bring an action to compel the governmental body to comply with this chapter.".

Page 3, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 3. IC 10-11-2-21.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 21.5. (a) As used in this section, "law enforcement officer" means a:**

(1) police employee;

(2) county sheriff;

(3) county police officer;

(4) county police reserve officer;

(5) city police officer;

(6) city police reserve officer;

(7) town marshal;

(8) deputy town marshal; or

(9) member of a consolidated law enforcement department established under IC 36-3-1-5.1.

(b) The superintendent shall negotiate the terms of a memorandum of understanding between the state and the United States Department of Justice or the United States Department of Homeland Security concerning a pilot project for the enforcement of federal immigration and customs laws in Indiana.

(c) The memorandum of understanding described in subsection (b) must be signed on behalf of the state by the superintendent and governor, unless otherwise required by the United States Department of Justice or the United States Department of Homeland Security.

(d) The superintendent shall designate appropriate law enforcement officers to be trained under the memorandum of understanding described in subsection (b).

(e) The department shall apply for federal funding, as available, for the costs associated with training law enforcement officers under the memorandum of understanding described in subsection (b).

(f) A law enforcement officer certified as trained in accordance with the memorandum of understanding described in subsection (b) may enforce federal immigration and customs laws while performing within the scope of the law enforcement officer's duties.

(g) The superintendent shall coordinate efforts, as needed, with the executive director of the department of homeland security to address issues of national security in implementing this section.

SECTION 4. IC 22-1-1-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 22. (a) The department of labor shall employ a sufficient number of administrative law judges to hear and decide cases initiated by the department under IC 22-5-1.5.**

(b) An administrative law judge employed by the department is subject to IC 4-21.5.

SECTION 5. IC 22-4-14-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. **(a) As used in this section, "SAVE program" means the Systematic Alien Verification of Entitlements program operated by the United States Department of Homeland Security or a successor program designated by the United States Department of Homeland Security.**

(b) For weeks of unemployment occurring subsequent to December 31, 1977, benefits may not be paid on the basis of services performed by an alien unless the alien is an individual who has been lawfully admitted for permanent residence at the time the services are performed, is lawfully present for purposes of performing the services, or otherwise is permanently residing in the United States under color of law at the time the services are performed (including an alien who is lawfully present in the United States as a result of the application of the provisions of Section 207, Section 208, or Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1157 through 1158).

(1) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(2) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to the individual are not payable because of ~~his~~ **the individual's** alien status may be made except upon a preponderance of the evidence.

(3) Any modifications to the provisions of Section 3304(a)(14) of the Federal Unemployment Tax Act, as provided by P.L.94-566, which specify other conditions or other effective date than stated in this section for the denial

of benefits based on services performed by aliens and which are required to be implemented under state law as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, shall be considered applicable under this section.

(c) If an individual who applies for benefits is not a citizen or national of the United States, the department shall verify the lawful presence of the individual to determine the individual's eligibility for benefits through the SAVE program. The department shall implement this subsection in accordance with federal law.".

Page 6, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 8. IC 22-5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 1.5. Employment of Unauthorized Aliens

Sec. 1. (a) This chapter applies only to an employee that an employer hires after June 30, 2009.

(b) Except as provided in subsection (c), this chapter does not apply to the following:

(1) A public utility (as defined in IC 8-1-2-1(a)) that is subject to regulation by the Indiana utility regulatory commission under IC 8-1-2.

(2) A hospital licensed under IC 16-21.

(3) A private psychiatric institution licensed under IC 12-25.

(4) A community mental health center identified in IC 12-29-2-1.

(5) A nonprofit corporation.

(6) A person who operates a business of transporting emergency patients by ambulance or using a nontransporting emergency medical services vehicle (as defined in IC 16-31-3-0.5).

(7) A corporation organized under IC 8-1-13.

(8) A corporation organized under IC 23-17 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13.

(9) A municipally owned utility (as defined in IC 8-1-2-1(h)).

(c) The entities listed in subsection (b) are subject to section 29 of this chapter.

Sec. 2. As used in this chapter, "agency" means any state or local administration, agency, authority, board, bureau, commission, committee, council, department, division, institution, office, service, or other similar body of government created or established by law that issues a license for purposes of operating a business in Indiana.

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

Sec. 4. As used in this chapter, "employee" means an individual who:

(1) performs services for an employer; and

(2) is an individual from whom the employer is required to withhold wages under IC 6-3-4-8 or is an employee described in IC 6-3-4-8(l).

Sec. 5. (a) As used in this chapter, "employer" means a person that:

(1) transacts business in Indiana;

(2) has a license issued by an agency; and

(3) employs one (1) or more individuals who perform employment services in Indiana.

However, if the person for whom the employee performs or performed the services does not have control of the payment of the wages for the services, the term "employer" means the person having control of the payment of wages to the employee.

(b) The term includes the state, a political subdivision (as defined in IC 3-5-2-38) of the state, and a self-employed person.

Sec. 6. As used in this chapter, "knowingly" has the meaning set forth in IC 35-41-2-2.

Sec. 7. (a) As used in this chapter, "license" means any agency permit, certificate, approval, registration, charter, or similar authorization that is:

(1) required by law; and

(2) issued by an agency;

for purposes of operating a business in Indiana.

(b) The term does not include an occupational or a professional license.

Sec. 8. As used in this chapter, "person" means an individual, a corporation, a limited liability company, a partnership, or another legal entity.

Sec. 9. As used in this chapter, "pilot program" means the employment verification pilot program administered by the United States Department of Homeland Security and the Social Security Administration, or the successor of that program.

Sec. 10. As used in this chapter, "unauthorized alien" has the meaning set forth in 8 U.S.C. 1324a(h)(3).

Sec. 11. An employer shall not knowingly employ an unauthorized alien.

Sec. 12. (a) The attorney general may investigate a complaint filed with the attorney general that an employer knowingly employed an unauthorized alien in violation of section 11 of this chapter.

(b) In investigating a complaint under subsection (a), the attorney general shall verify the work authorization of the alleged unauthorized alien with the federal government under 8 U.S.C. 1373(c).

(c) A complaint filed with the attorney general under subsection (a) must be:

(1) in writing; and

(2) signed by the individual filing the complaint.

Sec. 13. A state, county, or local official or employee may not attempt to make independently a final determination as to whether an individual is authorized to work in the United States.

Sec. 14. (a) If, after an investigation, the attorney general determines that an employer has knowingly employed an unauthorized alien, the attorney general shall notify the United States Immigration and Customs Enforcement.

(b) If the attorney general determines that an employer has knowingly employed an unauthorized alien and that any defenses to knowingly employing an unauthorized alien established under this chapter do not apply, the attorney general may notify the department.

(c) The attorney general may not notify the department under subsection (b) about an unauthorized alien unless the attorney general determines that the defenses to knowingly employing an unauthorized alien established under this chapter do not apply.

Sec. 15. (a) If the attorney general notifies the department under section 14 of this chapter that an employer has knowingly employed an unauthorized alien, the department may initiate an administrative proceeding to determine if the employer has violated section 11 of this chapter.

(b) An administrative hearing under this chapter shall be conducted by an administrative law judge appointed by the department under IC 22-1-1-22.

(c) IC 4-21.5 applies to an administrative proceeding under this section.

(d) The department may initiate only one (1) administrative proceeding against an employer relating to the employment of all unauthorized aliens employed by the employer at the time the department initiates the administrative proceeding.

(e) The department may initiate an additional administrative proceeding against an employer under this

section for a second or subsequent violation of section 11 of this chapter only for violations allegedly committed by the employer after the employer receives notice that the department has initiated an initial administrative proceeding against the employer under this section.

Sec. 16. If the department initiates an administrative proceeding under section 15 of this chapter, an administrative law judge may hold an administrative hearing and make a determination on an expedited basis.

Sec. 17. (a) Except as provided in sections 19 and 20 of this chapter, if an administrative law judge determines that an employer knowingly employed an unauthorized alien in violation of section 11 of this chapter, the following apply:

(1) The administrative law judge may do the following:

(A) Order the employer to terminate the employment of all unauthorized aliens employed by the employer.

(B) Place the employer on probation for a three (3) year period. During the probationary period, the employer shall file a quarterly report with the attorney general concerning each new individual the employer hires at the specific business location where the unauthorized alien worked.

(C) Order the employer to file a sworn affidavit signed by the employer with the department within three (3) business days after the order is issued under clause (A). The affidavit must include a statement that the employer:

(i) has terminated the employment of all unauthorized aliens; and

(ii) will not knowingly employ an unauthorized alien.

(2) The administrative law judge, after considering the relevant factors listed in subsection (b), may order an agency to suspend, for not more than ten (10) business days, a license described in section 18(a) of this chapter that is held by the employer.

(b) An administrative law judge may consider the following factors, if applicable, in deciding whether to order an agency to suspend an employer's license under subsection (a)(2):

(1) The number of unauthorized aliens employed by the employer.

(2) Any prior misconduct by the employer.

(3) The degree of harm resulting from the violation.

(4) The extent to which the employer made good faith efforts to comply with any applicable requirements under this chapter.

(5) The duration of the violation.

(6) The role of the directors, officers, or agents of the employer in the violation.

(7) Any other factors the administrative law judge considers relevant.

Sec. 18. (a) This section applies to all licenses held by an employer:

(1) that are necessary to operate the employer's business at the employer's business location where an unauthorized alien was employed by the employer; or

(2) if a license is not necessary at the employer's business location described in subdivision (1), that are held by the employer for the employer's primary place of business.

(b) If an employer fails to file a sworn affidavit required under section 17(a)(1)(C) of this chapter with the department within three (3) business days after the order requiring the filing of the affidavit is issued, the administrative law judge may order the appropriate agencies to suspend all licenses that are held by the employer. All licenses suspended under this subsection may remain suspended until the employer files a sworn affidavit described in section 17(a)(1)(C) of this chapter with the department.

(c) If an employer subject to an order filed under subsection (b) files a sworn affidavit required under section 17(a)(1)(C) of this chapter, the administrative law judge may order the appropriate agencies to reinstate the employer's suspended licenses.

Sec. 19. If:

(1) an administrative law judge determines that an employer knowingly employed an unauthorized alien in a second violation of section 11 of this chapter; and

(2) the violation referred to in subdivision (1) occurred not later than five (5) years after the date of the initial violation;

the administrative law judge may order the appropriate agencies to suspend, for not more than ten (10) business days, all licenses described in section 18(a) of this chapter that are held by the employer.

Sec. 20. (a) If:

(1) an administrative law judge determines that an employer knowingly employed an unauthorized alien in a third violation of section 11 of this chapter; and

(2) the violation referred to in subdivision (1) occurred not later than five (5) years after the date of the initial violation;

the administrative law judge may order the appropriate agencies to revoke for a period of time determined by the administrative law judge or permanently revoke all licenses held by the employer that are described in section 18(a) of this chapter.

(b) An employer may petition the governor under IC 4-21.5-3-30 to review an order issued by an administrative law judge revoking the employer's license or licenses.

Sec. 21. (a) An employer may, after the employer has exhausted all administrative and judicial remedies, request the governor to terminate or reduce the term of revocation of the employer's license or licenses under an order issued by an administrative law judge under section 20 of this chapter.

(b) The governor may terminate or reduce the term of revocation of an employer's license or licenses under an order issued by an administrative law judge under section 20 of this chapter and require the appropriate agency to reinstate the employer's license.

Sec. 22. (a) If an agency receives an order from an administrative law judge under section 17(a)(2), 18(b), or 19 of this chapter, the agency shall immediately suspend the license or licenses described in section 18(a) of this chapter that are held by the employer to which the order relates.

(b) If an agency receives an order from an administrative law judge under section 20 of this chapter, the agency shall immediately revoke the license or licenses described in section 18(a) of this chapter that are held by the employer to which the order relates.

Sec. 23. An administrative law judge shall send copies of all orders issued under sections 17, 18, 19, and 20 of this chapter to the attorney general.

Sec. 24. (a) In determining whether an individual is an unauthorized alien for purposes of this chapter, an administrative law judge may consider only the federal government's verification or status information provided under 8 U.S.C. 1373(c).

(b) The federal government's verification or status information provided under 8 U.S.C. 1373(c) creates a rebuttable presumption of an individual's lawful status.

(c) An administrative law judge may:

(1) take notice of the federal government's verification or status information; and

(2) request the federal government to provide automated or testimonial verification under 8 U.S.C. 1373(c).

Sec. 25. The department may not initiate an administrative proceeding against an employer under section 15 of this

chapter for knowingly employing an unauthorized alien if the employer verified the employment authorization of the employed individual through the pilot program.

Sec. 26. An employer may establish as an affirmative defense against an alleged violation under section 11 of this chapter that the employer complied in good faith with the requirements of 8 U.S.C. 1324a(b).

Sec. 27. The attorney general shall:

(1) maintain copies of orders received under section 23 of this chapter;

(2) make the orders available on the attorney general's Internet web site; and

(3) establish and maintain a data base of the names and addresses of the employers that have a violation under this chapter.

Sec. 28. This chapter does not require an employer to take any action that the employer believes in good faith would violate federal law.

Sec. 29. After June 30, 2009, an employer shall verify the employment eligibility of each employee of the employer through the pilot program after hiring the employee.

Sec. 30. A person who files a complaint with the attorney general under this chapter, knowing that the complaint is false or frivolous, commits a Class B misdemeanor.

Sec. 31. The suspension or revocation of a license under this chapter does not relieve an employer from an obligation to withhold, collect, or pay income tax on wages paid by the employer to an employee.

Sec. 32. This chapter shall be enforced without regard to race or national origin.

SECTION 3. IC 22-5-1.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 1.7. Public Contract for Services; Unauthorized Aliens

Sec. 1. As used in this chapter, "contractor" means a person that has or is attempting to enter into a public contract for services with a state agency or political subdivision.

Sec. 2. As used in this chapter, "person" means an individual, a corporation, a limited liability company, a partnership, or another legal entity.

Sec. 3. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13. However, the term does not include a hospital organized and operated under IC 16-22-2, IC 16-22-8, or IC 16-23.

Sec. 4. As used in this chapter, "public contract for services" means any type of agreement between a state agency or a political subdivision and a contractor for the procurement of services.

Sec. 5. As used in this chapter, "state agency" has the meaning set forth in IC 4-6-3-1.

Sec. 6. As used in this chapter, "subcontractor" means a person that:

(1) is a party to a contract with a contractor; and

(2) provides services for work the contractor is performing under a public contract for services.

Sec. 7. As used in this chapter, "unauthorized alien" has the meaning set forth in 8 U.S.C. 1324a(h)(3).

Sec. 8. A state agency or political subdivision may not enter into or renew a public contract for services with a contractor if the state agency or political subdivision knows that the contractor or a subcontractor of the contractor employs or contracts with an unauthorized alien.

Sec. 9. Before a state agency or political subdivision may enter into a public contract for services with a contractor, the contractor shall certify in a manner that does not violate federal law that the contractor, at the time of the certification, does not employ or contract with an unauthorized alien.

Sec. 10. (a) A contractor or a subcontractor may not knowingly employ or contract with an unauthorized alien.

(b) If a contractor or subcontractor violates this section, the state agency or political subdivision may file a complaint concerning the violation by the contractor or subcontractor with the attorney general under IC 22-5-1.5.

Sec. 11. If a contractor uses a subcontractor, the subcontractor shall certify to the contractor in a manner that does not violate federal law that the subcontractor, at the time of certification, does not employ or contract with an unauthorized alien.

Sec. 12. A contractor shall maintain on file a certification of a subcontractor under section 11 of this chapter throughout the duration of the term of a contract with the subcontractor.

Sec. 13. (a) If a contractor determines that a subcontractor is in violation of this chapter, the contractor may terminate a contract with the subcontractor for the violation.

(b) A contract terminated under subsection (a) for a violation of this chapter by a subcontractor may not be considered a breach of contract by the contractor or the subcontractor.

(c) A subcontractor may file an action with a circuit or superior court having jurisdiction in the county to challenge a termination of a contract under subsection (a) not later than twenty (20) days after the contractor terminates the contract with the subcontractor.".

Page 8, between lines 26 and 27, begin a new paragraph and insert:

"SECTION 13. IC 34-30-2-87.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 87.3. IC 22-5-1.5-25 (Concerning certain employers that employ unauthorized aliens).**

SECTION 4. [EFFECTIVE JULY 1, 2009] **The department of labor may initiate an administrative proceeding against an employer under IC 22-5-1.5-15, as added by this act, only for a violation of IC 22-5-1.5-11, as added by this act, that occurs after June 30, 2009.**

SECTION 5. [EFFECTIVE JULY 1, 2008] **(a) The attorney general may request funding to implement IC 22-5-1.5-12, as added by this act, in the next biennial budget submission.**

(b) This SECTION expires July 1, 2012.

SECTION 6. [EFFECTIVE JULY 1, 2008] **(a) As used in this SECTION, "law enforcement officer" has the meaning set forth in IC 10-11-2-21.5, as added by this act.**

(b) There is appropriated to the state police department one million dollars ($1,000,000) from the state general fund for the state police department's use in training law enforcement officers under a memorandum of understanding entered into under IC 10-11-2-21.5, as added by this act.

(c) Money appropriated by this SECTION does not revert to the state general fund at the close of any fiscal year, but remains available for the use of the state police department until the provisions of IC 10-11-2-21.5, as added by this act, are fulfilled.

SECTION 7. [EFFECTIVE JULY 1, 2008] **(a) The definitions in IC 22-5-1.5, as added by this act, apply throughout this SECTION.**

(b) There is appropriated to the attorney general five hundred thousand dollars ($500,000) from the state general fund for the attorney general's use in investigating complaints filed with the attorney general under IC 22-5-1.5-12, as added by this act, that an employer knowingly employed an unauthorized alien in violation of IC 22-5-1.5-11, as added by this act.

(c) Money appropriated by this SECTION does not revert to the state general fund at the close of any fiscal year, but remains available for use by the attorney general until the provisions of IC 22-5-1.5, as added by this act, are fulfilled.

SECTION 8. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "commission" refers to the commission on Hispanic/Latino affairs established by IC 4-23-28-2.**

(b) The commission shall study and prepare a report on:

(1) the requirements a person must meet to qualify for naturalization; and

(2) the process by which United States citizenship is conferred upon a person.

(c) The commission shall submit the report prepared in accordance with subsection (b) to the legislative council in an electronic format under IC 5-14-6 before July 1, 2009.

(d) There is appropriated to the commission fifty thousand dollars ($50,000) from the state general fund for the commission's use in studying and preparing a report on the topics listed in subsection (b). Any amount of the appropriated funds under this subsection that is not used or encumbered reverts to the state general fund after June 30, 2009.

(e) This SECTION expires January 1, 2010.

SECTION 9. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "commission" refers to the commission established under subsection (b).**

(b) The immigration cost impact commission is established.

(c) The commission consists of the following members:

(1) The executive director of the department of homeland security or the director's designee.

(2) The commissioner of the department of labor or the commissioner's designee.

(3) The chairperson of the commission on Hispanic/Latino affairs established by IC 4-23-28-2 or the chairperson's designee who is a member of the commission on Hispanic/Latino affairs.

(4) The secretary of family and social services or the secretary's designee.

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

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

(7) A representative of the business community.

(8) A representative of organized labor.

(9) A representative of hospital associations.

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

(11) Two (2) members of the house of representatives, who may not be affiliated with the same political party, to be appointed by the speaker of the house of representatives.

The governor shall appoint the members designated by subdivisions (7) through (9).

(d) The members of the commission shall select one (1) of the appointed members to serve as chairperson and one (1) of the appointed members to serve as vice chairperson.

(e) The commission shall meet at the call of the chairperson. The commission shall meet at least one (1) time quarterly.

(f) The affirmative votes of a majority of the voting members appointed to the commission are required by the commission to take action on any measure, including a final report.

(g) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(h) Each member of the commission who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(i) The commission shall study and prepare a report on the following:

(1) The financial impact of individuals who are unlawfully present in the United States on the following in Indiana:

(A) Education.

(B) Health care.

(C) The criminal justice system, including court and attorney costs and costs of incarceration.

(D) Welfare.

(2) The impact of individuals who are unlawfully present in the United States on the following in Indiana:

(A) Wages.

(B) State and local agencies and offices that issue or are required to check identification.

(3) Issues related to the following:

(A) The state's authority and responsibility concerning a child who:

(i) is a United States citizen; and

(ii) has a parent who was or both parents who were deported for violation of immigration laws.

(B) The societal and familial impact of deportation of a family member.

(j) The commission shall submit the report prepared in accordance with subsection (i) to the legislative council in an electronic format under IC 5-14-6 before July 1, 2009.

(k) There is appropriated to the commission fifty thousand dollars ($50,000) from the state general fund for the commission's use in studying and preparing a report on the topics listed in subsection (i). Any amount of the appropriated funds under this subsection that is not used or encumbered reverts to the state general fund after June 30, 2009.

(l) This SECTION expires January 1, 2010.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 345 as printed February 15, 2008.)

TINCHER

Representative Foley rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into Engrossed Senate Bill 345 a bill pending before the House. The Speaker ruled the point was not well taken and the motion was out of order.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Tincher's amendment (345–4) does not violate House Rule 118. The amendment addresses illegal immigration and is found in Senate Bill 335, which is currently pending in the House as a committee report to be adopted. The amendment is assuredly a bill pending before this House

BOSMA
FOLEY

The Speaker Pro Tempore yielded the gavel to the Speaker.

The question was, Shall the ruling of the Chair be sustained? Roll Call 208: yeas 47, nays 46. The ruling of the Chair was sustained.

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

Representative Buell was excused for the rest of the day.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Tincher's amendment (345–4) does not violate House Rule 80. The amendment addresses illegal immigration and is assuredly not germane Engrossed Senate Bill 345, which concerns the collection of unemployment contributions.

BOSMA
FOLEY

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

The question was, Shall the ruling of the Chair be sustained? Roll Call 209: yeas 48, nays 46. The ruling of the Chair was sustained.

The Speaker Pro Tempore yielded the gavel to the Speaker.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 7:25 p.m. with the Speaker in the Chair.

ENGROSSED SENATE BILLS ON SECOND READING

Engrossed Senate Bill 345

The second reading of Engrossed Senate Bill 345, sponsored by Representative Niezgodski, and the motion of Representative Tincher (345–4) were pending.

Representative T. Brown requested a quorum call. The Speaker ordered the roll of the House to be called. Roll Call 210: 50 present. A quorum was not present.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 8:00 p.m. with the Speaker in the Chair.

The Speaker ordered the roll of the House to be called to determine the presence or absence of a quorum. Roll Call 211: 50 present. A quorum was not present.

In the absence of a quorum, the House recessed until Monday, February 25, 2008, at 10:00 a.m.

B. PATRICK BAUER
Speaker of the House of Representatives

CLINTON McKAY
Principal Clerk of the House of Representatives