Journal of the Senate

State of Indiana

114th General Assembly First Regular Session

Fifty-sixth Meeting Day Friday Morning April 29, 2005

The Senate convened at 10:38 a.m., with the President of the Senate, Rebecca S. Skillman, in the Chair.

Prayer was offered by Senator Brent Steele.

The Pledge of Allegiance to the Flag was led by Senator Steele.

The Chair ordered the roll of the Senate to be called. Those present were:

Alting	Long
Antich-Carr	Lubbers
Bowser	Lutz
Bray	Meeks
Breaux	Merritt
Broden	Miller
Clark	Mishler
Craycraft	Mrvan
Dillon	Nugent
Drozda	Paul
Ford	Riegsecker
Gard	Rogers
Garton	Server
Harrison	Simpson
Heinold	Sipes
Hershman	Skinner
Howard	Smith
Hume	Steele
Jackman	Waltz
Kenley	Waterman
Kruse	Weatherwax
Lanane	Wyss
Landske	Young, M.
Lawson	Young, R.
Lewis	Zakas

Roll Call 526: present 50. The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

RESOLUTIONS ON FIRST READING

Senate Resolution 60

Senate Resolution 60, introduced by Senator R. Young:

A SENATE RESOLUTION urging the legislative council to direct an appropriate study committee to review issues regarding our children and protecting them from pedophiles.

Whereas, Recent tragic events in Florida involving the abduction and death of children at the hands of convicted pedophiles, warrant a review of Indiana's statutes to determine if our children are adequately being protected from these predators: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana:

SECTION 1. That the Legislative Council is urged to direct an appropriate study committee to review issues regarding our children and protecting them from pedophiles.

SECTION 2. That the study committee shall operate under the direction of the Legislative Council and shall issue a final report when directed to do so by the council.

The resolution was read in full and referred to the Committee on Rules and Legislative Procedure.

Senate Resolution 61

Senate Resolution 61, introduced by Senator R. Young:

A SENATE RESOLUTION urging the legislative council to assign the topic of elevating Tillery Hill State Recreation Area to the status of a state park to the Natural Resources Study Committee.

Whereas, Tillery Hill State Recreation Area is in a state of development that warrants an upgrade to state park status, the state of Indiana should study the issue: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana:

SECTION 1. That the legislative council is urged to assign the topic of elevating Tillery Hill State Recreation Area to state park status to the Natural Resources Study Committee.

SECTION 2. That the committee shall operate under the direction of the legislative council and shall issue a final report when directed to do so by the council.

The resolution was read in full and referred to the Committee on Rules and Legislative Procedure.

Senate Resolution 62

Senate Resolution 62, introduced by Senator Lanane:

A SENATE RESOLUTION urging the Legislative Council to direct the Probate Code Study Commission to review issues regarding living wills.

Whereas, Events surrounding the controversial Terry Schaivo case in Florida focusing on the need for living wills and related issues: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana:

SECTION 1. That the Legislative Council is urged to direct the Probate Code Study Commission to review issues regarding living wills and related issues.

SECTION 2. That the commission shall operate under the direction of the Legislative Council and shall issue a final report when directed to do so by the council.

The resolution was read in full and referred to the Committee on Rules and Legislative Procedure.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Senate Concurrent Resolution 39 and the same is herewith returned to the Senate.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has adopted the Conference Committee Report on Engrossed House Bill 1153–1.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has adopted the Conference Committee Report on Engrossed Senate Bills 1–1, 127–1, 139–2, and 327–1.

M. CAROLINE SPOTTS
Principal Clerk of the House

COMMITTEE REPORT

Pursuant to Senate Rule 83(i), your Committee on Rules and Legislative Procedure to which was referred Conference Committee Reports filed on Engrossed Senate Bills 1, 139, 218, 414, 536, 602, 607, and 609 and Engrossed House Bills 1001, 1073, 1141, 1142, 1153, 1365, 1407, and 1666 has had the same under consideration and begs leave to report back to the Senate with the recommendation that said Conference Committee Reports are eligible for consideration.

GARTON, Chair

Report adopted.

SENATE MOTION

Madam President: I move that Conference Committee Report #1 to Engrossed Senate Bill 213, filed April 28, 2005, be withdrawn from further consideration by the Senate.

M. YOUNG

Motion prevailed.

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 55

Senate Concurrent Resolution 55, introduced by Senators Server and Lutz:

A CONCURRENT RESOLUTION honoring Kate Endress as one of the top student-athletes in the nation.

Whereas, Kate Endress is an Evansville native and graduate of Evansville Memorial High School, where she excelled in athletics, academics, and school government. Miss Endress was a 2001 Indiana All-Star in basketball, averaging 25.9 points and 8.4 rebounds as a senior, as well as a multiple letter winner in volleyball and track. She also ranked in the top five percent of her class and was elected class vice-president throughout all four years of high school;

Whereas, Miss Endress has continued her academic and athletic career at Ball State University in Muncie, where she has achieved national recognition by being named the Women's Basketball Academic All-America of the year by ESPN The Magazine;

Whereas, Miss Endress has recently been named the Mid-American Conference Player of the Year for the 2004-2005 season, after leading the conference in scoring and three point percentage, as well as ranking near the top of the conference in rebounds;

Whereas, In addition to her athletic success, Miss Endress, a Ball State Presidential Scholarship recipient, has excelled as a student, earning a 3.95 in the university's nationally ranked Entrepreneurship Program;

Whereas, The success of the State of Indiana and the strength of our communities depend upon the dedication and leadership of young adults like Miss Endress; and

Whereas, The Indiana General Assembly recognizes Kate Endress for her dedication to both academics and athletics: Therefore,

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

SECTION 1. That the Indiana General Assembly congratulates Kate Endress for her numerous achievements and extends its best wishes for her continued success.

SECTION 2. The Secretary of Senate is hereby directed to transmit a copy of this Resolution to Ball State University Athletic Director Bubba Cunningham, Women's Basketball Head Coach Tracy Roller, and Kate Endress.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsors: Representatives Becker and Avery.

House Concurrent Resolution 84

House Concurrent Resolution 84, sponsored by Senator Waltz:

A CONCURRENT RESOLUTION to honor George Fuller as an outstanding automobile salesman.

Whereas, George Fuller is an automobile salesman employed by Beck Toyota Corporation;

Whereas, George Fuller handles his customers in a professional manner and gives personal consideration for each of them;

Whereas, George Fuller's salesmanship has earned him many repeat and long-term customers;

Whereas, George Fuller seeks to find out what is important to each of his customers and strives to deliver exactly what they need;

Whereas, George Fuller views his job as understanding the customer's needs and providing leadership in helping the customer make a decision;

Whereas, George Fuller's listening skills has given him the title of " Know me, Understand me, Help me, and Lead me";

Whereas, George Fuller consistently sells more cars to loyal customers than others in his field;

Whereas, George Fuller's salesman awards that line his office wall include two Toyota Gold Sales Society Awards, numerous Salesman of the Month Awards, and Toyota Bronze Sales Society Awards; and

Whereas, George Fuller is considered a "one-of-a-kind" type of salesman: Therefore,

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

SECTION 1. That the Indiana House of Representatives, the Senate concurring, honors George Fuller as an outstanding automobile salesman.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this Resolution to George Fuller.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

House Concurrent Resolution 67

House Concurrent Resolution 67, sponsored by Senators Howard, Breaux, Clark, and Miller:

A CONCURRENT RESOLUTION recognizing the establishment of the Indianapolis chapter of the Our Kids Program.

Whereas, The Our Kids (O. K.) Program was founded to help foster effective partnerships between police agencies, schools, students, and community members, and to provide positive guidance and support to African-American males ages 12 to 18;

Whereas, The mission of the O. K. Program is to reduce the high levels of incarceration and homicide rates among African-American males, efforts that result in the reduction of the high school drop out and teenage pregnancy rates that affect the African-American community;

Whereas, The mission of the program is accomplished by offering African-American police officers and other adult males as role models to guide youth toward positive life choices such as college, military service, and vocational training;

Whereas, On Friday, September 3, 2004, the Indianapolis chapter of the O. K. Program was introduced to the community;

Whereas, This team mentoring program has received numerous awards, including the Jefferson Award, the U.S. Attorney General's Award for the most effective juvenile delinquency program, and the President's 945th Point of Light Award; and

Whereas, The O. K. Program has served more than 1,400 young men in its 14 years of operation and, as a testament to the program's success, not a single graduate of the program has gone to prison: Therefore,

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

SECTION 1. That the Indiana General Assembly recognizes the good work of the O. K. Program and wishes the newly created Indianapolis chapter success in the future.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the Indianapolis chapter of the O. K. Program.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

Senate Resolution 59

Senate Resolution 59, introduced by Senator Smith:

A SENATE RESOLUTION to honor and congratulate Reverend Dr. James Commodore Wade, Jr. of East Chicago, Indiana, for his forty years of service to the Zion Missionary Baptist Church.

Whereas, Reverend Dr. J.C. Wade, Jr. was born in Memphis, Tennessee, grew up in Omaha, Nebraska, and was licensed in 1957 and ordained in 1961 at the Salem Missionary Baptist Church in Omaha, Nebraska. In 1965, Rev. Dr. Wade was called to the Zion Missionary Baptist Missionary Church located in East Chicago, Indiana where he is currently the pastor.

Whereas, Reverend Dr. Wade earned a Bachelor of Arts Degree from Bishop College in Dallas, Texas; a Bachelor of Theology,

Indiana Christian Bible College in Gary, Indiana; a Masters of Religious Education and a Doctorate of Bible Theology, International Bible Institute and Seminary in Orlando, Florida and a Honorary Doctor of Divinity, GMOR Theological Institute of Northwestern Indiana in Gary, Indiana.

Whereas, Reverend Dr. Wade is married to Ella Wade and has three children; a son, Pastor James Wade III who is married to La Nita Wade, and two daughters, Camellia McKinley who is married to Pastor Thomas McKinley and Lashonta Thompson who is married to Pastor Charles Thompson Jr.; two granddaughters, Brishonda Wade and Sabrina McKinley and two grandsons, Charles Thompson III and Cameron James Thompson.

Whereas, Reverend Dr. Wade is the former President of the General Missionary Baptist State Convention of Indiana, Inc. and State Vice President of the National Baptist Convention, USA, Inc. His affiliations consist of being a member of the Board of Directors for the National Baptist Convention, USA, Inc.; Devotional Leader for the National Sunday School; BTU Congress for the Pastors Division; a member of the NAACP, Operation Push, Northwest Indiana Food Bank in which he is implementing an ongoing food pantry, Twin City Ministerial Alliance and Foreign Missions Preaching Team to Africa.

Whereas, Reverend Dr. Wade has several accomplishments including, co-authoring Volume I and II of "These Three;" he oversaw the construction of a new church edifice and an educational facility for Zion Missionary Baptist Church; he is the CEO of the Zion Community Development Corporation; he started the After School Tutorial Prevention and Awareness Program, where over 50 children participate; Under Rev. Dr. Wade's leadership the Zion Academic Academy opened in September 2000 for children 2-5 years of age.

Whereas, Reverend Dr. Wade received a proclamation from the city of East Chicago in May 1994, he made three pilgrimages to the Holy Land and is a nationwide Evangelist; and on the 4th week of May 2000, the city of East Chicago dedicated and renamed Drummond Street to Reverend Dr. J. C. Wade Street for the many years of service and dedication to the community: Therefore,

Be it resolved by the Senate of the
General Assembly of the State of Indiana:

SECTION 1. That the Senate of the General Assembly congratulate and honor Reverend Dr. James Commodore Wade, Jr. for his 40 years of service to Zion Missionary Baptist Church and the East Chicago community.

SECTION 2. That the Secretary of the Senate shall send a copy of this resolution to Reverend Dr. James Commodore Wade, Jr.

The resolution was read in full and adopted by voice vote.

House Concurrent Resolution 85

House Concurrent Resolution 85, sponsored by Senators Clark and Ford:

A CONCURRENT RESOLUTION honoring Senior Connects, Safe Connects, People Connects, and Youth Connects and supporting the idea of Net Literacy Week.

Whereas, The ability to use and communicate via computers and the Internet is a necessity in our fast paced world;

Whereas, Computer literacy is indispensable in our information oriented society;

Whereas, Those who do not have the opportunity to become computer literate or do not have access to a computer may be at a disadvantage;

Whereas, Net Literacy Week promotes the need for computer literacy among adults and senior citizens and helps to bring attention to this important issue;

Whereas, Senior Connects is a 501(c)(3) youth-managed community outreach program that promotes senior citizen computer literacy and youth leadership and responsibility and was founded three years ago by Daniel Kent, a Brebeuf High School student from Indianapolis;

Whereas, The mission of Senior Connects is to create a national youth and senior citizen empowerment program, increase awareness of the senior Net Literacy problem, create synergy by working together with other nonprofit organizations, municipalities, schools, and churches, build public computer labs inside senior facilities, teach seniors how to use a computer and email their friends and family members, and develop a comprehensive web site to enable youths to create similar programs in their own communities across America;

Whereas, Through the efforts of Senior Connects more than 10,000 seniors in 65 facilities received computers or enhanced computer access and more than 100 seniors with an average age of 87 were taught computer skills in a five month program;

Whereas, In addition to its work with seniors, Senior Connects has built a web site for the organization entitled www.seniorconnects.org, recruited more than 100 middle and high school students, received recognition in more than a dozen newspaper and magazine articles, received more than 500 donated computers, disposed of unusable computers in an environmentally friendly manner, received more than $70,000 in grants, and partnered with community service organizations, social workers, local nonprofit groups, schools, and religious institutions;

Whereas, Student volunteers at Senior Connects work year-round helping establish public computer labs and teaching seniors how to use computers and access the Internet;

Whereas, In addition to Senior Connects, three other youth organizations are involved in the promotion of Net Literacy Week:

Safe Connects, People Connects, and Youth Connects;

Whereas, Safe Connects works with state and national educators, law enforcement, parents of victims, and social workers to create a program that teaches "Net Safety" to elementary and middle school youth in schools, religious institutions, and homes;

Whereas, People Connects works with Indiana nonprofit organizations that target underserved youth and provides access to technology and teaches computer and Internet skills to young people and their families;

Whereas, Youth Connects works with municipalities to sponsor computer drives; these computers are given to Hoosier families with elementary school students that are on public assistance; and

Whereas, Volunteers from Senior Connects, Safe Connects, People Connects, and Youth Connects are helping to increase computer literacy among seniors and adults by dedicating numerous hours helping users and answering questions related to computer technology and the Internet: Therefore,

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

SECTION 1. That the Indiana General Assembly thanks Senior Connects, Safe Connects, People Connects, and Youth Connects for their work to increase computer literacy and to encourage adults and seniors to become computer literate so that they may be better able to use the vast amount of information available to them via computer.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Senior Connects, Safe Connects, People Connects, and Youth Connects.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT

ESB 446–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 446 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete the title and insert the following:

A BILL FOR AN ACT concerning local government.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 8-1.5-5-29 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 29. (a) Subsections (c), (d), and (e) do not apply to a city that before January 1, 2005, adopted an ordinance establishing procedures for the collection of unpaid user fees under this chapter through the enforcement of a lien.**

(b) Fees assessed against real property under this chapter constitute a lien against the property assessed. The lien is superior to all other liens except tax liens. Except as provided in subsections (c) and (d), the lien attaches when notice of the lien is filed in the county recorder's office under section 30 of this chapter.

(c) A fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before the conveyance to the subsequent owner. If property is conveyed before a lien is filed, the department shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not more than fifteen (15) days after the date of the notice. If payment is not received within one hundred eighty (180) days after the date of the notice, the amount due may be expensed as a bad debt loss.

(d) A lien attaches against real property occupied by someone other than the owner only if the department notifies the owner within twenty (20) days after the time the user fees became sixty (60) days delinquent. However, the department must give notice to the owner only if the owner has given the department written notice of the address to which to send notice.

(e) The department shall release:

(1) liens filed with the county recorder after the recorded date of conveyance of the property; and

(2) delinquent fees incurred by the seller;

upon receipt of a verified demand in writing from the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner and that the purchaser has not been paid by the seller for the delinquent fees.

SECTION 2. IC 8-1.5-5-30 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 30. (a) The board may defer enforcing the collection of unpaid fees and penalties assessed under this chapter until the unpaid fees and penalties have been due and unpaid for at least ninety (90) days.**

(b) Except as provided in subsection (k), the board shall enforce payment of fees imposed under this chapter. As often as the board determines necessary in a calendar year, the board shall prepare either of the following:

(1) A list of the delinquent fees and penalties that are enforceable under this section. The list must include the following:

(A) The name of the owner of each lot or parcel of real property on which fees are delinquent.

(B) A description of the premises, as shown by the records of the county auditor.

(C) The amount of the delinquent fees, together with the penalty.

(2) An individual instrument for each lot or parcel of real property on which the fees are delinquent.

(c) An officer of the board shall record a copy of each list or each individual instrument with the county recorder who shall charge a fee for recording the list or each individual instrument in accordance with the fee schedule established in IC 36-2-7-10. The officer shall mail by certified mail, or by another delivery service providing proof of delivery, to each property owner on the list or on an individual instrument a notice stating that a lien against the owner's property has been recorded. A service charge of five dollars ($5), which is in addition to the recording fee charged under this subsection and under subsection (e), shall be added to each delinquent fee that is recorded.

(d) Using the lists and instruments prepared under subsection (b) and recorded under subsection (c), the board shall, not later than ten (10) days after the list or each individual instrument is recorded under subsection (c), certify to the county auditor a list of the liens that remain unpaid for collection in the next May. The county and its officers and employees are not liable for any material error in the information on this list.

(e) The board shall release any recorded lien when the delinquent fees, penalties, service charges, and recording fees have been fully paid. The county recorder shall charge a fee for releasing the lien in accordance with IC 36-2-7-10.

(f) Upon receipt of the list under subsection (c), the county auditor of each county shall add a fifteen dollar ($15) certification fee for each lot or parcel of real property on which fees are delinquent. The fee is in addition to all other fees and charges. The county auditor shall immediately enter on the tax duplicate for the district the delinquent fees, penalties, service charges, recording fees, and certification fees, which are due not later than the due date of the next May installment of property taxes. The county treasurer shall include any unpaid charges for the delinquent fee, penalty, service charge, recording fee, and certification fee to the owner or owners of each lot or parcel of property, at the time the next cycle's property tax installment is billed.

(g) After certification of liens under subsection (d), the board may not collect or accept delinquent fees, penalties, service charges, recording fees, or certification fees from property owners whose property has been certified to the county auditor.

(h) If a delinquent fee, penalty, service charge, recording fee, and certification fee are not paid, they shall be collected by the county treasurer in the same way that delinquent property taxes are collected.

(i) At the time of each semiannual tax settlement, the county treasurer shall certify to the county auditor all fees, charges, and penalties that have been collected. The county auditor shall deduct the service charges and certification fees collected by the county treasurer and pay over to the officer the remaining fees and penalties due the district. The county treasurer shall retain the service charges and certification fees that have been collected and shall deposit them in the county general fund.

(j) Fees, penalties, and service charges that were not recorded before a recorded conveyance shall be removed from the tax roll for a purchaser who, in the manner prescribed by section 29(e) of this chapter, files a verified demand with the county auditor.

(k) A board may write off a fee or penalty under subsection (a) that is less than forty dollars ($40).

SECTION 3. IC 8-1.5-5-31 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 31. (a) A district may foreclose a lien established by this chapter in order to collect fees and penalties. The district shall recover the amount of the fees and penalties, and a reasonable attorney's fee. The court shall order the sale to be made without relief from valuation or appraisement laws.**

(b) Except as otherwise provided by this chapter, actions under this chapter are subject to the general statutes regarding municipal public improvement assessments.

SECTION 4. IC 13-26-14-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 4. Rates, fees, or charges made, assessed, or established by the district are a lien on a lot, parcel of land, or building that is connected with or uses the works of the district in the manner established under IC 36-9-23. The liens:**

(1) attach;

(2) are recorded;

(3) are subject to the same penalties, interest, and reasonable attorney's fees on recovery; and

(4) shall be collected and enforced;

in substantially the same manner as provided in IC 36-9-23-31 through IC 36-9-23-32.

SECTION 5. IC 36-1-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) If a condition violating an ordinance of a municipal corporation exists on real property, officers of the municipal corporation may enter onto that property and take appropriate action to bring the property into compliance with the ordinance. However, before action to bring compliance may be taken, all persons holding a substantial interest in the property must be given a reasonable opportunity of at least ten (10) days but not more than sixty (60) days to bring the property into compliance. If the municipal corporation takes action to bring compliance, the expenses incurred by the municipal corporation to bring compliance constitute a lien against the property. **The lien attaches when notice of the lien is recorded in the office of the county recorder in which the property is located.** The lien is superior to all other liens except liens for taxes, in an amount that does not exceed:

(1) two thousand five hundred dollars ($2,500) for real property that:

(A) contains one (1) or more occupied or unoccupied single or double family dwellings or the appurtenances or additions to those dwellings; or

(B) is unimproved; or

(2) ten thousand dollars ($10,000) for all other real property not described in subdivision (1).

(b) The municipal corporation may issue a bill to the owner of the real property for the costs incurred by the municipal corporation in bringing the property into compliance with the ordinance, including administrative costs and removal costs.

~~(c) If the owner of the real property fails to pay a bill issued under subsection (b), the municipal corporation may, after thirty (30) days, certify to the county auditor the amount of the bill, plus any additional administrative costs incurred in the certification. The auditor shall place the total amount certified on the tax duplicate for the property affected, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the municipal corporation.~~

(c) A bill issued under subsection (b) is delinquent if the owner of the real property fails to pay the bill within thirty (30) days after the date of the issuance of the bill.

(d) Whenever a municipal corporation determines it necessary, the officer charged with the collection of fees and penalties for the municipal corporation shall prepare:

(1) a list of delinquent fees and penalties that are enforceable under this section, including:

(A) the name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent;

(B) a description of the premises, as shown on the records of the county auditor; and

(C) the amount of the delinquent fees and the penalty; or

(2) an instrument for each lot or parcel of real property on which the fees are delinquent.

(e) The officer shall record a copy of each list or each instrument with the county recorder, who shall charge a fee for recording the list or instrument under the fee schedule established in IC 36-2-7-10.

(f) The amount of a lien shall be placed on the tax duplicate by the auditor. The total amount, including any accrued interest, shall be collected in the same manner as delinquent taxes are collected and shall be disbursed to the general fund of the municipal corporation.

(g) A fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before conveyance to the subsequent owner. If the property is conveyed before the lien is recorded, the municipal corporation shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not later than fifteen (15) days after the date of the notice. If payment is not received within one hundred eighty (180) days after the date of the notice, the amount due may be considered a bad debt loss.

(h) The municipal corporation shall release:

(1) liens filed with the county recorder after the recorded date of conveyance of the property; and

(2) delinquent fees incurred by the seller;

upon receipt of a written demand from the purchaser or a representative of the title insurance company or the title insurance company's agent that issued a title insurance policy to the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner and that the purchaser has not been paid by the seller for the delinquent fees.

(i) The county auditor shall remove the fees, penalties, and service charges that were not recorded before a recorded conveyance to a subsequent owner upon receipt of a copy of the written demand under subsection (h).

SECTION 6. IC 36-3-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Liens for taxes levied by the consolidated city are perfected when ~~certified to the auditor of the county.~~ **evidenced on the tax duplicate in the office of the treasurer of the county.**

(b) Liens created when the city enters upon property to make improvements to bring it into compliance with a city ordinance, and liens created upon failure to pay charges assessed by the city for services shall be certified to the auditor, after the adoption of a resolution confirming the incurred expense by the appropriate city department, board, or other agency. In addition, the resolution must state the name of the owner as it appears on the township assessor's record and a description of the property. ~~These liens are perfected when certified to the auditor.~~

(c) The amount of a ~~perfected~~ lien shall be placed on the tax duplicate by the auditor in the nature of a delinquent tax subject to enforcement and collection as otherwise provided under IC 6-1.1-22, IC 6-1.1-24, and IC 6-1.1-25. However, the amount of the lien is not considered a tax within the meaning of IC 6-1.1-21-2(b) and shall not be included as a part of either a total county tax levy under IC 6-1.1-21-2(g) or the tax liability of a taxpayer under IC 6-1.1-21-5 for purposes of the tax credit computations under IC 6-1.1-21-4 and IC 6-1.1-21-5.

SECTION 7. IC 36-9-23-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 32. (a) Fees assessed against real property under this chapter or under any statute repealed by IC 19-2-5-30 constitute a lien against the property assessed. The lien is superior to all other liens except tax liens. Except as provided in subsections (b) and (c), the lien attaches when notice of the lien is filed in the county recorder's office under section 33 of this chapter.

(b) A fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before the conveyance to the subsequent owner. If the property is conveyed before the lien can be filed, the municipality shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not ~~less~~ **more** than fifteen (15) days after the date of the notice. If payment is not received within one hundred eighty (180) days after the date of the

notice, the amount due may be expensed as a bad debt loss.

(c) A lien attaches against real property occupied by someone other than the owner only if the utility notified the owner within twenty (20) days after the time the utility fees became sixty (60) days delinquent. However, the utility is required to give notice to the owner only if the owner has given the general office of the utility written notice of the address to which ~~his~~ **the owner's** notice is to be sent.

(d) The municipality shall release:

(1) liens filed with the county recorder after the recorded date of conveyance of the property; and

(2) delinquent fees incurred by the seller;

upon receipt of a verified demand in writing from the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner, and that the purchaser has not been paid by the seller for the delinquent fees.

SECTION 8. IC 36-11-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. A district may enforce delinquent fees and penalties in the manner described in ~~IC 13-26-13.~~ **IC 36-9-23.**

SECTION 9. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 13-26-12; IC 13-26-13.

(Reference is to ESB 446 as reprinted March 29, 2005.)

Gard, Chair	Wolkins
Lanane	Dobis
Senate Conferees	House Conferees

Roll Call 527: yeas 48, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 498–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 498 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 34-28-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) An action to enforce a statute defining an infraction shall be brought in the name of the state of Indiana by the prosecuting attorney for the judicial circuit in which the infraction allegedly took place. However, if the infraction allegedly took place on a public highway (as defined in IC 9-25-2-4) that runs on and along a common boundary shared by two (2) or more judicial circuits, a prosecuting attorney for any judicial circuit sharing the common boundary may bring the action.

(b) An action to enforce an ordinance shall be brought in the name of the municipal corporation. The municipal corporation need not prove that it or the ordinance is valid unless validity is controverted by affidavit.

(c) Actions under this chapter (or IC 34-4-32 before its repeal):

(1) shall be conducted in accordance with the Indiana Rules of Trial Procedure; and

(2) must be brought within two (2) years after the alleged conduct or violation occurred.

(d) The plaintiff in an action under this chapter must prove the commission of an infraction or ordinance violation by a preponderance of the evidence.

(e) The complaint and summons described in IC 9-30-3-6 may be used for any infraction or ordinance violation.

(f) The prosecuting attorney or the attorney for a municipal corporation may establish a deferral program for deferring actions brought under this section. Actions may be deferred under this section if:

(1) the defendant in the action agrees to conditions of a deferral program offered by the prosecuting attorney or the attorney for a municipal corporation;

(2) the defendant in the action agrees to pay to the clerk of the court an initial user's fee and monthly user's fee set by the prosecuting attorney or the attorney for the municipal corporation in accordance with IC 33-37-4-2(e);

(3) the terms of the agreement are recorded in an instrument signed by the defendant and the prosecuting attorney or the attorney for the municipal corporation;

(4) the defendant in the action agrees to pay court costs of twenty-five dollars ($25) to the clerk of court if the action involves a moving traffic offense (as defined in IC 9-13-2-110); and

(5) the agreement is filed in the court in which the action is brought.

When a defendant complies with the terms of an agreement filed under this subsection (or IC 34-4-32-1(f) before its repeal), the prosecuting attorney or the attorney for the municipal corporation shall request the court to dismiss the action. Upon receipt of a request to dismiss an action under this subsection, the court shall dismiss the action. An action dismissed under this subsection (or IC 34-4-32-1(f) before its repeal) may not be refiled.

(g) If a judgment is entered against a defendant in an action to enforce an ordinance, the defendant may perform community restitution or service (as defined in IC 35-41-1-4.6) instead of paying a monetary judgment for the ordinance violation as described in section 4(e) of this chapter if:

(1) the:

(A) defendant; and

(B) attorney for the municipal corporation;

agree to the defendant's performance of community restitution or service instead of the payment of a monetary judgment;

(2) the terms of the agreement described in subdivision (1):

(A) include the amount of the judgment the municipal corporation requests that the defendant pay under section 4(e) of this chapter for the ordinance violation if the defendant fails to perform the community restitution or service provided for in the agreement as approved by the court; and

(B) are recorded in a written instrument signed by the defendant and the attorney for the municipal corporation;

(3) the agreement is filed in the court where the judgment was entered; and

(4) the court approves the agreement.

If a defendant fails to comply with an agreement approved by a court under this subsection, the court shall require the defendant to pay up to the amount of the judgment requested in the action under section 4(e) of this chapter as if the defendant had not entered into an agreement under this subsection.

SECTION 2. IC 34-28-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) A judgment of up to ten thousand dollars ($10,000) may be entered for a violation constituting a Class A infraction.

(b) A judgment of up to one thousand dollars ($1,000) may be entered for a violation constituting a Class B infraction.

(c) A judgment of up to five hundred dollars ($500) may be entered for a violation constituting a Class C infraction.

(d) A judgment of up to twenty-five dollars ($25) may be entered for a violation constituting a Class D infraction.

(e) **Subject to section 1(g) of this chapter,** a judgment:

(1) up to the amount requested in the complaint; and

(2) not exceeding any limitation under IC 36-1-3-8;

may be entered for an ordinance violation.

SECTION 3. IC 34-28-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. The violations clerk or deputy violations clerk shall:

(1) accept:

(A) written appearances;

(B) waivers of trial;

(C) admissions of violation;

(D) declarations of nolo contendere for moving traffic violations;

(E) payments of judgments (including costs) in traffic violation cases; ~~and~~

(F) deferral agreements made under section 1(f) of this chapter (or IC 34-4-32-1(f) before its repeal) and deferral program fees prescribed under IC 33-37-4-2(e); **and**

(G) community restitution or service agreements made under section 1(g) of this chapter;

(2) issue receipts and account for any judgments (including costs) collected; and

(3) pay the judgments (including costs) collected to the appropriate unit of government as provided by law.

SECTION 4. IC 36-1-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) Subject to subsection (b), a unit does not have the following:

(1) The power to condition or limit its civil liability, except as expressly granted by statute.

(2) The power to prescribe the law governing civil actions between private persons.

(3) The power to impose duties on another political subdivision, except as expressly granted by statute.

(4) The power to impose a tax, except as expressly granted by statute.

(5) The power to impose a license fee greater than that reasonably related to the administrative cost of exercising a regulatory power.

(6) The power to impose a service charge or user fee greater than that reasonably related to reasonable and just rates and charges for services.

(7) The power to regulate conduct that is regulated by a state agency, except as expressly granted by statute.

(8) The power to prescribe a penalty for conduct constituting a crime or infraction under statute.

(9) The power to prescribe a penalty of imprisonment for an ordinance violation.

(10) The power to prescribe a penalty of a fine as follows:

(A) More than ten thousand dollars ($10,000) for the violation of an ordinance or a regulation concerning air emissions adopted by a county that has received approval to establish an air program under IC 13-17-12-6.

(B) **For a violation of any other ordinance:**

(i) more than two thousand five hundred dollars ($2,500) for ~~any other~~ **a first violation of the** ordinance; **and**

(ii) except as provided in subsection (c), more than seven thousand five hundred dollars ($7,500) for a second or subsequent violation **of the ordinance.**

(11) The power to invest money, except as expressly granted by statute.

(12) The power to order or conduct an election, except as expressly granted by statute.

(b) A township does not have the following, except as expressly granted by statute:

(1) The power to require a license or impose a license fee.

(2) The power to impose a service charge or user fee.

(3) The power to prescribe a penalty.

(c) Subsection (a)(10)(B)(ii) does not apply to the violation of an ordinance that regulates traffic or parking.

(Reference is to ESB 498 as printed April 1, 2005.)

Server, Chair	Hinkle
Broden	Van Haaften
Senate Conferees	House Conferees

Roll Call 528: yeas 48, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 529–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 529 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the

following:

SECTION 1. IC 4-21.5-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) This article does not apply to the formulation, issuance, or administrative review (but does, except as provided in subsection (b), apply to the judicial review and civil enforcement) of any of the following:

(1) Except as provided in IC 12-17.2-4-18.7 and IC 12-17.2-5-18.7, determinations by the division of family ~~and children.~~ **resources and the department of child services.**

(2) Determinations by the alcohol and tobacco commission.

(3) Determinations by the office of Medicaid policy and planning concerning recipients and applicants of Medicaid. However, this article does apply to determinations by the office of Medicaid policy and planning concerning providers.

(4) A final determination of the Indiana board of tax review.

(b) IC 4-21.5-5-12 and IC 4-21.5-5-14 do not apply to judicial review of a final determination of the Indiana board of tax review.

SECTION 2. IC 5-22-4-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9. The department of child services is the purchasing agency for services procured by the department under IC 31-33-1.5-10.**

SECTION 3. IC 6-1.1-17-3, AS AMENDED BY SEA 209-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The proper officers of a political subdivision shall formulate its estimated budget and its proposed tax rate and tax levy on the form prescribed by the department of local government finance and approved by the state board of accounts. The political subdivision shall give notice by publication to taxpayers of:

(1) the estimated budget;

(2) the estimated maximum permissible levy;

(3) the current and proposed tax levies of each fund; and

(4) the amounts of excessive levy appeals to be requested.

In the notice, the political subdivision shall also state the time and place at which a public hearing will be held on these items. The notice shall be published twice in accordance with IC 5-3-1 with the first publication at least ten (10) days before the date fixed for the public hearing.

(b) The board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal) may conduct the public hearing required under subsection (a):

(1) in any county of the solid waste management district; and

(2) in accordance with the annual notice of meetings published under IC 13-21-5-2.

(c) The trustee of each township in the county shall estimate the amount necessary to meet the cost of township assistance in the township for the ensuing calendar year. The township board shall adopt with the township budget a tax rate sufficient to meet the estimated cost of township assistance. The taxes collected as a result of the tax rate adopted under this subsection are credited to the township assistance fund.

(d) A county shall adopt with the county budget and the department of local government finance shall certify under section 16 of this chapter a tax rate sufficient to raise the levy necessary to pay the following:

(1) The cost of child services (as defined in IC 12-19-7-1) of the county payable from the family and children's fund.

(2) The cost of children's psychiatric residential treatment services (as defined in IC 12-19-7.5-1) of the county payable from the children's psychiatric residential treatment services fund.

A budget, tax rate, or tax levy adopted by a county fiscal body or approved or modified by a county board of tax adjustment that is less than the levy necessary to pay the costs described in subdivision (1) or (2) shall not be treated as a final budget, tax rate, or tax levy under section 11 of this chapter.

SECTION 4. IC 6-1.1-17-14, AS AMENDED BY SEA 209-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. The county auditor shall initiate an appeal to the department of local government finance if the **county fiscal body or the** county board of tax adjustment reduces:

(1) a township assistance tax rate below the rate necessary to meet the estimated cost of township assistance;

(2) a family and children's fund tax rate below the rate necessary to collect the levy recommended by the department of child services; or

(3) a children's psychiatric residential treatment services fund tax rate below the rate necessary to collect the levy recommended by the department of child services.

SECTION 5. IC 6-3.5-6-18.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18.5. (a) This section applies to a county containing a consolidated city.

(b) Notwithstanding section 18(e) of this chapter, the distributive shares that each civil taxing unit in a county containing a consolidated city is entitled to receive during a month equals the following:

(1) For the calendar year beginning January 1, 1995, calculate the total amount of revenues that are to be distributed as distributive shares during that month multiplied by the following factor:

Center Township	.0251
Decatur Township	.00217
Franklin Township	.0023
Lawrence Township	.01177
Perry Township	.01130
Pike Township	.01865
Warren Township	.01359
Washington Township	.01346
Wayne Township	.01307
Lawrence-City	.00858
Beech Grove	.00845
Southport	.00025
Speedway	.00722
Indianapolis/Marion County	.86409

(2) Notwithstanding subdivision (1), for the calendar year beginning January 1, 1995, the distributive shares for each civil taxing unit in a county containing a consolidated city

shall be not less than the following:

Center Township	$1,898,145
Decatur Township	$164,103
Franklin Township	$173,934
Lawrence Township	$890,086
Perry Township	$854,544
Pike Township	$1,410,375
Warren Township	$1,027,721
Washington Township	$1,017,890
Wayne Township	$988,397
Lawrence-City	$648,848
Beech Grove	$639,017
Southport	$18,906
Speedway	$546,000

(3) For each year after 1995, calculate the total amount of revenues that are to be distributed as distributive shares during that month as follows:

STEP ONE: Determine the total amount of revenues that were distributed as distributive shares during that month in calendar year 1995.

STEP TWO: Determine the total amount of revenue that the department has certified as distributive shares for that month under section 17 of this chapter for the calendar year.

STEP THREE: Subtract the STEP ONE result from the STEP TWO result.

STEP FOUR: If the STEP THREE result is less than or equal to zero (0), multiply the STEP TWO result by the ratio established under subdivision (1).

STEP FIVE: Determine the ratio of:

(A) the maximum permissible property tax levy under IC 6-1.1-18.5, ~~and IC 6-1.1-18.6~~ **IC 12-19-7, and IC 12-19-7.5** for each civil taxing unit for the calendar year in which the month falls, plus, for a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund; divided by

(B) the sum of the maximum permissible property tax levies under IC 6-1.1-18.5, ~~and IC 6-1.1-18.6~~ **IC 12-19-7, and IC 12-19-7.5** for all civil taxing units of the county during the calendar year in which the month falls, and an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

STEP SIX: If the STEP THREE result is greater than zero (0), the STEP ONE amount shall be distributed by multiplying the STEP ONE amount by the ratio established under subdivision (1).

STEP SEVEN: For each taxing unit determine the STEP FIVE ratio multiplied by the STEP TWO amount.

STEP EIGHT: For each civil taxing unit determine the difference between the STEP SEVEN amount minus the product of the STEP ONE amount multiplied by the ratio established under subdivision (1). The STEP THREE excess shall be distributed as provided in STEP NINE only to the civil taxing units that have a STEP EIGHT difference greater than or equal to zero (0).

STEP NINE: For the civil taxing units qualifying for a distribution under STEP EIGHT, each civil taxing unit's share equals the STEP THREE excess multiplied by the ratio of:

(A) the maximum permissible property tax levy under IC 6-1.1-18.5, ~~and IC 6-1.1-18.6~~ **IC 12-19-7, and IC 12-19-7.5** for the qualifying civil taxing unit during the calendar year in which the month falls, plus, for a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund; divided by

(B) the sum of the maximum permissible property tax levies under IC 6-1.1-18.5, ~~and IC 6-1.1-18.6~~ **IC 12-19-7, and IC 12-19-7.5** for all qualifying civil taxing units of the county during the calendar year in which the month falls, and an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

SECTION 6. IC 10-13-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) As used in this chapter, "criminal justice agency" means any agency or department of any level of government whose principal function is:

(1) the apprehension, prosecution, adjudication, incarceration, probation, rehabilitation, or representation of criminal offenders;

(2) the location of parents with child support obligations under 42 U.S.C. 653;

(3) the licensing and regulating of riverboat gambling operations; or

(4) the licensing and regulating of pari-mutuel horse racing operations.

(b) The term includes the following:

(1) The office of the attorney general.

(2) The Medicaid fraud control unit, for the purpose of investigating offenses involving Medicaid.

(3) A nongovernmental entity that performs as its principal function the:

(A) apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders;

(B) location of parents with child support obligations under 42 U.S.C. 653;

(C) licensing and regulating of riverboat gambling operations; or

(D) licensing and regulating of pari-mutuel horse racing operations;

under a contract with an agency or department of any level of government.

~~(4) The division of family and children or a juvenile probation officer conducting a criminal history check (as defined in IC 31-9-2-29.7) under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:~~

~~(A) child at imminent risk of placement;~~

~~(B) child in need of services; or~~

~~(C) delinquent child.~~

SECTION 7. IC 10-13-3-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7.5. As used in this chapter, "emergency placement" means an emergency out-of-home placement of a child by the department of child services established by IC 31-33-1.5-2 or a court as a result of exigent circumstances, including an out-of-home placement under IC 31-34-2 or IC 31-34-4, or the sudden unavailability of the child's parent, guardian, or custodian. The term does not include placement to an entity or in a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.**

SECTION 8. IC 10-13-3-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 12.5. As used in this chapter, "national name based criminal history record check" means a query of the Interstate Identification Index data base maintained by the Federal Bureau of Investigation that:**

(1) is conducted using the subject's name; and

(2) does not use fingerprint identification or another method of positive identification.

SECTION 9. IC 10-13-3-27, AS AMENDED BY HEA 1288-2005, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) Except as provided in subsection (b), on request, law enforcement agencies shall release or allow inspection of a limited criminal history to noncriminal justice organizations or individuals only if the subject of the request:

(1) has applied for employment with a noncriminal justice organization or individual;

(2) has applied for a license and criminal history data as required by law to be provided in connection with the license;

(3) is a candidate for public office or a public official;

(4) is in the process of being apprehended by a law enforcement agency;

(5) is placed under arrest for the alleged commission of a crime;

(6) has charged that the subject's rights have been abused repeatedly by criminal justice agencies;

(7) is the subject of a judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;

(8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;

(9) is currently residing in a location designated by the department of child services (established by IC 31-33-1.5-2) or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location;

~~(9)~~ **(10)** has volunteered services at a public school (as defined in IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12) that involve contact with, care of, or supervision over a student enrolled in the school;

~~(10)~~ **(11)** is being investigated for welfare fraud by an investigator of the division of family ~~and children~~ **resources** or a county office of family and children;

~~(11)~~ **(12)** is being sought by the parent locator service of the child support bureau of the division of family and children;

~~(12)~~ **(13)** is or was required to register as a sex and violent offender under IC 5-2-12; or

~~(13)~~ **(14)** has been convicted of any of the following:

(A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

(B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.

(C) Child molesting (IC 35-42-4-3).

(D) Child exploitation (IC 35-42-4-4(b)).

(E) Possession of child pornography (IC 35-42-4-4(c)).

(F) Vicarious sexual gratification (IC 35-42-4-5).

(G) Child solicitation (IC 35-42-4-6).

(H) Child seduction (IC 35-42-4-7).

(I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).

(J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:

(1) Federally chartered or insured banking institutions.

(2) Officials of state and local government for any of the following purposes:

(A) Employment with a state or local governmental entity.

(B) Licensing.

(3) Segments of the securities industry identified under 15 U.S.C. 78q(f)(2).

(c) Any person who uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor.

SECTION 10. IC 10-13-3-27.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 27.5. (a) If:**

(1) exigent circumstances require the emergency placement of a child; and

(2) the department will be unable to obtain criminal history information from the Interstate Identification Index before the emergency placement is scheduled to occur;

upon request of the department of child services established by IC 31-33-1.5-2, a caseworker, or a juvenile probation officer, the department may conduct a national name based criminal history record check of each individual who is currently residing in the location designated as the out-of-home

placement at the time the child will reside in the location. The department shall promptly transmit a copy of the report it receives from the Interstate Identification Index to the agency or person that submitted a request under this section.

(b) Not later than seventy-two (72) hours after the department of child services, the caseworker, or the juvenile probation officer receives the results of the national name based criminal history record check, the department of child services, the caseworker, or the juvenile probation officer shall provide the department with a complete set of fingerprints for each individual who is currently residing in the location designated as the out-of-home placement at the time the child will be placed in the location. The department shall:

(1) use fingerprint identification to positively identify each individual who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location; or

(2) submit the fingerprints to the Federal Bureau of Investigation not later than fifteen (15) days after the date on which the national name based criminal history record check was conducted.

The child shall be removed from the location designated as the out-of-home placement if an individual who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location fails to provide a complete set of fingerprints to the department of child services, the caseworker, or the juvenile probation officer.

(c) The department and the person or agency that provided fingerprints shall comply with all requirements of 42 U.S.C. 5119a and any other applicable federal law or regulation regarding:

(1) notification to the subject of the check; and

(2) the use of the results obtained based on the check of the person's fingerprints.

(d) If an out-of-home placement is denied as the result of a national name based criminal history record check, an individual who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location may contest the denial by submitting to the department of child services, the caseworker, or the juvenile probation officer:

(1) a complete set of the individual's fingerprints; and

(2) written authorization permitting the department of child services, the caseworker, or the juvenile probation officer to forward the fingerprints to the department for submission to the Federal Bureau of Investigation;

not later than five (5) days after the out-of-home placement is denied.

(e) The:

(1) department; and

(2) Federal Bureau of Investigation;

may charge a reasonable fee for processing a national name based criminal history record check. The department shall adopt rules under IC 4-22-2 to establish a reasonable fee for processing a national name based criminal history record check and for collecting fees owed under this subsection.

(f) The:

(1) department of child services, for an out-of-home placement arranged by a caseworker or the department of child services; or

(2) juvenile court, for an out-of-home placement ordered by the juvenile court;

shall pay the fee described in subsection (e), arrange for fingerprinting, and pay the costs of fingerprinting, if any.

SECTION 11. IC 10-13-3-39, AS AMENDED BY HEA 1288-2005, SECTION 120, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 39. (a) The department is designated as the authorized agency to receive requests for, process, and disseminate the results of national criminal history background checks that comply with this section and 42 U.S.C. 5119a.

(b) A qualified entity may contact the department to request a national criminal history background check on any of the following persons:

(1) A person who seeks to be or is employed with the qualified entity. A request under this subdivision must be made not later than three (3) months after the person is initially employed by the qualified entity.

(2) A person who seeks to volunteer or is a volunteer with the qualified entity. A request under this subdivision must be made not later than three (3) months after the person initially volunteers with the qualified entity.

(c) A qualified entity must submit a request under subsection (b) in the form required by the department and provide a set of the person's fingerprints and any required fees with the request.

(d) If a qualified entity makes a request in conformity with subsection (b), the department shall submit the set of fingerprints provided with the request to the Federal Bureau of Investigation for a national criminal history background check for convictions described in IC 20-26-5-11. The department shall respond to the request in conformity with:

(1) the requirements of 42 U.S.C. 5119a; and

(2) the regulations prescribed by the Attorney General of the United States under 42 U.S.C. 5119a.

(e) This subsection applies to a qualified entity that:

(1) is not a school corporation or a special education cooperative; or

(2) is a school corporation or a special education cooperative and seeks a national criminal history background check for a volunteer.

After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department shall make a determination whether the applicant has been convicted of an offense described in IC 20-26-5-11 and convey the determination to the requesting qualified entity.

(f) This subsection applies to a qualified entity that:

(1) is a school corporation or a special education cooperative; and

(2) seeks a national criminal history background check to determine whether to employ or continue the employment of

a certificated employee or a noncertificated employee of a school corporation or an equivalent position with a special education cooperative.

After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department may exchange identification records concerning convictions for offenses described in IC 20-26-5-11 with the school corporation or special education cooperative solely for purposes of making an employment determination. The exchange may be made only for the official use of the officials with authority to make the employment determination. The exchange is subject to the restrictions on dissemination imposed under P.L.92-544, (86 Stat. 1115) (1972).

(g) This subsection applies to a qualified entity (as defined in IC 10-13-3-16) that is a public agency under IC 5-14-1.5-2(a)(1). After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department shall provide a copy to the public agency. Except as permitted by federal law, the public agency may not share the information contained in the national criminal history background check with a private agency.

SECTION 12. IC 12-7-2-57.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 57.5. (a) "Department", for purposes of IC 12-13-14, has the meaning set forth in IC 12-13-14-1.

(b) "Department", for purposes of IC 12-19, refers to the department of child services.

~~(b)~~ **(c)** "Department", for purposes of IC 12-20, refers to the department of local government finance established by IC 6-1.1-30-1.1.

SECTION 13. IC 12-7-2-64 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 64. "Director" refers to the following:

(1) With respect to a particular division, the director of the division.

(2) With respect to a particular state institution, the director who has administrative control of and responsibility for the state institution.

(3) For purposes of IC 12-10-15, the term refers to the director of the division of ~~disabilities,~~ **disability,** aging, and rehabilitative services.

(4) For purposes of IC 12-19-5, the term refers to the director of the department of child services established by IC 31-33-1.5-2.

~~(4)~~ **(5)** For purposes of IC 12-25, the term refers to the director of the division of mental health and addiction.

~~(5)~~ **(6)** For purposes of IC 12-26, the term:

(A) refers to the director who has administrative control of and responsibility for the appropriate state institution; and

(B) includes the director's designee.

~~(6)~~ **(7)** If subdivisions (1) through ~~(5)~~ **(6)** do not apply, the term refers to the director of any of the divisions.

SECTION 14. IC 12-7-2-69 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 69. (a) "Division", except as provided in subsections (b) and (c), refers to any of the following:

(1) The division of disability, aging, and rehabilitative services established by IC 12-9-1-1.

(2) The division of family ~~and children~~ **resources** established by IC 12-13-1-1.

(3) The division of mental health and addiction established by IC 12-21-1-1.

(b) The term refers to the following:

(1) For purposes of the following statutes, the division of disability, aging, and rehabilitative services established by IC 12-9-1-1:

(A) IC 12-9.

(B) IC 12-10.

(C) IC 12-11.

(D) IC 12-12.

(E) IC 12-12.5.

(2) For purposes of the following statutes, the division of family ~~and children~~ **resources** established by IC 12-13-1-1:

(A) IC 12-13.

(B) IC 12-14.

(C) IC 12-15.

(D) IC 12-16.

~~(E) IC 12-17.~~

~~(F)~~ **(E)** IC 12-17.2.

~~(G) IC 12-17.4.~~

~~(H)~~ **(F)** IC 12-18.

~~(I)~~ **(G)** IC 12-19.

~~(J)~~ **(H)** IC 12-20.

(3) For purposes of the following statutes, the division of mental health and addiction established by IC 12-21-1-1:

(A) IC 12-21.

(B) IC 12-22.

(C) IC 12-23.

(D) IC 12-25.

(c) With respect to a particular state institution, the term refers to the division whose director has administrative control of and responsibility for the state institution.

(d) For purposes of IC 12-24, IC 12-26, and IC 12-27, the term refers to the division whose director has administrative control of and responsibility for the appropriate state institution.

SECTION 15. IC 12-8-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. This chapter expires January 1, ~~2006.~~ **2008.**

SECTION 16. IC 12-8-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. This chapter expires January 1, ~~2006.~~ **2008.**

SECTION 17. IC 12-8-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. This chapter expires January 1, ~~2006.~~ **2008.**

SECTION 18. IC 12-8-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. This chapter expires January 1, ~~2006.~~ **2008.**

SECTION 19. IC 12-13-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The division of family ~~and children~~ **resources** is established.

SECTION 20. IC 12-13-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The division shall administer or supervise the public welfare activities of the state. The division has the following powers and duties:

(1) The administration of old age assistance, aid to dependent children, and assistance to the needy blind and persons with disabilities, excluding assistance to children with special health care needs.

(2) The administration of the ~~following:~~

~~(A) Any public child welfare service.~~

~~(B) The~~ licensing and inspection under IC 12-17.2. ~~and IC 12-17.4.~~

~~(C) The care of dependent and neglected children in foster family homes or institutions, especially children placed for adoption or those born out of wedlock.~~

~~(D) The interstate placement of children.~~

(3) The provision of services to county governments, including the following:

(A) Organizing and supervising county offices for the effective administration of public welfare functions.

(B) Compiling statistics and necessary information concerning public welfare problems throughout Indiana.

(C) Researching and encouraging research into crime, delinquency, physical and mental disability, and the cause of dependency.

(4) Prescribing the form of, printing, and supplying to the county ~~departments~~ **offices** blanks for applications, reports, affidavits, and other forms the division considers necessary and advisable.

(5) Cooperating with the federal Social Security Administration and with any other agency of the federal government in any reasonable manner necessary and in conformity with IC 12-13 through IC 12-19 to qualify for federal aid for assistance to persons who are entitled to assistance under the federal Social Security Act. The responsibilities include the following:

(A) Making reports in the form and containing the information that the federal Social Security Administration Board or any other agency of the federal government requires.

(B) Complying with the requirements that a board or agency finds necessary to assure the correctness and verification of reports.

(6) Appointing from eligible lists established by the state personnel board employees of the division necessary to effectively carry out IC 12-13 through IC 12-19. The division may not appoint a person who is not a citizen of the United States and who has not been a resident of Indiana for at least one (1) year immediately preceding the person's appointment unless a qualified person cannot be found in Indiana for a position as a result of holding an open competitive examination.

(7) Assisting the office of Medicaid policy and planning in fixing fees to be paid to ophthalmologists and optometrists for the examination of applicants for and recipients of assistance as needy blind persons.

(8) When requested, assisting other departments, agencies, divisions, and institutions of the state and federal government in performing services consistent with this article.

(9) Acting as the agent of the federal government for the following:

(A) In welfare matters of mutual concern under IC 12-13 through IC 12-19, **except for responsibilities of the department of child services under IC 31-33-1.5.**

(B) In the administration of federal money granted to Indiana in aiding welfare functions of the state government.

(10) Administering additional public welfare functions vested in the division by law and providing for the progressive codification of the laws the division is required to administer.

(11) Supervising day care centers. ~~and child placing agencies.~~

~~(12) Supervising the licensing and inspection of all public child caring agencies.~~

~~(13) Supervising the care of delinquent children and children in need of services.~~

~~(14) Assisting juvenile courts as required by IC 31-30 through IC 31-40.~~

~~(15) Supervising the care of dependent children and children placed for adoption.~~

~~(16)~~ **(12)** Compiling information and statistics concerning the ethnicity and gender of a program or service recipient.

~~(17) Providing permanency planning services for children in need of services, including:~~

~~(A) making children legally available for adoption; and~~

~~(B) placing children in adoptive homes;~~

~~in a timely manner.~~

SECTION 21. IC 12-13-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The division shall administer the following:

~~(1) The Interstate Compact on the Placement of Children (IC 12-17-8).~~

~~(2)~~ **(1)** Any sexual offense services.

~~(3)~~ **(2)** A child development associate scholarship program.

~~(4)~~ **(3)** Any school age dependent care program.

~~(5)~~ **(4)** Migrant day care services.

~~(6) Any youth services programs.~~

~~(7) Project safe place.~~

~~(8)~~ **(5)** Prevention services to high risk youth.

~~(9)~~ **(6)** Any commodities program.

~~(10)~~ **(7)** The migrant nutrition program.

~~(11)~~ **(8)** Any emergency shelter programs.

~~(12)~~ **(9)** Any weatherization programs.

~~(13)~~ **(10)** The Housing Assistance Act of 1937 (42 U.S.C. 1437).

~~(14)~~ **(11)** The home visitation and social services program.

~~(15)~~ **(12)** The educational consultants program.

~~(16) Child abuse prevention programs.~~

~~(17)~~ **(13)** Community restitution or service programs.

~~(18)~~ **(14)** The crisis nursery program.

~~(19)~~ **(15)** Energy assistance programs.

~~(20)~~ **(16)** Domestic violence programs.

~~(21)~~ **(17)** Social services programs.

~~(22)~~ **(18)** Assistance to migrants and seasonal farmworkers.

~~(23)~~ **(19)** The step ahead comprehensive early childhood grant program.

~~(24)~~ **(20)** Any other program:

(A) designated by the general assembly; or

(B) administered by the federal government under grants consistent with the duties of the division.

SECTION 22. IC 12-13-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Each county auditor shall keep records and make reports relating to the county welfare fund (before July 1, 2001), the family and children's fund, and other financial transactions as required under IC 12-13 through IC 12-19 and as required by the division **or the department of child services.**

(b) All records provided for in IC 12-13 through IC 12-19 shall be kept, prepared, and submitted in the form required by the division **or the department of child services** and the state board of accounts.

SECTION 23. IC 12-13-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The following bureaus are established within the division:

(1) A bureau of ~~family independence.~~ **child development.**

(2) A ~~family protection~~ bureau **of economic independence.**

~~(3) A youth development bureau that includes a children's disabilities services unit.~~

~~(4) A bureau of child care services.~~

~~(5) A bureau of residential services.~~

~~(6) A bureau of family resources.~~

~~(7) A food stamp bureau.~~

~~(8) A child support bureau.~~

SECTION 24. IC 12-13-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The division shall administer the following:

(1) The Community Services Block Grant under 42 U.S.C. 9901 et seq.

(2) The Low Income Home Energy Assistance Block Grant under 42 U.S.C. 8621 et seq.

(3) The United States Department of Energy money under 42 U.S.C. 6851 et seq.

(4) The domestic violence prevention and treatment fund under IC 12-18-4.

(5) The Child Care and Development Block Grant under ~~42 U.S.C. 658 et seq.~~ **42 U.S.C. 9858 et seq.**

~~(6) Title IV-B of the federal Social Security Act under 42 U.S.C. 620 et seq.~~

~~(7) Title IV-E of the federal Social Security Act under 42 U.S.C. 670 et seq.~~

~~(8)~~ **(6)** The federal Food Stamp Program under 7 U.S.C. 2011 et seq.

~~(9) The Social Services Block Grant under 42 U.S.C. 1397 et seq.~~

~~(10)~~ **(7)** Title IV-A of the federal Social Security Act.

~~(11)~~ **(8)** Any other funding source:

(A) designated by the general assembly; or

(B) available from the federal government under grants that are consistent with the duties of the division.

SECTION 25. IC 12-13-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The division is the single state agency responsible for administering the following:

(1) The Child Care and Development Block Grant under ~~42 U.S.C. 658 et seq.~~ **42 U.S.C. 9858 et seq.** The division shall apply to the United States Department of Health and Human Services for a grant under the Child Care Development Block Grant.

~~(2) Title IV-B of the federal Social Security Act under 42 U.S.C. 620 et seq.~~

~~(3) Title IV-E of the federal Social Security Act under 42 U.S.C. 670 et seq.~~

~~(4)~~ **(2)** The federal Food Stamp Program under 7 U.S.C. 2011 et seq.

~~(5) The federal Social Services Block Grant under 42 U.S.C. 1397 et seq.~~

SECTION 26. IC 12-13-7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) The division **and the department of child services** shall do the following:

(1) Prepare and submit to the state board of accounts for approval forms and records for assistance, receipts, disbursements, advancements, transfers, and other financial transactions necessary to administer IC 12-13 through IC 12-19.

(2) Disclose financial transactions connected with subdivision (1).

(b) Upon the approval and adoption by the state board of accounts, the division **and the department of child services** shall prescribe the forms, records, and method of accounting for all counties.

SECTION 27. IC 12-13-7-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. The director **of the division** shall prepare a biennial budget of money necessary to be appropriated by the general assembly for the division for the purposes of IC 12-13 through IC 12-19. The budget must include an estimate of all federal money that may be allotted to the state by the federal government for the purposes of the division. The budget shall be submitted to and filed with the budget director.

SECTION 28. IC 12-13-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. **(a)** A child fatality review consists of determining:

(1) whether similar future deaths could be prevented; and

(2) agencies or resources that should be involved to adequately prevent future deaths of children.

(b) In conducting the child fatality review under subsection (a), the local child fatality review team shall review every record concerning the deceased child that is held by the department of child services.

SECTION 29. IC 12-13-15.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. **(a)** A child fatality review conducted by the statewide child fatality review committee under this chapter must consist of determining:

(1) whether similar future deaths could be prevented; and

(2) agencies or resources that should be involved to adequately prevent future deaths of children.

(b) In conducting the child fatality review under subsection (a), the statewide child fatality review committee shall review every record concerning the deceased child that is held by:

(1) the department of child services; or

(2) a local child fatality review team.

SECTION 30. IC 12-14-25.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Family preservation services may provide:

(1) comprehensive, coordinated, flexible, and accessible services;

(2) intervention as early as possible with emphasis on establishing a safe and nurturing environment;

(3) services to families who have members placed in care settings outside the nuclear family; and

(4) planning options for temporary placement outside the family if it would endanger the child to remain in the home.

(b) Unless authorized by a juvenile court, family preservation services may not include a temporary out-of-home placement if a person who:

(1) is currently residing in the location designated as the out-of-home placement; or

(2) in the reasonable belief of family preservation services is expected to be residing in the location designated as the out-of-home placement during the time the child at imminent risk of placement would be placed in the location;

has committed an act resulting in a substantiated report of child abuse or neglect or has a juvenile adjudication or a conviction for a felony listed in IC 12-17.4-4-11.

(c) Before placing a child at imminent risk of placement in a temporary out-of-home placement, the county office of family and children shall conduct a criminal history check (as defined in ~~IC 31-9-2-29.7)~~ **IC 31-9-2-22.5)** for each person described in subsection (b)(1) and (b)(2). However, the county office of family and children is not required to conduct a criminal history check under this section if the temporary out-of-home placement is made to an entity or facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

SECTION 31. IC 12-17-2-18, AS AMENDED BY SEA 2-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) The bureau shall make the agreements necessary for the effective administration of the plan with local governmental officials within Indiana. The bureau shall contract with:

(1) a prosecuting attorney; ~~or~~

(2) a private attorney if the bureau determines that a reasonable contract cannot be entered into with a prosecuting attorney and the determination is approved by at least two-thirds (2/3) of the Indiana child custody and support advisory committee (established by IC 33-24-11-1); **or**

(3) a collection agency licensed under IC 25-11 to collect arrearages on child support orders under which collections have not been made on arrearages for at least two (2) years;

in each judicial circuit to undertake activities required to be performed under Title IV-D of the federal Social Security Act (42 U.S.C. 651), including establishment of paternity, establishment, enforcement, and modification of child support orders, activities under the Uniform Reciprocal Enforcement of Support Act (IC 31-2-1, before its repeal) or the Uniform Interstate Family Support Act (IC 31-18, or IC 31-1.5 before its repeal), and if the contract is with a prosecuting attorney, prosecutions of welfare fraud.

(b) The hiring of an attorney by an agreement or a contract made under this section is not subject to the approval of the attorney general under IC 4-6-5-3. An agreement or a contract made under this section is not subject to IC 4-13-2-14.3 or IC 5-22.

(c) Subject to section 18.5 of this chapter, a prosecuting attorney with which the bureau contracts under subsection (a):

(1) may contract with a ~~private organization~~ **collection agency licensed under IC 25-11** to provide child support enforcement services; **and**

(2) shall contract with a collection agency licensed under IC 25-11 to collect arrearages on child support orders under which collections have not been made on arrearages for at least two (2) years.

(d) A prosecuting attorney or private attorney entering into an agreement or a contract with the bureau under this section enters into an attorney-client relationship with the state to represent the interests of the state in the effective administration of the plan and not the interests of any other person. An attorney-client relationship is not created with any other person by reason of an agreement or contract with the bureau.

(e) At the time that an application for child support services is made, the applicant must be informed that:

(1) an attorney who provides services for the child support bureau is the attorney for the state and is not providing legal representation to the applicant; and

(2) communications made by the applicant to the attorney and the advice given by the attorney to the applicant are not confidential communications protected by the privilege provided under IC 34-46-3-1.

(f) A prosecuting attorney or private attorney who contracts or agrees under this section to undertake activities required to be performed under Title IV-D is not required to mediate, resolve, or litigate a dispute between the parties relating to the amount of parenting time or parenting time credit.

SECTION 32. IC 12-17-2-18.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18.5. (a) The bureau shall establish a program to allow a prosecuting attorney with which the bureau has contracted under section 18 of this chapter to contract with a ~~private organization~~ **collection agency licensed under IC 25-11** to provide child support enforcement services.

(b) The bureau ~~may~~ **shall:** ~~establish:~~

(1) **establish** a list of approved ~~private organizations~~ **collection agencies** with which a prosecuting attorney may contract under this section; ~~and~~

(2) **establish** requirements for participation in the program established under this section to assure:

(A) effective administration of the plan; and

(B) compliance with all federal and state statutes, regulations, and rules;

(3) update and review the list described in subdivision (1) and forward a copy of the updated list to each prosecuting attorney annually; and

(4) preapprove or approve all contracts between a collection agency and a prosecuting attorney.

(c) A contract between a prosecuting attorney and a ~~private organization~~ **collection agency** under this section must include the following provisions:

(1) A provision that records of a contractor operated child support enforcement system are subject to inspection and copying to the same extent the records would be subject to inspection and copying if the contractor were a public agency under IC 5-14-3.

(2) A provision that records that are provided by a contractor to the prosecuting attorney that relate to compliance by the contractor with the terms of the contract are subject to inspection and copying in accordance with IC 5-14-3.

(d) Not later than July 1, ~~2001,~~ **2006,** the bureau shall provide the legislative council with a report:

(1) evaluating the effectiveness of the program established under this section; **and**

(2) evaluating the impact of arrearage reductions for child support orders under which collection agencies have collected under IC 12-17-2-18(c).

(e) The bureau is not liable for any costs related to a contract entered into under this section that are disallowed for reimbursement by the federal government under the Title IV-D program of the federal Social Security Act.

(f) The bureau shall treat costs incurred by a prosecuting attorney under this section as administrative costs of the prosecuting attorney.

(g) Contracts between a collection agency licensed under IC 25-11 and the bureau or a prosecuting attorney:

(1) must:

(A) be in writing;

(B) include:

(i) all fees, charges, and costs, including administrative and application fees; and

(ii) the right of the bureau or the prosecuting attorney to cancel the contract at any time;

(C) require the collection agency, upon the request of the bureau or the prosecuting attorney, to provide the:

(i) source of each payment received for arrearage on a child support order;

(ii) form of each payment received for arrearage on a child support order;

(iii) amount and percentage that is deducted as a fee or a charge from each payment of arrearage on a child support order; and

(iv) amount of arrearage owed under a child support order; and

(D) be one (1) year renewable contracts; and

(2) may be negotiable contingency contracts in which a collection agency may not collect a fee that exceeds fifteen percent (15%) of the arrearages collected per case.

SECTION 33. IC 12-17-12-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. The division may not approve a grant from the fund to an applicant unless the applicant agrees to adopt the following program enrollment priorities:

(1) First priority must be given to children who are referred to a program by the ~~local~~ **department of** child ~~protection service agency~~ **services** under IC 31-33 (or IC 31-6-11 before its repeal). Within this priority, children in families with the lowest gross monthly income compared to other children in this priority level must be enrolled first.

(2) Second priority must be given to children in kindergarten and grades 1 through 3 and the children's siblings if the children's families need school age child care services because of:

(A) enrollment of a child's legal custodian in vocational training under a degree program;

(B) employment of a child's legal custodian; or

(C) physical or mental incapacitation of a child's legal custodian.

(3) Third priority must be given to children in grades 4 through 9 if the children's families need school age child care services because of:

(A) enrollment of a child's legal custodian in vocational training under a degree program;

(B) employment of a child's legal custodian; or

(C) physical or mental incapacitation of a child's legal custodian.

SECTION 34. IC 12-17.4-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. A waiver or variance granted under section 8 of this chapter and a waiver or variance renewed under section 10 of this chapter expires on the earlier of the following:

(1) The date when the license affected by the waiver or variance expires.

(2) The date set by the division for the expiration of the waiver or variance.

(3) The occurrence of the event set by the division for the expiration of the waiver or variance.

(4) ~~Two (2)~~ **Four (4)** years after the date that the waiver or variance becomes effective.

SECTION 35. IC 12-17.4-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) A license for a child caring institution expires ~~two (2)~~ **four (4)** years after the date of issuance, unless the license is revoked, modified to a probationary or suspended status, or voluntarily returned.

(b) A license issued under this chapter:

(1) is not transferable;

(2) applies only to the licensee and the location stated in the application; and

(3) remains the property of the division.

(c) When a licensee submits a timely application for renewal, the current license shall remain in effect until the division issues a license or denies the application.

(d) A current license must be publicly displayed.

SECTION 36. IC 12-17.4-4-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. (a) A person may not operate a therapeutic foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a therapeutic foster family home without a license issued under this article.

(c) The division may only issue a license for a therapeutic foster family home that meets:

(1) all of the licensing requirements of a foster family home; and

(2) the additional requirements described in this section.

(d) An applicant for a therapeutic foster family home license must do the following:

(1) Be licensed as a foster parent under 470 IAC 3-1-1 et seq.

(2) Participate in ~~thirty (30) hours of~~ preservice training that includes:

(A) ~~twenty (20) hours of~~ preservice training to be licensed as a foster parent under 470 IAC 3-1-1 et seq.; and

(B) ~~ten (10) hours of~~ additional preservice training in therapeutic foster care.

(e) A person who is issued a license to operate a therapeutic foster family home shall, within one (1) year after meeting the training requirements of subsection (d)(2) and annually thereafter, participate in ~~twenty (20) hours of~~ training that includes:

(1) ~~ten (10) hours of~~ training as required in order to be licensed as a foster parent under 470 IAC 3-1-1 et seq.; and

(2) ~~ten (10) hours of~~ additional training in order to be licensed as a therapeutic foster parent under this chapter.

(f) An operator of a therapeutic foster family home may not provide supervision and care in a therapeutic foster family home to more than two (2) foster children at the same time, not including the children for whom the applicant or operator is a parent, stepparent, guardian, custodian, or other relative. The division may grant an exception to this subsection whenever the placement of siblings in the same therapeutic foster family home is desirable or in the best interests of the foster children residing in the home.

(g) The department of child services shall adopt rules under IC 4-22-2 necessary to carry out this section, including rules governing the number of hours of training required under subsections (d) and (e).

SECTION 37. IC 12-17.4-4-1.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.7. (a) A person may not operate a special needs foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a special needs foster family home without a license issued under this article.

(c) The division may only issue a license for a special needs foster family home that meets:

(1) all of the licensing requirements of a foster family home; and

(2) the additional requirements described in this section.

(d) An applicant for a special needs foster family home license must be licensed as a foster parent under 470 IAC 3-1-1 et seq. that includes participating in ~~twenty (20) hours of~~ preservice training.

(e) A person who is issued a license to operate a special needs foster family home shall, within one (1) year after meeting the training requirements of subsection (d) and annually thereafter, participate in ~~twenty (20) hours of~~ training that includes:

(1) ~~ten (10) hours of~~ training as required in order to be licensed as a foster parent under 470 IAC 3-1-1 et seq.; and

(2) ~~ten (10) hours of~~ additional training that includes specialized training to meet the child's specific needs.

(f) An operator of a special needs foster family home may not provide supervision and care as a special needs foster family home if more than:

(1) eight (8) individuals, each of whom either:

(A) is less than eighteen (18) years of age; or

(B) is at least eighteen (18) years of age and is receiving care and supervision under an order of a juvenile court; or

(2) four (4) individuals less than six (6) years of age;

including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative, receive care and supervision in the home at the same time. Not more than four (4) of the eight (8) individuals described in subdivision (1) may be less than six (6) years of age. The division may grant an exception to this section whenever the division determines that the placement of siblings in the same special needs foster home is desirable.

(g) The division shall consider the specific needs of each special needs foster child whenever the division determines the appropriate number of children to place in the special needs foster home under subsection (f). The division may require a special needs foster family home to provide care and supervision to less than the maximum number of children allowed under subsection (f) upon consideration of the specific needs of a special needs foster child.

(h) The department of child services shall adopt rules under IC 4-22-2 necessary to carry out this section, including rules governing the number of hours of training required under subsection (e).

SECTION 38. IC 12-17.4-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) A license for a foster family home expires ~~two (2)~~ **four (4)** years after the date of issuance, unless the license is revoked, modified to a probationary or suspended status, or voluntarily returned.

(b) A license issued under this chapter:

(1) is not transferable;

(2) applies only to the licensee and the location stated in the application; and

(3) remains the property of the division.

(c) A foster family home shall have the foster family home's license available for inspection.

(d) If a licensee submits a timely application for renewal, the current license shall remain in effect until the division issues a license or denies the application.

SECTION 39. IC 12-17.4-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) A license for a group home expires ~~two (2)~~ **four (4)** years after the date of issuance, unless the license is revoked, modified to a probationary or suspended status, or voluntarily returned.

(b) A license issued under this chapter:

(1) is not transferable;

(2) applies only to the licensee and the location stated in the application; and

(3) remains the property of the division.

(c) A current license shall be publicly displayed.

(d) If a licensee submits a timely application for renewal, the current license remains in effect until the division issues a license or denies the application.

SECTION 40. IC 12-17.4-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) A license for a child placing agency expires ~~two (2)~~ **four (4)** years after the date of issuance, unless the license is revoked, modified to a probationary or suspended status, or voluntarily returned.

(b) A license issued under this chapter:

(1) is not transferable;

(2) applies only to the licensee and the location stated in the application; and

(3) remains the property of the division.

(c) A child placing agency shall have the child placing agency's license available for inspection.

(d) If a licensee submits a timely application for renewal, the current license shall remain in effect until the division issues a license or denies the application.

SECTION 41. IC 12-18-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) A local domestic violence fatality review team consists of the following members:

(1) A survivor of domestic violence.

(2) A domestic violence direct service provider.

(3) A representative of law enforcement from the area served by the local domestic violence fatality review team.

(4) A prosecuting attorney or the prosecuting attorney's designee from the area served by the local domestic violence fatality review team.

(5) An expert in the field of forensic pathology, a coroner, or a deputy coroner.

(6) A medical practitioner with expertise in domestic violence.

(7) A judge who hears civil or criminal cases.

(8) An employee of ~~a~~ **the department of** child ~~protective~~ services. ~~agency.~~

(b) If a local domestic violence fatality review team is established in one (1) county, the legislative body that voted to establish the local domestic violence fatality review team under section 6 of this chapter shall:

(1) adopt an ordinance for the appointment and reappointment of members of the local domestic violence fatality review team; and

(2) appoint members to the local domestic violence fatality review team under the ordinance adopted.

(c) If a local domestic violence fatality review team is established in a region, the county legislative bodies that voted to establish the local domestic violence fatality review team under section 6 of this chapter shall:

(1) each adopt substantially similar ordinances for the appointment and reappointment of members of the local domestic violence fatality review team; and

(2) appoint members to the local domestic violence fatality review team under the ordinances adopted.

(d) A local domestic violence fatality review team may not have more than fifteen (15) members.

SECTION 42. IC 12-19-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The director **of the division, in consultation with the director of the department of child services,** shall appoint a county director in each county.

(b) The director shall appoint each county director:

(1) solely on the basis of merit; and

(2) from eligible lists established by the state personnel department.

(c) Each county director must be a citizen of the United States.

SECTION 43. IC 12-19-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The county director shall ~~with the approval of the director of the division,~~ appoint from eligible lists established by the state personnel department the number of assistants necessary to: ~~do the following:~~

(1) administer the welfare activities within the county **that are administered by the division under IC 12-13 through IC 12-19 or by an administrative rule, with the approval of the director of the division; or**

(2) ~~Perform all other duties of the county office.~~ **administer the child protection services and child welfare activities within the county that are the responsibility of the department under IC 12-13 through IC 12-19 and IC 31-33-1.5 or by an administrative rule, with the approval of the director of the department.**

(b) The:

(1) division, **for personnel performing activities described in subsection (a)(1);**

(2) department, for personnel performing activities described in subsection (a)(2); or

(3) the division and the department jointly for personnel performing activities in both subsection (a)(1) and (a)(2);

shall determine the compensation of the assistants within the ~~following:~~

~~(1)~~ ~~The~~ salary ranges of the pay plan adopted by the state personnel department and approved by the budget agency, with the advice of the budget committee,

~~(2)~~ **and within** lawfully established appropriations.

SECTION 44. IC 12-19-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. **(a) Except as provided in subsection (b),** the ~~division shall pay for the~~ costs of personal services in the administration of a county office's duties under this article if the employment is necessary for the administration of the county office's duties imposed upon the county office by this article and rules prescribed by the division **or the department shall be paid by the following:**

(1) The division, for activities described in section 7(a)(1) of this chapter.

(2) The department, for activities described in section 7(a)(2) of this chapter.

(b) The division and the department shall negotiate and agree to the payment of personnel services within the administration of a county office for activities that qualify under both section 7(a)(1) and 7(a)(2) of this chapter.

SECTION 45. IC 12-19-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) Subject to the rules adopted by the director of the division, a county office shall administer the following:

(1) Assistance to dependent children in the homes of the dependent children.

(2) Assistance and services to elderly persons.

(3) Assistance to persons with disabilities.

(4) Care and treatment of the following persons:

~~(A) Children in need of services.~~

~~(B)~~ **(A)** Dependent children.

~~(C)~~ **(B)** Children with disabilities.

~~(5) Licensing of foster family homes for the placement of children in need of services.~~

~~(6) Supervision of the care and treatment of children in need of services in foster family homes.~~

~~(7) Licensing of foster family homes for the placement of delinquent children.~~

~~(8) Supervision of the care and treatment of delinquent children in foster family homes.~~

~~(9)~~ **(5)** Provision of family preservation services.

~~(10)~~ **(6)** Any other welfare activities that are delegated to the county office by the division under this chapter, including services concerning assistance to the blind.

SECTION 46. IC 12-19-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The following are not personally liable, except to the state, for an official act done or omitted in connection with the performance of duties under this article:

(1) The director of the division.

(2) Officers and employees of the division.

(3) Officers and employees of a county office.

(4) The director of the department of child services.

(5) Officers and employees of the department of child services.

SECTION 47. IC 12-19-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. An officer or employee of:

(1) the division; ~~or of~~

(2) a county office; **or**

(3) the department of child services;

may administer oaths and affirmations required to carry out the purposes of this article or of any other statute imposing duties on the county office.

SECTION 48. IC 12-19-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) In addition to the other method of welfare financing provided by this article, the ~~county director~~ **department** may ~~appeal for the right to~~ **conduct a public hearing to determine whether to recommend to a county to** borrow money **under this chapter** on a short term basis to fund:

(1) child services under IC 12-19-7-1;

(2) children's psychiatric residential treatment services under IC 12-19-7.5; or

(3) other welfare services in the county **payable from the family and children's fund or the children's psychiatric residential treatment services fund;**

if the ~~county director~~ **department** determines that the family and children's fund or the children's psychiatric residential treatment services fund will be exhausted before the end of a fiscal year.

(b) In ~~an appeal under this section,~~ the ~~county director~~ **the hearing, the department** must **present facts that** show the following:

(1) That the amount of money in the family and children's fund or the children's psychiatric residential treatment services fund will be insufficient to fund the appropriate services within the county under this article.

(2) The amount of money that the ~~county director~~ **department** estimates will be needed to fund that deficit.

~~(c) The county director shall immediately transmit an appeal under this section to the director.~~

SECTION 49. IC 12-19-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. ~~Upon receiving an appeal under section 1 of this chapter,~~ The ~~division~~ **department** shall as soon as possible do the following:

(1) Hold a public hearing to decide if the county should ~~be allowed to~~ borrow money.

(2) ~~Adopt~~ **Issue** a ~~resolution at that meeting~~ **recommendation** supporting or rejecting the proposal to borrow money.

~~(3) Transmit the resolution to the county director.~~

SECTION 50. IC 12-19-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) ~~Upon receiving a resolution under section 2 of this chapter,~~ **If** the ~~county director shall submit the appeal and the division's resolution~~ **department makes a recommendation after a hearing to borrow money, the department shall submit a certified copy of the recommendation** to the county fiscal body **and the county auditor.** Upon receiving the ~~appeal and the resolution,~~ **department's certified recommendation,** the:

(1) county fiscal body shall as soon as possible determine whether or not to loan the requested amount to the ~~county office.~~ **department; and**

~~(b)~~ **(2)** if the county fiscal body votes to allow a loan to be made, the county auditor on behalf of the county office shall borrow the money from a financial institution.

~~(c)~~ **(b)** If the county fiscal body determines that the county office should not be allowed to borrow money, the county fiscal body shall inform the ~~county director~~ **department** of the county fiscal body's decision.

SECTION 51. IC 12-19-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. The ~~division~~ **department** or a county fiscal body may not do the following:

(1) Recommend or approve a request to borrow money made under this chapter unless the body determines that the family and children's fund or the children's psychiatric residential treatment services fund will be exhausted before the particular fund can fund all county obligations incurred under this article.

(2) Recommend or approve a loan that will exceed the amount of the estimated deficit.

SECTION 52. IC 12-19-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) If ~~a county director:~~ **money was borrowed under IC 12-1-11.5 (before its repeal) or the department:**

(1) ~~appeals~~ **makes a request** before August 1 of a year for permission to borrow money under this chapter;

(2) receives permission from the county fiscal body to borrow money before November 1 of the year; and

(3) borrows money under IC 12-1-11.5 (before its repeal) or this chapter;

the county auditor shall levy a property tax beginning in the following year and continuing for the term of the loan.

(b) The property tax levied under subsection (a) must be in an amount each year that will be sufficient to pay the principal and interest due on the loan for the year.

(c) The levy under this section shall be retained by the county treasurer and applied by the county auditor to retire the debt.

SECTION 53. IC 12-19-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) If ~~a county director:~~ **the department:**

(1) ~~appeals~~ **makes a request** after August 1 of a year for permission to borrow money;

(2) receives permission from the county fiscal body to borrow money; and

(3) borrows money in the year of the appeal under IC 12-1-11.5 (before its repeal) or this chapter;

the county auditor shall levy a property tax beginning in the second year following the year of the appeal and continuing for the term of the loan.

(b) The property tax levied under subsection (a) must be in an amount each year that will be sufficient to pay the principal and interest due on the loan for the year.

(c) The levy under this section shall be retained by the county treasurer and applied by the county auditor to retire the debt.

SECTION 54. IC 12-19-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) As used in this section, "indirect cost" means a cost that is not directly traceable to a particular activity undertaken in the administration of the following:

(1) The federal Food Stamp program (7 U.S.C. 2011 et seq.).

(2) The federal Aid to Families with Dependent Children program (42 U.S.C. 601 et seq.).

(3) The federal Child Support Enforcement Act (42 U.S.C. 651 et seq.).

(b) The division **and the department** shall pay to each county the money paid to the state as reimbursement for the indirect costs incurred by the county and the county office.

SECTION 55. IC 12-19-7-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. (a) The division of family ~~and children~~ **resources** may transfer any of the following to a county family and children's fund:

(1) Money transferred under P.L.273-1999, SECTION 126, to the division from a county welfare fund on or after July 1, 2000, without regard to the county from which the money was transferred.

(2) Money appropriated to the division **or department** for any of the following:

(A) Assistance awarded by a county to a destitute child under IC 12-17-1.

(B) Child welfare services as described in IC 12-17-3.

(C) Any other services for which the expenses were paid from a county welfare fund before January 1, 2000.

(b) Money transferred under subsection (a)(1) or (a)(2) must be used for purposes described in subsection (a)(2).

SECTION 56. IC 12-19-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A family and children's fund is established in each county. The fund shall be raised by a separate tax levy (the county family and children property tax levy) that:

(1) is in addition to all other tax levies authorized; and

(2) shall be levied annually by the county fiscal body on all taxable property in the county in the amount necessary to raise the part of the fund that the county must raise to pay the items, awards, claims, allowances, assistance, and other expenses set forth in the annual budget under section 6 of this chapter.

(b) The tax imposed under this section shall be collected as other state and county ad valorem taxes are collected.

(c) The following shall be paid into the county treasury and constitute the family and children's fund:

(1) All receipts from the tax imposed under this section.

(2) All grants-in-aid, whether received from the federal government or state government.

(3) Any other money required by law to be placed in the fund.

(d) The fund is available for the purpose of paying expenses and obligations set forth in the annual budget that is submitted and approved.

(e) Money in the fund at the end of a budget year does not revert to the county general fund.

SECTION 57. IC 12-19-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) For taxes first due and payable in each year after ~~2003,~~ **2005,** each county shall

impose a county family and children property tax levy equal to the ~~product of:~~

~~(1) the~~ county family and children property tax levy ~~imposed for taxes first due and payable in the preceding year, as that levy was determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17 and after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to the levy for the calendar year; multiplied by~~

~~(2) the greater of:~~

~~(A) the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2; or~~

~~(B) one (1).~~

~~When a year in which a statewide general reassessment of real property first becomes effective is the year preceding the year that the property tax levy under this subsection will be first due and payable, the amount to be used in subdivision (2) equals the average of the amounts used in determining the two (2) most recent adjustments in the county's levy under this section. If the amount levied in a particular year exceeds the amount necessary to cover the costs payable from the fund, the levy in the following year shall be reduced by the amount of surplus money.~~ **necessary to pay the costs of the child services of the county for the next fiscal year.**

(b) The department of local government finance shall review each county's property tax levy under this section and shall enforce the requirements of this section with respect to that levy **and comply with IC 6-1.1-17-3.**

SECTION 58. IC 12-19-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The ~~county director,~~ **department,** upon the advice of the judges of the courts with juvenile jurisdiction in the county **and after consulting with the division of family resources,** shall annually compile and adopt a child services budget, which must be in a form prescribed by the state board of accounts. ~~The budget may not exceed the levy limitation set forth in IC 6-1.1-18.6.~~

(b) The budget must contain an estimate of the amount of money that will be needed by the ~~county office~~ **department** during the ~~fiscal~~ **ensuing** year to defray the expenses and obligations incurred by the ~~county office~~ **department** in the payment of services for children adjudicated to be children in need of services or delinquent children and other related services, but not including the payment of AFDC.

SECTION 59. IC 12-19-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. ~~(a)~~ The ~~county director~~ **department** shall, with the assistance of the judges of courts with juvenile jurisdiction in the county, **after consulting with the division of family resources,** and at the same time the budget is compiled and adopted, ~~recommend to the division~~ **compute** the tax levy that the ~~director~~ **department** and judges determine will be required to raise the amount of revenue necessary to pay the expenses and obligations of the ~~county office~~ **department** set forth in the budget under section 6 of this chapter. ~~However, the tax levy may not exceed the maximum permissible levy set forth in IC 6-1.1-18.6 and the budget may not exceed the levy limitation set forth in IC 6-1.1-18.~~

~~(b) After the county budget has been compiled, the county director shall submit a copy of the budget and the tax levy recommended by the county director and the judges of courts with juvenile jurisdiction in the county to the division. The division shall examine the budget and the tax levy for the purpose of determining whether, in the judgment of the division:~~

~~(1) the appropriations requested in the budget will be adequate to defray the expenses and obligations incurred by the county office in the payment of child services for the next fiscal year; and~~

~~(2) the tax levy recommended will yield the amount of the appropriation set forth in the budget.~~

SECTION 60. IC 12-19-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. The budget ~~finally approved~~ and the tax levy recommended by the ~~division~~ **department** shall be:

(1) certified to the county ~~office,~~ **auditor;** ~~and~~

(2) filed for consideration by the county fiscal body; **and**

(3) filed with the department of local government finance.

SECTION 61. IC 12-19-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. In September of each year, at the time provided by law, the county fiscal body shall do the following:

(1) Make the appropriations out of the family and children's fund that are:

(A) based on the budget as submitted; and

(B) necessary to ~~maintain~~ **pay** the child services of the county for the next fiscal year. ~~subject to the maximum levy set forth in IC 6-1.1-18.6.~~

(2) Levy a tax in an amount necessary to produce the appropriated money.

SECTION 62. IC 12-19-7-11.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11.1. (a) The judges of the courts with juvenile jurisdiction in the county and the ~~county director~~ **department** shall meet with the county fiscal body at a public meeting:

(1) in April; and

(2) after June 30 and before October 1;

in each year.

(b) At a meeting required in subsection (a), the ~~county director~~ **department** shall present to the county fiscal body and the judges the following reports:

(1) Expenditures made:

(A) during the immediately preceding calendar quarter from the family and children's fund in comparison to one-fourth (1/4) of the budget and appropriations approved by the county fiscal body for the calendar year; and

(B) from the fund in the corresponding calendar quarter of each of the two (2) preceding calendar years.

(2) Obligations incurred through the end of the immediately preceding calendar quarter that will be payable from the

family and children's fund during the remainder of the calendar year or in any subsequent calendar year.

(3) The number of children, by category, for whom the family and children's fund was required to provide funds for services during the immediately preceding calendar quarter, in comparison to the corresponding calendar quarter of each of the two (2) preceding calendar years.

(4) The number and type of out-of-home placements, by category, for which the family and children's fund was required to provide funds for foster home care or institutional placement, and the average daily, weekly, or monthly cost of out of home placement care and services by category, during the immediately preceding calendar quarter, in comparison to the corresponding calendar quarter of each of the two (2) preceding calendar years.

(5) The number of children, by category, for whom the family and children's fund was required to provide funds for services for children residing with the child's parent, guardian, or custodian (other than foster home or institutional placement), and the average monthly cost of those services, during the immediately preceding calendar quarter, in comparison to the corresponding calendar quarter for each of the two (2) preceding calendar years.

(c) In preparing the reports described in subsection (b), the ~~county director~~ **department** may use the best information reasonably available from the records of the ~~county office~~ **department** and the county family and children's fund. ~~for calendar years before 1998.~~

(d) At each meeting described in subsection (a), the county fiscal body, judges, and ~~county director~~ **department** may:

(1) discuss and suggest procedures to provide child welfare services in the most effective and cost-efficient manner; and

(2) consider actions needed, including revision of budgeting procedures, to eliminate or minimize any anticipated need for short term borrowing for the family and children's fund under any provisions of this chapter or IC 12-19-5.

SECTION 63. IC 12-19-7-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) If at any time the ~~county director~~ **department** determines that the family and children's fund is exhausted or will be exhausted before the close of a fiscal year, the ~~county director~~ **department** shall prepare an estimate and statement showing the amount of money, in addition to the money already made available, that will be necessary to defray the expenses of the ~~county office~~ **department** and pay the obligations of the ~~county office,~~ **department,** excluding administrative expenses and facilities, supplies, and equipment expenses for the ~~county office,~~ **department,** in the administration of the ~~county office's~~ **department's** activities for the unexpired part of the fiscal year.

(b) The ~~county director~~ **department** shall do the following:

(1) Certify the estimate and statement to the county executive.

(2) File the estimate and statement with the county auditor.

(3) File the estimate and statement with the department of local government finance.

SECTION 64. IC 12-19-7-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) The county executive shall consider and act upon an estimate and statement under section 15 of this chapter at:

(1) the county executive's regular session immediately following the filing of the estimate and statement; or

(2) a special session that is:

(A) called for the purpose of considering and acting upon the estimate and statement; and

(B) called before the executive's regular session described in subdivision (1).

(b) The county executive shall, for and on behalf of the county, borrow sufficient money to carry out the purposes described in section 15 of this chapter if after consideration of the estimate and statement the county executive finds the following:

(1) That the ~~county director~~ **department** has not ~~appealed~~ **certified a recommendation** to borrow money under IC 12-19-5. ~~or that the appeal has been denied.~~

(2) That the amount of money required, in addition to any money already available, to defray the expenses and pay the obligations of the ~~county office~~ **department** in the administration of the county's child services for the unexpired part of the fiscal year, is greater than the amount of money that may be advanced from the general fund of the county.

(c) If the county executive fails to borrow sufficient money to carry out the purposes under section 15 of this chapter either under this chapter or IC 12-19-5, the department may appeal to the department of local government finance for a determination. A copy of the appeal must be filed with the county fiscal body. The department of local government finance shall immediately conduct a hearing in the county on an appeal filed under this subsection. If the department determines that insufficient money is available to carry out the purposes under section 15 of this chapter, the department of local government finance shall issue an appropriate order. The order may allow the county to reduce its general fund budget and transfer sufficient money to the fund or require the county to borrow money for the fund to carry out the purposes under section 15 of this chapter.

SECTION 65. IC 12-19-7-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) Before making a loan under section 16 of this chapter, the county executive shall record a finding that the amount of money that will be required is greater than the amount of money that may be advanced from the general fund of the county. The finding must:

(1) set forth the estimated requirements of the ~~county office,~~ **department;** and

(2) direct the county auditor to call the county fiscal body into special session for the purpose of considering the making of the loan.

(b) In the notice of the special session of the county fiscal body, the auditor shall include a statement of the estimated amount of the proposed loan.

SECTION 66. IC 12-19-7-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. An ordinance

adopted by the county fiscal body authorizing a loan under this chapter must do the following:

(1) Authorize the issuance of the bonds of the county to evidence the loan.

(2) Fix the following:

(A) The loan's maximum amount, which may be less than the amount shown by the estimate of the ~~county director.~~ **department.**

(B) The number of semiannual series in which the bonds are payable, which may not exceed twenty (20).

SECTION 67. IC 12-19-7.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. As used in this chapter, "private psychiatric residential treatment facility" means a privately owned and operated facility that:

(1) provides inpatient treatment to individuals less than twenty-one (21) years of age for mental health conditions;

(2) is licensed or certified by:

(A) the ~~division of family and children;~~ **department;** or

(B) the division of mental health and addiction;

to provide children's psychiatric residential treatment services; and

(3) is enrolled in the state Medicaid program as a provider eligible to provide children's psychiatric residential treatment services.

SECTION 68. IC 12-19-7.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A children's psychiatric residential treatment services fund is established in each county. The fund shall be raised by a separate tax levy (the county children's psychiatric residential treatment services property tax levy) that:

(1) is in addition to all other tax levies authorized; and

(2) shall be levied annually by the county fiscal body on all taxable property in the county in the amount necessary to raise the part of the fund that the county must raise to pay the items, awards, claims, allowances, assistance, and other expenses set forth in the annual budget under section 8 of this chapter.

(b) The tax imposed under this section shall be collected as other state and county ad valorem taxes are collected.

(c) The following shall be paid into the county treasury and constitute the children's psychiatric residential treatment services fund:

(1) All receipts from the tax imposed under this section.

(2) All grants-in-aid, whether received from the federal government or state government.

(3) Any other money required by law to be placed in the fund.

(d) The fund is available for the purpose of paying expenses and obligations set forth in the annual budget that is submitted and approved.

(e) Money in the fund at the end of a budget year does not revert to the county general fund.

SECTION 69. IC 12-19-7.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. ~~(a) For taxes first due and payable in 2004, each county must impose a county children's psychiatric residential services property tax levy equal to the amount determined using the following formula:~~

~~STEP ONE: Determine the sum of the amounts that were paid by the county minus the amounts reimbursed by the state (including reimbursements made with federal money), as determined by the state board of accounts in 2000, 2001, and 2002 for payments to facilities licensed under 470 IAC 3-13 for services that were made on behalf of the children and for which payment was made from the county family and children fund, or five percent (5%) of the average family and children budget, as determined by the department of local government finance in 2000, 2001, and 2002, whichever is greater.~~

~~STEP TWO: Subtract from the amount determined in STEP ONE the sum of the miscellaneous taxes that were allocated to the county family and children fund and used to pay the costs for providing services in facilities licensed under 470 IAC 3-13 in 2000, 2001, and 2002.~~

~~STEP THREE: Divide the amount determined in STEP TWO by three (3).~~

~~STEP FOUR: Calculate the STEP ONE amount and the STEP TWO amount for 2002 expenses only.~~

~~STEP FIVE: Adjust the amounts determined in STEP THREE and STEP FOUR by the amount determined by the department of local government finance under subsection (c).~~

~~STEP SIX: Determine whether the amount calculated in STEP THREE, as adjusted in STEP FIVE, or the amount calculated in STEP FOUR, as adjusted in STEP FIVE, is greater. Multiply the greater amount by the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the county for property taxes first due and payable in 2003.~~

~~STEP SEVEN: Multiply the amount determined in STEP SIX by the county's assessed value growth quotient for property taxes first due and payable in 2004, as determined under IC 6-1.1-18.5-2.~~

~~(b)~~ **(a)** For taxes first due and payable in each year after ~~2004,~~ **2005,** each county shall impose a county children's psychiatric residential treatment services property tax levy equal to the ~~product of:~~

~~(1)~~ the county children's psychiatric residential treatment services property tax levy ~~imposed for taxes first due and payable in the preceding year, as that levy was determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17 and after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to the levy for the calendar year, multiplied by~~

~~(2)~~ ~~the greater of:~~

~~(A) the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2, or~~

~~(B) one (1).~~

~~When a year in which a statewide general reassessment of real property first becomes effective is the year preceding the year that the property tax levy under this subsection will be first due and payable, the amount to be used in subdivision (2) equals the average of the amounts used in determining the two (2) most recent~~

~~adjustments in the county's levy under this section. If the amount levied in a particular year exceeds the amount necessary to cover the costs payable from the fund, the levy in the following year shall be reduced by the amount of surplus money.~~

~~(c) For taxes first due and payable in 2004, the department of local government finance shall adjust the levy for each county to reflect the county's actual expenses incurred in providing services to children in facilities licensed under 470 IAC 3-13 in 2000, 2001, and 2002. In making this adjustment, the department of local government finance may consider all relevant information, including the county's use of bond and loan proceeds to pay these expenses.~~ **necessary to pay the costs of children's psychiatric residential treatment services of the county for the next fiscal year.**

~~(d)~~ **(b)** The department of local government finance shall review each county's property tax levy under this section and shall enforce the requirements of this section with respect to that levy.

SECTION 70. IC 12-19-7.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) For purposes of this section, "expenses and obligations incurred by the ~~county office"~~ **department"** include all anticipated costs of children's residential psychiatric services that are equal to the state share of the cost of those services that are reimbursable under the state Medicaid plan.

(b) The ~~county director,~~ **department,** upon the advice of the judges of the courts with juvenile jurisdiction in the county **and after consulting with the division of family resources,** shall annually compile and adopt a children's psychiatric residential treatment services budget, which must be in a form prescribed by the state board of accounts. ~~The budget may not exceed the levy limitation set forth in IC 6-1.1-18.6.~~

(c) The budget must contain an estimate of the amount of money that will be needed by the ~~county office~~ **department** during the fiscal year to defray the expenses and obligations incurred by the ~~county office~~ **department** in the payment of children's psychiatric residential treatment services for children who are residents of the county.

SECTION 71. IC 12-19-7.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. ~~(a)~~ The ~~county director~~ **department** shall, with the assistance of the judges of courts with juvenile jurisdiction in the county, **after consulting with the division of family resources,** and at the same time the budget is compiled and adopted, ~~recommend to the division~~ **compute** the tax levy that the director and judges determine will be required to raise the amount of revenue necessary to pay the expenses and obligations of the county office set forth in the budget under section 8 of this chapter. ~~However, the tax levy may not exceed the maximum permissible levy set forth in IC 6-1.1-18.6, and the budget may not exceed the levy limitation set forth in IC 6-1.1-18.~~

~~(b) After the county budget has been compiled, the county director shall submit a copy of the budget and the tax levy recommended by the county director and the judges of courts with juvenile jurisdiction in the county to the division. The division shall examine the budget and the tax levy for the purpose of determining whether, in the judgment of the division:~~

~~(1) the appropriations requested in the budget will be adequate to defray the expenses and obligations incurred by the county office in the payment of children's psychiatric residential treatment services for the next fiscal year; and~~

~~(2) the tax levy recommended will yield the amount of the appropriation set forth in the budget.~~

SECTION 72. IC 12-19-7.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. The budget ~~finally approved and the tax levy~~ **and tax levy** recommended by the ~~division~~ **department** shall be:

(1) certified to the county ~~office, and~~ **auditor;**

(2) filed ~~for consideration by~~ **with** the county fiscal body; **and**

(3) filed with the department of local government finance.

SECTION 73. IC 12-19-7.5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. In September of each year, at the time provided by law, the county fiscal body shall do the following:

(1) Make the appropriations out of the children's psychiatric residential treatment services fund that are:

(A) based on the budget as submitted; and

(B) necessary to ~~maintain~~ **pay** the children's psychiatric residential treatment services of the county for the next fiscal year. ~~subject to the maximum levy set forth in IC 6-1.1-18.6.~~

(2) Levy a tax in an amount necessary to produce the appropriated money.

SECTION 74. IC 12-19-7.5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) If at any time the ~~county director~~ **department** determines that the children's psychiatric residential treatment services fund is exhausted or will be exhausted before the close of a fiscal year, the ~~county director~~ **department** shall prepare an estimate and statement showing the amount of money, in addition to the money already made available, that will be necessary to defray the expenses of the county office and pay the obligations of the ~~county office,~~ **department,** excluding administrative expenses and facilities, supplies, and equipment expenses for the ~~county office,~~ **department,** in the administration of the ~~county office's~~ **department's** activities for the unexpired part of the fiscal year.

(b) The ~~county director~~ **department** shall do the following:

(1) Certify the estimate and statement to the county executive.

(2) File the estimate and statement with the county auditor.

(3) File the estimate and statement with the department of local government finance.

SECTION 75. IC 12-19-7.5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) The county executive shall consider and act upon an estimate and statement under section 14 of this chapter at:

(1) the county executive's regular session immediately following the filing of the estimate and statement; or

(2) a special session that is:

(A) called for the purpose of considering and acting upon the estimate and statement; and

(B) called before the executive's regular session described in subdivision (1).

(b) The county executive shall, for and on behalf of the county, borrow sufficient money to carry out the purposes described in section 14 of this chapter if after consideration of the estimate and statement the county executive finds the following:

(1) That the ~~county director~~ **department** has not ~~appealed~~ **certified a recommendation** to borrow money under IC 12-19-5. ~~or that the appeal has been denied.~~

(2) That the amount of money required, in addition to any money already available, to defray the expenses and pay the obligations of the county office in the administration of the county's children's psychiatric residential treatment services for the unexpired part of the fiscal year is greater than the amount of money that may be advanced from the general fund of the county.

(c) If the county executive fails to borrow sufficient money to carry out the purposes under section 14 of this chapter either under this chapter or IC 12-19-5, the department may appeal to the department of local government finance for a determination. A copy of the appeal must be filed with the county fiscal body. The department of local government finance shall immediately conduct a hearing in the county on an appeal filed under this subsection. If the department determines that insufficient money is available to carry out the purposes under section 14 of this chapter, the department of local government finance shall issue an appropriate order. The order may allow the county to reduce its general fund budget and transfer sufficient money to the fund or require the county to borrow money for the fund to carry out the purposes under section 14 of this chapter.

SECTION 76. IC 12-19-7.5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. An ordinance adopted by the county fiscal body authorizing a loan under this chapter must do the following:

(1) Authorize the issuance of the bonds of the county to evidence the loan.

(2) Fix the following:

(A) The loan's maximum amount, which may **not** be less than the amount shown by the estimate of the ~~county director.~~ **department.**

(B) The number of semiannual series in which the bonds are payable, which may not exceed twenty (20).

SECTION 77. IC 12-19-7.5-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 33. (a) A county auditor shall annually, not before January 1 and not later than March 31, determine the amount of any excess funds available in the county children's psychiatric treatment services fund based on the following formula:

STEP ONE: Determine the ending cash balance in the fund ~~in~~ **for** the preceding fiscal year.

STEP TWO: Calculate one-half **(1/2)** of the actual cost of providing children's psychiatric treatment services **for the preceding fiscal year.**

STEP THREE: Subtract the amount determined in STEP TWO from the amount determined in STEP ONE.

~~(b) The county auditor shall transfer the amount determined in subsection (a) STEP THREE, if any, from the county children's psychiatric treatment services fund to the county general fund to be used to pay for the part of the care and maintenance of the inmates of the Plainfield juvenile correctional facility and the Indianapolis juvenile correctional facility that is charged back to the counties.~~

(b) If the county has a debt for juvenile per diem under IC 11-10-2-3, as determined by the budget agency, the lesser of the amount determined in subsection (a) STEP THREE or the actual debt shall be paid to the state within forty-five (45) days. If the county does not have juvenile debt, the funds remain in the children's psychiatric residential treatment services fund. Funds remaining in the children's psychiatric residential treatment services fund will be considered excess and used to reduce the succeeding year's levy.

SECTION 78. IC 12-24-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A superintendent who receives a written report of an alleged violation of section 3 of this chapter shall begin an investigation within twenty-four (24) hours after receipt of the written report.

(b) In accordance with IC 31-33, the superintendent shall report the alleged violation of section 3 of this chapter to either of the following:

(1) The ~~local~~ **department of** child ~~protection service established within the county office~~ **services** if the alleged victim is less than eighteen (18) years of age.

(2) The adult protective services unit designated under IC 12-10-3 if the alleged victim is at least eighteen (18) years of age.

SECTION 79. IC 20-19-5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 5. Children's Social, Emotional, and Behavioral Health Plan

Sec. 1. The department of education, in cooperation with the department of child services, the department of correction, and the division of mental health and addiction, shall:

(1) develop and coordinate the children's social, emotional, and behavioral health plan that is to provide recommendations concerning:

(A) comprehensive mental health services;

(B) early intervention; and

(C) treatment services;

for individuals from birth through twenty-two (22) years of age;

(2) make recommendations to the state board, which shall adopt rules under IC 4-22-2 concerning the children's social, emotional, and behavioral health plan; and

(3) conduct hearings on the implementation of the plan before adopting rules under this chapter.

Sec. 2. The children's social, emotional, and behavioral health plan shall recommend:

(1) procedures for the identification and assessment of social, emotional, and mental health issues;

(2) procedures to assist a child and the child's family in obtaining necessary services to treat social, emotional, and mental health issues;

(3) procedures to coordinate provider services and interagency referral networks for an individual from birth through twenty-two (22) years of age;

(4) guidelines for incorporating social, emotional, and behavioral development into school learning standards and education programs;

(5) that social, emotional, and mental health screening be included as a part of routine examinations in schools and by health care providers;

(6) procedures concerning the positive development of children, including:

(A) social, emotional, and behavioral development;

(B) learning; and

(C) behavioral health;

(7) plans for creating a children's social, emotional, and behavioral health system with shared accountability among state agencies that will:

(A) conduct ongoing needs assessments;

(B) use outcome indicators and benchmarks to measure progress; and

(C) implement quality data tracking and reporting systems;

(8) a state budget for children's social, emotional, and mental health prevention and treatment;

(9) how state agencies and local entities can obtain federal funding and other sources of funding to implement a children's social, emotional, and behavioral health plan;

(10) how to maintain and expand the workforce to provide mental health services for individuals from birth through twenty-two (22) years of age and families;

(11) how employers of mental health professionals may:

(A) improve employee job satisfaction; and

(B) retain employees;

(12) how to facilitate research on best practices and model programs for children's social, emotional, and behavioral health;

(13) how to disseminate research and provide training and educational materials concerning the children's social, emotional, and behavioral health program to:

(A) policymakers;

(B) practitioners; and

(C) the general public; and

(14) how to implement a public awareness campaign to:

(A) reduce the stigma of mental illness; and

(B) educate individuals:

(i) about the benefits of children's social, emotional, and behavioral development; and

(ii) how to access children's social, emotional, and behavioral development services.

SECTION 80. IC 25-11-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter, unless the context otherwise requires:

(a) The term "person" means any individual, firm, partnership, limited liability company, or corporation.

(b) The term "collection agency" means and includes all persons engaging directly or indirectly and as a primary or secondary object, business, or pursuit, in soliciting claims for collection, or in the collection of claims owed or due or asserted to be owed or due to another, **including child support arrearages under IC 12-17-2.** The term "collection agency" also means and includes, but shall not be limited to, any person who sells, furnishes, or maintains a letter or written demand service, including stickers or coupon books, designed for the purpose of making demand on any debtor on behalf of any creditor for the payment of any claim wherein the person furnishing or maintaining such letter or written demand service, including stickers or coupon books, shall sell such services for a stated amount or for a percentage of money collected whether paid to the creditor or to the collection agency, or where such services may be rendered as a part of a membership in such collection agency regardless of whether or not a separate fee or percentage is charged. The term "collection agency" shall also include, but not be limited to, any individual, firm, partnership, limited liability company, or corporation who uses a fictitious name, or any name other than the individual's or entity's name, in the collection of accounts receivable with the intention of conveying to the debtor that a third person has been employed.

(c) The term "claim" means any obligation for the payment of money or its equivalent and any sum or sums owed or due or asserted to be owed or due to another, for which any person may be employed to demand payment and to collect or enforce payment thereof. The term "claim" also includes obligations for the payment of money in the form of conditional sales agreements, notwithstanding that the personal property sold thereunder, for which payment is claimed, may be or is repossessed in lieu of payment.

SECTION 81. IC 31-9-2-22.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 22.5. "Conduct a criminal history check", for purposes of IC 12-14-25.5, IC 31-19, IC 31-33, IC 31-34, IC 31-37, and IC 31-39-2-13.5, means to:**

(1) request the state police department to:

(A) release or allow inspection of a limited criminal history (as defined in IC 10-13-3-11) and juvenile history data (as defined in IC 10-13-4-4) concerning a person who is currently residing in a location designated by the department of child services or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location; and

(B) conduct a:

(i) national fingerprint based criminal history background check in accordance with IC 10-13-3-39; or

(ii) national name based criminal history record check (as defined in IC 10-13-3-12.5) of a person

described in clause (A) as provided by IC 10-13-3-27.5; and

(2) collect each:

(A) substantiated report of child abuse or neglect reported in a jurisdiction where a probation officer, a caseworker, or the department of child services has reason to believe that a person described in subdivision (1)(A) resided; and

(B) adjudication for a delinquent act described in IC 31-37-1-2 reported in a jurisdiction where a probation officer, a caseworker, or the department of child services has reason to believe a person described in subdivision (1)(A) resided.

SECTION 82. IC 31-9-2-38.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 38.5. "Department", for purposes of IC 31-19, IC 31-33, IC 31-34, and IC 31-40, has the meaning set forth in IC 31-33-1.5-1.**

SECTION 83. IC 31-9-2-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 40. "Director", for purposes of IC 31-33, IC 31-34, and IC 31-37, refers to the director of the ~~division of family and children.~~ **department of child services.**

SECTION 84. IC 31-9-2-130 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 130. "Title IV-D agency" means:

~~(1) the child support bureau created within the division of family and children as the single state agency to administer the child support provisions of Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669);~~

(1) the bureau of child support established in the department of child services established by IC 31-33-1.5-8; or

(2) a designated agent of the ~~bureau~~ **department** described in subdivision (1).

SECTION 85. IC 31-16-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) In a proceeding under IC 31-14 or IC 31-16-2 through IC 31-16-12 to establish, modify, or enforce a child support order, the court shall:

(1) enter an order for immediate income withholding; and

(2) modify any previously issued income withholding order that has not been activated under this chapter to provide for immediate income withholding.

(b) The court shall issue the income withholding order to the income payor not later than fifteen (15) calendar days after the court's determination.

(c) The income withholding order must order income payors to send to the ~~clerk of the court~~ **state central collection unit** or other person specified in the support order under:

(1) IC 31-14-11-11;

(2) IC 31-16-4; or

(3) IC 31-16-9;

the amount of income established by the court for child support at the time the order for child support is established, enforced, or modified.

(d) However, the court shall issue an income withholding order that will not become activated except upon the occurrence of the two (2) conditions described in section 2 of this chapter if:

(1) the parties submit a written agreement providing for an alternative child support arrangement; or

(2) the court determines that good cause exists not to require immediate income withholding.

(e) A finding of good cause under subsection (d)(2) must:

(1) be written; and

(2) include:

(A) all reasons why immediate income withholding is not in the best interests of the child; and

(B) if the case involves a modification of support, a statement that past support has been timely paid.

(f) The income withholding order must contain a statement that if the withholding order is activated, income payors will be ordered to send to the ~~clerk of the court~~ **state central collection unit** or other person specified in the support order under:

(1) IC 31-14-11-11;

(2) IC 31-16-4; or

(3) IC 31-16-9;

the amount of income established by the court for child support.

SECTION 86. IC 31-16-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) This section applies to the implementation of income withholding under an order issued under sections 1 and 3 of this chapter.

(b) If the Title IV-D agency or the court becomes aware that the obligor has an income payor to whom a notice has not been sent under subsection (c) or an income payor to whom notice of delinquent support has not been sent under subsection (c):

(1) the Title IV-D agency in a case arising under Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669); or

(2) the court;

shall not later than fifteen (15) calendar days after becoming aware of an income payor send a written notice to the income payor that the withholding is binding on the income payor.

(c) The notice to an income payor under this section must contain a statement of the following:

(1) That the income payor is required to withhold a certain amount of income from the obligor.

(2) That the total amount to be withheld under court order by the obligor's income payor from the obligor's income is the sum of:

(A) the obligor's current child support obligation;

(B) an amount to be applied toward the liquidation of any arrearages; and

(C) an optional fee of two dollars ($2), which is payable to and imposed at the option of the income payor, each time the income payor forwards income to the ~~clerk of the court~~ **state central collection unit** or other person specified in the notice;

up to the maximum amount permitted under 15 U.S.C. 1673(b).

(3) That the income payor shall:

(A) forward the withheld income described in subdivision (2)(A) and (2)(B) to the ~~clerk of the court~~ **state central collection unit** or other person named in the notice at the same time that the obligor is paid; and

(B) include a statement identifying:

(i) each cause number;

(ii) the name of each obligor; and

(iii) the name of each payee with the withheld income forwarded by the income payor.

(4) That withholding is binding upon the income payor until further notice from a Title IV-D agency.

(5) That the obligor may recover from the income payor in a civil action an amount not less than one hundred dollars ($100) if the income payor:

(A) discharges the obligor from employment;

(B) refuses the obligor employment; or

(C) disciplines the obligor;

solely because the income payor is required to forward income under this chapter.

(6) That the income payor is liable for any amount that the income payor fails to forward under this chapter.

(7) That withholding under this chapter has priority over any secured or unsecured claim on income except claims for federal, state, and local taxes.

(8) That, if the income payor is required to withhold income from more than one (1) obligor, the income payor may:

(A) combine in a single payment the withheld amounts for all obligors who have been ordered to pay the ~~same clerk~~ **state central collection unit** or other governmental agency; and

(B) separately identify the part of the single payment that is attributable to each individual obligor.

(9) That if:

(A) there is more than one (1) order for withholding against a single obligor; and

(B) the obligor has insufficient disposable earnings to pay the amount required by all the orders;

the income payor shall distribute the withheld earnings pro rata among the entities entitled to receive earnings under the orders, giving priority to a current support withholding order. The income payor shall honor all withholdings to the extent that the total amount withheld does not exceed the limits imposed under 15 U.S.C. 1673(b).

(10) That the income payor shall implement withholding not later than the first pay date after fourteen (14) days following the date the notice was received.

(11) That the income payor shall:

(A) notify:

(i) the Title IV-D agency if the Title IV-D agency gives the notice under this section; or

(ii) the court if the court gives the notice under this section;

when the obligor ceases employment or no longer receives income not later than ten (10) days after the employment or income ceases; and

(B) provide:

(i) the obligor's last known address; and

(ii) the name and address of the obligor's new income payor, if known.

SECTION 87. IC 31-16-15-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Whenever an income withholding order is to be:

(1) activated in a case arising under section 5 of this chapter; or

(2) implemented by a Title IV-D agency under section 3 of this chapter despite the absence of a withholding order in the support order;

the Title IV-D agency shall send a written notice to the obligor.

(b) The notice required under subsection (a) must contain a statement of the following:

(1) Whether the obligor is delinquent in the payment of child support.

(2) The amount of child support, if any, that the obligor is in arrears.

(3) That a certain amount of income is to be:

(A) withheld under court order or action by the Title IV-D agency from the obligor's income; and

(B) forwarded to the ~~clerk of the court.~~ **state central collection unit or other person named in the notice.**

(4) That the total amount to be withheld under court order or action by the Title IV-D agency by the obligor's income payor from the obligor's income is the sum of:

(A) the obligor's current monthly child support obligation;

(B) an amount to be applied toward the liquidation of any arrearages; and

(C) an optional fee of two dollars ($2), which is payable to and imposed at the option of the income payor, each time the income payor forwards income to the clerk of the court or other person specified in the notice to the income payor under this chapter;

up to the maximum amount permitted under 15 U.S.C. 1673(b).

(5) That the provision for withholding applies to the receipt of any current or subsequent income.

(6) That the only basis for contesting activation of income withholding is a mistake of fact.

(7) That an obligor may contest the Title IV-D agency's determination to activate income withholding by making written application to the Title IV-D agency not later than twenty (20) days after the date the notice is mailed.

(8) That if the obligor contests the Title IV-D agency's determination to activate the income withholding order, the Title IV-D agency shall schedule an administrative hearing.

(9) That if the obligor does not contest the Title IV-D agency's determination to activate the income withholding order, the Title IV-D agency will activate income withholding.

(10) That income withholding will continue until a court or the Title IV-D agency terminates activation of income withholding.

SECTION 88. IC 31-16-15-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) If a petition to activate an income withholding order is filed under section 6(2) or 6(3) of this chapter, the court shall set a date for a hearing on the petition that is not later than twenty (20) days after the date the petition is filed. The court shall send a summons and a written notice to the obligor. The notice must contain a statement of the following:

(1) Whether the obligor is delinquent in the payment of child support.

(2) The amount of child support, if any, that the obligor is in arrears.

(3) That a certain amount for the payment of current and past due child support is to be withheld each month from the obligor's income and forwarded to the ~~clerk of the court.~~ **state central collection unit or other person named in the notice.**

(4) That the total amount to be withheld each month by the obligor's income payor from the obligor's income is the sum of:

(A) the obligor's current monthly child support obligation;

(B) an amount to be applied toward the liquidation of any arrearages; and

(C) an optional fee of two dollars ($2), which is payable to and imposed at the option of the income payor, each time the income payor forwards income to the ~~clerk of the court;~~ **state central collection unit or other person named in the notice;**

up to the maximum amount permitted under 15 U.S.C. 1673(b).

(5) That the provision for withholding applies to receipt of any current or subsequent income.

(6) That any of the following constitutes a basis for contesting the withholding:

(A) A mistake of fact.

(B) The parties have submitted a written agreement providing for an alternative child support arrangement.

(C) A court determines that good cause exists not to require immediate income withholding.

(7) That income withholding will continue until the activation of the income withholding order is terminated by the court.

(8) That if the obligor does not appear at the hearing, the court will activate the income withholding order.

(b) If:

(1) the obligor does not appear at the hearing on the petition filed under section 6(2) or 6(3) of this chapter; or

(2) the court grants the petition;

the court shall activate the income withholding order by mailing a written notice to the income payor as provided in section 10 of this chapter.

SECTION 89. IC 31-16-15-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) To activate or implement an income withholding order, in addition to the notice requirements imposed by sections 7 and 8 of this chapter:

(1) the Title IV-D agency in a case arising under section 3 or 5 of this chapter; or

(2) the court in a case arising under section 6 of this chapter;

shall mail a written notice to each income payor not later than fifteen (15) calendar days after the issuance of the income withholding order.

(b) The notice to each income payor must contain a statement of the following:

(1) That the income payor is required to withhold a certain amount of income from the obligor.

(2) That the total amount to be withheld each month by the obligor's income payor from the obligor's income is the sum of:

(A) the obligor's current monthly child support obligation;

(B) an amount to be applied toward the liquidation of any arrearages; and

(C) an optional fee of two dollars ($2), which is payable to and imposed at the option of the income payor, each time the income payor forwards income to the ~~clerk of the court;~~ **state central collection unit or other person named in the notice;**

up to the maximum amount permitted under 15 U.S.C. 1673(b).

(3) That the income payor shall:

(A) forward the withheld income described in subdivision (2)(A) and (2)(B) to the ~~clerk of the court or the~~ state central collection unit **or other person** named in the notice at the same time that the obligor is paid; and

(B) include a statement identifying:

(i) each cause number;

(ii) the Indiana support enforcement tracking system (ISETS) case number;

(iii) the name of each obligor; ~~and~~

(iv) the name of each payee with the withheld income forwarded by the income payor; **and**

(v) the obligor's Social Security number.

(4) That withholding is binding upon the income payor until further notice.

(5) That the obligor may recover from the income payor in a civil action an amount not less than one hundred dollars ($100) if the income payor:

(A) discharges the obligor from employment;

(B) refuses the obligor employment; or

(C) disciplines the obligor;

because the income payor is required to forward income under this chapter.

(6) That the income payor is liable for any amount that the income payor fails to forward under this chapter.

(7) That withholding under this chapter has priority over any secured or unsecured claim on income except claims for federal, state, and local taxes.

(8) That, if the income payor is required to withhold income from more than one (1) obligor, the income payor may:

(A) combine in a single payment the withheld amounts for all obligors who have been ordered to pay the ~~same clerk~~ **state central collection unit** or other governmental agency; and

(B) separately identify the part of the single payment that is attributable to each individual obligor.

(9) That if:

(A) there is more than one (1) order for withholding against a single obligor; and

(B) the obligor has insufficient disposable earnings to pay the amount required by all the orders;

the income payor shall distribute the withheld earnings pro rata among the entities entitled to receive earnings under the orders, giving priority to a current support withholding order, and shall honor all withholdings to the extent that the total amount withheld does not exceed the limits imposed under 15 U.S.C. 1673(b).

(10) That the income payor shall implement withholding not later than the first pay date after fourteen (14) days following the date the notice was received.

(11) That the income payor shall:

(A) notify:

(i) the Title IV-D agency in a case arising under section 5 of this chapter; or

(ii) the court in a case arising under section 1 or 6 of this chapter;

when the obligor terminates employment or ceases to receive other income not later than ten (10) days after termination; and

(B) provide:

(i) the obligor's last known address; and

(ii) the name and address of the obligor's new income payor if known.

SECTION 90. IC 31-16-15-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) An income payor that is required to withhold income under this chapter shall:

(1) forward income withheld for the payment of current and past due child support to the ~~clerk of the court,~~ **state central collection unit** or other person named in the notice at the same time that the obligor is paid;

(2) include a statement identifying:

(A) each cause number;

(B) the Indiana support enforcement tracking system (ISETS) case number;

(C) the name of each obligor **and the obligor's Social Security number;** and

(D) the name of each payee with the withheld income forwarded by the income payor; and

(3) implement withholding not later than the first pay date after fourteen (14) days following the date the notice was received.

(b) The income payor may retain, in addition to the amount required to be forwarded to the ~~clerk of court~~ **state central collection unit** under subsection (a), a fee of two dollars ($2) from the obligor's income each time the income payor forwards income to the ~~clerk of the court~~ **state central collection unit** or other person specified in the notice to an income payor under this chapter. If the income payor elects to withhold the fee, the amount to be withheld for the payment of current and past due child support must be reduced accordingly if necessary to avoid exceeding the maximum amount permitted to be withheld under 15 U.S.C. 1673(b).

SECTION 91. IC 31-16-15-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) Except as provided in subsection (b), if the income payor is required to withhold income from more than one (1) obligor under this chapter, the income payor may:

(1) combine in a single payment the withheld amounts for all obligors who have been ordered to pay to the ~~same clerk~~ **state central collection unit** or other governmental agency; and

(2) separately identify the part of the single payment that is attributable to each individual obligor.

(b) If the income payor:

(1) is required to withhold income from more than one (1) obligor under this chapter; and

(2) employs more than fifty (50) employees;

the income payor shall make payments to the state central collection unit through electronic funds transfer **or through electronic or Internet access made available by the state central collection unit.**

(c) The department of child services shall assess a civil penalty of twenty-five dollars ($25) per obligor per pay period against an income payor that:

(1) is required to make a payment under subsection (b); and

(2) does not make the payment through electronic funds transfer or other means described in subsection (b).

The department shall deposit the penalties into the state general fund.

SECTION 92. IC 31-19-2-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.5. **(a) This section does not apply to a petitioner for adoption who provides the licensed child placing agency or county office of family and children with the results of a criminal history check conducted:**

(1) in accordance with IC 31-9-2-22.5; and

(2) not more than one (1) year before the date on which the petition is filed.

(b) Every petitioner for adoption shall submit the necessary information, forms, or consents for:

(1) a licensed child placing agency; or

(2) the county office of family and children;

that conducts the inspection and investigation required for adoption of a child under ~~IC 31-19-8-1~~ **IC 31-19-8-5** to conduct a criminal history check **(as defined in IC 31-9-2-22.5)** of the petitioner as part of its investigation.

(c) The petitioner for adoption shall pay the fees and other costs of the criminal history check required under this section.

SECTION 93. IC 31-19-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. **(a)** Except:

(1) for:

(A) a child sought to be adopted by a stepparent;

(B) a child sought to be adopted by a ~~blood relative~~ **grandparent, an aunt, or an uncle;** or

(C) a child received by the petitioner for adoption from an agency outside Indiana with the written consent of the division of family ~~and children;~~ **resources;** or

(2) if the court in its discretion, after a hearing held upon proper notice, has waived the requirement for prior written approval;

a child may not be placed in a proposed adoptive home without the prior written approval of a licensed child placing agency or county office of family and children approved for that purpose by the division of family ~~and children.~~ **resources.**

(b) Except as provided in subsection (d), before giving prior written approval for placement in a proposed adoptive home of a child who is under the care and supervision of:

(1) the juvenile court; or

(2) the department of child services;

a licensed child placing agency or the department of child services shall conduct a criminal history check (as defined in IC 31-9-2-22.5) concerning the proposed adoptive parent and any other person who is currently residing in the proposed adoptive home.

(c) The prospective adoptive parent shall pay the fees and other costs of the criminal history check required under this section.

(d) A licensed child placing agency or the department of child services is not required to conduct a criminal history check (as defined in IC 31-9-2-22.5) if a prospective adoptive parent provides the licensed child placing agency or county office of family and children with the results of a criminal history check conducted:

(1) in accordance with IC 31-9-2-22.5; and

(2) not more than one (1) year before the date on which the licensed child placing agency or county office of family and children provides written approval for the placement.

SECTION 94. IC 31-33-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The purpose of this article is to:

(1) encourage effective reporting of suspected or known incidents of child abuse or neglect;

(2) provide ~~in each county an~~ effective child ~~protection service~~ **services** to quickly investigate reports of child abuse or neglect;

(3) provide protection for an abused or a neglected child from further abuse or neglect;

(4) provide rehabilitative services for an abused or a neglected child and the child's parent, guardian, or custodian; and

(5) establish a centralized statewide child abuse registry and an automated child protection system.

SECTION 95. IC 31-33-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 1.5. Department of Child Services

Sec. 1. As used in this article, "department" refers to the department of child services established by section 2 of this chapter.

Sec. 2. (a) The department of child services is established.

(b) The governor shall appoint a director who is responsible for administering the department. The director:

(1) serves at the governor's pleasure; and

(2) is entitled to compensation set by the budget agency.

Sec. 3. The director may employ necessary personnel to carry out the department's responsibilities subject to:

(1) the budget agency's approval under IC 4-12-1-13; and

(2) IC 4-15-2.

Sec. 4. The director shall determine the best manner of organizing the department to provide the necessary services throughout Indiana to fulfill the purposes of this article.

Sec. 5. One (1) time every three (3) months, the department shall submit a report to the budget committee and to the legislative council that provides data and statistical information regarding caseloads of child protection caseworkers. The report made to the legislative council must be in an electronic format under IC 5-14-6.

Sec. 6. The report required under section 5 of this chapter must do the following:

(1) Indicate the department's progress in recruiting, training, and retaining caseworkers.

(2) Describe the methodology used to compute caseloads for each child protection caseworker.

(3) Indicate whether the statewide average caseloads for child protection caseworkers exceed the caseload standards established by the department.

(4) If the report indicates that average caseloads exceed caseload standards, include a written plan that indicates the steps that are being taken to reduce caseloads.

(5) Identify, describe, and, if appropriate, recommend best management practices and resources required to achieve effective and efficient delivery of child protection services.

Sec. 7. The department is responsible for the following:

(1) Providing child protection services under this article.

(2) Providing and administering child abuse and neglect prevention services.

(3) Providing and administering child services (as defined in IC 12-19-7-1).

(4) Providing and administering family services (as defined in IC 31-9-2-45).

(5) Providing family preservation services under IC 12-14-25.5.

(6) Regulating and licensing the following under IC 12-17.4:

(A) Child caring institutions.

(B) Foster family homes.

(C) Group homes.

(D) Child placing agencies.

(7) Administering the state's plan for the administration of Title IV-D of the federal Social Security Act (42 U.S.C. 651 et seq.).

(8) Administering foster care services.

(9) Administering independent living services (as described in 42 U.S.C. 677 et seq.).

(10) Administering adoption services.

Sec. 8. (a) The child support bureau is created within the department of child services. The bureau is charged with the administration of Title IV-D of the federal Social Security Act.

(b) The state's plan for the administration of Title IV-D must comply with all provisions of state law and with the federal statutes and regulations governing the program.

Sec. 9. (a) The bureau shall operate the state parent locator service. The bureau shall make all necessary requests and responses to the federal parent locator service and to the parent locator services of the other states.

(b) To carry out the bureau's responsibilities under this chapter, the bureau, through the parent locator service, may request information and assistance from a state, county, city, or town agency. Officers and employees of a state, county, city, or town agency shall cooperate with the bureau in determining the location of a parent who:

(1) owes child support; or

(2) has abandoned or deserted a child;

by providing the pertinent information relative to the location, income, and property of the parent, notwithstanding a statute making the information confidential.

(c) Notwithstanding a statute making the information confidential, each person doing business in Indiana shall provide the bureau or an agent of the bureau with the following information, if available, upon receipt of the certification described in subsection (d):

(1) Full name of the parent.

(2) Social Security number of the parent.

(3) Date of birth of the parent.

(4) Address of the parent's residence.

(5) Amount of wages earned by the parent.

(6) Number of dependents claimed by the parent on state and federal tax withholding forms.

(7) Name and address of the parent's employer.

(8) Name and address of any financial institution maintaining an account for the parent.

(9) Address of any real property owned by the parent.

(10) Name and address of the parent's health insurance carrier and health coverage policy number.

(d) The parent locator service shall certify that the information requested in subsection (c) is for the purpose of locating a parent who owes child support or who has abandoned a child and that the information obtained is to be treated as confidential by the bureau and any other state to which the information is released.

(e) A business in Indiana and each unit of state and local government shall comply with an administrative subpoena issued by a Title IV-D agency in another jurisdiction. The information requested may not be provided unless the Title IV-D agency of the other jurisdiction certifies that the information will be treated as confidential. The business or unit of government shall provide the Title IV-D agency of the other jurisdiction with the information listed in subsection (c), if available, if requested in the subpoena, upon certification by the Title IV-D agency of the other jurisdiction that the information is for the purpose of locating a parent who owes child support or who has abandoned or deserted a child.

(f) A person may not knowingly refuse to give the bureau, the bureau's agents, or the Title IV-D agency of another jurisdiction the following:

(1) The name of a parent of a child for whom the state is providing public assistance.

(2) Information that may assist the parent locator service or other jurisdiction in locating the parent of a child.

(g) Information obtained under this section may not be used in a criminal prosecution against the informant.

(h) A person may not knowingly give the bureau or the Title IV-D agency of another jurisdiction the incorrect name of a parent of a child or knowingly give the parent locator service incorrect information on the parent's whereabouts for the purpose of concealing the identity of the real parent of the child or the location of the parent.

Sec. 10. (a) The department may establish a program to procure any of the services described in section 7 of this chapter under a procurement agreement administered by the department. The department may enter into procurement agreements that cover the delivery of one (1) or more categories of services to all the counties in a region determined by the department. An agreement may provide for payment from state funds appropriated for the purpose or direct billing of services to the county receiving the service.

(b) If the department enters into a procurement agreement covering a county, the county, including the county's juvenile court, shall procure all services covered by the procurement agreement in accordance with the regional procurement agreement and the policies prescribed by the department. With the approval of the department, a county may use services from an alternate provider.

(c) The costs incurred under a procurement agreement shall be shared by the counties covered by the procurement agreement. The department shall allocate the costs of a regional procurement agreement among the counties covered by the agreement in proportion to the use of the services by each county under the schedule prescribed by the department. A county shall pay the costs incurred under a procurement agreement from the:

(1) family and children's fund; or

(2) children's psychiatric residential treatment services fund;

as appropriate.

(d) If the department pays the costs incurred under a procurement contract from state funds appropriated for the purpose, the department shall present a claim for reimbursement to the appropriate county auditor. The county executive shall review and allow the full amount of the claim in the manner provided in IC 36-2-6.

Sec. 11. The department may adopt rules under IC 4-22-2 necessary to carry out the department's or bureau's duties under this chapter.

Sec. 12. The department is the single state agency responsible for administering the following:

(1) Title IV-B of the federal Social Security Act under 42 U.S.C. 620 et seq.

(2) Title IV-E of the federal Social Security Act under 42 U.S.C. 670 et seq.

(3) The federal Child Abuse Prevention and Treatment Act under 42 U.S.C. 5106 et seq.

(4) The federal Social Services Block Grant under 42 U.S.C. 1397 et seq.

(5) Any other federal program that provides funds to states for services related to the prevention of child abuse and neglect, child welfare services, foster care, independent living, or adoption services.

SECTION 96. IC 31-33-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. **(a)** The ~~local child protection service.~~ **department:**

(1) must have sufficient qualified and trained staff to fulfill the purpose of this article;

(2) must be organized to maximize the continuity of responsibility, care, and service of individual caseworkers toward individual children and families;

(3) must provide training to representatives of the child ~~protective~~ **protection** services system regarding the legal duties of the representatives, which may consist of various methods of informing the representatives of their duties, in order to protect the legal rights and safety of children and families from the initial time of contact during the investigation through treatment; and

(4) must provide training to representatives of the child ~~protective~~ **protection** services system regarding the constitutional rights of the child's family, including a child's guardian or custodian, that is the subject of an investigation of child abuse or neglect consistent with the Fourth Amendment to the United States Constitution and Article I, Section 11 of the Constitution of the State of Indiana.

(b) This section expires June 30, 2008.

SECTION 97. IC 31-33-2-2.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2.1. (a) This section applies after June 30, 2008.**

(b) The department:

(1) must have sufficient qualified and trained staff to fulfill the purpose of this article;

(2) must be organized to maximize the continuity of responsibility, care, and service of individual caseworkers toward individual children and families;

(3) must provide training to representatives of the child protection services system regarding the legal duties of the representatives, which may consist of various methods of informing the representatives of their duties, in order to protect the legal rights and safety of children and families from the initial time of contact during the investigation through treatment; and

(4) must provide training to representatives of the child protection services system regarding the constitutional rights of the child's family, including a child's guardian or custodian, that is the subject of an investigation of child abuse or neglect consistent with the Fourth Amendment to the United States Constitution and Article 1, Section 11 of the Constitution of the State of Indiana.

SECTION 98. IC 31-33-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Except in cases involving a child who may be a victim of institutional abuse or cases in which police investigation also appears appropriate, the ~~local child protection service~~ **department** is the primary public agency responsible for:

(1) receiving;

(2) investigating or arranging for investigation; and

(3) coordinating;

the investigation of all reports of a child who may be a victim of known or suspected child abuse or neglect.

(b) In accordance with ~~the~~ **a** local plan for ~~the~~ child protection services, the ~~local child protection service~~ **department** shall, by juvenile court order:

(1) provide protective services to prevent cases where a child may be a victim of further child abuse or neglect; and

(2) provide for or arrange for and coordinate and monitor the provision of the services necessary to ensure the safety of children.

(c) Reasonable efforts must be made to provide family services designed to prevent a child's removal from the child's parent, guardian, or custodian.

SECTION 99. IC 31-33-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The ~~local child protection service~~ **department** shall give notice of the existence and location of photographs, x-rays, and physical medical examination reports to:

(1) the **appropriate** prosecuting attorney; and

(2) the appropriate law enforcement agency, if the law enforcement agency has not already received the items described in this section under IC 31-33-10-3.

SECTION 100. IC 31-33-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The ~~local child protection service~~ **department** shall cooperate with and shall seek and receive the cooperation of appropriate public and private agencies, including the following:

(1) Law enforcement agencies.

(2) The courts.

(3) Organizations, groups, and programs providing or concerned with services related to the prevention, identification, or treatment of a child who may be a victim of child abuse or neglect.

(b) The ~~local child protection service~~ **department** shall also cooperate with public and private agencies, organizations, and groups that provide family services designed to prevent a child's removal from the child's home.

(c) Cooperation and involvement under this section may include the following:

(1) Consultation services.

(2) Planning.

(3) Case management.

(4) Public education and information services.

(5) Utilization of each other's facilities, staff, and other training.

SECTION 101. IC 31-33-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) Notwithstanding any other law, the ~~child protection service~~ **department** may purchase and use the services of any public or private agency if adequate provision is made for continuity of care and accountability. ~~between the local protection service and the agency.~~

(b) If the ~~local child protection service~~ **department** purchases services under this article, the state shall reimburse the expenses, to the extent allowed by state and federal statutes, rules, and regulations, to the locality or agency in the same manner and to the same extent as if the services were provided directly by the ~~local child protection service.~~ **department.**

SECTION 102. IC 31-33-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The community child protection team is a communitywide, multidisciplinary child protection team. The team must include the following eleven (11) members:

(1) The director of the ~~local child protection service~~ **county office of family and children** or the **county office** director's designee.

(2) Two (2) designees of the juvenile court judge.

(3) The county prosecuting attorney or the prosecuting attorney's designee.

(4) The county sheriff or the sheriff's designee.

(5) Either:

(A) the president of the county executive in a county not containing a consolidated city or the president's designee; or

(B) the executive of a consolidated city in a county containing a consolidated city or the executive's designee.

(6) A director of a court appointed special advocate or guardian ad litem program or the director's designee in the county in which the team is to be formed.

(7) Either:

(A) a public school superintendent or the superintendent's designee; or

(B) a director of a local special education cooperative or the director's designee.

(8) Two (2) persons, each of whom is a physician or nurse, with experience in pediatrics or family practice.

(9) One (1) citizen of the community.

(b) The director of the county office of family and children shall appoint, subject to the approval of the director of the ~~division of family and children,~~ **department,** the members of the team under subsection (a)(7), (a)(8), and (a)(9).

SECTION 103. IC 31-33-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The community child protection team shall meet:

(1) at least one (1) time each month; or

(2) at the times that the team's services are needed by the ~~child protection service.~~ **department.**

(b) Meetings of the team shall be called by the majority vote of the members of the team.

(c) The team coordinator or at least two (2) other members of the team may determine the agenda.

(d) Notwithstanding IC 5-14-1.5, meetings of the team are open only to persons authorized to receive information under this article.

SECTION 104. IC 31-33-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The community child protection team:

(1) shall provide diagnostic and prognostic services for the ~~local child protection service~~ **department** or the juvenile court; and

(2) may recommend to the ~~local child protection service~~ **department** that a petition be filed in the juvenile court on behalf of the subject child if the team believes this would best serve the interests of the child.

SECTION 105. IC 31-33-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The community child protection team may receive and review:

(1) any case that the ~~local child protection service~~ **department** has been involved in within the county where the team presides; and

(2) complaints regarding child abuse and neglect cases that are brought to the team by a person or an agency.

SECTION 106. IC 31-33-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The local plan must describe the ~~county office of family and children's~~ **department's** implementation of this article, including the following:

(1) Organization.

(2) Staffing.

(3) Mode of operations.

(4) Financing of the child protection services.

(5) The provisions made for the purchase of service and interagency relations.

SECTION 107. IC 31-33-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. A person who has a duty under this chapter to report that a child may be a victim of child abuse or neglect shall immediately make an oral report to:

(1) the ~~local child protection service;~~ **department;** or

(2) the local law enforcement agency.

SECTION 108. IC 31-33-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The ~~local child protection service~~ **department** shall arrange for receipt, on a twenty-four (24) hour, seven (7) day per week basis, of all reports under this article of suspected child abuse or neglect.

SECTION 109. IC 31-33-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. To carry out section 1 of this chapter, ~~a local child protection service~~ **the department** must use a phone access system for receiving calls that

is standardized among all counties. The ~~division of family and children~~ **department** shall adopt rules under IC 4-22-2 for the administration of this section.

SECTION 110. IC 31-33-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~Each local child protection service~~ **The department** shall cause to be inserted in each local telephone directory in the county a listing of the child abuse hotline's telephone number under the name "child abuse hotline". The child abuse hotline number under this section must be included with the other emergency numbers listed in the directory.

SECTION 111. IC 31-33-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The ~~local child protection service~~ **department** shall make a written report of a child who may be a victim of child abuse or neglect not later than forty-eight (48) hours after receipt of the oral report required of individuals by IC 31-33-5-4.

(b) Written reports under this section must be made on forms supplied by the administrator. The written reports must include, if known, the following information:

(1) The names and addresses of the following:

(A) The child.

(B) The child's parents, guardian, custodian, or other person responsible for the child's care.

(2) The child's age and sex.

(3) The nature and apparent extent of the child's injuries, abuse, or neglect, including any evidence of prior:

(A) injuries of the child; or

(B) abuse or neglect of the child or the child's siblings.

(4) The name of the person allegedly responsible for causing the injury, abuse, or neglect.

(5) The source of the report.

(6) The person making the report and where the person can be reached.

(7) The actions taken by the reporting source, including the following:

(A) Taking of photographs and x-rays.

(B) Removal or keeping of the child.

(C) Notifying the coroner.

(8) The written documentation required by IC 31-34-2-3 if a child was taken into custody without a court order.

(9) Any other information that:

(A) the director requires by rule; or

(B) the person making the report believes might be helpful.

SECTION 112. IC 31-33-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. A copy of the written report of the ~~local child protection service~~ **department** shall immediately be made available to:

(1) the appropriate law enforcement agency;

(2) the prosecuting attorney; and

(3) in a case involving death, the coroner for the coroner's consideration.

SECTION 113. IC 31-33-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. Upon receiving a written report under section 5(3) of this chapter, the coroner shall:

(1) accept a report for investigation; and

(2) report the coroner's findings to:

(A) the appropriate law enforcement agency;

(B) the prosecuting attorney;

(C) the ~~local child protection service;~~ **department;** and

(D) the hospital if the institution making the report is a hospital.

SECTION 114. IC 31-33-7-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.5. Child abuse or neglect information may be expunged under IC 31-39-8 if the probative value of the information is so doubtful as to outweigh its validity. Child abuse or neglect information shall be expunged if it is determined to be unsubstantiated after:

(1) an investigation **by the department** of a report of a child who may be a victim of child abuse or neglect; ~~by the child protection service;~~ or

(2) a court proceeding.

SECTION 115. IC 31-33-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) When a law enforcement agency receives an initial report under IC 31-33-5-4 that a child may be a victim of child abuse or neglect, the law enforcement agency shall:

(1) immediately communicate the report to the ~~local child protection service;~~ **department,** whether or not the law enforcement agency has reason to believe there exists an imminent danger to the child's health or welfare; and

(2) conduct an immediate, onsite investigation of the report along with the ~~local child protection service~~ **department** whenever the law enforcement agency has reason to believe that an offense has been committed.

(b) In all cases, the law enforcement agency shall forward any information, including copies of investigation reports, on incidents of cases in which a child may be a victim of child abuse or neglect, whether or not obtained under this article, to:

(1) the ~~local child protection agency;~~ **department;** and

(2) the juvenile court under IC 31-34-7.

SECTION 116. IC 31-33-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) This section applies if the ~~local child protection service~~ **department** receives a report of suspected child abuse or neglect from:

(1) a hospital;

(2) a community mental health center;

(3) a managed care provider (as defined in IC 12-7-2-127(b));

(4) a referring physician;

(5) a dentist;

(6) a licensed psychologist; or

(7) a school.

(b) Not later than thirty (30) days after the date ~~a local child protection service~~ **the department** receives a report of suspected child abuse or neglect from a person described in subsection (a), the ~~child protection service~~ **department** shall send a report to:

(1) the administrator of the hospital;

(2) the community mental health center;

(3) the managed care provider;

(4) the referring physician;

(5) the dentist; or

(6) the principal of the school.

The report must contain the items listed in subsection (e) that are known at the time the report is sent.

(c) Not later than ninety (90) days after the date ~~a local child protection service~~ **the department** receives a report of suspected child abuse or neglect, the ~~local child protection service~~ **department** shall send a report that contains any additional items listed in subsection (e) that were not covered in the prior report if available.

(d) The administrator, director, referring physician, dentist, licensed psychologist, or principal may appoint a designee to receive the report.

(e) A report made by the ~~local child protection service~~ **department** under this section must contain the following information:

(1) The name of the alleged victim of child abuse or neglect.

(2) The name of the alleged perpetrator and the alleged perpetrator's relationship to the alleged victim.

(3) Whether the case is closed.

(4) Whether information concerning the case has been expunged.

(5) The name of any agency to which the alleged victim has been referred.

(6) Whether the ~~local child protection service~~ **department** has made an investigation of the case and has not taken any further action.

(7) Whether a substantiated case of child abuse or neglect was informally adjusted.

(8) Whether the alleged victim was referred to the juvenile court as a child in need of services.

(9) Whether the alleged victim was returned to the victim's home.

(10) Whether the alleged victim was placed in residential care outside the victim's home.

(11) Whether a wardship was established for the alleged victim.

(12) Whether criminal action is pending or has been brought against the alleged perpetrator.

(13) A brief description of any casework plan that has been developed by the ~~child protection service.~~ **department.**

(14) The caseworker's name and telephone number.

(15) The date the report is prepared.

(16) Other information that the ~~division of family and children~~ **department** may prescribe.

(f) A report made under this section:

(1) is confidential; and

(2) may be made available only to:

(A) the agencies named in this section; and

(B) the persons and agencies listed in IC 31-33-18-2.

SECTION 117. IC 31-33-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The ~~local child protection service~~ **department** shall initiate an immediate and appropriately thorough child protection investigation of every report of known or suspected child abuse or neglect the ~~local child protection service~~ **department** receives, whether in accordance with this article or otherwise.

(b) Subject to subsections (d) and (e), if the report alleges a child may be a victim of child abuse, the investigation shall be initiated immediately, but not later than twenty-four (24) hours after receipt of the report.

(c) Subject to subsections (d) and (e), if reports of child neglect are received, the investigation shall be initiated within a reasonably prompt time, but not later than five (5) days, with the primary consideration being the well-being of the child who is the subject of the report.

(d) If the immediate safety or well-being of a child appears to be endangered or the facts otherwise warrant, the investigation shall be initiated regardless of the time of day.

(e) If the ~~child protection service~~ **department** has reason to believe that the child is in imminent danger of serious bodily harm, the ~~child protection service~~ **department** shall initiate within one (1) hour an immediate, onsite investigation.

SECTION 118. IC 31-33-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Upon the receipt of each report under this chapter of known or suspected child abuse, the ~~local child protection service~~ **department** shall contact the law enforcement agency in the appropriate jurisdiction.

(b) The law enforcement agency, with the ~~local child protection service,~~ **department,** shall conduct an immediate onsite investigation of the report if the law enforcement agency has reason to believe that an offense has been committed. The law enforcement agency shall investigate the alleged child abuse or neglect under this chapter in the same manner that the law enforcement agency conducts any other criminal investigation.

SECTION 119. IC 31-33-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Except as provided in subsection (b), the ~~local child protection service~~ **department** shall:

(1) cause color photographs to be taken of the areas of trauma visible on a child who is subject to a report; and

(2) if medically indicated, cause a radiological examination of the child to be performed.

(b) If the law enforcement agency participates in the investigation, the law enforcement agency shall cause the color photographs to be taken as provided by this section.

(c) The ~~division of family and children~~ **department** shall reimburse the expenses of the photographs and x-rays.

SECTION 120. IC 31-33-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The ~~local child protection service~~ **department** shall immediately forward a copy of all reports made under this article to the appropriate prosecuting attorney if the prosecuting attorney has made a prior request to the service in writing for the copies.

SECTION 121. IC 31-33-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The ~~local child protection service~~ **department** shall promptly make a thorough

investigation upon either the oral or written report. The primary purpose of the investigation is the protection of the child.

SECTION 122. IC 31-33-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The ~~local child protection service's~~ **department's** investigation, to the extent that is reasonably possible, must include the following:

(1) The nature, extent, and cause of the known or suspected child abuse or neglect.

(2) The identity of the person allegedly responsible for the child abuse or neglect.

(3) The names and conditions of other children in the home.

(4) An evaluation of the parent, guardian, custodian or person responsible for the care of the child.

(5) The home environment and the relationship of the child to the parent, guardian, or custodian or other persons responsible for the child's care.

(6) All other data considered pertinent.

(b) The investigation may include the following:

(1) A visit to the child's home.

(2) An interview with the subject child.

(3) A physical, psychological, or psychiatric examination of any child in the home.

(c) If:

(1) admission to the home, the school, or any other place that the child may be; or

(2) permission of the parent, guardian, custodian, or other persons responsible for the child for the physical, psychological, or psychiatric examination;

under subsection (b) cannot be obtained, the juvenile court, upon good cause shown, shall follow the procedures under IC 31-32-12.

SECTION 123. IC 31-33-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) If, before the investigation is complete, the opinion of the law enforcement agency or the ~~local child protection service~~ **department** is that immediate removal is necessary to protect the child from further abuse or neglect, the juvenile court may issue an order under IC 31-32-13.

(b) The ~~child protection service~~ **department** shall make a complete written report of the investigation.

(c) If a law enforcement agency participates in the investigation, the law enforcement agency shall also make a complete written report of the investigation.

SECTION 124. IC 31-33-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The ~~local child protection service's~~ **department's** report under section 8 of this chapter shall be made available to:

(1) the appropriate court;

(2) the prosecuting attorney; or

(3) the appropriate law enforcement agency;

upon request.

(b) If child abuse or neglect is substantiated after an investigation is conducted under section 7 of this chapter, the ~~local child protection service~~ **department** shall forward its report to the office of the prosecuting attorney having jurisdiction in the county in which the alleged child abuse or neglect occurred.

(c) If the investigation substantiates a finding of child abuse or neglect as determined by the ~~local child protection service,~~ **department,** a report shall be sent to the coordinator of the community child protection team under IC 31-33-3.

SECTION 125. IC 31-33-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. In all cases, the law enforcement agency shall release information on an incident in which a child may be a victim of alleged child abuse or neglect, whether obtained under this article or not, to the ~~local child protection service.~~ **department.**

SECTION 126. IC 31-33-8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) Upon completion of an investigation, the ~~local child protection service~~ **department** shall classify reports as substantiated, indicated, or unsubstantiated.

(b) Except as provided in subsection (c), ~~a local child protection service~~ **the department** shall expunge investigation records one (1) year after a report has been classified as indicated under subsection (a).

(c) If ~~a local child protection service~~ **the department** has:

(1) classified a report under subsection (a) as indicated; and

(2) not expunged the report under subsection (b);

and the subject of the report is the subject of a subsequent report, the one (1) year period in subsection (b) is tolled for one (1) year after the date of the subsequent report.

SECTION 127. IC 31-33-8-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. Whenever:

(1) an arrest relating to child abuse or neglect is made, the law enforcement agency that makes the arrest;

(2) criminal charges relating to child abuse or neglect are filed, the court in which the charges are filed;

(3) a child in need of services determination is made, the ~~local child protection service that files the petition upon which the determination is based;~~ **department;**

(4) a court approves a program of informal adjustment under IC 31-34-8 arising out of a child abuse or neglect report, the ~~appropriate child protection service;~~ **department;** or

(5) a person who is accused of child abuse or neglect:

(A) enters into a services referral agreement; and

(B) fails to substantially comply with the terms of the services referral agreement;

under IC 31-33-13, the ~~local child protection service that obtains the agreement from the person;~~ **department;**

shall transmit to the registry, not more than five (5) working days after the circumstances described by subdivisions (1) through (5) occur, the relevant child abuse or neglect report.

SECTION 128. IC 31-33-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Through a written protocol or agreement, the ~~division of family and children~~ **department** shall designate the public or private agencies primarily responsible for investigating reports involving a child who:

(1) may be a victim of child abuse or neglect; and

(2) is under the care of a public or private institution.

(b) The designated agency must be different from and separately administered from the agency involved in the alleged act or omission. Subject to this limitation, the agency:

(1) may be:

(A) the ~~division of family and children;~~ **department; or**

~~(B) the local child protection service; or~~

~~(C)~~ **(B)** a law enforcement agency; and

(2) may not be the office of the prosecuting attorney.

SECTION 129. IC 31-33-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The protocol or agreement must describe the specific terms or conditions of the designation, including the following:

(1) The manner in which reports of a child who may be a victim of child abuse or neglect and who is under the care of a public or private institution will be received.

(2) The manner in which the reports will be investigated.

(3) The remedial action that will be taken.

(4) The manner in which the ~~division of family and children~~ **department** will be kept fully informed on the progress, findings, and disposition of the investigation.

SECTION 130. IC 31-33-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. To fulfill the purposes of this chapter, the ~~division of family and children~~ **department** may purchase the services of the public or private agency designated to investigate reports of child abuse or neglect.

SECTION 131. IC 31-33-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The ~~division of family and children~~ **department** shall reimburse the reasonable cost of photographs, x-rays, or physical medical examinations made under this chapter.

SECTION 132. IC 31-33-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. All photographs taken and a summary of x-rays and other medical care shall be sent to the ~~local child protection service~~ **department** and, upon request, to a law enforcement agency that investigates the alleged child abuse or neglect, at the time the written report is sent or as soon thereafter as possible. The ~~local child protection service~~ **department** shall give notice of the existence of photographs, x-rays, and physical medical examination reports in accordance with IC 31-33-2-4.

SECTION 133. IC 31-33-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Whenever:

(1) a child is subject to investigation by ~~a local child protection service~~ **the department** for reported child abuse or neglect;

(2) the child is a patient in a hospital; and

(3) the hospital has reported or has been informed of the report and investigation;

the hospital may not release the child to the child's parent, guardian, custodian, or to a court approved placement until the hospital receives authorization or a copy of a court order from the ~~investigating local child protection service~~ **department** indicating that the child may be released to the child's parent, guardian, custodian, or court approved placement.

(b) If the authorization that is granted under this section is verbal, the ~~investigating local child protection service~~ **department** shall send a letter to the hospital confirming that the ~~local child protection service~~ **department** has granted authorization for the child's release.

(c) The individual or third party payor responsible financially for the hospital stay of the child remains responsible for any extended stay under this section. If no party is responsible for the extended stay, the ~~division of family and children~~ **department** shall pay the expenses of the extended hospital stay.

SECTION 134. IC 31-33-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. Based on the investigation and evaluation conducted under this article, the ~~local child protection service~~ **department** shall offer to the family or any child believed to be suffering from child abuse or neglect:

(1) family services;

(2) rehabilitative services; or

(3) both types of services;

that appear appropriate for either the child or the family.

SECTION 135. IC 31-33-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. Before offering services under section 1 of this chapter to a family, the ~~local child protection service:~~ **department:**

(1) shall explain that the ~~local child protection service~~ **department** has no legal authority to compel the family to receive the social services; and

(2) may inform the family of the obligations and authority of the ~~local child protection service~~ **department** to petition a juvenile court for a proceeding alleging that the child may be a victim of child abuse or neglect.

SECTION 136. IC 31-33-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. The ~~local child protection service~~ **department** shall coordinate, provide or arrange for, and monitor, as authorized by this article and IC 12, family or rehabilitative services, or both types of services, for a child and the child's family on a voluntary basis or under an order of the court, subject to IC 31-34-11 and IC 31-34-18.

SECTION 137. IC 31-33-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This chapter applies if:

(1) a child abuse or neglect report is classified as substantiated;

(2) the ~~local child protection service~~ **department** does not seek court involvement under IC 31-34; and

(3) the ~~local child protection service~~ **department** recommends voluntary participation in family or rehabilitative services for not more than six (6) months.

SECTION 138. IC 31-33-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. A person who is accused of child abuse or neglect may enter into a voluntary services referral agreement with the ~~local child protection service~~ **department** under this chapter. Under the terms of the agreement, the person shall successfully participate in and complete any family or rehabilitative services recommended by the ~~local child protection~~

~~service.~~ **department.**

SECTION 139. IC 31-33-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. If a person who enters into an agreement under section 2 of this chapter (or IC 31-6-11-13.5(b) before its repeal) fails to substantially carry out the terms of the agreement, the ~~local child protection service~~ **department** shall:

(1) terminate the agreement; and

(2) ~~forward~~ **enter** the child abuse or neglect report relating to the person ~~to the division of family and children for entry~~ into the registry under IC 31-33-17.

SECTION 140. IC 31-33-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. Before a person enters into a services referral agreement under this chapter, the ~~local child protection service~~ **department** shall advise the person, orally and in writing, that the ~~division of family and children~~ **department** shall enter information contained in the child abuse or neglect report that gave rise to the service referral agreement into the registry as provided under IC 31-33-17 if the person fails to substantially comply with the terms of the agreement.

SECTION 141. IC 31-33-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The ~~local child protection service~~ **department** shall provide a court with access to information relating to a services referral agreement whenever the court:

(1) approves a program of informal adjustment; or

(2) presides over a child in need of services proceeding;

involving the same person or family to whom services were recommended under the services referral agreement.

SECTION 142. IC 31-33-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. If the ~~local child protection services~~ **department** determines that the best interests of the child require action in the juvenile or criminal court, the ~~local child protection service~~ **department** shall:

(1) refer the case to the juvenile court under IC 31-34-7; or

(2) make a referral to the prosecuting attorney if criminal prosecution is desired.

SECTION 143. IC 31-33-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The ~~local child protection service~~ **department** shall assist the juvenile court or the court having criminal jurisdiction during all stages of the proceedings in accordance with the purposes of this article.

SECTION 144. IC 31-33-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The ~~division of family and children~~ **department** shall establish and maintain a centralized, computerized child abuse registry for the purpose of organizing and accessing data regarding substantiated reports of child abuse and neglect described under section 2 of this chapter that the ~~division of family and children~~ **department** receives from throughout Indiana under this article.

SECTION 145. IC 31-33-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The ~~division of family and children~~ **department** shall enter a substantiated report into the registry only if at least one (1) of the following applies:

(1) An arrest of the alleged perpetrator of the child abuse or neglect is made.

(2) Criminal charges are filed in state or federal court against the alleged perpetrator of the child abuse or neglect.

(3) A court determines that a child is a child in need of services based on a report of child abuse or neglect.

(4) A court approves a program of informal adjustment relating to the child abuse or neglect report under IC 31-34-8.

(5) A person does not substantially comply with the terms of a services referral agreement under IC 31-33-13.

SECTION 146. IC 31-33-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. The ~~division of family and children~~ **department** may not enter an unsubstantiated report into the registry.

SECTION 147. IC 31-33-17-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The ~~division of family and children~~ **department** shall store data regarding the child abuse or neglect reports in a manner so that the data is accessible under the following if known:

(1) The child's name.

(2) The child's date of birth.

(3) The alleged perpetrator's name.

(4) The child's mother's name.

(5) The child's father's name.

(6) The name of a sibling of the child.

(7) The name of the child's guardian or custodian if applicable.

SECTION 148. IC 31-33-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The ~~division of family and children~~ **department** shall adopt rules under IC 4-22-2 for the purpose of ensuring that the confidentiality and access to reports of child abuse or neglect are maintained as provided in this chapter.

SECTION 149. IC 31-33-17-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. Upon request, a person or an organization may have access to information contained in the registry as follows:

(1) A law enforcement agency or ~~local child protective service~~ **the department** may have access to a substantiated report.

(2) A person may have access to information consisting of an identifiable notation of a conviction arising out of a report of child abuse or neglect.

(3) Upon submitting written verification of an application for employment or a consent for release of information signed by a child care provider, a person or an agency may obtain the following information contained in the child abuse registry regarding an individual who has applied for employment or volunteered for services in a capacity that would place the individual in a position of trust with children less than eighteen (18) years of age or regarding a child care provider who is providing or may provide child care for the person's child:

(A) Whether a child was found by a court to be a child in need of services based on a report of child abuse or neglect naming the applicant, volunteer, or child care

provider as the alleged perpetrator.

(B) Whether criminal charges were filed against the applicant, volunteer, or child care provider based on a report of child abuse or neglect naming the applicant, volunteer, or child care provider as the alleged perpetrator.

(C) Whether a court has issued an arrest warrant for the applicant, volunteer, or child care provider based on a report of child abuse or neglect in which the applicant, volunteer, or child care provider is named as the alleged perpetrator.

(4) A person may have access to whatever information is contained in the registry pertaining to the person, with protection for the identity of:

(A) the person who reports the alleged child abuse or neglect; and

(B) any other appropriate person.

(5) A person or an agency to whom child abuse and neglect reports are available under IC 31-33-18 may also have access to information contained in the registry.

(6) If a child care provider provides child care in the provider's home, upon submitting a consent for release of information signed by an individual who is at least eighteen (18) years of age, who resides with the child care provider, and who may have direct contact with children for whom the provider provides child care, a person may obtain the following information contained in the child abuse registry regarding the individual:

(A) Whether a child was found by a court to be a child in need of services based on a report of child abuse or neglect naming the individual as the alleged perpetrator.

(B) Whether criminal charges were filed against the individual based on a report of child abuse or neglect naming the individual as the alleged perpetrator.

(C) Whether a court has issued an arrest warrant for the individual based on a report of child abuse or neglect in which the individual is named as the alleged perpetrator.

(7) The ~~division of family and children~~ **department** may use the following information contained in the registry regarding an individual described in IC 12-17.2-3.5-4.1(a) for purposes of determining the eligibility of a child care provider to receive a voucher payment (as defined in IC 12-17.2-3.5-3):

(A) Whether a child has been found by a court to be a child in need of services based on a report of child abuse or neglect naming the individual as the alleged perpetrator.

(B) Whether criminal charges have been filed against the individual based on a report of child abuse or neglect naming the individual as the alleged perpetrator.

(C) Whether a court has issued an arrest warrant for the individual based on a report of child abuse or neglect in which the individual is named as the alleged perpetrator.

The ~~division of family and children~~ **department** may not disclose information used in connection with the ~~division's~~ **department's** activities under this subdivision.

SECTION 150. IC 31-33-17-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The ~~division of family and children~~ **department** shall administer the registry and ~~each local child protection service shall administer~~ the automated child protection system under IC 31-33-20 in a manner that enables the ~~division of family and children or each local child protection service~~ **department** to do the following:

(1) Immediately identify and locate prior reports of child abuse or neglect through the use of the ~~division of family and children's~~ **department's:**

(A) computerized tracking system; and

~~the local child protection service's~~ **(B)** automated risk assessment system.

(2) Track steps in the investigative process to ensure compliance with all requirements for a report of child abuse and neglect.

(3) Maintain and produce aggregate statistical reports monitoring patterns of child abuse and neglect that the ~~division of family and children~~ **department** shall make available to the public upon request.

(4) Serve as a resource for the evaluation, management, and planning of preventative and remedial services to children who have been subject to child abuse or neglect.

SECTION 151. IC 31-33-17-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) This section does not apply to substantiated cases if a court determines that a child is a child in need of services based on a report of child abuse or neglect that names the alleged perpetrator as the individual who committed the alleged child abuse or neglect.

(b) Not later than thirty (30) days after the ~~division of family and children~~ **department** enters a substantiated child abuse or neglect report into the registry, the ~~division of family and children~~ **department** shall notify:

(1) the parent, guardian, or custodian of the child who is named in the report as the victim of the child abuse or neglect; and

(2) the alleged perpetrator, if other than the child's parent, guardian, or custodian, named in the report under IC 31-33-5-4;

that the ~~division of family and children~~ **department** has entered the report into the registry.

(c) The ~~division of family and children~~ **department** shall state the following in a notice to an alleged perpetrator of a substantiated report under subsection (b):

(1) The report has been classified as substantiated.

(2) The alleged perpetrator may request that a substantiated report be amended or expunged at an administrative hearing if the alleged perpetrator does not agree with the classification of the report unless a court is in the process of making a determination described in IC 31-33-19.

(3) The alleged perpetrator's request for an administrative hearing to contest the classification of a substantiated report must be received by the ~~division of family and children~~ **department** not more than thirty (30) days after the alleged perpetrator receives the notice.

(d) If the alleged perpetrator fails to request an administrative hearing within the time specified in subsection (c)(3), the alleged perpetrator named in a substantiated report may request an administrative hearing to contest the classification of the report if the alleged perpetrator demonstrates that the failure to request an administrative hearing was due to excusable neglect or fraud. The Indiana Rules of Civil Procedure provide the standard for excusable neglect or fraud.

SECTION 152. IC 31-33-17-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) Whenever a court grants a name change under IC 34-28-2 (or IC 34-4-6 before its repeal) to a person:

(1) against whom an allegation of child abuse or neglect has been substantiated; and

(2) whose name is maintained within the registry in accordance with this chapter;

the person must notify the ~~division of family and children~~ **department** regarding the name change not more than ten (10) business days after the court enters a decree changing the person's name.

(b) The notice must include a copy of the decree of the court that changes the name of the person, certified under the seal of the clerk of court.

SECTION 153. IC 31-33-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Except as provided in section 1.5 of this chapter, the following are confidential:

(1) Reports made under this article (or IC 31-6-11 before its repeal).

(2) Any other information obtained, reports written, or photographs taken concerning the reports in the possession of:

(A) the division of family ~~and children,~~ **resources;**

(B) the county office of family and children; or

(C) the ~~local child protection service.~~ **department.**

(b) Except as provided in section 1.5 of this chapter, all records held by:

(1) the division of family ~~and children,~~ **resources;**

(2) a county office of family and children;

~~(3) a local child protection service,~~

(3) the department;

(4) a local child fatality review team established under IC 12-13-15; or

(5) the statewide child fatality review committee established under IC 12-13-15.1-6;

regarding the death of a child determined to be a result of abuse, abandonment, or neglect are confidential and may not be disclosed.

SECTION 154. IC 31-33-18-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. (a) This section applies to records held by:

(1) the division of family ~~and children,~~ **resources;**

(2) a county office of family and children;

~~(3) a local child protection service,~~

(3) the department;

(4) a local child fatality review team established under IC 12-13-15; or

(5) the statewide child fatality review committee established under IC 12-13-15.1-6;

regarding ~~the death of~~ a child ~~determined to be a~~ **whose death or near fatality may have been the** result of abuse, abandonment, or neglect.

(b) For purposes of subsection (a), a child's death or near fatality may have been the result of abuse, abandonment, or neglect if:

(1) an entity described in subsection (a) determines that the child's death or near fatality is the result of abuse, abandonment, or neglect; or

(2) a prosecuting attorney files:

(A) an indictment or information; or

(B) a complaint alleging the commission of a delinquent act;

that, if proven, would cause a reasonable person to believe that the child's death or near fatality may have been the result of abuse, abandonment, or neglect.

Upon the request of any person, or upon its own motion, the court exercising juvenile jurisdiction in the county in which the child's death or near fatality occurred shall determine whether the allegations contained in the indictment, information, or complaint described in subdivision (2), if proven, would cause a reasonable person to believe that the child's death or near fatality may have been the result of abuse, abandonment, or neglect.

~~(b)~~ **(c)** As used in this section:

(1) "identifying information" means information that identifies an individual, including an individual's:

~~(1)~~ **(A)** name, address, date of birth, occupation, place of employment, **and telephone number;**

(B) employer identification number, mother's maiden name, Social Security number, or any identification number issued by a governmental entity;

~~(2)~~ **(C)** unique biometric data, including the individual's fingerprint, voice print, or retina or iris image;

~~(3)~~ **(D)** unique electronic identification number, address, or routing code;

~~(4)~~ **(E)** telecommunication identifying information; or

~~(5)~~ **(F)** telecommunication access device, including a card, a plate, a code, ~~a telephone number,~~ an account number, a personal identification number, an electronic serial number, a mobile identification number, or another telecommunications service or device or means of account access; **and**

(2) "near fatality" has the meaning set forth in 42 U.S.C. 5106a.

~~(c)~~ **(d)** Unless information in a record is otherwise confidential under state or federal law, a record described in subsection (a) that has been redacted in accordance with this section is not confidential and may be disclosed to any person who requests the record. The person requesting the record may be required to pay the reasonable expenses of copying the record.

~~(d)~~ **(e)** When a person requests a record described in subsection

(a), the entity having control of the record shall immediately transmit a copy of the record to the court exercising juvenile jurisdiction in the county in which the death **or near fatality** of the child occurred. However, if the court requests that the entity having control of a record transmit the original record, the entity shall transmit the original record.

~~(c)~~ **(f)** Upon receipt of the record described in subsection (a), the court shall, within thirty (30) days, redact the record to exclude:

(1) identifying information **described in subsection (c)(1)(B) through (c)(1)(F)** of a person; **and**

~~or other information not relevant to establishing the facts and circumstances leading to the death of the child. However, the court shall not redact the record to exclude information that relates to an employee of the division of family and children, an employee of a county office of family and children, or an employee of a local child protection service.~~

(2) all identifying information of a child less than eighteen (18) years of age.

~~(f)~~ **(g)** The court shall disclose the record redacted in accordance with subsection ~~(c)~~ **(f)** to any person who requests the record, if the person has paid:

(1) to the entity having control of the record, the reasonable expenses of copying under IC 5-14-3-8; and

(2) to the court, the reasonable expenses of copying the record.

~~(g)~~ **(h)** The court's determination under subsection ~~(c)~~ **(f)** that certain identifying information or other information is not relevant to establishing the facts and circumstances leading to the death **or near fatality** of a child is not admissible in a criminal proceeding or civil action.

SECTION 155. IC 31-33-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The reports and other material described in section 1(a) of this chapter and the unredacted reports and other material described in section 1(b) of this chapter shall be made available only to the following:

(1) Persons authorized by this article.

(2) A legally mandated public or private child protective agency investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.

(3) A police or other law enforcement agency, prosecuting attorney, or coroner in the case of the death of a child who is investigating a report of a child who may be a victim of child abuse or neglect.

(4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.

(5) An individual legally authorized to place a child in protective custody if:

(A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and

(B) the individual requires the information in the report or record to determine whether to place the child in protective custody.

(6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.

(7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.

(8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.

(9) A court, for redaction of the record in accordance with section 1.5 of this chapter, or upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, except for disclosure of a redacted record in accordance with section 1.5 of this chapter, access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.

(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for ~~the~~ child ~~protective service~~ **protection services** or legislation carrying out the official's official functions.

(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.

(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(14) A person about whom a report has been made, with protection for the identity of:

(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

(15) An employee of the division of family ~~and children,~~ **resources,** a caseworker, or a juvenile probation officer conducting a criminal history check under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(A) child at imminent risk of placement;

(B) child in need of services; or

(C) delinquent child.

The results of a criminal history check conducted under this subdivision must be disclosed to a court determining the placement of a child described in clauses (A) through (C).

(16) A local child fatality review team established under IC 12-13-15-6.

(17) The statewide child fatality review committee established by IC 12-13-15.1-6.

(18) The department.

SECTION 156. IC 31-33-18-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Section 2 of this chapter does not prevent the county office of family and children or the ~~local child protection service~~ **department** from disclosing to a qualified individual engaged in a good faith research project either:

(1) information of a general nature, including the incidents of reported child abuse or neglect or other statistical or social data used in connection with studies, reports, or surveys, and information related to their function and activities; or

(2) information relating to case histories of child abuse or neglect if:

(A) the information disclosed does not identify or reasonably tend to identify the persons involved; and

(B) the information is not a subject of pending litigation.

(b) To implement this section, the ~~division of family and children~~ **department** shall adopt under IC 4-22-2 rules to govern the dissemination of information to qualifying researchers.

SECTION 157. IC 31-33-18-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Whenever a child abuse or neglect investigation is conducted under this article, the ~~local child protection service~~ **department** shall give verbal and written notice to each parent, guardian, or custodian of the child that:

(1) the reports and information described under section 1 of this chapter relating to the child abuse or neglect investigation; and

(2) if the child abuse or neglect allegations are pursued in juvenile court, the juvenile court's records described under IC 31-39;

are available upon the request of the parent, guardian, or custodian except as prohibited by federal law.

(b) A parent, guardian, or custodian requesting information under this section may be required to sign a written release form that delineates the information that is requested before the information is made available. However, no other prerequisites for obtaining the information may be placed on the parent, guardian, or custodian except for reasonable copying costs.

SECTION 158. IC 31-33-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. Except as provided in sections 6 and 7 of this chapter, the ~~division of family and children~~ **department** shall conduct an administrative hearing under IC 4-21.5-3 upon a request made under IC 31-33-17-8.

SECTION 159. IC 31-33-19-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. If the classifying agency fails to carry the burden of proof under section 2 of this chapter, the ~~division of family and children~~ **department** shall amend or expunge the report as ordered by the administrative hearing officer within the period provided under section 8 of this chapter.

SECTION 160. IC 31-33-19-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The ~~division of family and children~~ **department** shall expunge identifying information in a substantiated report contained within the registry as follows:

(1) Not later than ten (10) working days after any of the following occurs:

(A) A court having jurisdiction over a child in need of services proceeding determines that child abuse or neglect has not occurred.

(B) An administrative hearing officer under this chapter finds that the child abuse or neglect report is unsubstantiated.

(C) A court having criminal jurisdiction over a case involving child abuse or neglect in which criminal charges are filed and the court:

(i) dismisses the charges; or

(ii) enters a not guilty verdict.

(2) Not later than ten (10) working days after the period of informal adjustment ceases under IC 31-34-8.

(3) Not later than six (6) months after the date that the ~~division of family and children~~ **department** enters the report into the registry as the result of a person's failure to successfully participate in a services referral agreement under IC 31-33-13.

(4) Not later than twenty (20) years after a court determines that a child is a child in need of services based upon the report.

(b) However, if subsection (a)(1) through (a)(4) does not apply, the ~~division of family and children~~ **department** shall expunge the report not later than when the child who is named as the victim of child abuse or neglect reaches twenty-four (24) years of age.

SECTION 161. IC 31-33-19-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. The ~~division of family and children~~ **department** shall immediately amend or expunge from the registry a substantiated report containing an inaccuracy arising from an administrative or a clerical error.

SECTION 162. IC 31-33-20-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. ~~Each local child protection service~~ **The department** shall establish and maintain an automated child protection system.

SECTION 163. IC 31-33-20-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The system consists of the following components:

(1) One (1) computer to be purchased for every two (2) child welfare caseworkers.

(2) Automated risk assessment in which a child welfare worker or supervisor is able to review a substantiated child abuse and neglect case to determine prior case history during the intake, investigation, assessment, and case management

processes.

(3) The capability to allow supervisors to monitor child abuse and neglect cases and reports relating to the cases.

(4) The automated production of standard reports to enable the automated compilation of information gathered on forms used by child welfare workers to report the information and results of child abuse and neglect cases. The system must also provide for the automation of other data for planning and evaluation as determined by the ~~division of family and children.~~ **department.**

(5) The capability of same day notification and transfer of statistical information to the ~~division of family and children~~ **department** regarding new and closed child abuse and neglect cases.

(6) The enabling of child welfare supervisors to review a child abuse or neglect case at any point after the case is initially determined to be substantiated abuse or neglect to confirm the status of the case and allow for the consolidated management of cases.

(7) The capability for adjustment to the system's programming at a later date if additional reporting requirements occur at a later date.

(8) A word processing capability to allow case notes to be recorded with each substantiated child abuse and neglect case.

SECTION 164. IC 31-33-20-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) In addition to the components under section 2 of this chapter, the system must have the capability to maintain a case history file.

(b) Whenever a child abuse or neglect case is substantiated as provided under IC 31-33-17-2, the system must have the capability to transmit the information regarding the case to the ~~division of family and children.~~ **department.**

(c) Whenever a person enters a new child abuse or neglect report into the system, the system must have the capability to automatically search:

~~(A)~~ **(1)** within the county; and

~~(B)~~ **(2)** within the child abuse and neglect registry maintained by the ~~division of family and children~~ **department** under IC 31-33-17;

for reports that match the name of the perpetrator, victim, or person who is legally responsible for the victim's welfare with the persons named in the new report as described in this chapter.

(d) If the system identifies a previous, substantiated report, the system must have the capability to transfer the report to the county where the new report originated not later than twenty-four (24) hours after receipt of the new report. If the previous, matching report is located, a case history extract must be made available to the assigned caseworker.

SECTION 165. IC 31-33-20-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. At least ten (10) levels of security for confidentiality in the system must be maintained. The system must have a comprehensive system of limited access to information as follows:

(1) The system must be accessed only by the entry of an operator identification number and a person's secret password.

(2) Child welfare caseworkers and investigators must be allowed to access only cases that are assigned to the caseworker or investigator.

(3) Child welfare supervisors may access only the following:

(A) Cases assigned to the supervisor.

(B) Cases assigned to a caseworker or an investigator who reports to the supervisor.

(C) Cases that are unassigned.

(4) To preserve confidentiality in the workplace, case welfare managers, as designated by the ~~division of family and children,~~ **department,** may access any case, except restricted cases involving a state employee or the immediate family member of a state employee who has access to the system. Access to restricted information under this subdivision may be obtained only if an additional level of security is implemented.

(5) Access to records of authorized users, including passwords, is restricted to:

(A) users designated by the ~~division of family and children~~ **department** as an administrator; and

(B) the administrator's level of administration as determined by the ~~division of family and children.~~ **department.**

(6) Ancillary programs that may be designed for the system may not be executed in a manner that would circumvent the system's log on security measures.

(7) Certain system functions must be accessible only to system operators with specified levels of authorization as determined by the ~~division of family and children.~~ **department.**

(8) Files containing passwords must be encrypted.

(9) There must be two (2) additional levels of security for confidentiality as determined by the ~~division of family and children.~~ **department.**

SECTION 166. IC 31-33-22-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A person who intentionally communicates to:

(1) a law enforcement agency; or

~~(2) a local child protection service;~~

(2) the department;

a report of child abuse or neglect knowing the report to be false commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a previous unrelated conviction for making a report of child abuse or neglect knowing the report to be false.

(b) A person who intentionally communicates to:

(1) a law enforcement agency; or

~~(2) a local child protection service;~~

(2) the department;

a report of child abuse or neglect knowing the report to be false is liable to the person accused of child abuse or neglect for actual damages. The finder of fact may award punitive damages and attorney's fees in an amount determined by the finder of fact against the person.

(c) The director ~~of the county office of family and children~~ **or the director's designee** shall, after review by the ~~county office's~~

department's attorney, notify the prosecuting attorney whenever the director **or the director's designee** and the ~~county office's~~ **department's** attorney have reason to believe that a person has violated this section.

(d) A person who:

(1) has reason to believe that the person is a victim of a false report of child abuse or neglect under this section; and

(2) is not named in a pending criminal charge or under investigation relating to the report;

may file a complaint with the prosecuting attorney. The prosecuting attorney shall review the relevant child abuse or neglect records of the ~~county office of family and children~~ **department** and any other relevant evidence.

SECTION 167. IC 31-33-22-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. A person who is accused of committing child abuse or neglect is entitled to access to a report relevant to an alleged false accusation filed under this article if a court finds that the report:

(1) is unsubstantiated; and

(2) was intentionally communicated to a law enforcement agency or ~~a local child protection service~~ **the department** by a person who knew the report was false.

SECTION 168. IC 31-34-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) A person taking a child into custody under section 3 of this chapter shall make written documentation evidencing the following:

(1) The facts establishing probable cause to believe that the child is a child in need of services.

(2) Why the child's physical or mental condition will be seriously impaired or seriously endangered if the child is not immediately taken into custody.

(3) Why the person is unable to obtain a court order and what steps have been taken to obtain a court order.

(4) Why the ~~local child protection service~~ **department of child services** is unable to protect the safety of the child without taking the child into custody.

(5) Why the person is unable to obtain the assistance of a law enforcement officer if the child is taken into custody by a probation officer or caseworker without the assistance of a law enforcement officer.

(b) The ~~division~~ **department of child services** shall create forms to be used for documentation under this section.

(c) The person taking the child into custody shall immediately forward a copy of the documentation to the ~~local~~ **department of** child ~~protection service~~ **services** to be included in the report required by IC 31-33-7-4.

SECTION 169. IC 31-34-2.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Immediately after an emergency medical services provider takes custody of a child under section 1 of this chapter, the provider shall notify the ~~local~~ **department of** child ~~protection service~~ **services** that the provider has taken custody of the child.

(b) The ~~local~~ **department of** child ~~protection service~~ **services** shall:

(1) assume the care, control, and custody of the child immediately after receiving notice under subsection (a); and

(2) not later than forty-eight (48) hours after the ~~local~~ **department of** child ~~protection service~~ **services** has taken custody of the child, contact the Indiana clearinghouse for information on missing children established by IC 10-13-5-5 to determine if the child has been reported missing.

SECTION 170. IC 31-34-2.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. A child for whom the ~~local~~ **department of** child ~~protection service~~ **services** assumes care, control, and custody under section 2 of this chapter shall be treated as a child taken into custody without a court order, except that efforts to locate the child's parents or reunify the child's family are not necessary, if the court makes a finding to that effect under IC 31-34-21-5.6(b)(5).

SECTION 171. IC 31-34-2.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. Whenever a child is taken into custody without a court order under this chapter, the attorney for the ~~county office of family and children~~ **department of child services** shall, without unnecessary delay, request the juvenile court to:

(1) authorize the filing of a petition alleging that the child is a child in need of services;

(2) hold an initial hearing under IC 31-34-10 not later than the next business day after the child is taken into custody; and

(3) appoint a guardian ad litem for the child.

SECTION 172. IC 31-34-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. If a child is taken into custody under IC 31-34-2, the ~~local~~ **department of** child ~~protection service~~ **services** shall notify the child's custodial parent, guardian, or custodian not more than two (2) hours after the child has been taken into custody that the child has been taken into custody as the result of alleged child abuse or neglect.

SECTION 173. IC 31-34-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. Subject to section 3 of this chapter, if after making a reasonable effort the child's custodial parent, guardian, or custodian cannot be located, the **department of** child ~~protection service~~ **services** shall make a good faith effort, not more than six (6) hours after the child has been taken into custody, to leave written notice at the last known address of the child's custodial parent, guardian, or custodian that the child has been taken into custody.

SECTION 174. IC 31-34-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. If the custodial parent, guardian, or custodian is believed to reside outside ~~of~~ Indiana, the ~~local~~ **department of** child ~~protection service~~ **services** shall send written notice by certified mail to the last known address of the noncustodial parent, guardian, or custodian on the same date that the child is taken into custody. However, if the child is not taken into custody on a business day, the **department of** child ~~protection service~~ **services** shall send notice by certified mail on the next business day after the child is taken into custody.

SECTION 175. IC 31-34-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The ~~local~~

department of child ~~protection service~~ **services** must have as the ~~service's~~ **department's** first priority the immediate needs of the child for medical care, shelter, food, or other crisis services.

SECTION 176. IC 31-34-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) If a child alleged to be a child in need of services is taken into custody under an order of the court under this chapter, the court shall consider placing the child with a suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering any other out-of-home placement.

(b) Before placing a child in need of services with a blood relative or an adoptive relative caretaker, the court may order the division of family ~~and children~~ **resources** to:

(1) complete a home study of the relative's home; and

(2) provide the court with a placement recommendation.

(c) Except as provided in subsection (e), before placing a child in need of services in an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the court shall order the division of family ~~and children~~ **resources** to conduct a criminal history check **(as defined in IC 31-9-2-22.5)** of each person who is:

(1) currently residing in the location designated as the out-of-home placement; or

(2) in the reasonable belief of the division of family ~~and children,~~ **resources,** expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.

(d) Except as provided in subsection (f), a court may not order an out-of-home placement if a person described in subsection (c)(1) or (c)(2) has:

(1) committed an act resulting in a substantiated report of child abuse or neglect; or

(2) been convicted of a felony listed in IC 12-17.4-4-11 or had a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult.

(e) The court is not required to order the division of family ~~and children~~ **resources** to conduct a criminal history check under subsection (c) if the court orders an out-of-home placement to an entity or a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

(f) A court may order an out-of-home placement if:

(1) a person described in subsection (c)(1) or (c)(2) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect; or

(B) been convicted or had a juvenile adjudication for:

(i) reckless homicide (IC 35-42-1-5);

(ii) battery (IC 35-42-2-1) as a Class C or D felony;

(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;

(iv) arson (IC 35-43-1-1) as a Class C or D felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;

(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or

(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that the placement is in the best interest of the child.

However, a court may not order an out-of-home placement if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(g) In making its written finding under subsection (f), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 177. IC 31-34-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The advisement required by this section applies only to a person who:

(1) is named as being responsible for child abuse or neglect as the result of a substantiated report; and

(2) agrees to participate in a program of informal adjustment under this chapter.

(b) Before the person signs an agreement to participate in a program of informal adjustment, the ~~local~~ **department of** child ~~protection service~~ **services** shall advise the person, orally and in writing, of the extent to which information contained in the substantiated report must be entered into the child abuse registry under IC 31-33-17 if the court approves the informal adjustment under section 1 of this chapter.

SECTION 178. IC 31-34-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. Whenever the court approves a program of informal adjustment arising out of a child abuse or neglect report, the ~~local~~ **department of** child ~~protection service~~ **services** shall transmit the report to the child abuse registry within five (5) working days as required by IC 31-33-8-13.

SECTION 179. IC 31-34-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Not later than five (5) months after a court approves a program of informal adjustment under this chapter, the ~~local~~ **department of** child ~~protection service~~ **services** shall file with the court a report indicating the extent of compliance with the program.

(b) If the court extends the period of the informal adjustment under section 6 of this chapter, the ~~local~~ **department of** child ~~protection service~~ **services** shall file a supplemental report not later than eleven (11) months after the court initially approves the program of informal adjustment updating the court on the status of

a person's compliance with the program.

SECTION 180. IC 31-34-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Before complying with the other requirements of this chapter, the juvenile court shall first determine whether the following conditions make it appropriate to appoint a guardian ad litem or a court appointed special advocate, or both, for the child:

(1) If the child is alleged to be a child in need of services:

(A) under IC 31-34-1-6;

(B) under IC 31-34-1-10 or IC 31-34-1-11;

(C) due to the inability, refusal, or neglect of the child's parent, guardian, or custodian to supply the child with the necessary medical care; or

(D) because the location of both of the child's parents is unknown;

the court shall appoint a guardian ad litem or court appointed special advocate, or both, for the child.

(2) If the child is alleged to be a child in need of services under:

(A) IC 31-34-1-1;

(B) IC 31-34-1-2;

(C) IC 31-34-1-3;

(D) IC 31-34-1-4;

(E) IC 31-34-1-5;

(F) IC 31-34-1-7; or

(G) IC 31-34-1-8;

the court ~~may~~ **shall** appoint a guardian ad litem, court appointed special advocate, or both, for the child.

(3) If the parent, guardian, or custodian of a child denies the allegations of a petition under section 6 of this chapter, the court shall appoint a guardian ad litem, court appointed special advocate, or both, for the child.

SECTION 181. IC 31-34-18-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.1. (a) The predispositional report prepared by a probation officer or caseworker shall include the following information:

(1) A description of all dispositional options considered in preparing the report.

(2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended under the guidelines described in section 4 of this chapter.

(3) The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

(b) If a probation officer or a caseworker is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the probation officer or caseworker shall conduct a criminal history check **(as defined in IC 31-9-2-22.5)** for each person who:

(1) is currently residing in the location designated as the out-of-home placement; or

(2) in the reasonable belief of the probation officer or caseworker, is expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.

The results of the criminal history check must be included in the predispositional report.

(c) A probation officer or caseworker is not required to conduct a criminal history check under this section if:

(1) the probation officer or caseworker is considering only an out-of-home placement to an entity or facility that:

(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

SECTION 182. IC 31-34-19-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. ~~(a) Except as provided in subsection (d), a court may not enter a dispositional decree under subsection (b) if a person who is:~~

~~(1) currently residing in the location designated as the out-of-home placement; or~~

~~(2) reasonably expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location;~~

~~has committed an act resulting in a substantiated report of child abuse or neglect; has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult; or has a conviction for a felony listed in IC 12-17.4-4-11. If a criminal history check has not been conducted before a dispositional decree is entered under this section, the court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check in the manner set forth in IC 31-34-18-6.1.~~

~~(b)~~ In addition to the factors under section 6 of this chapter, if the court enters a dispositional decree regarding a child in need of services that includes an out-of-home placement, the court shall consider whether the child should be placed with the child's suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering other out-of-home placements for the child.

~~(c) The court is not required to order a probation officer or caseworker to conduct a criminal history check under subsection (a) if the court orders an out-of-home placement to an entity or a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.~~

~~(d) A court may enter a dispositional decree under subsection (b) if:~~

~~(1) a person described in subsection (a)(1) or (a)(2) has:~~

~~(A) committed an act resulting in a substantiated report of child abuse or neglect; or~~

~~(B) been convicted or had a juvenile adjudication for:~~

~~(i) reckless homicide (IC 35-42-1-5);~~

~~(ii) battery (IC 35-42-2-1) as a Class C or D felony;~~

~~(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;~~

~~(iv) arson (IC 35-43-1-1) as a Class C or D felony;~~

~~(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;~~

~~(vi) a felony relating to controlled substances under~~

~~IC 35-48-4 as a Class C or D felony; or~~

~~(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and~~

~~(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and the dispositional decree is in the best interest of the child.~~

~~However, a court may not enter a dispositional decree if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B).~~

~~(c) In making its written finding under subsection (d), the court shall consider the following:~~

~~(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the conviction, adjudication, or substantiated report of abuse or neglect.~~

~~(2) The severity of the offense, delinquent act, or abuse or neglect.~~

~~(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.~~

SECTION 183. IC 31-34-20-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. (a) Except as provided in subsection ~~(c),~~ **(d)** the juvenile court may not enter a dispositional decree placing a child in another home under section 1(3) of this chapter or awarding wardship to a county office of family and children that will place the child with a person under section 1(4) of this chapter if a person who is:

(1) currently residing in the home in which the child would be placed under section 1(3) or 1(4) of this chapter; or

(2) reasonably expected to be residing in the home in which the child would be placed under section 1(3) or 1(4) of this chapter during the time the child would be placed in the home;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check **(as defined in IC 31-9-2-22.5)** to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-34-4-2 **or** IC 31-34-18-6.1 ~~or IC 31-34-19-7~~ establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(c) A probation officer or caseworker is not required to conduct a criminal history check under this section if:

(1) the probation officer or caseworker is considering only an out-of-home placement to an entity or a facility that:

(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

~~(c)~~ **(d)** A court may enter a dispositional decree placing a child in another home or award wardship to a county office of family and children if:

(1) a person described in subsection (a)(1) or (a)(2) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect; or

(B) been convicted or had a juvenile adjudication for:

(i) reckless homicide (IC 35-42-1-5);

(ii) battery (IC 35-42-2-1) as a Class C or D felony;

(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;

(iv) arson (IC 35-43-1-1) as a Class C or D felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;

(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or

(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that the dispositional decree placing a child in another home or awarding wardship to a county office of family and children is in the best interest of the child.

However, a court may not enter a dispositional decree placing a child in another home or award wardship to a county office of family and children if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(d) In making its written finding under subsection ~~(c),~~ **(d),** the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 184. IC 31-34-21-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.5. (a) Except as provided in subsection (d), the juvenile court may not approve a permanency plan under subsection (c)(1)(D), ~~or~~ (c)(1)(E), **or**

(c)(1)(F) if a person who is ~~(1)~~ currently residing with a person described in subsection (c)(1)(D) or (c)(1)(E) or **in a residence in which the child would be placed under subsection (c)(1)(F)**

~~(2) reasonably expected to be residing with a person described in subsection (c)(1)(D) or (c)(1)(E) during the time the child would be placed in the location;~~

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check **(as defined in IC 31-9-2-22.5)** to determine if a person described in subsection ~~(a)(1) or (a)(2)~~ **(a)** has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-34-4-2, IC 31-34-18-6.1, ~~IC 31-34-19-7,~~ or IC 31-34-20-1.5 establishes whether a person described in subsection ~~(a)(1) or (a)(2)~~ **(a)** has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(c) A permanency plan under this chapter includes the following:

(1) The intended permanent or long term arrangements for care and custody of the child that may include any of the following arrangements that the court considers most appropriate and consistent with the best interests of the child:

(A) Return to or continuation of existing custodial care within the home of the child's parent, guardian, or custodian or placement of the child with the child's noncustodial parent.

(B) Initiation of a proceeding by the agency or appropriate person for termination of the parent-child relationship under IC 31-35.

(C) Placement of the child for adoption.

(D) Placement of the child with a responsible person, including:

(i) an adult sibling;

(ii) a grandparent;

(iii) an aunt;

(iv) an uncle; or

(v) another relative;

who is able and willing to act as the child's permanent custodian and carry out the responsibilities required by the permanency plan.

(E) Appointment of a legal guardian. The legal guardian appointed under this section is a caretaker in a judicially created relationship between the child and caretaker that is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child:

(i) Care, custody, and control of the child.

(ii) Decision making concerning the child's upbringing.

(F) Placement of the child in another planned, permanent living arrangement.

(2) A time schedule for implementing the applicable provisions of the permanency plan.

(3) Provisions for temporary or interim arrangements for care and custody of the child, pending completion of implementation of the permanency plan.

(4) Other items required to be included in a case plan under IC 31-34-15 or federal law, consistent with the permanent or long term arrangements described by the permanency plan.

(d) A juvenile court may approve a permanency plan if:

(1) a person described in subsection ~~(a)(1) or (a)(2)~~ **(a)** has:

(A) committed an act resulting in a substantiated report of child abuse or neglect; or

(B) been convicted or had a juvenile adjudication for:

(i) reckless homicide (IC 35-42-1-5);

(ii) battery (IC 35-42-2-1) as a Class C or D felony;

(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;

(iv) arson (IC 35-43-1-1) as a Class C or D felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;

(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or

(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that approval of the permanency plan is in the best interest of the child.

However, a court may not approve a permanency plan if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(e) In making its written finding under subsection (d), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 185. IC 31-34-24-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. The:

(1) juvenile court, in implementing a program of informal adjustment for a child under IC 31-34-8; and

(2) ~~local~~ **department of** child ~~protection service,~~ **services,** in proposing a voluntary services referral agreement for the

benefit of a child under IC 31-33-13;

shall consider and use to the extent feasible any available services described in an early intervention plan approved under this chapter.

SECTION 186. IC 31-37-17-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.1. (a) The predispositional report prepared by a probation officer or caseworker shall include the following information:

(1) A description of all dispositional options considered in preparing the report.

(2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended under the guidelines described in section 4 of this chapter.

(3) The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

(b) If a probation officer or a caseworker is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the probation officer or caseworker must conduct a criminal history check **(as defined in IC 31-9-2-22.5)** for each person who:

(1) is currently residing in the location designated as the out-of-home placement; or

(2) in the reasonable belief of the probation officer or caseworker, is expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.

The results of the criminal history check must be included in the predispositional report.

(c) A probation officer or caseworker is not required to conduct a criminal history check under this section if:

(1) the probation officer or caseworker is considering only an out-of-home placement to an entity or a facility that:

(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

SECTION 187. IC 31-37-19-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.5. (a) Except as provided in subsection (c), the juvenile court may not enter a dispositional decree placing a child in another home under section 1(3) or 6(b)(2)(D) of this chapter or awarding wardship to the county office of family and children that results in a placement with a person under section 1(4) or 6(b)(2)(E) of this chapter if a person who is:

(1) currently residing in the home in which the child would be placed under section 1(3), 1(4), 6(b)(2)(D), or 6(b)(2)(E) of this chapter; or

(2) reasonably expected to be residing in the home in which the child would be placed under section 1(3), 1(4), 6(b)(2)(D), or 6(b)(2)(E) of this chapter during the time the child would be placed in the home;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check **(as defined in IC 31-9-2-22.5)** to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-37-17-6.1 establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(c) The juvenile court may enter a dispositional decree placing a child in another home under section 1(3) or 6(b)(2)(D) of this chapter or awarding wardship to the county office of family and children that results in a placement with a person under section 1(4) or 6(b)(2)(E) of this chapter if:

(1) a person described in subsection (a)(1) or (a)(2) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect; or

(B) been convicted or had a juvenile adjudication for:

(i) reckless homicide (IC 35-42-1-5);

(ii) battery (IC 35-42-2-1) as a Class C or D felony;

(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;

(iv) arson (IC 35-43-1-1) as a Class C or D felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;

(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or

(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that entry of a dispositional decree placing the child in another home is in the best interest of the child.

However, a court may not enter a dispositional decree placing a child in another home under section 1(3) or 6(b)(2)(D) of this chapter or awarding wardship to the county office of family and children if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(d) In making its written finding under subsection (c), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report

of abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 188. IC 31-37-24-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. The:

(1) juvenile court, in implementing a program of informal adjustment for a child under IC 31-34-8; and

(2) ~~local~~ **department of** child ~~protection service,~~ **services,** in proposing a voluntary services referral agreement for the benefit of a child under IC 31-33-13;

shall consider and use to the extent feasible any available services described in an early intervention plan approved under this chapter.

SECTION 189. IC 31-39-2-13.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13.5. The records of the juvenile court are available without a court order to an employee of the division of family ~~and children,~~ **resources,** a caseworker, or a juvenile probation officer conducting a criminal history check **(as defined in IC 31-9-2-22.5)** under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(1) child at imminent risk of placement;

(2) child in need of services; or

(3) delinquent child.

SECTION 190. IC 31-39-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Child abuse or neglect information may be expunged under this chapter if the probative value of the information is so doubtful as to outweigh the information's validity.

(b) Child abuse or neglect information shall be expunged if the information is determined to be unsubstantiated after:

(1) an investigation of a report of a child who may be a victim of child abuse or neglect by the **department of** child ~~protection service;~~ **services;** or

(2) a court proceeding.

SECTION 191. IC 36-2-6-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. (a) A county executive may adopt an ordinance allowing money to be disbursed for lawful county purposes under this section.

(b) Notwithstanding IC 5-11-10, with the prior written approval of the board having jurisdiction over the allowance of claims, the county auditor may make claim payments in advance of board allowance for the following kinds of expenses if the county executive has adopted an ordinance under subsection (a):

(1) Property or services purchased or leased from the United States government, its agencies, or its political subdivisions.

(2) License or permit fees.

(3) Insurance premiums.

(4) Utility payments or utility connection charges.

(5) General grant programs where advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.

(6) Grants of state funds authorized by statute.

(7) Maintenance or service agreements.

(8) Leases or rental agreements.

(9) Bond or coupon payments.

(10) Payroll.

(11) State or federal taxes.

(12) Expenses that must be paid because of emergency circumstances.

(13) Expenses described in an ordinance.

(14) Expenses incurred under a procurement contract under IC 31-33-1.5-10.

(c) Each payment of expenses under this section must be supported by a fully itemized invoice or bill and certification by the county auditor.

(d) The county executive or the county board having jurisdiction over the allowance of the claim shall review and allow the claim at its next regular or special meeting following the preapproved payment of the expense.

(e) A payment of expenses under this section must be published in the manner provided under section 3 of this chapter.

SECTION 192. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 6-1.1-18.6; IC 12-7-2-31.5; IC 12-7-2-31.6; IC 12-13-14.5; IC 12-17-2-4; IC 12-17-2-5; IC 12-17-2-8; IC 12-17-2-16; IC 12-17.4-3-12; IC 12-17.4-4-15; IC 12-17.4-5-12; IC 12-17.4-6-11; IC 12-19-7-5; IC 12-19-7-8; IC 12-19-7.5-7; IC 12-19-7.5-10; IC 31-9-2-29.7; IC 31-33-2-1; IC 31-33-2-7.

SECTION 193. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "division" refers to the division of family and children established by IC 12-13-1-1.**

(b) The division shall take any steps necessary to transfer, beginning July 1, 2005, the designated state agency charged with the administration of Title IV-D of the federal Social Security Act from the child support bureau established by IC 12-17-2-5 to the department of child services established by IC 31-33-1.5-2, as added by this act.

(c) If the federal government has not approved the transfer of designation described in this SECTION by July 1, 2005, the department of child services shall enforce Title IV-D under the designation of the child support bureau established by IC 12-17-2-5.

(d) This SECTION expires December 31, 2006.

SECTION 194. [EFFECTIVE JULY 1, 2005] **(a) As used in this SECTION, "department" refers to the department of child services established by IC 31-33-1.5-2, as added by this act.**

(b) On July 1, 2005, the following occur:

(1) The powers, duties, and functions of:

(A) a local, joint county, or multiple county child protection service established by IC 31-33-2-1 (before its repeal) or IC 31-33-2-7 (before its repeal);

(B) the child support bureau created by IC 12-17-2-5 (before its repeal); and

(C) the division of family and children established by IC 12-13-1-1, before its amendment by this act, concerning:

(i) foster care;

(ii) independent living (as described in 42 U.S.C. 677

et seq.);
(iii) adoption;
(iv) the delivery of child services (as defined in IC 12-19-7-1);
(v) the regulation of residential child care establishments;
(vi) children in need of services;
(vii) children psychiatric residential treatment services (as defined in IC 12-19-7.5-1); and
(viii) family services (as defined in IC 31-9-2-45);

are transferred to the department.

(2) A reference in the Indiana Code or a rule to:
(A) child protection services or local, joint county, or multiple county child protection service;
(B) the child support bureau or the state's Title IV-D agency; and
(C) the division of family and children concerning the provision of:
(i) foster care;
(ii) independent living;
(iii) adoption;
(iv) the delivery of child;
(v) residential child care establishment;
(vi) children in need of;
(vii) children psychiatric residential treatment; and
(viii) family;
services;

shall be construed as a reference to the department.

(3) The property and records of:
(A) the child protection services and local, joint county, and multiple county child protection services;
(B) the child support bureau; and
(C) the division of family and children concerning:
(i) foster care;
(ii) independent living;
(iii) adoption;
(iv) the delivery of child;
(v) residential child care establishment;
(vi) children in need of;
(vii) children psychiatric residential treatment; and
(viii) family;
services;

are transferred to the department.

(4) Any appropriations made to the office of the secretary of family and social services to administer:
(A) child protection services;
(B) the child support bureau or Title IV-D;
(C) foster care services;
(D) independent living services;
(E) adoption services;
(F) the delivery of child services;
(G) the regulation of residential child care establishments;
(H) children in need of services;
(I) children psychiatric residential treatment services; and
(J) family services;

are transferred to the department.

(5) An individual who was an employee of:
(A) a local, joint county, or multiple county child protection services;
(B) the child support bureau; or
(C) the division of family and children or a local county office of family and children concerning:
(i) foster care;
(ii) independent living;
(iii) adoption;
(iv) the delivery of child;
(v) residential child care establishment;
(vi) children in need of;
(vii) children psychiatric residential treatment; and
(viii) family;
services;

becomes an employee of the department. The employee is entitled to have the employee's service before July 1, 2005, recognized for the purposes of computing retention points under IC 4-15-2-32 if a layoff occurs and all other applicable employee benefits.

(c) This SECTION expires December 31, 2006.

SECTION 195. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "department" refers to the department of child services established by IC 31-33-1.5-2, as added by this act.

(b) Rules adopted before July 1, 2005, by the division of family and children concerning:
(1) child protection services;
(2) Title IV-D or the child support bureau;
(3) foster care services;
(4) independent living services;
(5) adoption services;
(6) the delivery of child services;
(7) the regulation of residential child care establishments;
(8) children in need of services;
(9) children psychiatric residential treatment; and
(10) family services;

are considered after June 30, 2005, rules of the department.

(c) The department shall amend references in rules to indicate that the department and not the division of family and children is the entity that administers:
(1) child protection services;
(2) Title IV-D;
(3) foster care services;
(4) independent living services;
(5) adoption services;
(6) the delivery of child services;
(7) the regulation of residential child care establishments;
(8) children in need of services;
(9) children psychiatric residential treatment; and
(10) family services.

(d) This SECTION expires December 31, 2006.

SECTION 196. [EFFECTIVE JULY 1, 2005] **(a) The legislative services agency shall prepare legislation for introduction in the 2006 regular session of the general assembly to make appropriate changes in statutes that are required by this act, including the review of the following cites to determine whether changes are necessary:**

(1) IC 12-7-2.
(2) IC 12-13-5.
(3) IC 12-13-6.
(4) IC 12-13-7.
(5) IC 12-13-13.
(6) IC 12-13-15.
(7) IC 12-13-15.1.
(8) IC 12-14-24.
(9) IC 12-17-1.
(10) IC 12-17-2.
(11) IC 12-17-3.
(12) IC 12-17-8.
(13) IC 12-17-9.
(14) IC 12-17-10.
(15) IC 12-17-11.
(16) IC 12-17-16.
(17) IC 12-17.4.
(18) IC 12-19-1.
(19) IC 12-19-2.
(20) IC 12-19-5.
(21) IC 12-19-7.
(22) IC 12-19-7.5.
(23) IC 31-19.
(24) IC 31-34-4.
(25) IC 31-34-21.
(26) IC 31-34-24.
(27) IC 31-39-2-13.5.
(28) IC 31-40-1.
(29) Any other statute needing to be changed as required by this act.

(b) A reference in the following statutes to the division of family and children shall be construed as a reference to the department of child services established by IC 31-33-1.5:

(1) IC 12-13-13.
(2) IC 12-13-15.
(3) IC 12-13-15.1.
(4) IC 12-14-24.
(5) IC 12-17-1.
(6) IC 12-17-3.
(7) IC 12-17-8.
(8) IC 12-17-9.
(9) IC 12-17-10.
(10) IC 12-17-11.
(11) IC 12-17-16.
(12) IC 12-17.4.
(13) IC 12-19-1-11.
(14) IC 12-19-1-14.
(15) IC 20-8.1-6.1-5.5.
(16) IC 31-19.
(17) IC 31-30 through IC 31-40 that are duties, functions, or responsibilities of the department of child services under IC 31-33-1.5.

(c) This SECTION expires December 31, 2007.

SECTION 197. [EFFECTIVE JULY 1, 2005] **(a) On July 1, 2005, the following occur:**

(1) The division of family and children established by IC 12-13-1-1 becomes the division of family resources.
(2) The powers, duties, and functions of the division of family and children, except for the powers, duties, and functions transferred to the department of child services established by this act, are transferred to the division of family resources.
(3) A reference in the Indiana Code or the Indiana Administrative Code to the division of family and children, except as changed by this act, shall be construed as a reference to the division of family resources.
(4) The property and records of the division of family and children, except for the property and records transferred by this act to the department of child services, are transferred to the division of family resources.
(5) Any appropriations made to the division of family and children, except for an appropriation concerning a power, duty, or function transferred to the department of child services under this act, are transferred to the division of family resources.
(6) An individual who is an employee of the division of family and children, except for an employee who is transferred to the department of child services under this act, becomes an employee of the division of family resources. The employee is entitled to have the employee's service before July 1, 2005, recognized for the purposes of computing retention points under IC 4-15-2-32 if a layoff occurs and all other applicable employee benefits.
(7) Rules adopted by the division of family and children before July 1, 2005, except for a rule concerning a power, duty, or function transferred to the department of child services under this act, are considered after June 30, 2005, to be rules of the division of family resources.
(8) The division of family resources shall amend references to the division of family and children in rules adopted by the division of family and children before July 1, 2005, to reflect the change described in subdivision (1).

(b) This SECTION expires December 31, 2009.

SECTION 198. [EFFECTIVE JULY 1, 2005] **The amendments to IC 12-19-7 and IC 12-19-7.5 by this act apply only to property taxes first due and payable after December 31, 2005.**

SECTION 199. [EFFECTIVE JULY 1, 2005] **(a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.**

(b) As used in this SECTION, "special needs adopted child" means a child who:

(1) has been adopted by an individual; and
(2) has been diagnosed with a mental illness, including an

emotional or behavioral condition, by a psychologist licensed under IC 25-33 or a psychiatrist licensed under IC 25-22.5.

(c) As used in this SECTION, "waiver" refers to a Medicaid waiver allowed under the federal Social Security Act.

(d) Before September 1, 2005, the office shall apply to the United States Department of Health and Human Services for a waiver to allow the office to disregard parental income for Medicaid eligibility purposes if the parental income:

(1) is three hundred fifty percent (350%) or less of the federal income poverty level and the individual is otherwise ineligible for Medicaid; or

(2) exceeds three hundred fifty percent (350%) and is less than one thousand one percent (1001%) of the federal income poverty level and the office adopts a cost participation plan for these individuals;

and provide coverage of mental health services for a special needs adopted child who is less than nineteen (19) years of age.

(e) The office may not implement the waiver until the office files an affidavit with the governor attesting that the federal waiver applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the waiver is approved.

(f) If the office receives a waiver applied for under subsection (d) and the governor receives the affidavit filed under subsection (e), the office shall implement the waiver not more than sixty (60) days after the governor receives the affidavit.

(g) The office may adopt rules under IC 4-22-2 necessary to implement this SECTION.

(h) This SECTION expires December 31, 2012.

SECTION 200. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "committee" refers to the select committee on the reorganization of child services established by this SECTION.**

(b) There is established the select committee on the reorganization of child services. The committee shall study the organization of child services provided in Indiana and consider which is the proper agency to administer each program that has an impact on services for children. The duties of the committee include the following:

(1) Studying and making recommendations concerning the means in which the department of child services and the office of the secretary of family and social services shall cooperate in providing child services.

(2) Studying and making recommendations concerning the determination of the proper agency:

(A) to administer specific child service programs; and

(B) to employ the individuals providing child services.

(3) Studying and making a recommendation concerning the proper organization of the department of child services established by this act to deliver services for children on a statewide basis.

(4) Studying any other matter the committee determines is relevant to the reorganization of child services in Indiana.

(5) Studying the efficient provision of administrative functions used by more than one (1) agency providing child services.

(c) The committee consists of the following members:

(1) Two (2) legislators appointed by the president pro tempore of the senate. Members appointed under this subdivision may not be members of the same political party.

(2) Two (2) legislators appointed by the speaker of the house of representatives. Members appointed under this subdivision may not be members of the same political party.

(3) The secretary of family and social services.

(4) The director of the department of child services appointed under IC 31-33-1.5-2, as added by this act.

(5) Three (3) directors of county offices of family and children appointed as follows:

(A) One (1) director appointed by the secretary of the office of the secretary of family and social services.

(B) One (1) director appointed by the director of the department of child services.

(C) One (1) director appointed by the governor.

(6) One (1) guardian ad litem or court appointed special advocate appointed by the governor.

(7) One (1) school superintendent appointed by the governor.

The chairperson of the legislative council shall appoint a member described in subdivision (1) or (2) as chairperson of the committee.

(d) The committee shall operate under the policies governing study committees adopted by the legislative council.

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

(f) The final report of the committee must be submitted to the legislative council in electronic format under IC 5-14-6 not later than December 1, 2005.

(g) This SECTION expires December 31, 2005.

SECTION 201. [EFFECTIVE JULY 1, 2005] **(a) The department of child services shall submit a report to the legislative council and the health finance commission established by IC 2-5-23-3 that contains statistics concerning the education levels and salaries of all:**

(1) child protection caseworkers and child welfare caseworkers; and

(2) child protection caseworker and child welfare caseworker supervisors;

by September 1, 2005.

(b) The report required by subsection (a) must be in an electronic format under IC 5-14-6.

(c) This SECTION expires December 31, 2005.

SECTION 202. [EFFECTIVE JULY 1, 2005] **(a) The department of education, in cooperation with the department**

of child services, the department of correction, and the division of mental health and addiction, shall submit a joint report not later than June 1, 2006, to the legislative council and the commission on mental health concerning the implementation of IC 12-13-16, as added by this act.

(b) The report required by subsection (a) must be in an electronic format under IC 5-14-6.

(c) This SECTION expires July 1, 2006.

SECTION 203. **An emergency is declared for this act.**

(Reference is to ESB 529 as reprinted April 8, 2005.)

Lawson, Chair	Behning
Breaux	Avery
Senate Conferees	House Conferees

Roll Call 529: yeas 47, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT
ESB 549–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 549 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Page 3, line 15, after "reduce" insert "**the annual aggregate**".

(Reference is to ESB 549 as reprinted April 8, 2005.)

Long, Chair	Whetstone
Broden	Kromkowski
Senate Conferees	House Conferees

Roll Call 530: yeas 46, nays 2. Report adopted.

CONFERENCE COMMITTEE REPORT
ESB 571–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 571 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-3-21-11, AS ADDED BY P.L.5-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. The council shall do the following:

(1) Identify the public infrastructure and other community support necessary:

(A) to improve mission efficiencies; and

(B) for the development and expansion;

of military bases in Indiana.

(2) Identify existing and potential impacts of encroachment on military bases in Indiana.

(3) Identify potential state and local government actions that can:

(A) minimize the impacts of encroachment on; and

(B) enhance the long term potential of;

military bases.

(4) Identify opportunities for collaboration among:

(A) the state, including the military department of the state;

(B) political subdivisions;

(C) military contractors; and

(D) academic institutions;

to enhance the economic potential of military bases and the economic benefits of military bases to the state.

(5) Review state policies, including funding and legislation, to identify actions necessary to prepare for the United States Department of Defense Efficient Facilities Initiative scheduled to begin in 2005.

(6) Study how governmental entities outside Indiana have addressed issues regarding encroachment and partnership formation described in this section.

(7) With respect to a multicounty federal military base under IC 36-7-30.5:

(A) vote to require the establishment of the development authority under IC 36-7-30.5, if necessary; and

(B) advise and submit recommendations to a development authority board appointed under IC 36-7-30.5.

SECTION 2. IC 5-28-26 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 26. Global Commerce Center Pilot Program

Sec. 1. As used in this chapter, "base assessed value" means:

(1) the net assessed value of all the taxable property located in a global commerce center as finally determined for the assessment date immediately preceding the effective date of the allocation provision of a resolution adopted under section 18 of this chapter; plus

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

Sec. 2. As used in this chapter, "district" means the Eastern Indiana Economic Development District.

Sec. 3. As used in this chapter, "high technology activity" has the meaning set forth in IC 36-7-32-7.

Sec. 4. As used in this chapter, "hub" means a regional economic development project that is:

(1) selected by a district for development as a global commerce center; and

(2) designated as a global commerce center under this chapter.

Sec. 5. As used in this chapter, "income tax base period amount" means the total amount of the following taxes paid by employees employed in the territory comprising a global commerce center with respect to wages and salary earned for work in the global commerce center for the state fiscal year that precedes the date on which the global commerce center was designated under section 12 of this chapter:

(1) The county adjusted gross income tax.

(2) The county option income tax.

(3) The county economic development income tax.

Sec. 6. As used in this chapter, "income tax incremental amount" means the remainder of:

(1) the total amount of county adjusted gross income tax, county option income taxes, and county economic development income taxes paid by employees employed in the territory comprising the global commerce center with respect to wages and salary earned for work in the territory comprising the global commerce center for a particular state fiscal year; minus

(2) the income tax base period amount;

as determined by the department of state revenue.

Sec. 7. As used in this chapter, "public facilities" includes a street, a road, a bridge, a storm water or sanitary sewer, a sewage treatment facility, a facility designed to reduce, eliminate, or prevent the spread of identified soil or groundwater contamination, a drainage system, a retention basin, a pretreatment facility, a waterway, a waterline, a water storage facility, a rail line, an electric, gas, telephone or other communications line or any other type of utility line or pipeline, or another similar or related structure or improvement, together with necessary easements for the structure or improvement. Except for rail lines, utility lines, or pipelines, the structures or improvements described in this section must be either owned or used by a public agency, functionally connected to similar or supporting facilities owned or used by a public agency, or designed and dedicated for use by, for the benefit of, or for the protection of the health, welfare, or safety of the public generally, whether or not used by a single business entity. Any road, street, or bridge must be continuously open to public access. A public facility must be located on public property or in a public, utility, or transportation easement or right-of-way.

Sec. 8. As used in this chapter, "spoke" means an economic development project that is:

(1) located within the area served by a district;

(2) undertaken to support the activities of a hub; and

(3) treated as a global commerce center under this chapter upon the approval of the district board and fiscal body of the county in which the project is located.

Sec. 9. As used in this chapter, "tax increment revenues" means the property taxes attributable to the assessed value of property located in a global commerce center in excess of the base assessed value.

Sec. 10. As used in this chapter, "unit" means a county, city, or town.

Sec. 11. The corporation may do the following:

(1) Designate a global commerce center pilot program under section 12 of this chapter.

(2) Establish a procedure by which the global commerce center pilot program may be monitored and evaluated on an annual basis.

(3) Promote the global commerce center pilot program.

Sec. 12. (a) If a district applies to the corporation to have part of the area served by the district designated as a global commerce center, the corporation may approve the district's application if the corporation determines that the district's proposed global commerce center meets the following criteria:

(1) The proposed global commerce center is well suited for the development of a hub and its supporting spokes.

(2) The proposed global commerce center has the support of the surrounding community.

(3) The proposed global commerce center is well suited for the development of at least one (1) of the following:

(A) A high technology activity.

(B) Advanced manufacturing.

(C) Transportation, distribution, and logistics.

(D) Agribusiness.

(b) The corporation may adopt rules under IC 4-22-2 specifying application procedures.

(c) A global commerce center designated under this section must include a hub. The boundaries of the global commerce center are not required to be contiguous. Only one (1) global commerce center pilot program may be designated under this section.

Sec. 13. If a global commerce center is designated under section 12 of this chapter, an unlimited number of spokes may be added to the global commerce center at the discretion of the fiscal bodies of the counties served by the district and the district board.

Sec. 14. (a) After a global commerce center is designated under section 12 of this chapter, the district shall send to the department of state revenue:

(1) a certified copy of the designation of the global commerce center under section 12 of this chapter; and

(2) a complete list of the employers in the global commerce center and the street names and the range of street numbers of each street in the global commerce center.

The district shall update the list provided under subdivision (2) before July 1 of each year.

(b) Not later than sixty (60) days after receiving a copy of the designation of the global commerce center, the department of state revenue shall determine the gross retail base period amount and the income tax base period amount.

Sec. 15. Before the first business day in October of each year, the department of state revenue shall calculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for each global commerce center designated under this chapter.

Sec. 16. (a) The treasurer of state shall establish an incremental tax financing fund for each global commerce center designated under this chapter. The fund shall be administered by the treasurer of state. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) The total amount of the following taxes paid by employees employed in the global commerce center with respect to wages earned for work in the global commerce center shall be deposited in the incremental tax financing fund established for a global commerce center until the amount deposited equals the income tax incremental amount:

(1) The county adjusted gross income tax.

(2) The county option income tax.

(3) The county economic development income tax.

(c) On or before the twentieth day of each month, all amounts held in the incremental tax financing fund established for a global commerce center shall be distributed to the district that administers the global commerce center for deposit in the regional economic development fund established under section 19 of this chapter.

Sec. 17. (a) A county fiscal body in which a hub or spoke is located may allocate three percent (3%) of the tax increment revenues attributable to the hub or spoke to the district if the county fiscal body adopts a resolution under subsection (b).

(b) The county fiscal body may adopt a resolution designating a hub or spoke as an allocation area for purposes of the allocation and distribution of the amount of property taxes described in subsection (a).

(c) After adoption of the resolution under subsection (b), the county fiscal body shall:

(1) publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and

(2) file the following information with each taxing unit that has authority to levy property taxes in the geographic area where the global commerce center is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement disclosing the impact of the global commerce center, including the following:

(i) The estimated economic benefits and costs incurred by the global commerce center, as measured by increased employment and anticipated growth of real property assessed values.

(ii) The anticipated impact on tax revenues of each taxing unit.

The notice must state the general boundaries of the global commerce center and must state that written remonstrances may be filed with the county fiscal body until the time designated for the hearing. The notice must also name the place, date, and time when the county fiscal body will receive and hear remonstrances and objections from persons interested in or affected by the proceedings pertaining to the proposed allocation area and will determine the public utility and benefit of the proposed allocation area. The county fiscal body shall file the information required by subdivision (2) with the officers of the taxing unit who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date of the public hearing. All persons affected in any manner by the hearing, including all taxpayers within the county, shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and orders of the county fiscal body affecting the allocation area if the county fiscal body gives the notice required by this section.

(d) At the hearing, which may be recessed and reconvened periodically, the county fiscal body shall hear all persons interested in the proceedings and shall consider all written remonstrances and objections that have been filed. After considering the evidence presented, the county fiscal body shall take final action in determining the public utility and benefit of the proposed allocation area confirming, modifying and confirming, or rescinding the resolution. The final action taken by the county fiscal body shall be recorded and is final and conclusive.

Sec. 18. (a) A unit may issue bonds for the purpose of providing public facilities under this chapter.

(b) The bonds are payable from any funds available to the unit.

(c) The bonds shall be authorized by a resolution of the unit.

(d) The terms and form of the bonds shall be set out either in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds must mature within fifty (50) years.

(f) The unit shall sell the bonds at public or private sale upon terms determined by the district.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of providing public facilities within a global commerce center, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include the cost of:

(1) planning and development of the public facilities and all related buildings, facilities, structures, and improvements;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the public facilities suitable for use and operation;

(4) architectural, engineering, consultant, and attorney's fees;

(5) incidental expenses in connection with the issuance and sale of bonds;

(6) reserves for principal and interest;

(7) interest during construction and for a period thereafter determined by the district, but not to exceed five (5) years;

(8) financial advisory fees;

(9) insurance during construction;

(10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and

(11) in the case of refunding or refinancing, payment of the principal of, redemption premiums, if any, for, and interest on, the bonds being refunded or refinanced.

(h) A unit that issues bonds under this section may enter an interlocal agreement with any other unit located in the area served by the district in which the global commerce center is designated. A party to an agreement under this section may pledge any of its revenues, including taxes or allocated taxes under IC 36-7-14, to the bonds or lease rental obligations of another party to the agreement.

Sec. 19. (a) The district shall establish a regional economic development fund.

(b) The fund consists of:

(1) revenues received under section 16 of this chapter;

(2) property taxes allocated to the district under section 17 of this chapter; and

(3) any other funds made available to the district for the purposes of economic development within a global commerce center.

(c) Money in the fund may be used to:

(1) provide rent subsidies to businesses locating in the global commerce center; and

(2) maintain, improve, and expand economic development projects located in a global commerce center and the surrounding communities.

Sec. 20. A global commerce center expires fifteen (15) years after it is designated by the corporation.

Sec. 21. (a) The corporation may revoke the corporation's designation of a global commerce center pilot program at the discretion of the corporation.

(b) Notwithstanding a revocation made under subsection (a), a debt or an obligation incurred during the period in which the global commerce center pilot program was in effect remains valid and payable.

SECTION 3. IC 6-2.5-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) As used in this section, a "power subsidiary" means a corporation which is owned or controlled by one (1) or more public utilities that furnish or sell electrical energy, natural or artificial gas, water, steam, or steam heat and which produces power exclusively for the use of those public utilities.

(b) A power subsidiary or a person engaged as a public utility is a retail merchant making a retail transaction when the subsidiary or person furnishes or sells electrical energy, natural or artificial gas, water, steam, or steam heating service to a person for commercial or domestic consumption.

(c) Notwithstanding subsection (b), a power subsidiary or a person engaged as a public utility is not a retail merchant making a retail transaction in any of the following transactions:

(1) The power subsidiary or person provides, installs, constructs, services, or removes tangible personal property which is used in connection with the furnishing of the services or commodities listed in subsection (b).

(2) The power subsidiary or person sells the services or commodities listed in subsection (b) to another public utility or power subsidiary described in this section or a person described in section 6 of this chapter.

(3) The power subsidiary or person sells the services or commodities listed in subsection (b) to a person for use in manufacturing, mining, production, refining, oil extraction, mineral extraction, irrigation, agriculture, or horticulture. However, this exclusion for sales of the services and commodities only applies if the services are consumed as an essential and integral part of an integrated process that produces tangible personal property and those sales are separately metered for the excepted uses listed in this subdivision, or if those sales are not separately metered but are predominately used by the purchaser for the excepted uses listed in this subdivision.

(4) The power subsidiary or person sells the services or commodities listed in subsection (b) and all the following conditions are satisfied:

(A) The services or commodities are sold to a business that after June 30, 2004:

(i) relocates all or part of its operations to a facility; or

(ii) expands all or part of its operations in a facility;

located in a military base (as defined in IC 36-7-30-1(c)), a military base reuse area established under IC 36-7-30, an economic development area established under IC 36-7-14.5-12.5, ~~or~~ a military base recovery site designated under IC 6-3.1-11.5, **or a qualified military base enhancement area established under IC 36-7-34.**

(B) The business uses the services or commodities in the facility described in clause (A) not later than five (5) years after the operations that are relocated to the facility or expanded in the facility commence.

(C) The sales of the services or commodities are separately metered for use by the relocated or expanded operations.

(D) In the case of a business that uses the services or commodities in a qualified military base enhancement area, the business must satisfy at least one (1) of the following criteria:

(i) The business is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).

(ii) The business is a United States Department of Defense contractor.

(iii) The business and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the business and the United States Department of Defense.

However, this subdivision does not apply to a business that substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations in an area described in this subdivision, unless the department determines that the business had existing operations in the area described in this subdivision and that the operations relocated to the area are an expansion of the business's operations in the area.

SECTION 4. IC 6-3-2-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1.5. (a) As used in this section, "qualified area" means:

(1) a military base (as defined in IC 36-7-30-1(c));

(2) a military base reuse area established under IC 36-7-30;

(3) an economic development area established under IC 36-7-14.5-12.5; ~~or~~

(4) a military base recovery site designated under IC 6-3.1-11.5; **or**

(5) a qualified military base enhancement area established under IC 36-7-34.

(b) Except as provided in subsection (c), a tax at the rate of five percent (5%) of adjusted gross income is imposed on that part of the adjusted gross income of a corporation that is derived from sources within a qualified area if the corporation locates all or part of its operations in a qualified area during the taxable year, as determined under subsection (e). The tax rate under this section applies to the taxable year in which the corporation locates its operations in the qualified area and to the next succeeding four (4) taxable years. **In the case of a corporation that locates all or part of its operations in a qualified military base enhancement area, the tax rate imposed under this section applies to the corporation only if the corporation meets at least one (1) of the following criteria:**

(1) The corporation is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).

(2) The corporation is a United States Department of Defense contractor.

(3) The corporation and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the corporation and the United States Department of Defense.

(c) A taxpayer is not entitled to the tax rate described in subsection (b) to the extent that the taxpayer substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations within the qualified area, unless:

(1) the taxpayer had existing operations in the qualified area; and

(2) the operations relocated to the qualified area are an expansion of the taxpayer's operations in the qualified area.

(d) A determination under subsection (c) that a taxpayer is not entitled to the tax rate provided by this section as a result of a substantial reduction or cessation of operations applies to the taxable year in which the substantial reduction or cessation occurs and in all subsequent years. Determinations under this section shall be made by the department of state revenue.

(e) The department of state revenue:

(1) shall adopt rules under IC 4-22-2 to establish a procedure for determining the part of a corporation's adjusted gross income that was derived from sources within a qualified area; and

(2) may adopt other rules that the department considers necessary for the implementation of this chapter.

SECTION 5. IC 6-3.1-11.6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. As used in this chapter, "qualified area" means:

(1) a military base (as defined in IC 36-7-30-1(c));

(2) a military base reuse area established under IC 36-7-30;

(3) an economic development area established under IC 36-7-14.5-12.5; ~~or~~

(4) a military base recovery site designated under IC 6-3.1-11.5; **or**

(5) a qualified military base enhancement area established under IC 36-7-34.

SECTION 6. IC 6-3.1-11.6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 9. (a) **Subject to subsection (c),** a taxpayer is entitled to a credit against the taxpayer's state tax liability for a taxable year if the taxpayer makes a qualified investment in that taxable year.

(b) The amount of the credit to which a taxpayer is entitled is the percentage determined under section 12 of this chapter multiplied by the amount of the qualified investment made by the taxpayer during the taxable year.

(c) This subsection applies to a taxpayer making a qualified investment in a business located in a qualified military base enhancement area. To qualify for a credit under this chapter, the taxpayer's qualified investment must be in a business that satisfies at least one (1) of the following criteria:

(1) The business is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).

(2) The business is a United States Department of Defense contractor.

(3) The business and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the business and the United States Department of Defense.

SECTION 7. IC 36-1-7-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. ~~(a) This section applies only to political subdivisions in the following:~~

~~(1) A city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).~~

~~(2) A county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000).~~

~~(3) A county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).~~

~~(b)~~ **(a)** As used in this section, "economic development entity" means a department of redevelopment organized under IC 36-7-14, **a department of metropolitan development under IC 36-7-15.1,** a port authority organized under IC 8-10-5, or an airport authority organized under IC 8-22-3.

~~(c)~~ **(b)** Notwithstanding section 2 of this chapter, two (2) or more economic development entities may enter into a written agreement under section 3 of this chapter ~~if the agreement is requested by the executive of a city or county described in subsection (a) and~~ if the agreement is approved by each entity's

governing body. ~~and by the executive of a city or county described in subsection (a).~~

~~(d)~~ **(c)** A party to an agreement under this section may do one (1) or more of the following:

(1) Except as provided in subsection ~~(c),~~ **(d),** grant one (1) or more of its powers to another party to the agreement.

(2) Exercise any power granted to it by a party to the agreement.

(3) Pledge any of its revenues, including taxes or allocated taxes under IC 36-7-14, **IC 36-7-15.1,** or IC 8-22-3.5, to the bonds or lease rental obligations of another party to the agreement under IC 5-1-14-4.

~~(c)~~ **(d)** An economic development entity may not grant to another entity the power to tax or to establish an allocation area under IC 8-22-3.5, ~~or~~ IC 36-7-14-39, **or IC 36-7-15.1.**

~~(f)~~ **(e)** An agreement under this section does not have to comply with section 3(a)(5) or 4 of this chapter.

~~(g)~~ **(f)** An action to challenge the validity of an agreement under this section must be brought within thirty (30) days after the agreement has been approved by all the parties to the agreement. After that period has passed, the agreement is not contestable for any cause.

SECTION 8. IC 36-7-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) To provide money for the purposes set forth in section 3 of this chapter, the unit shall create a special revolving fund to be known as the industrial development fund, into which any available and unappropriated money of the unit may be transferred by the unit's legislative body.

(b) The legislative body may also by ordinance levy a tax not to exceed one and sixty-seven hundredths cents ($0.0167) on each one hundred dollars ($100) of assessed value of all personal and real property within its jurisdiction. The proceeds of this tax shall be deposited in the industrial development fund. The unit may collect the tax as other municipal or county taxes are collected, or may set up a system for the collection and enforcement of the tax in the unit. ~~The proceeds of the tax~~ **Money in the industrial development fund** may be used for any purpose authorized by this chapter and may be pledged for the payment of principal and interest on bonds or other ~~obligation~~ **obligations** issued under this chapter.

SECTION 9. IC 36-7-13-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 21. (a) Two (2) or more:**

(1) advisory commissions; or

(2) legislative bodies;

or any combination of advisory commissions and legislative bodies may enter into a written agreement under this section to jointly undertake economic development projects.

(b) A party to an agreement under this section may do one (1) or more of the following:

(1) Except as provided in subsection (c), grant one (1) or more of its powers to another party to the agreement.

(2) Exercise any power granted to it by a party to the agreement.

(3) Pledge any of its revenues to the bonds or lease rental obligations of another party to the agreement under IC 5-1-14-4.

(c) A party to an agreement under this section may not grant another party to the agreement the power to tax or to establish a district under this chapter.

(d) An action to challenge the validity of an agreement under this section must be brought not more than thirty (30) days after the agreement has been approved by all the parties to the agreement. After that period has passed, the agreement is not contestable for any cause.

SECTION 10. IC 36-7-13-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 22. An agreement described in section 21 of this chapter must provide for the following:**

(1) The duration of the agreement.

(2) The purpose of the agreement.

(3) The manner of financing, staffing, and supplying the joint undertaking and of establishing and maintaining a budget for the joint undertaking.

(4) The methods that may be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon partial or complete termination of the agreement.

(5) The manner of acquiring, holding, and disposing of real and personal property used in the joint undertaking.

(6) Any other appropriate matters.

SECTION 11. IC 36-7-30.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 30.5. Development of Multicounty Federal Military Bases

Sec. 1. This chapter applies only to a military base that is located in more than two (2) counties.

Sec. 2. As used in sections 23 and 29 of this chapter, "bonds" means bonds, notes, evidences of indebtedness, or other obligations issued by the development authority in the name of a unit.

Sec. 3. As used in this chapter, "council" refers to the military base planning council established under IC 4-3-21-3.

Sec. 4. As used in this chapter, "development authority" means a military base development authority established under section 8 of this chapter.

Sec. 5. As used in this chapter, "military base" means a United States government military base or other military installation that is:

(1) scheduled for closing or realignment; or

(2) completely or partially inactive or closed.

Sec. 6. As used in this chapter, "military base property" means real and personal property that is currently or was formerly part of a military base and is subject to development or reuse.

Sec. 7. (a) The planning, replanning, rehabilitation, development, redevelopment, and other preparation for development or reuse of military bases and military base property are public and governmental functions that cannot be accomplished through the ordinary operations of private

enterprise because of the following:

(1) The provisions of federal law that provide for the expeditious and affordable transfer of military base property to an entity established by local government for these purposes.

(2) The necessity for requiring the proper use of the land to best serve the interests of the unit and its citizens.

(3) The costs of the projects.

(b) The planning, replanning, rehabilitation, development, redevelopment, and other preparation for development or reuse will do the following:

(1) Benefit the public health, safety, morals, and welfare.

(2) Increase the economic well-being of counties represented on the development authority and the state.

(3) Serve to protect and increase property values in the counties represented on the development authority and the state.

(c) The planning, replanning, rehabilitation, development, redevelopment, and other preparation for development or reuse of military bases and military base property under this chapter are public uses and purposes for which public money may be spent and private property may be acquired.

(d) A development authority and all appropriate units shall, to the extent feasible under this chapter and consistent with the needs of the development authority and the units, provide a maximum opportunity for development or reuse of federal military bases by private enterprise or state and local government.

(e) This section shall be liberally construed to carry out the purposes of this section.

Sec. 8. (a) If the council, by the affirmative votes of a majority of the voting members of the council, votes to require that a development authority should be established under this chapter, the development authority shall be established.

(b) A unit may not create a reuse authority under IC 36-7-30 for all or part of a military base that is:

(1) governed by this chapter; and

(2) located within the boundaries of the unit.

Sec. 9. A development authority established under this chapter shall be governed by a board of nine (9) members to be known as the "Crane Development Authority".

Sec. 10. (a) The nine (9) members of a development authority shall be appointed as follows:

(1) Two (2) members shall be appointed by the county executive of Greene County.

(2) Two (2) members shall be appointed by the county executive of Lawrence County.

(3) Two (2) members shall be appointed by the county executive of Martin County.

(4) One (1) member shall be appointed by the county executive of Daviess County.

(5) One (1) member shall be appointed by the county executive of Monroe County.

(6) One (1) member shall be appointed by the county executive of Orange County.

Sec. 11. (a) Each member of a military base development authority shall serve the longer of:

(1) three (3) years beginning with the first day of January after the member's appointment; or

(2) until the member's successor has been appointed and qualified.

If a vacancy occurs, a successor shall be appointed in the same manner as the original member. The successor shall serve for the remainder of the vacated term.

(b) Each member of a development authority, before beginning the member's duties, shall take and subscribe an oath of office in the usual form, to be endorsed on the certificate of the member's appointment. The endorsed certificate must be promptly filed with the clerk for the unit that the member serves.

(c) Each member of a development authority, before beginning the member's duties, shall execute a bond payable to the state, with surety to be approved by the executive of the unit. The bond must be:

(1) in the penal sum of fifteen thousand dollars ($15,000); and

(2) conditioned on the faithful performance of the duties of the member's office and the accounting for all money and property that may come into the member's hands or under the member's control.

(d) A member of a development authority must be:

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

(2) a resident of the county responsible for the member's appointment.

(e) If a member ceases to be qualified under this section, the member forfeits the member's office.

(f) Members of a development authority are not entitled to salaries but are entitled to reimbursement for expenses necessarily incurred in the performance of their duties.

Sec. 12. (a) The development authority members shall hold a meeting for the purpose of organization not later than thirty (30) days after they are appointed and, after that, each year on the first day in January that is not a Saturday, Sunday, or legal holiday. The members shall choose one (1) of their members as president, another as vice president, and another as secretary-treasurer. These officers shall perform the duties usually concerning their offices and shall serve from the date of their election until their successors are elected and qualified.

(b) Except as otherwise provided in this chapter, the secretary-treasurer shall be responsible for the funds and accounts of the development authority. The development authority may:

(1) employ personnel for compensation to assist the secretary-treasurer; or

(2) designate or appoint a fiscal officer of a county responsible for appointing one (1) or more development authority members to perform the duties that are delegated by the development authority and accepted by the fiscal officer.

(c) The members of a development authority may adopt rules and bylaws the members consider necessary for:

(1) the proper conduct of proceedings;

(2) carrying out of the members' duties; and

(3) safeguarding the money and property placed in the members' custody by this chapter.

In addition to the annual meeting, the members may by resolution or in accordance with the rules and bylaws prescribe the date and manner of notice of other regular or special meetings.

(d) Five (5) members of the development authority constitute a quorum. The concurrence of five (5) members is necessary to authorize an action.

Sec. 13. A member of a military base development authority may be summarily removed from office at any time by the county executive that appointed the member.

Sec. 14. The development authority shall do the following:

(1) Investigate, study, and survey the area surrounding and the real property and structures that are part of the military base.

(2) Investigate, study, and determine the means by which military base property may be developed or reused by private enterprise to promote economic development within counties represented on the development authority or by state and local government to otherwise benefit the welfare of the citizens of the counties represented on the development authority.

(3) Promote the development of military base property in the manner that best serves the interests of the state and its inhabitants.

(4) Cooperate with the departments and agencies of units and of other governmental entities, including the state and the federal government, in the manner that best serves the purposes of this chapter.

(5) Make findings and reports on their activities under this section, and keep the reports available for inspection by the public.

(6) Select and acquire military base property to be developed or reused by private enterprise or state or local government under this chapter.

(7) Transfer acquired military base property and other real and personal property to private enterprise or state or local government in the manner that best serves the social and economic interests of the state and the state's inhabitants.

(8) Consider recommendations made by the council concerning the operations of the development authority.

Sec. 15. The development authority may do the following:

(1) Acquire by purchase, exchange, gift, grant, condemnation, or lease, or any combination of methods, any personal military base property or interest in real military base property or other real or personal property located within the corporate boundaries of a unit that contains all or part of the military base.

(2) Hold, use, sell (by conveyance by deed, land sale contract, or other instrument), exchange, lease, rent, or otherwise dispose of real or personal military base property or other real and personal property to private enterprise or state or local government, on the terms and conditions that the development authority considers best for the state and the state's inhabitants.

(3) Sell, lease, or grant interests in all or part of the real property acquired from a military base to a department of a unit or to any other governmental agency for public ways, levees, sewerage, parks, playgrounds, schools, and other public purposes on any terms that may be agreed on.

(4) Clear real property acquired for the purposes of this chapter.

(5) Repair and maintain structures acquired for the purposes of this chapter.

(6) Remodel, rebuild, enlarge, or make major structural improvements on structures acquired from a military base.

(7) Survey or examine any land to determine whether it should be acquired for the purpose of this chapter and to determine the value of the land.

(8) Appear before any other department or agency of a unit or any other governmental agency in respect to any matter affecting:

(A) real property acquired or being acquired for the purposes of this chapter; or

(B) any development area within the jurisdiction of the development authority.

(9) Institute or defend in the name of the development authority any civil action.

(10) Use any legal or equitable remedy that is necessary or considered proper to protect and enforce the rights of and perform the duties of the development authority.

(11) Exercise the power of eminent domain within military base property in the manner prescribed by section 21 of this chapter.

(12) Appoint an executive director, appraisers, real estate experts, engineers, architects, surveyors, attorneys, accountants, and other consultants that are necessary or desired by the authority in exercising its powers or carrying out its responsibilities under this chapter.

(13) Appoint clerks, guards, laborers, and other employees the development authority considers advisable.

(14) Prescribe the duties and regulate the compensation of employees of the development authority.

(15) Provide a pension and retirement system for employees of the development authority.

(16) Discharge and appoint successors to employees of the development authority.

(17) Rent offices for use of the development authority or accept the use of offices furnished by a unit.

(18) Equip the offices of the development authority with the necessary furniture, furnishings, equipment, records,

and supplies.

(19) Expend on behalf of the counties represented on the development authority all or any part of the money of the development authority.

(20) Design, order, contract for, construct, reconstruct, improve, or renovate the following:

(A) Local public improvements or structures that are necessary for the development of military base property.

(B) Any structure that enhances the development, economic development, or reuse of military base property.

(21) Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a municipal corporation, a special taxing district, a foundation, or any other source.

(22) Provide financial assistance, in the manner that best serves the purposes of this chapter, including grants and loans, to enable private enterprise to develop, redevelop, and reuse military base property or otherwise enable private enterprise to provide social and economic benefits to the citizens of the state.

(23) Enter into contracts for providing police, fire protection, and utility services to the military base development area.

(24) Make and enter into all contracts and agreements necessary or incidental to the performance of the duties of the development authority and the execution of the power of the development authority under this chapter.

(25) Adopt a seal.

(26) Take any action necessary to implement the purposes of the development authority.

Sec. 16. (a) The development authority shall adopt a plan for the:

(1) rehabilitation;

(2) development;

(3) redevelopment; and

(4) reuse;

of military base property to be acquired from the federal government upon the closure or scheduled closure of the military base.

(b) In conjunction with the plan adopted under subsection (a), the development authority may adopt a resolution declaring that a geographic area is a military base development area and approving the plan if it makes the following findings:

(1) All or part of a military base is located in the military base development area.

(2) The plan for the military base development area will accomplish the public purposes of this chapter, supported by specific findings of fact to be adopted by the development authority.

(3) The public health and welfare will be benefitted by accomplishment of the plan for the military base development area.

(4) The plan for the military base development area conforms to other development and redevelopment plans for the counties represented on the development authority.

(c) A military base development area may include territory within military base property. However, a military base development area may not include any area of land that constitutes part of an economic development area, a blighted area, or an urban renewal area under IC 36-7-14.

(d) The resolution must state:

(1) the general boundaries of the area; and

(2) that the development authority proposes to acquire all the interests in the land within the boundaries, with certain designated exceptions, if any.

(e) For the purpose of adopting a resolution under subsection (b), it is sufficient to describe the boundaries of the area by its location in relation to public ways or streams, or otherwise, as determined by the development authority. Property excepted from the acquisition may be described by street numbers or location.

Sec. 17. (a) After adoption of a resolution under section 16 of this chapter, the development authority shall submit the resolution and supporting data to the plan commission of an affected unit or other body charged with the duty of developing a general plan for the unit, if there is such a body. The plan commission may determine whether the resolution and the development plan conform to the plan of development for the unit and approve or disapprove the resolution and plan proposed. The development authority may amend or modify the resolution and proposed plan to conform to the requirements of a plan commission. A plan commission shall issue a written order approving or disapproving the resolution and military base development plan, and may with the consent of the development authority rescind or modify the order.

(b) The determination that a geographic area is a military base development area must be approved by an affected unit's legislative body.

(c) After receipt of all orders and approvals required under subsections (a) and (b), the development authority shall publish notice of the adoption and the substance of the resolution in accordance with IC 5-3-1. The notice must name a date when the development authority will receive and hear remonstrances and objections from persons interested in or affected by the proceedings concerning the proposed project and will determine the public utility and benefit of the proposed project. All persons affected in any manner by the hearing shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and orders of the development authority by the notice given under this section.

(d) At the hearing under subsection (c), which may be adjourned from time to time, the development authority shall:

(1) hear all persons interested in the proceedings; and

(2) consider all written remonstrances and objections that have been filed.

After considering the evidence presented, the development authority shall take final action determining the public utility

and benefit of the proposed project, and confirming, modifying and confirming, or rescinding the resolution. The final action taken by the development authority is final and conclusive, except that an appeal may be taken in the manner prescribed by section 19 of this chapter.

Sec. 18. (a) The development authority must conduct a public hearing before amending a resolution or plan for a military base development area. The development authority shall give notice of the hearing in accordance with IC 5-3-1. The notice must do the following:

(1) Set forth the substance of the proposed amendment.

(2) State the time and place where written remonstrances against the proposed amendment may be filed.

(3) Set forth the date, time, and place of the hearing.

(4) State that the development authority will hear any person who has filed a written remonstrance during the filing period set forth in subdivision (2).

(b) For the purposes of this section, the consolidation of areas is not considered the enlargement of the boundaries of an area.

(c) If the development authority proposes to amend a resolution or plan, the development authority is not required to have evidence or make findings that were required for the establishment of the original military base development area. However, the development authority must make the following findings before approving the amendment:

(1) The amendment is reasonable and appropriate when considered in relation to the original resolution or plan and the purposes of this chapter.

(2) The resolution or plan, with the proposed amendment, conforms to the comprehensive plan for an affected unit.

(d) Notwithstanding subsections (a) and (c), if the resolution or plan is proposed to be amended in a way that enlarges the original boundaries of the area by more than twenty percent (20%), the development authority must use the procedure provided for the original establishment of areas and must comply with sections 16 through 17 of this chapter.

(e) At the hearing on the amendments, the development authority shall consider written remonstrances that are filed. The action of the development authority on the amendment is final and conclusive, except that an appeal of the development authority's action may be taken under section 19 of this chapter.

Sec. 19. (a) A person who filed a written remonstrance with the development authority under section 17 or 18 of this chapter and is aggrieved by the final action taken may, not more than ten (10) days after that final action, file in the office of the clerk of an appropriate circuit or superior court a copy of the order of the development authority and person's remonstrances against that order, together with the person's bond conditioned to pay the costs of the person's appeal if the appeal is determined against the person. The only ground of remonstrance that the court may hear is whether the proposed project will be of public utility and benefit. The burden of proof is on the remonstrator.

(b) An appeal under this section shall be promptly heard by the court without a jury. All remonstrances upon which an appeal has been taken shall be consolidated and heard and determined not more than thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the remonstrances and may confirm the final action of the development authority or sustain the remonstrances. The judgment of the court is final and conclusive, unless an appeal is taken as in other civil actions.

Sec. 20. (a) If:

(1) an appeal is not taken; or

(2) an appeal is taken but is unsuccessful;

the development authority shall proceed with the plan to the extent that money is available for that purpose.

(b) Negotiations for the purchase of property may be carried on directly by the development authority, by its employees, or by expert negotiators. However, an option, a contract, or an understanding relative to the purchase of real property is not binding on the development authority until approved and accepted by the development authority in writing. Payment for the property purchased shall be made when and as directed by the development authority but only on delivery of proper instruments conveying the title or interest of the owner to the development authority or its designee.

(c) The acquisition of real and personal property by the development authority under this chapter is not subject to the provisions of IC 5-22, IC 36-1-10.5, or any other statutes governing the purchase of property by public bodies or their agencies.

Sec. 21. (a) If the development authority considers it necessary to acquire real property in or serving a development area by the exercise of the power of eminent domain, the development authority shall adopt a resolution setting out its determination to exercise that power and directing its attorney to file a petition on behalf of the development authority in the circuit or superior court of the county in which the property is situated. The resolution must be approved by the legislative body of the affected unit before the petition is filed.

(b) Eminent domain proceedings under this section are governed by IC 32-24 and other applicable statutory provisions for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired under this section. However, property belonging to the state or a political subdivision may not be acquired without the consent of the state or the political subdivision.

(c) The court having jurisdiction shall direct the clerk of the circuit court to execute a deed conveying the title of real property acquired under this section to the development authority for the use and benefit of the development authority.

Sec. 22. (a) The development authority may proceed with the clearing and replanning of the area described in the resolution before the acquisition of all of the area. The development authority may also proceed with the repair and maintenance of buildings that have been acquired and are not to be cleared. This clearance, repair, and maintenance may be carried out by

labor employed directly by the development authority or by contract. Contracts for clearance may provide that the contractor is entitled to retain and dispose of salvaged material, as a part of the contract price or on the basis of stated prices for the amounts of the various materials actually salvaged.

(b) All contracts for material or labor under this section shall be let under IC 36-1.

(c) To the extent the development authority undertakes to engage in the planning and rezoning of the real property acquired, in the opening, closing, relocation, and improvement of public ways, and in the construction, relocation, and improvement of levees, sewers, parking facilities, and utility services, the development authority shall proceed in the same manner as private owners of the property. The development authority may negotiate with the proper officers and agencies of the unit to secure the proper orders, approvals, and consents.

(d) Construction work required in connection with improvements in the area described in the resolution may be carried out by the following:

(1) The appropriate municipal or county department or agency.

(2) The development authority, if:

(A) all plans, specifications, and drawings are approved by the appropriate department or agency; and

(B) the statutory procedures for the letting of contracts by the appropriate department or agency are followed by the development authority.

(e) The development authority may pay any charges or assessments made on account of orders, approvals, consents, and construction work under this section, or may agree to pay the assessments in installments as provided by statute in the case of private owners. The development authority may do the following:

(1) By special waiver filed with the appropriate municipal works board or county executive, waive the statutory procedure and notices required by law in order to create valid liens on private property.

(2) Cause any assessments to be spread on a different basis than that provided by statute.

(f) The real property acquired under this chapter may not be set aside and dedicated for public ways, parking facilities, sewers, levees, parks, or other public purposes until the development authority has obtained the consent and approval of the department or agency under whose jurisdiction the property will be placed.

(g) The development authority may negotiate for the sale, lease, or other disposition of real and personal property without complying with the provisions of IC 36-1-11 or any other statute governing the disposition of public property. A conveyance under this section may not be made until the agreed consideration has been paid, unless the development authority passes a resolution expressly providing that the consideration does not have to be paid before the conveyance is made. The resolution may provide for a mortgage or other security. All deeds, leases, land sale contracts, or other conveyances shall be:

(1) executed in the name of the development authority; and

(2) signed by the president or vice president of the development authority and attested by the secretary-treasurer.

A seal is not required on these instruments or any other instruments executed in the name of the development authority. Proceeds from the sale, lease, or other disposition of property may be deposited in any fund and used for any purpose allowed under this chapter, as directed by the development authority.

Sec. 23. (a) In addition to other methods of raising money for property acquisition, redevelopment, reuse, or economic development activities in or directly serving or benefitting a military base development area, and in anticipation of the taxes allocated under section 30 of this chapter, other revenues of the district, or any combination of these sources, the development authority may by resolution issue the bonds of the development authority.

(b) The secretary-treasurer of the development authority shall prepare the bonds. The seal of the development authority must be impressed on the bonds or a facsimile of the seal must be printed on the bonds.

(c) The bonds must be executed by the president of the development authority and attested by the secretary-treasurer.

(d) The bonds are exempt from taxation for all purposes.

(e) Bonds issued under this section may be sold at public sale in accordance with IC 5-1-11 or at a negotiated sale.

(f) The bonds are not a corporate obligation of a unit but are an indebtedness of only the development authority. The bonds and interest are payable, as set forth in the bond resolution of the development authority, from any of the following:

(1) The tax proceeds allocated under section 30 of this chapter.

(2) Other revenues available to the development authority.

(3) A combination of the methods stated in subdivisions (1) through (2).

The bonds issued under this section may be issued in any amount without limitation.

(g) Proceeds from the sale of bonds may be used to pay the cost of interest on the bonds for a period not to exceed five (5) years after the date of issuance.

(h) All laws relating to the filing of petitions requesting the issuance of bonds and the right of taxpayers to remonstrate against the issuance of bonds do not apply to bonds issued under this chapter.

(i) If a debt service reserve is created from the proceeds of bonds, the debt service reserve may be used to pay principal and interest on the bonds as provided in the bond resolution.

(j) If bonds are issued under this chapter that are payable solely or in part from revenues of the development authority, the development authority may adopt a resolution or trust indenture or enter into covenants as is customary in the issuance of revenue bonds. The resolution or trust indenture may pledge or assign revenues of the development authority

and properties becoming available to the development authority under this chapter. The resolution or trust indenture may also contain provisions for protecting and enforcing the rights and remedies of the bond owners as may be reasonable and proper and not in violation of law, including a covenant setting forth the duties of the development authority. The development authority may establish fees and charges for the use of any project and covenant with the owners of any bonds to set the fees and charges at a rate sufficient to protect the interest of the owners of the bonds. Revenue bonds issued by the development authority that are payable solely from revenues of the development authority shall contain a statement to that effect in the form of the bond.

Sec. 24. (a) A development authority may enter into a lease of any property that could be financed with the proceeds of bonds issued under this chapter with a lessor for a term of not more than fifty (50) years. The lease may provide for payments to be made by the development authority from taxes allocated under section 30 of this chapter, any other revenues available to the development authority, or any combination of these sources.

(b) A lease may provide that payments by the development authority to the lessor are required only to the extent and only for the period that the lessor is able to provide the leased facilities in accordance with the lease. The terms of each lease must be based upon the value of the facilities leased and may not create a debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(c) A lease may be entered into by the development authority only after a public hearing by the development authority at which all interested parties are provided the opportunity to be heard. After the public hearing, the development authority may adopt a resolution authorizing the execution of the lease on behalf of the unit if the development authority finds that the service to be provided throughout the term of the lease will serve the public purpose of the unit and is in the best interests of its residents. Any lease approved by a resolution of the development authority must be approved by the fiscal body of the appropriate unit.

(d) A development authority entering into a lease payable from allocated taxes under section 30 of this chapter or other available funds of the development authority may do the following:

(1) Pledge the revenue to make payments under the lease under IC 5-1-14-4.

(2) Establish a special fund to make the payments.

(e) Lease payments may be limited to money in the special fund so that the obligations of the development authority to make the lease rental payments are not considered a debt of a unit or the district for purposes of the Constitution of the State of Indiana.

(f) Except as provided in this section, approvals of any governmental body or agency are not required before the development authority may enter into a lease under this section.

(g) If a development authority exercises an option to buy a leased facility from a lessor, the development authority may subsequently sell the leased facility, without regard to any other statute, to the lessor at the end of the lease term at a price set forth in the lease or at fair market value established at the time of the sale by the development authority through auction, appraisal, or negotiation. If the facility is sold at auction, after appraisal or through negotiation, the development authority shall conduct a hearing after public notice in accordance with IC 5-3-1 before the sale. Any action to contest the sale must be brought not more than fifteen (15) days after the hearing.

(h) Notwithstanding this section, a development authority may negotiate and enter into leases of property from the United States or any department or agency of the United States without complying with the requirements of this section.

Sec. 25. (a) Any of the following persons may lease facilities referred to in section 24 of this chapter to a development authority under this chapter:

(1) A for-profit or nonprofit corporation organized under Indiana law or admitted to do business in Indiana.

(2) A partnership, an association, a limited liability company, or a firm.

(3) An individual.

(4) A redevelopment authority established under IC 36-7-14.5.

(b) Notwithstanding any other law, a lessor under this section and section 24 of this chapter is a qualified entity for purposes of IC 5-1.4.

(c) Notwithstanding any other law, a military base development facility leased by the development authority under this chapter from a lessor borrowing bond proceeds from a unit under IC 36-7-12 is an economic development facility for purposes of IC 36-7-11.9-3 and IC 36-7-12.

(d) Notwithstanding IC 36-7-12-25 and IC 36-7-12-26, payments by a development authority to a lessor described in subsection (c) may be made from sources set forth in section 24 of this chapter if the payments and the lease are structured to prevent the lease obligation from constituting a debt of a unit or the district for purposes of the Constitution of the State of Indiana.

Sec. 26. (a) Notwithstanding any other law, the legislative body of a unit may pledge revenues received or to be received by the unit from:

(1) the unit's distributive share of the county adjusted gross income tax under IC 6-3.5-1.1;

(2) the unit's distributive share of the county option income tax under IC 6-3.5-6;

(3) the unit's distributive share of the county economic development income tax under IC 6-3.5-7;

(4) any other source legally available to the unit for the purposes of this chapter; or

(5) any combination of revenues under subdivisions (1) through (4);

in any amount to pay amounts payable under section 23 or 24 of this chapter.

(b) The legislative body may covenant to adopt an ordinance to increase its tax rate under the county adjusted gross income tax, county option income tax, county economic development income tax, or any other revenues at the time it is necessary to raise funds to pay any amounts payable under section 23 or 24 of this chapter.

(c) The development authority may pledge revenues received or to be received from any source legally available to the development authority for the purposes of this chapter in any amount to pay amounts payable under section 23 or 24 of this chapter.

(d) The pledge or covenant under this section may be for:

(1) the term of the bonds issued under section 23 of this chapter;

(2) the term of a lease entered into under section 24 of this chapter; or

(3) for a shorter period as determined by the legislative body.

Money pledged by the legislative body under this section shall be considered revenues or other money available to the development authority under sections 23 through 24 of this chapter.

(e) The general assembly covenants not to impair this pledge or covenant as long as any bonds issued under section 23 of this chapter are outstanding or as long as any lease entered into under section 24 of this chapter is still in effect. The pledge or covenant shall be enforced as provided in IC 5-1-14-4.

Sec. 27. (a) All proceeds from the sale of bonds under section 23 of this chapter shall be kept as a separate and specific fund to pay the expenses incurred in connection with the property acquisition, redevelopment, reuse, and economic development of the military base development area. The fund shall be known as the military base development district capital fund.

(b) All gifts or donations that are given or paid to the development authority or to a unit for military base development purposes shall be promptly deposited to the credit of the military base development district general fund unless otherwise directed by the grantor. The development authority may use these gifts and donations for the purposes of this chapter.

Sec. 28. (a) All payments from any of the funds established by this chapter shall be made by warrants drawn by the secretary-treasurer or the secretary-treasurer's agent under section 12 of this chapter on vouchers of the development authority signed by the president or vice president and the secretary-treasurer or executive director. An appropriation is not necessary, but all money raised under this chapter is considered appropriated to the respective purposes stated and is under the control of the development authority. The development authority has complete and exclusive authority to expend the money for the purposes provided.

(b) Each fund established by this chapter is a continuing fund.

Sec. 29. (a) To finance activities authorized under this chapter, the development authority may apply for and accept advances, short term and long term loans, grants, contributions, and any other form of financial assistance from the federal government, or from any of its agencies. The development authority may also enter into and carry out contracts and agreements in connection with that financial assistance upon the terms and conditions that the development authority considers reasonable and appropriate, if those terms and conditions are not inconsistent with the purposes of this chapter. The provisions of a contract or an agreement in regard to the handling, deposit, and application of project funds, as well as all other provisions, are valid and binding on the development authority, notwithstanding any other provision of this chapter.

(b) The development authority may issue and sell bonds, notes, or warrants to the federal government to evidence short term or long term loans made under this section, without notice of sale being given or a public offering being made.

(c) Notwithstanding the provisions of this chapter or any other law, the bonds, notes, or warrants issued by the development authority under this section may:

(1) be in the amounts, form, or denomination;

(2) be either coupon or registered;

(3) carry conversion or other privileges;

(4) have a rank or priority;

(5) be of such description;

(6) be secured, subject to other provisions of this section, in such manner;

(7) bear interest at a rate or rates;

(8) be payable as to both principal and interest in a medium of payment, at time or times, which may be upon demand, and at a place or places;

(9) be subject to terms of redemption, with or without premium;

(10) contain or be subject to any covenants, conditions, and provisions; and

(11) have any other characteristics;

that the development authority considers reasonable and appropriate.

(d) Bonds, notes, or warrants issued under this section are not an indebtedness of a unit or taxing district within the meaning of any constitutional or statutory limitation of indebtedness. The bonds, notes, or warrants are not payable from or secured by a levy of taxes, but are payable only from and secured only by any combination of:

(1) income;

(2) funds;

(3) properties of the project becoming available to the development authority under this chapter; or

(4) any other legally available revenues of the development authority;

as the development authority specifies in the resolution authorizing their issuance.

(e) Bonds, notes, or warrants issued under this section are exempt from taxation for all purposes.

(f) Bonds, notes, or warrants issued under this section must be executed by the appropriate officers of a development authority and must be attested by the appropriate officers of a development authority.

(g) Following the adoption of the resolution authorizing the issuance of bonds, notes, or warrants under this section, the development authority shall certify a copy of that resolution to the officers who have duties with respect to bonds, notes, or warrants of the development authority. At the proper time, the development authority shall deliver to the officers the unexecuted bonds, notes, or warrants prepared for execution in accordance with the resolution.

(h) All bonds, notes, or warrants issued under this section shall be sold by the officers of a development authority who have duties with respect to the sale of bonds, notes, or warrants of the development authority. If an officer whose signature appears on any bonds, notes, or warrants issued under this section leaves office before their delivery, the signature remains valid and sufficient for all purposes as if the officer had remained in office until the delivery.

(i) If at any time during the life of a loan contract or agreement under this section the development authority may obtain loans for the purposes of this section from sources other than the federal government at interest rates not less favorable than provided in the loan contract or agreement, and if the loan contract or agreement allows, the development authority may do so and may pledge the loan contract and any rights under the contract as security for the repayment of the loans obtained from other sources. A loan under this subsection may be evidenced by bonds, notes, or warrants issued and secured in the same manner as provided in this section for loans from the federal government. The bonds, notes, or warrants may be sold at either public or private sale, as the development authority considers appropriate.

(j) Money obtained from the federal government or from other sources under this section, and money that is required by a contract or an agreement under this section to be used for project expenditure purposes, repayment of survey and planning advances, or repayment of temporary or definitive loans, may be expended by the development authority without regard to any law concerning the making and approval of budgets, appropriations, and expenditures.

(k) Bonds, notes, or warrants issued under this section are declared to be issued for an essential public and governmental purpose.

Sec. 30. (a) The following definitions apply throughout this section:

(1) "Allocation area" means that part of a military base development area to which an allocation provision of a declaratory resolution adopted under section 16 of this chapter refers for purposes of distribution and allocation of property taxes.

(2) "Base assessed value" means:

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

(B) to the extent that it is not included in clause (A) or (C), the net assessed value of any and all parcels or classes of parcels identified as part of the base assessed value in the declaratory resolution or an amendment to the declaratory resolution, as finally determined for any subsequent assessment date; plus

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

(3) "Property taxes" means taxes imposed under IC 6-1.1 on real property.

(b) A declaratory resolution adopted under section 16 of this chapter before the date set forth in IC 36-7-14-39(b) pertaining to declaratory resolutions adopted under IC 36-7-14-15 may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A declaratory resolution previously adopted may include an allocation provision by the amendment of that declaratory resolution in accordance with the procedures set forth in section 18 of this chapter. The allocation provision may apply to all or part of the military base development area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

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

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

(B) the base assessed value;

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

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

(A) Pay the principal of and interest and redemption premium on any obligations incurred by the development authority or any other entity for the purpose of financing or refinancing military base development or reuse activities in or directly serving or benefitting that allocation area.

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

other revenues of the development authority, including lease rental revenues.

(C) Make payments on leases payable solely or in part from allocated tax proceeds in that allocation area.

(D) Reimburse any other governmental body for expenditures made for local public improvements (or structures) in or directly serving or benefitting that allocation area.

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

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

STEP TWO: Divide:

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

(ii) the STEP ONE sum.

STEP THREE: Multiply:

(i) the STEP TWO quotient; by

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

If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under section 32 of this chapter in the same year.

(F) Pay expenses incurred by the development authority for local public improvements or structures that were in the allocation area or directly serving or benefitting the allocation area.

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

(i) in the allocation area; and

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

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

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

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

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

(B) Notify the appropriate county auditor of the amount, if any, of the amount of excess property taxes that the development authority has determined may be paid to the respective taxing units in the manner prescribed in subdivision (1). The development authority may not authorize a payment to the respective taxing units under this subdivision if to do so would endanger the interest of the holders of bonds described in subdivision (2) or lessors under section 24 of this chapter. Property taxes received by a taxing unit under this subdivision are eligible for the property tax replacement credit provided under IC 6-1.1-21.

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

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

(2) the base assessed value.

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

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

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

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

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the development authority shall create funds as specified in this subsection. A

development authority that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. The development authority shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund any amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. The amount sufficient for purposes specified in subsection (b)(2) for the year shall be determined based on the pro rata part of such current property tax proceeds from the part of the enterprise zone that is within the allocation area as compared to all such current property tax proceeds derived from the allocation area. A development authority that does not have obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) that are derived from property in the enterprise zone in the fund. The development authority that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or for other purposes specified in subsection (b)(2), except that where reference is made in subsection (b)(2) to an allocation area it shall refer for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone. The programs shall reserve at least one-half (1/2) of their enrollment in any session for residents of the enterprise zone.

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

Sec. 31. (a) As used in this section, "depreciable personal property" refers to:

(1) all or any part of the designated taxpayer's depreciable personal property that is located in the allocation area; and

(2) all or any part of the other depreciable property located and taxable on the designated taxpayer's site of operations within the allocation area;

that is designated as depreciable personal property for purposes of this section by the development authority in a declaratory resolution adopted or amended under section 16 or 18 of this chapter.

(b) As used in this section, "designated taxpayer" means a taxpayer designated by the development authority in a declaratory resolution adopted or amended under section 16 or 18 of this chapter, and with respect to which the development authority finds that taxes to be derived from the depreciable personal property in the allocation area, in excess of the taxes attributable to the base assessed value of the personal property, are needed to pay debt service or provide security for bonds issued or to be issued under section 23 of this chapter or make payments or provide security on leases payable or to be payable under section 24 of this chapter in order to provide local public improvements or structures for a particular allocation area.

(c) The allocation provision of a declaratory resolution may modify the definition of "property taxes" under section 30(a) of this chapter to include taxes imposed under IC 6-1.1 on the depreciable personal property located and taxable on the site of operations of the designated taxpayers in accordance with the procedures and limitations set forth in this section and section 30 of this chapter. If a modification is included in the resolution, for purposes of section 30 of this chapter, the term "base assessed value" with respect to the depreciable personal property means the net assessed value of all the depreciable personal property as finally determined for the assessment date immediately preceding the adoption date of the modification, as adjusted under section 30(b) of this chapter.

Sec. 32. (a) As used in this section, "allocation area" has the meaning set forth in section 30 of this chapter.

(b) As used in this section, "taxing district" has the meaning set forth in IC 6-1.1-1-20.

(c) Subject to subsection (e) and except a provided in subsection (h), each taxpayer in an allocation area is entitled to an additional credit for taxes (as defined in IC 6-1.1-21-2) that under IC 6-1.1-22-9 are due and payable in May and November of that year. Except as provided in subsection (h), one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2). This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district that contains all or part of the allocation area:

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

STEP TWO: Divide:

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

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that would

have been allocated to an allocation fund under section 30 of this chapter had the additional credit described in this section not been given.

The additional credit reduces the amount of proceeds allocated to the military base development district and paid into an allocation fund under section 30(b)(2) of this chapter.

(d) If the additional credit under subsection (c) is not reduced under subsection (e) or (f), the credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (c) shall be computed on an aggregate basis for all taxpayers in a taxing district that contains all or part of an allocation area. The credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (c) shall be combined on the tax statements sent to each taxpayer.

(e) Upon the recommendation of the development authority, the municipal legislative body of an affected municipality or the county executive of an affected county may by resolution provide that the additional credit described in subsection (c):

(1) does not apply in a specified allocation area; or

(2) is to be reduced by a uniform percentage for all taxpayers in a specified allocation area.

(f) If the municipal legislative body or county executive determines that granting the full additional credit under subsection (c) would adversely affect the interests of the holders of bonds or other contractual obligations that are payable from allocated tax proceeds in that allocation area in a way that would create a reasonable expectation that those bonds or other contractual obligations would not be paid when due, the municipal legislative body or county executive must adopt a resolution under subsection (e) to deny the additional credit or reduce the credit to a level that creates a reasonable expectation that the bonds or other obligations will be paid when due. A resolution adopted under subsection (e) denies or reduces the additional credit for property taxes first due and payable in the allocation area in any year following the year in which the resolution is adopted.

(g) A resolution adopted under subsection (e) remains in effect until rescinded by the body that originally adopted the resolution. However, a resolution may not be rescinded if the rescission would adversely affect the interests of the holders of bonds or other obligations that are payable from allocated tax proceeds in that allocation area in a way that would create a reasonable expectation that the principal of or interest on the bonds or other obligations would not be paid when due. If a resolution is rescinded and no other resolution is adopted, the additional credit described in subsection (c) applies to property taxes first due and payable in the allocation area in each year following the year in which the resolution is rescinded.

(h) This subsection applies to an allocation area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (c) for the taxes (as defined in IC 6-1.1-21-2) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2).

Sec. 33. Notwithstanding any other law, utility services provided within the military base development district are subject to regulation by the appropriate regulatory agencies unless the utility service is provided by a utility that provides utility service solely within the geographic boundaries of an existing or a closed military installation by a utility facility in existence and operating on July 1, 1995, in which case the utility service is not subject to regulation for purposes of rate making, regulation, service delivery, or issuance of bonds or other forms of indebtedness. However, this exemption from regulation does not apply to utility service if the service is generated, treated, or produced outside the boundaries of the existing or closed military installation.

Sec. 34. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

(1) Assessed value.

(2) Owner.

(3) Person.

(4) Personal property.

(5) Property taxation.

(6) Tangible property.

(7) Township assessor.

(b) As used in this section, "PILOTS" means payments in lieu of taxes.

(c) The general assembly finds the following:

(1) That the closing of a military base in a unit results in an increased cost to the unit of providing governmental services to the area formerly occupied by the military base.

(2) That military base property held by a development authority is exempt from property taxation, resulting in the lack of an adequate tax base to support the increased governmental services.

(3) That to restore this tax base and provide a proper allocation of the cost of providing governmental services the fiscal body of the unit should be authorized to collect PILOTS from the development authority.

(4) That the appropriate maximum PILOTS would be the amount of the property taxes that would be paid if the tangible property were not exempt.

(d) The fiscal body of the unit may adopt an ordinance to require a development authority to pay PILOTS at times set forth in the ordinance with respect to tangible property of which the development authority is the owner or the lessee and that is exempt from property taxes. The ordinance remains in full force and effect until repealed or modified by the fiscal body.

(e) The PILOTS must be calculated so that the PILOTS do not exceed the amount of property taxes that would have been

levied by the fiscal body for the unit upon the tangible property described in subsection (d) if the property were not exempt from property taxation.

(f) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the tangible property described in subsection (d). The township assessors shall assess the tangible property described in subsection (d) as though the property were not exempt. The development authority shall report the value of personal property in a manner consistent with IC 6-1.1-3.

(g) Notwithstanding any other law, a development authority is authorized to pay PILOTS imposed under this section from any legally available source of revenues. The development authority may consider these payments to be operating expenses for all purposes.

(h) PILOTS shall be deposited in the general fund of the unit and used for any purpose for which the general fund may be used.

(i) PILOTS shall be due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS shall be treated in the same manner as property taxes for purposes of all procedural and substantive provisions of law.

Sec. 35. (a) Notwithstanding any other law, a development authority may:

(1) impose conditions on the development of any property in a development area; and

(2) require the payment of development fees or other fees by private persons to pay, defray, or mitigate the costs of the construction, operation, and maintenance of infrastructure that is required or needed to serve the development, redevelopment, and reuse of property within the development area.

(b) Before a development authority may impose conditions under subsection (a)(1), the development authority shall adopt a written resolution finding that the conditions to be imposed are:

(1) necessary to carry out at least one (1) of the purposes of this chapter; and

(2) reasonably related in nature and extent to the impact upon the development, redevelopment, and reuse of the property upon which the conditions are imposed.

(c) Before a development authority may impose fees under subsection (a)(2), the development authority shall adopt a written resolution finding that:

(1) the infrastructure for which the fees are to be imposed is necessary to carry out at least one (1) of the purposes of this chapter and is required or needed to serve the development, redevelopment, and reuse of the property within the development area; and

(2) the fees to be imposed are reasonably related in nature and extent to the impact upon the infrastructure attributable to the development, redevelopment, and reuse of the property within the development area upon which the fees are imposed.

(d) Conditions imposed under subsection (a)(1) must be approved by the plan commission of the unit or other body responsible for developing a general plan for the unit. To approve the conditions, the plan commission or other body shall adopt a written resolution making the same findings required to be made by the development authority under subsection (b).

(e) Fees imposed under subsection (a)(2) must be deposited in the appropriate fund of the unit responsible for constructing, operating, and maintaining the particular infrastructure for which the fee has been imposed.

Sec. 36. A person who knowingly:

(1) applies any money raised under this chapter to any purpose other than those permitted by this chapter; or

(2) fails to follow the voucher and warrant procedure prescribed by this chapter in expending any money raised under this chapter;

commits a Class C felony.

SECTION 12. IC 36-7-32-10, AS AMENDED BY P.L.4-2005, SECTION 143, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. **(a)** A unit may apply to the Indiana economic development corporation for designation of all or part of the territory within the jurisdiction of the unit's redevelopment commission as a certified technology park and to enter into an agreement governing the terms and conditions of the designation. The application must be in a form specified by the Indiana economic development corporation and must include information the corporation determines necessary to make the determinations required under section 11 of this chapter.

(b) This subsection applies only to a unit in which a certified technology park designated before January 1, 2005, is located. A unit may apply to the Indiana economic development corporation for permission to expand the unit's certified technology park to include territory that is adjacent to the unit's certified technology park but located in another county. The corporation shall grant the unit permission to expand the certified technology park if the unit and the redevelopment commission having jurisdiction over the adjacent territory approve the proposed expansion in a resolution. A certified copy of each resolution approving the proposed expansion must be attached to the application submitted under this subsection.

SECTION 13. IC 36-7-32-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. (a) Each redevelopment commission that establishes a certified technology park under this chapter shall establish a certified technology park fund to receive:

(1) property tax proceeds allocated under section 17 of this chapter; and

(2) money distributed to the redevelopment commission under section 22 of this chapter.

(b) Money deposited in the certified technology park fund may be used by the redevelopment commission only for one (1) or more of the following purposes:

(1) Acquisition, improvement, preparation, demolition, disposal, construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair,

furnishing, and equipping of public facilities.

(2) Operation of public facilities described in section 9(2) of this chapter.

(3) Payment of the principal of and interest on any obligations that are payable solely or in part from money deposited in the fund and that are incurred by the redevelopment commission for the purpose of financing or refinancing the development of public facilities in the certified technology park.

(4) Establishment, augmentation, or restoration of the debt service reserve for obligations described in subdivision (3).

(5) Payment of the principal of and interest on bonds issued by the unit to pay for public facilities in or serving the certified technology park.

(6) Payment of premiums on the redemption before maturity of bonds described in subdivision (3).

(7) Payment of amounts due under leases payable from money deposited in the fund.

(8) Reimbursement to the unit for expenditures made by it for public facilities in or serving the certified technology park.

(9) Payment of expenses incurred by the redevelopment commission for public facilities that are in the certified technology park or serving the certified technology park.

(10) For any purpose authorized by an agreement between redevelopment commissions entered into under section 26 of this section.

(c) The certified technology park fund may not be used for operating expenses of the redevelopment commission.

SECTION 14. IC 36-7-32-26 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 26. (a) Two (2) or more redevelopment commissions may enter into a written agreement under this section to jointly undertake economic development projects in the certified technology parks established by the redevelopment commissions that are parties to the agreement.**

(b) A party to an agreement under this section may do one (1) or more of the following:

(1) Except as provided in subsection (c), grant one (1) or more of its powers to another party to the agreement.

(2) Exercise any power granted to it by a party to the agreement.

(3) Pledge any of its revenues, including taxes or allocated taxes under section 17 of this chapter, to the bonds or lease rental obligations of another party to the agreement under IC 5-1-14-4.

(c) A redevelopment commission may not grant to another redevelopment commission the power to tax or to establish an allocation area under this chapter.

(d) An action to challenge the validity of an agreement under this section must be brought not more than thirty (30) days after the agreement has been approved by all the parties to the agreement. After that period has passed, the agreement is not contestable for any cause.

SECTION 15. IC 36-7-32-27 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 27. An agreement described in section 26 of this chapter must provide for the following:**

(1) The duration of the agreement.

(2) The purpose of the agreement.

(3) The manner of financing, staffing, and supplying the joint undertaking and of establishing and maintaining a budget for the joint undertaking.

(4) The methods that may be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon partial or complete termination of the agreement.

(5) The manner of acquiring, holding, and disposing of real and personal property used in the joint undertaking.

(6) Any other appropriate matters.

SECTION 16. IC 36-7-34 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]:

Chapter 34. Qualified Military Base Enhancement Area

Sec. 1. "Area" refers to a qualified military base enhancement area established by this chapter.

Sec. 2. As used in this chapter, "technology park" refers to a certified technology park established under IC 36-7-32.

Sec. 3. "Qualified military base" means a United States government military installation that:

(1) has an area of at least sixty thousand (60,000) acres; and

(2) is used for the design, construction, maintenance, and testing of electronic devices and ordnance.

Sec. 4. A qualified military base enhancement area is established for each technology park located within a radius of five (5) miles of a qualified military base. The geographic area of the qualified military base enhancement area is the geographic area of the technology park.

Sec. 5. The department of commerce shall do the following:

(1) Coordinate area development activities.

(2) Serve as a catalyst for area development.

(3) Promote each area to outside groups and individuals.

(4) Establish a formal line of communication with businesses in each area.

(5) Act as a liaison between businesses and local governments for any development activity that may affect each area.

(6) Act as a liaison between each area and residents of nearby communities.

SECTION 17. [EFFECTIVE JULY 1, 2005] **(a) The counties served by the Eastern Indiana Economic Development District comprise an area that:**

(1) is at a competitive disadvantage for economic development due to the area's rural character;

(2) faces unique challenges because the area borders another state;

(3) consistently ranks among the highest areas in unemployment in Indiana; and

(4) is served by an interstate highway and rail infrastructure that is well suited for the development of a proposed global commerce center.

(b) These special circumstances require legislation particular to the counties.

SECTION 18. [EFFECTIVE JANUARY 1, 2006] **(a) IC 6-2.5-4-5, as amended by this act, applies to services or commodities sold after December 31, 2005, to a business located in a qualified military base enhancement area established under IC 36-7-34, as added by this act.**

(b) IC 6-3-2-1.5, as amended by this act, applies to taxable years beginning after December 31, 2005.

(c) IC 6-3.1-11.6-2 and IC 6-3.1-11.6-9, both as amended by this act, apply to taxable years beginning after December 31, 2005.

SECTION 19. [EFFECTIVE JULY 1, 2005] **(a) The department of environmental management shall give priority to permit applications that concern:**

(1) current or former United States government military bases or other military installations; and

(2) the destruction, reclamation, recycling, reprocessing, or demilitarization of ordnance and other explosive materials.

(b) This SECTION expires July 1, 2008.

SECTION 20. **An emergency is declared for this act.**

(Reference is to ESB 571 as printed April 1, 2005.)

Ford, Chair	Koch
Simpson	Crooks
Senate Conferees	House Conferees

Roll Call 531: yeas 48, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 574–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 574 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-9-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The revenue received by the county treasurer under this chapter shall be allocated to the Lake County convention and visitor bureau, Indiana University-Northwest, Purdue University-Calumet, municipal public safety departments, municipal physical and economic development divisions, and the cities and towns in the county as provided in this section. Subsections (b) through (g) do not apply to the distribution of revenue received under section 1 of this chapter from hotels, motels, inns, tourist camps, tourist cabins, and other lodgings or accommodations built or refurbished after June 30, 1993, that are located in the largest city of the county.

(b) The Lake County convention and visitor bureau shall establish a convention, tourism, and visitor promotion fund **(referred to in this chapter as the "promotion fund").** The county treasurer shall transfer to the Lake County convention and visitor bureau for deposit in ~~this~~ **the promotion** fund thirty-five percent (35%) of the first one million two hundred thousand dollars ($1,200,000) of revenue received **from the tax imposed** under this chapter in each year. **The promotion fund consists of:**

(1) money in the promotion fund on June 30, 2005;

(2) revenue deposited in the promotion fund under this subsection after June 30, 2005; and

(3) investment income earned on the promotion fund's assets.

Money in ~~this~~ **the promotion** fund may be expended only to promote and encourage conventions, trade shows, special events, recreation, and visitors within the county. Money may be paid from the **promotion** fund by claim in the same manner as municipalities may pay claims under IC 5-11-10-1.6.

(c) This subsection applies to the first one million two hundred thousand dollars ($1,200,000) of revenue received **from the tax imposed** under this chapter in each year. During each year, the county treasurer shall transfer to Indiana University-Northwest forty-four and thirty-three hundredths percent (44.33%) of the revenue received under this chapter for that year to be used as follows:

(1) Seventy-five percent (75%) of the revenue received under this subsection may be used only for the university's medical education programs.

(2) Twenty-five percent (25%) of the revenue received under this subsection may be used only for the university's allied health education programs.

The amount for each year shall be transferred in four (4) approximately equal quarterly installments.

(d) This subsection applies to the first one million two hundred thousand dollars ($1,200,000) of revenue received **from the tax imposed** under this chapter in each year. During each year, the county treasurer shall allocate among the cities and towns throughout the county nine percent (9%) of the revenue received under this chapter for that year. The amount of each city's or town's allocation is as follows:

(1) Ten percent (10%) of the revenue covered by this subsection shall be transferred to cities having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).

(2) Ten percent (10%) of the revenue covered by this subsection shall be transferred to cities having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(3) Ten percent (10%) of the revenue covered by this subsection shall be transferred to cities having a population of more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800).

(4) Five percent (5%) of the revenue covered by this subsection shall be transferred to each town and each city not receiving a transfer under subdivisions (1) through (3).

The money transferred under this subsection may be used only for economic development projects. The county treasurer shall make

the transfers on or before December 1 of each year.

(e) This subsection applies to the first one million two hundred thousand dollars ($1,200,000) of revenue received **from the tax imposed** under this chapter in each year. During each year, the county treasurer shall transfer to Purdue University-Calumet nine percent (9%) of the revenue received under this chapter for that year. The money received by Purdue University-Calumet may be used by the university only for nursing education programs.

(f) This subsection applies to the first one million two hundred thousand dollars ($1,200,000) of revenue received **from the tax imposed** under this chapter in each year. During each year, the county treasurer shall transfer two and sixty-seven hundredths percent (2.67%) of the revenue received under this chapter for that year to the following cities:

(1) Fifty percent (50%) of the revenue covered by this subsection shall be transferred to cities having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).

(2) Fifty percent (50%) of the revenue covered by this subsection shall be transferred to cities having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

Money transferred under this subsection may be used only for convention facilities located within the city. In addition, the money may be used only for facility marketing, sales, and public relations programs. Money transferred under this subsection may not be used for salaries, facility operating costs, or capital expenditures related to the convention facilities. The county treasurer shall make the transfers on or before December 1 of each year.

(g) This subsection applies to the revenue received **from the tax imposed** under this chapter in each year that exceeds one million two hundred thousand dollars ($1,200,000). During each year, the county treasurer shall distribute money in the **promotion** fund as follows:

(1) Eighty-five percent (85%) of the revenue covered by this subsection shall be deposited in the convention, tourism, and visitor promotion fund. The money deposited in the fund under this subdivision may be used only for the purposes for which other money in the fund may be used.

(2) Five percent (5%) of the revenue covered by this subsection shall be transferred to Purdue University-Calumet. The money received by Purdue University-Calumet under this subdivision may be used by the university only for nursing education programs.

(3) Five percent (5%) of the revenue covered by this subsection shall be transferred to Indiana University-Northwest. The money received by Indiana University-Northwest under this subdivision may be used only for the university's medical education programs.

(4) Five percent (5%) of the revenue covered by this subsection shall be transferred to Indiana University-Northwest. The money received by Indiana University-Northwest under this subdivision may be used only for the university's allied health education programs.

(h) The county treasurer may estimate the amount that will be received under this chapter for the year to determine the amount to be transferred under this section.

(i) This subsection applies only to the distribution of revenue received **from the tax imposed** under section 1 of this chapter from hotels, motels, inns, tourist camps, tourist cabins, and other lodgings or accommodations built or refurbished after June 30, 1993, that are located in the largest city of the county. During each year, the county treasurer shall transfer:

(1) seventy-five percent (75%) of the revenues under this subsection to the department of public safety; and

(2) twenty-five percent (25%) of the revenues under this subsection to the division of physical and economic development;

of the largest city of the county.

(j) The Lake County convention and visitor bureau shall assist the county treasurer, as needed, with the calculation of the amounts that must be deposited and transferred under this section.

SECTION 2. IC 6-9-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) For purposes of this section, the size of a political subdivision is based on the population determined in the last federal decennial census.

(b) A convention and visitor bureau having fifteen (15) members is created to promote the development and growth of the convention, tourism, and visitor industry in the county.

(c) The executives (as defined by IC 36-1-2-5) of the eight (8) largest municipalities (as defined by IC 36-1-2-11) in the county shall each appoint one (1) member to the bureau. The legislative body (as defined in IC 36-1-2-9) of the two (2) largest municipalities in the county shall each appoint one (1) member to the bureau.

(d) The county council shall appoint two (2) members to the bureau. One (1) of the appointees must be a resident of the largest township in the county, and one (1) of the appointees must be a resident of the second largest township in the county.

(e) The county commissioners shall appoint two (2) members to the bureau. Each appointee must be a resident of the fifth, sixth, seventh, eighth, ninth, tenth, or eleventh largest township in the county. These appointees must be residents of different townships.

(f) The lieutenant governor shall appoint one (1) member to the bureau.

(g) One (1) of the appointees under subsection (d) and one (1) of the appointees under subsection (e) must be members of the political party that received the highest number of votes in the county in the last preceding election for the office of secretary of state. One (1) of the appointees under subsection (d) and one (1) of the appointees under subsection (e) must be members of the political party that received the second highest number of votes in the county in the election for that office. No appointee under this section may hold an elected or appointed political office while he serves on the bureau.

(h) In making appointments under this section, the appointing authority shall give sole consideration to individuals who shall be knowledgeable and interested in at least one (1) of the following businesses in the county:

(1) Hotel.
(2) Motel.
(3) Restaurant.
(4) Travel.
(5) Transportation.
(6) Convention.
(7) Trade show.

(i) All terms of office of bureau members begin on July 1. ~~Initial appointments of the county council are for one (1) year terms; initial appointments of the county commissioners are for two (2) year terms; initial appointments of the municipal executives and legislative bodies are for three (3) year terms, with all subsequent appointments for three (3) year terms. All appointments of the lieutenant governor are for three (3) year terms.~~ **Members of the bureau serve terms of three (3) years.** A member whose term expires may be reappointed to serve another term. If a vacancy occurs, the appointing authority shall appoint a qualified person to serve for the remainder of the term. If an appointment is not made before July 16 or a vacancy is not filled within thirty (30) days, the member appointed by the lieutenant governor under subsection (f) shall appoint a qualified person.

(j) A member of the bureau may be removed for cause by ~~his~~ **the member's** appointing authority.

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

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

(m) The bureau shall meet after July 1 each year for the purpose of organization. The bureau shall elect a chairman from its members. The bureau shall also elect from its members a vice chairman, a secretary, and a treasurer. The members serving in those offices shall perform the duties pertaining to the offices. The first officers chosen shall serve until their successors are elected and qualified. A majority of the bureau constitutes a quorum, and the concurrence of a majority of those present is necessary to authorize any action.

(n) If the county and one (1) or more adjoining counties desire to establish a joint bureau, the counties shall enter into an agreement under IC 36-1-7. In the absence of such an agreement, the bureau may not expend funds to promote activities in any other county.

SECTION 3. IC 6-9-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The bureau may:

(1) accept and use gifts, grants, and contributions from any public or private source, under terms and conditions that the bureau considers necessary and desirable;
(2) sue and be sued;
(3) enter into contracts and agreements;
(4) make rules necessary for the conduct of its business and the accomplishment of its purposes;
(5) receive and approve, alter, or reject requests and proposals for funding by corporations qualified under subdivision (6);
(6) after its approval of a proposal, transfer money from the **promotion** fund ~~established under section 2 of this chapter~~ **or from the alternate revenue fund** to any Indiana ~~not-for-profit~~ **nonprofit** corporation to promote and encourage conventions, trade shows, visitors, or special events in the county;
(7) require financial or other reports from any corporation that receives funds under this chapter;
(8) enter into leases under IC 36-1-10 for the construction, acquisition, and equipping of a visitor center; and
(9) exercise the power of eminent domain to acquire property to promote and encourage conventions, trade shows, special events, recreation, and visitors within the county.

(b) All expenses of the bureau shall be paid from the **promotion** fund. ~~established under section 2 of this chapter.~~ **Before September 1 of each year,** the bureau shall ~~annually~~ prepare a budget **for expenditures from the promotion fund during the following year,** taking into consideration the recommendations made by a corporation qualified under subsection (a)(6). ~~and submit it to the county council for its review and approval. After its approval of the budget, the county council shall make an appropriation from the fund in accordance with that budget.~~

(c) All money ~~coming into possession of the bureau~~ **in the promotion fund** shall be deposited, held, secured, invested, and paid in accordance with statutes relating to the handling of public funds. The handling and expenditure of money ~~coming into possession of the bureau~~ **in the promotion fund** is subject to audit and supervision by the state board of accounts.

SECTION 4. IC 6-9-2-4.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 4.3. (a) The Lake County convention and visitor bureau shall establish a convention, tourism, and visitor promotion alternate revenue fund (referred to in this chapter as the "alternate revenue fund"). The bureau may deposit in the alternate revenue fund all money received by the bureau after June 30, 2005, that is not required to be deposited in the promotion fund under section 2 of this chapter, including appropriations, gifts, grants, membership dues, and contributions from any public or private source.**

(b) The bureau may, without appropriation by the county council, expend money from the alternate revenue fund to promote and encourage conventions, trade shows, visitors, special events, sporting events, and exhibitions in the county. Money may be paid from the alternate revenue fund by claim in the same manner as municipalities may pay claims under IC 5-11-10-1.6.

(c) All money in the alternate revenue fund shall be deposited, held, secured, invested, and paid in accordance with statutes relating to the handling of public funds. The handling and expenditure of money in the alternate revenue fund is subject to audit and supervision by the state board of accounts.

(d) Money derived from the taxes imposed under IC 4-33-12 and IC 4-33-13 may not be transferred to the alternate revenue fund.

SECTION 5. IC 6-9-2-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. The bureau may enter into an agreement under which amounts deposited in, or to be deposited in, the ~~convention, tourism, and visitor~~ promotion fund ~~under section 2 of this chapter~~ **or the alternate revenue fund, or both,** are pledged to payment of obligations, including leases entered into under IC 36-1-10, issued to finance the construction, acquisition, and equipping of a visitor center to promote and encourage conventions, trade shows, special events, recreation, and visitors within the county.

SECTION 6. IC 6-9-2-4.9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.9. With respect to:

(1) bonds, leases, or other obligations to which the bureau has pledged revenues under this chapter; and

(2) bonds issued by a lessor that are payable from lease rentals;

the general assembly covenants with the bureau and the purchasers or owners of the bonds or other obligations described in this section that this chapter will not be repealed or amended in any manner that will adversely affect the collection of the tax imposed under this chapter or the money deposited in the ~~convention, tourism, and visitor~~ promotion fund **or the alternate revenue fund** as long as the principal of or interest on any bonds, or the lease rentals due under any lease, are unpaid.

SECTION 7. IC 6-9-2-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10. Employees of the convention and visitor bureau created by section 3 of this chapter may participate in the group health insurance, disability insurance, and life insurance programs established:**

(1) by the county government of the county described in section 1 of this chapter; and

(2) for the employees of the convention and visitor bureau.

SECTION 8. IC 6-9-2.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2005]: Sec. 7. (a) The county treasurer shall establish a convention and visitor promotion fund.

(b) The county treasurer shall deposit ~~the following~~ in the convention and visitor promotion fund

~~(1) Before January 1, 2000:~~

~~(A) All of the money received under section 6 of this chapter, if the rate set under section 6 of this chapter is not greater than two percent (2%).~~

~~(B) The amount of money received under section 6 of this chapter that is generated by a two percent (2%) rate, if the rate set under section 6 of this chapter is at least two percent (2%).~~

~~(2) After December 31, 1999, and before January 1, 2003, the amount of money received under section 6 of this chapter that is generated by a two percent (2%) rate.~~

~~(3) After December 31, 2002,~~ the amount of money received under section 6 of this chapter that is generated by a two and one-half percent (2.5%) rate.

(c) Money in this fund shall be expended only as provided in this chapter.

(d) The commission may transfer money in the convention and visitor promotion fund to any Indiana nonprofit corporation for the purpose of promotion and encouragement in the county of conventions, trade shows, visitors, or special events. The commission may transfer money under this section only after approving the transfer. Transfers shall be made quarterly or less frequently under this section.

SECTION 9. IC 6-9-2.5-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.5. (a) The county treasurer shall establish a tourism capital improvement fund.

(b) The county treasurer shall deposit money in the tourism capital improvement fund as follows:

(1) Before January 1, 2000, if the rate set under section 6 of this chapter is greater than two percent (2%), the county treasurer shall deposit in the tourism capital improvement fund an amount equal to the money received under section 6 of this chapter minus the amount generated by a two percent (2%) rate.

(2) After December 31, 1999, and before January 1, 2003, the county treasurer shall deposit in the tourism capital improvement fund the amount of money received under section 6 of this chapter that is generated by a one percent (1%) rate.

(3) After December 31, 2002, and before January 1, ~~2006,~~ **2010,** the county treasurer shall deposit in the tourism capital improvement fund the amount of money received under section 6 of this chapter that is generated by a one and one-half percent (1.5%) rate.

(4) After December 31, ~~2005,~~ **2009,** the county treasurer shall deposit in the tourism capital improvement fund the amount of money received under section 6 of this chapter that is generated by a ~~three~~ **two** and one-half percent ~~(3.5%)~~ **(2.5%)** rate.

(c) The commission may transfer money in the tourism capital improvement fund to:

(1) the county government, a city government, or a separate body corporate and politic in a county described in section 1 of this chapter; or

(2) any Indiana nonprofit corporation;

for the purpose of making capital improvements in the county that promote conventions, tourism, or recreation. The commission may transfer money under this section only after approving the transfer. Transfers shall be made quarterly or less frequently under this section.

SECTION 10. IC 6-9-2.5-7.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.7. (a) The county treasurer shall establish a convention center operating fund.

(b) **Before January 1, 2010,** the county treasurer shall deposit in the convention center operating fund the amount of money received under section 6 of this chapter that is generated by a two percent (2%) rate. Money in the fund must be expended for the operating expenses of a convention center.

~~(c) This section expires January 1, 2006.~~

(c) After December 31, 2009, the county treasurer shall deposit in the convention center operating fund the amount of money received under section 6 of this chapter that is generated by a one percent (1%) rate. Money in the fund must be expended for the operating expenses of a convention center with the unused balance transferred on January 1 of each year to the tourism capital improvement fund.

SECTION 11. [EFFECTIVE UPON PASSAGE] **Actions taken before the effective date of this act that would have been valid under IC 6-9-2-10, as added by this act, are legalized and validated.**

SECTION 12. **An emergency is declared for this act.**

(Reference is to ESB 574 as reprinted April 7, 2005.)

Server, Chair	Becker
Lutz	Avery
Senate Conferees	House Conferees

Roll Call 532: yeas 48, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 578–1

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

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

Delete everything after the enacting clause and insert the following:

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

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

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

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

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

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

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

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

(4) broadband development projects.

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

(1) A pollution control facility.

(2) A manufacturing enterprise.

(3) A business service enterprise involved in:

(A) computer and data processing services; or

(B) commercial testing services.

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

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

(6) An agricultural enterprise in which:

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

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

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

(8) A recycling market development project.

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

(10) A broadband development project.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) gainful employment;

(B) business opportunities;

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

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

(E) the provision of safe drinking water;

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

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

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

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

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

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

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

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

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

(4) preventing and remediating environmental pollution, including water pollution, air pollution, sewage and solid

waste disposal, radioactive waste, thermal pollution, radiation contamination, and noise pollution affecting the health and well-being of the people of the state by:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

to exercise all rights and perform all duties of the authority.

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

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

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

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

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

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

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

(1) a member of the authority;

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

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

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

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

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

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

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

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

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

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

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

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

(1) An inventory of existing debt.

(2) Projections of future debt obligations.

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

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

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

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

(7) Recommended policies for the investment of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) Enter into agreements with any department, agency, or instrumentality of the United States or this state and with lenders and enter into loan agreements, sales contracts, and leases with contracting parties, including **participants (as defined in IC 13-11-2-151.1) for any purpose permitted under IC 13-18-13 or IC 13-18-21,** borrowers, lenders, developers, or users, for the purpose of planning, regulating, and providing for the financing and refinancing of any agricultural enterprise (as defined in IC 15-7-4.9-2), rural development project (as defined in IC 15-7-4.9-19.5),

industrial development project, **purpose permitted under IC 13-18-13 and IC 13-18-21,** or international exports, and distribute data and information concerning the encouragement and improvement of agricultural enterprises and agricultural employment, rural development projects, industrial development projects, international exports, and other types of employment in the state undertaken with the assistance of the authority under this chapter.

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

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

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

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

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

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

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

(C) proceeds of bonds or notes;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(33) Purchase, discount, sell, and negotiate, with or without guaranty, notes and other evidences of indebtedness.

(34) Sell and guarantee securities.

(35) Make guaranteed participating loans under IC 4-4-21-26.

(36) Procure insurance to guarantee, insure, coinsure, and reinsure against political and commercial risk of loss, and any other insurance the authority considers necessary, including insurance to secure the payment of principal and interest on notes or other obligations of the authority.

(37) Provide performance bond guarantees to support eligible export loan transactions, subject to the terms of ~~this chapter or IC 4-4-21.~~ **the affected statutes.**

(38) Provide financial counseling services to Indiana exporters.

(39) Accept gifts, grants, or loans from, and enter into contracts or other transactions with, any federal or state agency, municipality, private organization, or other source.

(40) Sell, convey, lease, exchange, transfer, or otherwise dispose of property or any interest in property, wherever the property is located.

(41) Cooperate with other public and private organizations to promote export trade activities in Indiana.

(42) Make guarantees and administer the agricultural loan and rural development project guarantee fund established by IC 15-7-5.

(43) Take assignments of notes and mortgages and security agreements securing notes and other forms of security, and attach, seize, or take title by foreclosure or conveyance to any agricultural enterprise or rural development project when a guaranteed loan to the enterprise or rural development project is clearly in default and when in the opinion of the authority the acquisition is necessary to safeguard the agricultural loan and rural development project guarantee fund, and sell, or on a temporary basis, lease or rent the agricultural enterprise or rural development project for any use.

(44) Expend money, as the authority considers appropriate, from the agricultural loan and rural development project guarantee fund created by IC 15-7-5-19.5.

(45) Reimburse from bond proceeds expenditures for industrial development projects under this chapter.

(46) Acquire, hold, use, and dispose of the authority's income, revenues, funds, and money.

(47) Purchase, acquire, or hold debt securities or other investments for the authority's own account at prices and in a manner the authority considers advisable, and sell or otherwise dispose of those securities or investments at prices without relation to cost and in a manner the authority considers advisable.

(48) Fix and establish terms and provisions with respect to:

(A) a purchase of securities by the authority, including dates and maturities of the securities;

(B) redemption or payment before maturity; and

(C) any other matters that in connection with the purchase are necessary, desirable, or advisable in the judgment of the authority.

(49) To the extent permitted under the authority's contracts with the holders of bonds or notes, amend, modify, and supplement any provision or term of:

(A) a bond, a note, or any other obligation of the authority; or

(B) any agreement or contract of any kind to which the authority is a party.

(50) Subject to the authority's investment policy, do any act and enter into any agreement pertaining to a swap agreement (as defined in IC 8-9.5-9-4) related to the purposes of the affected statutes in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7, whether the action is incidental to the issuance, carrying, or securing of bonds or otherwise.

~~(46)~~ **(51)** Do any act necessary or convenient to the exercise of the powers granted by ~~this chapter, IC 4-4-21, or IC 15-7-5,~~ **the affected statutes,** or reasonably implied from those statutes, including but not limited to compliance with requirements of federal law imposed from time to time for the issuance of bonds.

(b) The authority's powers under this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be construed as a limitation of powers. **The omission of a power from the list in subsection (a) does not imply that the authority lacks that power. The authority may exercise any power that is not listed in subsection (a) but is consistent with the powers listed in subsection (a) to the extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.**

(c) This chapter does not authorize the financing of industrial development projects for a developer unless any written agreement that may exist between the developer and the user at the time of the bond resolution is fully disclosed to and approved by the authority.

(d) The authority shall work with and assist the Indiana health and educational facility financing authority established by IC 5-1-16-2, the Indiana housing finance authority established by IC 5-20-1-3, the Indiana port commission established under IC 8-10-1, and the state fair commission established by IC 15-1.5-2-1 in the issuance of bonds, notes, or other indebtedness. The Indiana health and educational facility financing authority, the Indiana housing finance authority, the Indiana port commission, and the state fair commission shall work with and cooperate with the authority in connection with the issuance of bonds, notes, or other indebtedness.

SECTION 20. IC 4-4-11-15.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15.1. (a) The authority shall:

(1) **without complying with IC 4-22-2,** adopt

~~(A) rules under IC 4-22-2; or~~

~~(B)~~ a policy

establishing a code of ethics for its employees; or

(2) decide it wishes to be under the jurisdiction and rules adopted by the state ethics commission.

(b) A code of ethics adopted ~~by rule or policy~~ under this section must be consistent with state law and approved by the governor.

SECTION 21. IC 4-4-11-15.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 15.3. The authority may not:**

(1) deal in securities within the meaning of or subject to any securities law, securities exchange law, or securities dealers law of the United States of America or of the state or of any other state or jurisdiction, domestic or foreign, except as authorized in the affected statutes;

(2) emit bills of credit, or accept deposits of money for time or demand deposit, or administer trusts, or engage in any form or manner, or in the conduct of, any private or commercial banking business, or act as a savings bank or savings association, or any other kind of financial institution; or

(3) engage in any form of private or commercial banking business.

SECTION 22. IC 4-4-11-15.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 15.4. (a) The authority may issue bonds or notes and invest or loan the proceeds of those bonds or notes to a participant (as defined in IC 13-11-2-151.1) for the purposes of:**

(1) the wastewater revolving loan program established by IC 13-18-13-1; and

(2) the drinking water revolving loan program established by IC 13-18-21-1.

(b) If the authority loans money to or purchases debt securities of a political subdivision (as defined in IC 13-11-2-164(a) and IC 13-11-2-164(b)), the authority may, by the resolution approving the bonds or notes, provide that subsection (c) is applicable to the political subdivision.

(c) Notwithstanding any other law, to the extent that any department or agency of the state, including the treasurer of state, is the custodian of money payable to the political subdivision (other than for goods or services provided by the political subdivision), at any time after written notice to the department or agency head from the authority that the political subdivision is in default on the payment of principal or interest on the obligations then held or owned by or arising from an agreement with the authority, the department or agency shall withhold the payment of that money from that political subdivision and pay over the money to the authority for the purpose of paying principal of and interest on bonds or notes of the authority. However, the withholding of payment from the political subdivision and payment to the authority under this section must not adversely affect the validity of the obligation in default.

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

(1) Money appropriated by the general assembly.

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

(3) Money received from any other source.

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

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

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

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

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

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

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

(3) The repayment schedule.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 29. IC 4-4-11-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 38. The authority shall, following the close of each fiscal year, submit an annual report of its activities **under the affected statutes** for the preceding year to the governor, ~~Each member of the general assembly shall receive a copy of such report by making a request for it to the chairman of the authority.~~ **the budget committee, and the general assembly. A report submitted to the general assembly must be in an electronic format under IC 5-14-6.** Each report shall set forth a complete operating and financial statement for the authority during the fiscal year it covers.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Bonds issued by the IHFA.

(3) Bonds issued by the ISMEL.

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

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

(B) Division B - Mining;

(C) Division C - Construction;

(D) Division D - Manufacturing;

(E) Division E - Transportation; and

(F) Division F - Wholesale Trade;

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

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

(A) Division G - Retail Trade;

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

(C) Division I - Services;

(D) Division J - Public Administration; and

(E) Division K - Miscellaneous;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) procedure for filing carryforward elections.

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

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

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

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

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

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

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

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

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

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

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

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

(b) Not later than June 30 of each year, the ~~department of commerce~~ **Indiana housing finance authority** shall deposit into each account established under this chapter the appropriate amount of money determined under this section. However, if the individual

deposits the maximum amount allowed under this chapter on or before December 31 of each year, the individual may request in writing that the ~~department of commerce~~ **authority** allocate and deposit the matched funds under subsection (a) into the individual's account not later than forty-five (45) days after the ~~department of commerce~~ **authority** receives the written request.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Provide related exterior improvements for the building.

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

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

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

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

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

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

"Department" refers to:

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

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

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

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

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

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

(3) providing a correctional facility;

(4) providing a mental health facility;

(5) providing a regional health facility; or

(6) providing communications system infrastructure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(10) employ fiscal consultants, engineers, bond counsel, other special counsel (with the approval of the attorney general), real estate counselors, appraisers, architectural historians, and other consultants, employees, and agents as required in the judgment of the commission, and fix and pay their compensation from funds available to the commission for the payment of compensation;~~

~~(11)~~ **(8)** make, execute, and effectuate contracts, agreements, or other documents with any governmental agency or any person, corporation, limited liability company, association, partnership, or other organization or entity necessary or convenient to accomplish the purposes of this article;

~~(12)~~ **(9)** acquire in the name of the commission by the exercise of the right of condemnation, in the manner provided in this section, public or private lands, or rights in lands, rights-of-way, property, rights, easements, and interests, as it

considers necessary for carrying out this article; and

~~(13)~~ **(10)** do any and all acts and things necessary, proper, or convenient to carry out this article.

(b) The commission may provide for facilities for state agencies or branches of state government if the general assembly, by statute:

(1) finds that the state needs renovation, refurbishing, or alteration of existing facilities or construction of additional facilities; and

(2) authorizes the commission to provide for the facilities.

In providing for the facilities, the commission shall proceed under this article.

(c) If the commission is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this article, it may proceed to procure the condemnation of the property under IC 32-24-1. The commission may not institute a proceeding until it has adopted a resolution that:

(1) describes the real property sought to be acquired and the purpose for which the real property is to be used;

(2) declares that the public interest and necessity require the acquisition by the commission of the property involved; **and**

(3) sets out any other facts that the commission considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition and shall be referred to the attorney general for action, in the name of the commission, in the circuit or superior court of the county in which the real property is located.

(d) The title to all property acquired in any manner by the commission shall be held in the name of the commission.

SECTION 58. IC 4-13.6-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. As used in this chapter, "commission" ~~refers to the state office building commission~~ **means the Indiana finance authority** established by ~~IC 4-13.5-1-1.5.~~ **IC 4-4-11-4.**

SECTION 59. IC 4-13.6-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. The department may recommend to the governor that an energy cost savings contract be entered into by the ~~state office building~~ commission under IC 4-13.5-1.5.

SECTION 60. IC 4-21.5-2-5, AS AMENDED BY P.L.4-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. This article does not apply to the following agency actions:

(1) The issuance of a warrant or jeopardy warrant for the collection of taxes.

(2) A determination of probable cause or no probable cause by the civil rights commission.

(3) A determination in a factfinding conference of the civil rights commission.

(4) A personnel action, except review of a personnel action by the state employees appeals commission under IC 4-15-2 or a personnel action that is not covered by IC 4-15-2 but may be taken only for cause.

(5) A resolution, directive, or other action of any agency that relates solely to the internal policy, organization, or procedure of that agency or another agency and is not a licensing or enforcement action. Actions to which this exemption applies include the statutory obligations of an agency to approve or ratify an action of another agency.

(6) An agency action related to an offender within the jurisdiction of the department of correction.

(7) A decision of the Indiana economic development corporation, the office of tourism development, the department of environmental management, the tourist information and grant fund review committee, the Indiana ~~development~~ finance authority, the corporation for innovation development, or the lieutenant governor that concerns a grant, loan, bond, tax incentive, or financial guarantee.

(8) A decision to issue or not issue a complaint, summons, or similar accusation.

(9) A decision to initiate or not initiate an inspection, investigation, or other similar inquiry that will be conducted by the agency, another agency, a political subdivision, including a prosecuting attorney, a court, or another person.

(10) A decision concerning the conduct of an inspection, investigation, or other similar inquiry by an agency.

(11) The acquisition, leasing, or disposition of property or procurement of goods or services by contract.

(12) Determinations of the department of workforce development under IC 22-4-18-1(g)(1), IC 22-4-40, or IC 22-4-41.

(13) A decision under IC 9-30-12 of the bureau of motor vehicles to suspend or revoke a driver's license, a driver's permit, a vehicle title, or a vehicle registration of an individual who presents a dishonored check.

(14) An action of the department of financial institutions under IC 28-1-3.1 or a decision of the department of financial institutions to act under IC 28-1-3.1.

(15) A determination by the NVRA official under IC 3-7-11 concerning an alleged violation of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg) or IC 3-7.

(16) Imposition of a civil penalty under IC 4-20.5-6-8 if the rules of the Indiana department of administration provide an administrative appeals process.

SECTION 61. IC 4-22-2-37.1, AS AMENDED BY HEA 1262-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

~~(8) An emergency rule jointly adopted by the water pollution control board and the budget agency under IC 13-18-13-18.~~

~~(9)~~ **(8)** An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

~~(10)~~ **(9)** A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an emergency.

~~(11)~~ **(10)** An emergency rule adopted by the Indiana transportation finance authority under IC 8-21-12.

~~(12)~~ **(11)** An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

~~(13)~~ **(12)** An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

~~(14)~~ **(13)** An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

~~(15)~~ **(14)** An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

~~(16)~~ **(15)** An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

~~(17)~~ **(16)** An emergency rule adopted by the Indiana gaming commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

~~(18)~~ **(17)** An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

~~(19)~~ **(18)** An emergency rule adopted by the department of financial institutions under IC 28-15-11.

~~(20)~~ **(19)** An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

~~(21)~~ **(20)** An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

~~(22)~~ **(21)** An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

~~(23)~~ **(22)** An emergency rule adopted by the Indiana state board of animal health under IC 15-2.1-18-21.

~~(24)~~ **(23)** An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

~~(25)~~ **(24)** An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34.

~~(26)~~ **(25)** An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33.

~~(27)~~ **(26)** An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

~~(28)~~ **(27)** An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) or IC 6-1.1-22.5-20.

~~(29)~~ **(28)** An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

~~(30)~~ **(29)** A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the secretary of state for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The secretary of state shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

(1) accept the rule for filing; and

(2) file stamp and indicate the date and time that the rule is accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j) and (k), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection ~~(a)(14),~~ **(a)(13), (a)(24),** (a)(25), ~~(a)(26),~~ or ~~(a)(28),~~ **(a)(27),** the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted

under subsection ~~(a)(29)~~ **(a)(28)** may not exceed the period for which the original rule was in effect. A rule adopted under subsection ~~(a)(14)~~ **(a)(13)** may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection **(a)(24),** (a)(25), ~~(a)(26),~~ or ~~(a)(28)~~ **(a)(27)** may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection ~~(a)(14),~~ **(a)(13),** for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), ~~(a)(9),~~ ~~(a)(13),~~ **(a)(8), (a)(12),** or ~~(a)(30)~~ **(a)(29)** expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection **(a)(24) or** (a)(25) ~~or (a)(26)~~ expires not later than January 1, 2006.

(k) A rule described in subsection ~~(a)(29)~~ **(a)(28)** expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

SECTION 62. IC 5-1-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. As used in this chapter:

"Authority" refers to the Indiana health **and educational** facility financing authority.

"Bonds" includes bonds, refunding bonds, notes, interim certificates, bond anticipation notes, and other evidences of indebtedness of the authority, issued under this chapter.

"Building" or "buildings" or similar words mean any building or part of a building or addition to a building for health care purposes. The term includes the site for the building (if a site is to be acquired), equipment, heating facilities, sewage disposal facilities, landscaping, walks, drives, parking facilities, and other structures, facilities, appurtenances, materials, and supplies that may be considered necessary to render a building suitable for use and occupancy for health care purposes.

"Cost" includes the following:

(1) The cost and the incidental and related costs of the acquisition, repair, restoration, reconditioning, refinancing, or installation of health facility property.

(2) The cost of any property interest in health facility property, including an option to purchase a leasehold interest.

(3) The cost of constructing health facility property, or an addition to health facility property, acquiring health facility property, or remodeling health facility property.

(4) The cost of architectural, engineering, legal, trustee, underwriting, and related services; the cost of the preparation of plans, specifications, studies, surveys, and estimates of cost and of revenue; and all other expenses necessary or incident to planning, providing, or determining the need for or the feasibility and practicability of health facility property.

(5) The cost of financing charges, including premiums or prepayment penalties and interest accrued during the construction of health facility property or before the acquisition and installation or refinancing of such health facility property for up to two (2) years after such construction, acquisition, and installation or refinancing and startup costs related to health facility property for up to two (2) years after such construction, acquisition, and installation or refinancing.

(6) The costs paid or incurred in connection with the financing of health facility property, including out-of-pocket expenses, the cost of any policy of insurance; the cost of printing, engraving, and reproduction services; and the cost of the initial or acceptance fee of any trustee or paying agent.

(7) The costs of the authority, incurred in connection with providing health facility property, including reasonable sums to reimburse the authority for time spent by its agents or employees in providing and financing health facility property.

(8) The cost paid or incurred for the administration of any program for the purchase or lease of or the making of loans for health facility property, by the authority and any program for the sale or lease of or making of loans for health facility property to any participating provider.

"County" means any county in the state that owns and operates a county hospital.

"Health facility property" means any tangible or intangible property or asset owned or used by a participating provider and which:

(1) is determined by the authority to be necessary or helpful, directly or indirectly, to provide:

(A) health care;

(B) medical research;

(C) training or teaching of health care personnel;

(D) habilitation, rehabilitation, or therapeutic services; or

(E) any related supporting services;

regardless of whether such property is in existence at the time of, or is to be provided after the making of, such finding;

(2) is a residential facility for:

(A) the physically, mentally, or emotionally disabled;

(B) the physically or mentally ill; or

(C) the elderly; or

(3) is a licensed child caring institution providing residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the property is located.

"Health facility" means any facility or building that is:

(1) owned or used by a participating provider;

(2) located:

(A) in Indiana; or

(B) outside Indiana, if the participating provider that operates the facility or building, or an affiliate of the participating provider, also operates a substantial health

facility or facilities, as determined by the authority, in Indiana; and

(3) utilized, directly or indirectly:

(A) in:

(i) health care;

(ii) habilitation, rehabilitation, or therapeutic services;

(iii) medical research;

(iv) the training or teaching of health care personnel; or

(v) any related supporting services;

(B) to provide a residential facility for:

(i) the physically, mentally, or emotionally disabled;

(ii) the physically or mentally ill; or

(iii) the elderly; or

(C) as a child caring institution and provides residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the facility or building is located.

"Net revenues" means the revenues of a hospital remaining after provision for proper and reasonable expenses of operation, repair, replacement, and maintenance of the hospital.

"Participating provider" means a person, corporation, municipal corporation, political subdivision, or other entity, public or private, which:

(1) is located in Indiana or outside Indiana;

(2) contracts with the authority for the financing or refinancing of, or the lease or other acquisition of, health facility property that is located:

(A) in Indiana; or

(B) outside Indiana, if the financing, refinancing, lease, or other acquisition also includes a substantial component, as determined by the authority, for the benefit of a health facility or facilities located in Indiana;

(3) is:

(A) licensed under IC 12-25, IC 16-21, IC 16-28, or corresponding laws of the state in which the property is located;

(B) a regional blood center;

(C) a community mental health center or community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-38 and IC 12-7-2-39 or corresponding provisions of laws of the state in which the property is located);

(D) an entity that:

(i) contracts with the division of disability, aging, and rehabilitative services or the division of mental health and addiction to provide the program described in IC 12-11-1.1-1(e) or IC 12-22-2; or

(ii) provides a similar program under the laws of the state in which the entity is located;

(E) a vocational rehabilitation center established under IC 12-12-1-4.1(a)(1) or corresponding provisions of the laws of the state in which the property is located;

(F) the owner or operator of a facility that is utilized, directly or indirectly, to provide health care, habilitation, rehabilitation, therapeutic services, medical research, the training or teaching of health care personnel, or any related supporting services, or of a residential facility for the physically, mentally, or emotionally disabled, physically or mentally ill, or the elderly;

(G) a licensed child caring institution providing residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the property is located;

(H) an integrated health care system between or among providers, a health care purchasing alliance, a health insurer or third party administrator that is a participant in an integrated health care system, a health maintenance or preferred provider organization, or a foundation that supports a health care provider; or

(I) an individual, a business entity, or a governmental entity that owns an equity or membership interest in any of the organizations described in clauses (A) through (H); and

(4) in the case of a person, corporation, municipal corporation, political subdivision, or other entity located outside Indiana, is owned or controlled by, under common control with, affiliated with, or part of an obligated group that includes an entity that provides one (1) or more of the following services or facilities in Indiana:

(A) A facility that provides:

(i) health care;

(ii) habilitation, rehabilitation, or therapeutic services;

(iii) medical research;

(iv) training or teaching of health care personnel; or

(v) any related supporting services.

(B) A residential facility for:

(i) the physically, mentally, or emotionally disabled;

(ii) the physically or mentally ill; or

(iii) the elderly.

(C) A child caring institution providing residential care described in IC 12-7-2-29(1).

"Regional blood center" means a nonprofit corporation or corporation created under 36 U.S.C. 1 that:

(1) is:

(A) accredited by the American Association of Blood Banks; or

(B) registered or licensed by the Food and Drug Administration of the Department of Health and Human Services; and

(2) owns and operates a health facility that is primarily engaged in:

(A) drawing, testing, processing, and storing human blood and providing blood units or components to hospitals; or

(B) harvesting, testing, typing, processing, and storing human body tissue and providing this tissue to hospitals.

SECTION 63. IC 5-1-16-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 1.1. Sections 19 through 35 of this chapter:**

(1) apply to the authority only when acting for the purposes set forth in this chapter; and

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

SECTION 64. IC 5-1-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) There is created, with such duties and powers as are set forth in this chapter, a public body politic and corporate, not a state agency, but an independent public instrumentality exercising essential public functions, to be known as the Indiana health **and educational** facility financing authority.

(b) The authority shall be governed by **the following** seven (7) members: ~~appointed by the governor, including:~~

~~(1) at least one (1) trustee, director, officer, or employee of a health care provider or an association of health care providers;~~

~~(2) at least one (1) person who has experience in the field of state and municipal finance, either as a partner, officer, or employee of an investment banking firm which originates and purchases state and municipal securities, or as an officer or employee of an insurance company or bank whose duties relate to the purchase of state and municipal securities as an investment and to the management and control of a state and municipal securities portfolio; and~~

~~(3) at least one (1) person who has experience in the hospital building construction field or the hospital equipment field.~~

(1) The governor or the governor's designee, who shall serve as chairman of the authority.

(2) The public finance director appointed under IC 4-4-11-9, or the public finance director's designee.

(3) The state health commissioner, or the state health commissioner's designee.

(4) Four (4) members appointed by the governor, two (2) of whom must be knowledgeable in health care or public finance and investment matters related to health care, and two (2) of whom must be knowledgeable in higher education or public finance and investment matters related to higher education.

(c) All members must be Indiana residents. Not more than ~~four (4)~~ **three (3) of the** members of the authority **appointed under subsection (b)(4)** may be members of the same political party.

SECTION 65. IC 5-1-16-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. The terms of members **appointed by the governor** begin upon appointment. ~~All subsequent appointments are for terms of~~ **The term of office of a member of the authority appointed by the governor is** four (4) years. **However, these members serve at the pleasure of the governor.** Vacancies in the membership of the authority shall be filled for the unexpired term by appointment by the governor. Vacancies in the membership of the authority shall be filled for the unexpired term by appointment by the governor. Each member shall hold office for the term of ~~his~~ **the member's** appointment and until ~~his~~ **the member's** successor shall have been appointed and qualified. Members may be reappointed. ~~Any member may be removed from office by the governor for incompetency, neglect of duty, or malfeasance in office.~~

SECTION 66. IC 5-1-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. The members shall elect ~~a chairman,~~ a vice chairman and other officers. The members may not be compensated for their services but they shall be reimbursed for their actual and necessary expenses as determined by the authority.

SECTION 67. IC 5-1-16-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. The ~~members of the authority may~~ **governor shall** appoint an executive director **for the authority** who shall serve at the pleasure of the ~~members~~ **governor** and receive compensation as fixed by the members. The executive director, who shall serve as the ex officio secretary of the authority, shall administer, manage, and direct the employees of the authority under the direction of the members. The executive director shall approve all accounts for salaries, allowable expenses of the authority or of any employee or consultant of the authority, and expenses incidental to the operation of the authority ~~He~~ **and** shall perform other duties directed by the members in carrying out this chapter.

SECTION 68. IC 5-1-16-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. The executive director shall attend the meetings of the members of the authority, shall keep a record of the proceedings of the authority, and shall maintain all books, documents, and papers filed with the authority, the minutes of the authority, and its official seal. ~~He~~ **The executive director** may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates. ~~If an executive director is not appointed, the members of the authority shall designate a member or an employee of the authority as the person responsible for carrying out the duties set out in sections 7 and 8 of this chapter.~~

SECTION 69. IC 5-1-16-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 9. The authority may employ employees necessary to carry out the operation of the authority, and shall determine their qualifications, duties, compensation, and terms of office without the approval of or consent by any other state official. The members may delegate to one (1) or more agents or employees of the authority such administrative duties as they consider proper. The authority may also contract with any entity, **including the Indiana finance authority,** to provide ~~administrative~~ staff or ~~clerical~~ services, including the functions of the executive director, under such terms as the authority determines.

SECTION 70. IC 5-1-16-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 10.5. Any member or employee of the authority who has, will have, or later acquires an interest, direct or indirect, in any transaction with the authority shall immediately disclose the nature and extent of the interest in writing to the authority as soon as the member or employee has knowledge of the actual or prospective interest. Disclosure shall be announced in open meeting and entered upon the minutes of the authority. Upon disclosure, the member**

or employee shall not participate in any action by the authority authorizing the transaction. However, such an interest shall not invalidate actions by the authority with the participation of the disclosing member or employee prior to the time when the member or employee became aware of the interest or should reasonably have become aware of the interest.

SECTION 71. IC 5-1-16-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 12. Before the issuance of any bonds under this chapter:

(1) the executive director of the authority;

(2) each member of the authority; and

(3) any other employee or agent of the authority authorized by resolution of the authority to handle funds or sign checks;

shall execute a surety bond in the penal sum of fifty thousand dollars ($50,000). If ~~the executive director of the authority~~ **an individual described in subdivisions (1) through (3)** is already covered by a bond required by state law, the ~~executive director~~ **individual** need not obtain another bond if the bond required by state law is in at least the penal sum specified in this section and covers the ~~executive director's~~ **individual's** activities for the authority. In lieu of this bond, the chairman of the authority may execute a blanket surety bond covering each member, the executive director, and the employees or other officers of the authority. Each surety bond must be conditioned upon the faithful performance of the **individual's** duties, ~~of the office of the member, executive director, employee, or officer,~~ and shall be issued by a surety company authorized to transact business in Indiana as surety. At all times after the issuance of any surety bonds, these surety bonds shall be maintained in full force and effect. All costs of the surety bonds shall be borne by the authority.

SECTION 72. IC 5-1-16-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13. (a) The authority has all powers necessary to carry out and effectuate its public and corporate purposes, including but not limited to the following:

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

(2) To adopt, amend, and repeal bylaws and rules consistent with this chapter, to regulate its affairs, to carry into effect the powers and purposes of the authority and conduct its business, which rules and bylaws may be adopted by the authority without complying with IC 4-22-2.

(3) To sue and be sued in its own name.

(4) To have an official seal.

(5) To maintain an office in Indiana.

(6) To make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter.

(7) To employ architects, engineers, independent legal counsel, inspectors, accountants, and health care and financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment without the approval of or consent by any other state official, and to fix their compensation.

(8) To procure insurance against any loss in connection with its property and other assets, in such amounts and from such insurers as it considers advisable, including the power to pay premiums on any such insurance.

(9) To procure insurance or guarantees from any public or private entities, including any department, agency, or instrumentality of the United States of America, to secure payment:

(A) on a loan, lease, or purchase payment owed by a participating provider to the authority; and

(B) of any bonds issued by the authority, including the power to pay premiums on any such insurance or guarantee.

(10) To procure letters of credit or other credit facilities or agreements from any national or state banking association or other entity authorized to issue a letter of credit or other credit facilities or agreements to secure the payment of any bonds issued by the authority or to secure the payment of any loan, lease, or purchase payment owed by a participating provider to the authority, including the power to pay the cost of obtaining such letter of credit or other credit facilities or agreements.

(11) To receive and accept from any source any money, property, or thing of value to be held, used, and applied to carry out the purposes of this chapter subject to the conditions upon which the grants or contributions are made, including gifts or grants from any department, agency, or instrumentality of the United States of America for any purpose consistent with this chapter.

(12) To provide, or cause to be provided by a participating provider, by acquisition, lease, construction, fabrication, repair, restoration, reconditioning, refinancing, or installation, health facility property to be located within a health facility.

(13) To lease as lessor any item of health facility property for such rentals and upon such terms and conditions as the authority considers advisable and are not in conflict with this chapter.

(14) To sell by installment or otherwise to sell by option or contract for sale, and to convey all or any part of any item of health facility property for such price and upon such terms and conditions as the authority considers advisable and as are not in conflict with this chapter.

(15) To make contracts and incur liabilities, borrow money at such rates of interest as the authority determines, issue its bonds in accordance with this chapter, and secure any of its bonds or obligations by a mortgage or pledge of all or any of its property, franchises, and income or as otherwise provided in this chapter.

(16) To make secured or unsecured loans for the purpose of providing temporary or permanent financing or refinancing for the cost of any item of health facility property, including the retiring of any outstanding obligations issued by a participating provider, and the reimbursement to a participating provider of advances, for the cost of any health

facility property purchased in anticipation of procuring such financing or refinancing from the authority or other sources, and to charge and collect interest on such loans for such loan payments and upon such terms and conditions as the authority considers advisable and as are not in conflict with this chapter.

(17) To invest and reinvest its funds and to take and hold property as security for the investment of such funds as provided in this chapter.

(18) To purchase, receive, lease (as lessee or lessor), or otherwise acquire, own, hold, improve, use, or otherwise deal in and with, health facility property, or any interest therein, wherever situated.

(19) To sell, convey, mortgage, pledge, assign, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets.

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

(21) To charge to and apportion among participating providers its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter.

(22) Except as otherwise provided in a trust agreement or bond resolution securing bonds of the authority, **and notwithstanding IC 5-13,** to invest: ~~any funds not needed for immediate disbursement, including any funds held in reserve, in such indebtedness or obligations designated by the authority for investments of its funds held under this chapter.~~

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

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

(C) proceeds of bonds or notes;

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

(23) To collect fees and charges, as the authority determines to be reasonable, in connection with its loans, leases, sales, advances, insurance, commitments, and servicing.

(24) To cooperate with and exchange services, personnel, and information with any federal, state, or local governmental agency.

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

(26) To assist, coordinate, and participate with other issuers of tax exempt bonds and public officials in other states in connection with financings or refinancings on behalf of multiple state health facilities. Assistance, coordination, and participation provided under this subdivision may include conducting any hearings required by state or federal law in order for bonds to be issued by public officials in other states if part of the proceeds of the bonds will be used by participating providers in Indiana. Neither the state of Indiana nor the authority, nor any officers, agents, or employees of the state or the authority, are subject to any liability resulting from assistance to or coordination or participation with other issuers of tax exempt bonds under this subsection. Any assistance, coordination, or participation provided under this subsection is given with the understanding that the issuers of tax exempt bonds or borrowers will agree to indemnify and hold harmless the state of Indiana and the authority and their officers, agents, and employees from all claims and liability arising from any action against the state of Indiana or the authority relating to the bonds.

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

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

(b) No part of the revenues or assets of the authority may inure to the benefit of or be distributable to its members or officers or other private persons. Any net earnings of the authority beyond that necessary for retirement of authority indebtedness or to implement the public purposes of this chapter inure to the benefit of the state. Upon termination or dissolution, all rights and properties of the authority pass to and are vested in the state, subject to the rights of lienholders and other creditors.

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

SECTION 73. IC 5-1-16-13.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13.1. (a) The authority shall:

(1) adopt

~~(A) rules under IC 4-22-2; or~~

~~(B)~~ a policy

establishing a code of ethics for its employees; or

(2) decide it wishes to be under the jurisdiction and rules adopted by the state ethics commission.

(b) A code of ethics adopted ~~by rule or policy~~ under this section must be consistent with state law and approved by the governor.

SECTION 74. IC 5-1-16-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 35. The authority shall submit an annual report of its activities for the preceding fiscal year to the governor, **the budget committee,** and the general assembly. An annual report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6. ~~Each member of the general assembly who requests a written copy of the report from the chairman of the authority shall be sent a written copy.~~ Each report shall set forth a complete operating and financial statement for the authority during the fiscal year it covers.

SECTION 75. IC 5-1.5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) There is established a board of directors to govern the bank. The powers of the bank are vested in this board.

(b) The board is composed of:

(1) the treasurer of state, who shall be the chairman ex officio;

(2) the ~~director of the department of financial institutions,~~ **public finance director appointed under IC 4-4-11-9, who shall be the** director ex officio; and

(3) five (5) directors appointed by the governor.

(c) Each of the five (5) directors appointed by the governor:

(1) must be a resident of Indiana;

(2) must have substantial expertise in the buying, selling, and trading of municipal securities, in municipal administration or in public facilities management;

(3) serves for a term of three (3) years and until his successor is appointed and qualified;

(4) is eligible for reappointment;

(5) is entitled to receive the same minimum salary per diem as is provided in IC 4-10-11-2.1(b) while performing ~~his~~ **the director's** duties. Such a director is also entitled to the same reimbursement for traveling expenses and other expenses, actually incurred in connection with ~~his~~ **the director's** duties as is provided in the state travel policies and procedures, established by the department of administration and approved by the ~~state~~ budget agency; and

(6) may be removed by the governor for cause.

(d) Any vacancy on the board, other than by expiration of term, shall be filled by appointment of the governor for the unexpired term only.

SECTION 76. IC 5-1.5-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. (a) Bonds or notes of the bank must be authorized by resolution of the board, may be issued in one (1) or more series, and must:

(1) bear the date;

(2) mature at the time or times;

(3) be in the denomination;

(4) be in the form;

(5) carry the conversion or registration privileges;

(6) have the rank or priority;

(7) be executed in the manner;

(8) be payable from the sources in the medium of payment at the place inside or outside the state; and

(9) be subject to the terms of redemption;

as the resolution of the board or the trust agreement securing the bonds or notes provides.

(b) Except as provided in subsection (e), bonds or notes may be issued under this article without obtaining the consent of any agency of the state and without any other proceeding or condition other than the proceedings or conditions specified in this article.

(c) The rate or rates of interest on the bonds or notes may be fixed or variable. Variable rates shall be determined in the manner and in accordance with the procedures set forth in the resolution authorizing the issuance of the bonds or notes. Bonds or notes bearing a variable rate of interest may be converted to bonds or notes bearing a fixed rate or rates of interest, and bonds or notes bearing a fixed rate or rates of interest may be converted to bonds or notes bearing a variable rate of interest, to the extent and in the manner set forth in the resolution pursuant to which the bonds or notes are issued. The interest on bonds or notes may be payable semiannually or annually or at any other interval or intervals as may be provided in the resolution, or the interest may be compounded and paid at maturity or at any other times as may be specified in the resolution.

(d) The bonds or notes may be made subject, at the option of the holders, to mandatory redemption by the bank at the times and under the circumstances set forth in the authorizing resolution.

(e) The bank may not issue bonds for qualified entities described in IC 5-1.5-1-8(5) through IC 5-1.5-1-8(7) or IC 5-1.5-1-8(11) that are subject to the volume cap (as defined in IC 4-4-11.5-14) without obtaining the prior approval of the Indiana ~~development~~ finance authority.

SECTION 77. IC 5-1.5-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. (a) **Except as provided in subsection (c), and** in order to assure the maintenance of the required debt service reserve in any reserve fund, **a resolution authorizing the bank to issue bonds or notes may include a provision stating that:**

(1) the general assembly may annually appropriate to the bank for deposit in one (1) or more of the funds the sum, certified by the chairman of the board to the general assembly, that is necessary to restore one (1) or more of the funds to an amount equal to the required debt service reserve; **and**

(2) the chairman annually, before December 1, shall make and deliver to the general assembly ~~his~~ **a** certificate stating the sum required to restore the funds to that amount.

Nothing in this subsection creates a debt or liability of the state to make any appropriation.

(b) All amounts received on account of money appropriated by the state to any reserve fund shall be held and applied in accordance with section 1(b) of this chapter. However, at the end of each fiscal year, if the amount in any reserve fund exceeds the required debt service reserve, any amount representing earnings or income received on account of any money appropriated to the reserve fund that exceeds the expenses of the bank for that fiscal year may be transferred to the general fund of the state.

(c) Notwithstanding any other law, and except as provided by subsection (d), after June 30, 2005, the:

(1) issuance by the bank of any indebtedness that incorporates the provisions set forth in subsection (a) or otherwise establishes a procedure for the bank or a person acting on behalf of the bank to certify to the general assembly the amount needed to restore a reserve fund or another fund to required levels; or

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

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

(d) If the budget committee does not conduct a review of a proposed transaction under subsection (c) within twenty-one (21) days after a request by the bank, the review is considered to have been conducted. If the budget director does not approve or disapprove a proposed transaction under subsection (c)

within twenty-one (21) days after a request by the bank, the transaction is considered to have been approved.

SECTION 78. IC 5-1.5-6.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. (a) **Except as provided in subsection (d),** whenever a reserve fund for an issue of bonds or notes issued to purchase securities specified in section 1(b) of this chapter does not contain the required debt service reserve (as defined in IC 5-1.5-5-1(b)), the chairman of the board shall immediately:

(1) transfer to the reserve fund the amount needed to restore the required debt service reserve first from the capital interest fund and, to the extent necessary, from the capital principal fund; and

(2) certify the amounts transferred to the general assembly.

(b) The general assembly may appropriate to the bank for deposit in the capital principal fund the amount transferred from the fund to restore required debt service reserves. Nothing in this subsection creates a debt or a liability of the state to make any appropriation.

(c) Appropriations made to the capital principal fund do not revert to the state general fund at the end of any fiscal year.

(d) Notwithstanding any other law, and except as provided by subsection (e), after June 30, 2005, the:

(1) issuance by the bank of any indebtedness that incorporates the provisions set forth in subsection (a) or otherwise establishes a procedure for the bank or a person acting on behalf of the bank to certify to the general assembly the amount needed to restore a reserve fund or another fund to required levels; or

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

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

(e) If the budget committee does not conduct a review of a proposed transaction under subsection (d) within twenty-one (21) days after a request by the bank, the review is considered to have been conducted. If the budget director does not approve or disapprove a proposed transaction under subsection (d) within twenty-one (21) days after a request by the bank, the transaction is considered to have been approved.

SECTION 79. IC 5-13-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 14. "Industrial development project" has the meaning set forth in IC 4-4-10.9-11 and includes mining operations, agricultural operations that involve the processing of agricultural products, and any other type of business project for which the Indiana ~~development~~ finance authority may make a loan or lease guarantee.

SECTION 80. IC 5-13-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. (a) The board for depositories exercises essential public functions, and has a perpetual existence. The board has all powers necessary, convenient, or appropriate to carry out and effectuate its public and corporate purposes, including but not limited to the powers to do the following:

(1) Adopt, amend, and repeal bylaws and rules consistent with this chapter to regulate its affairs and to effect the powers and purposes of the board, all without the necessity of adopting a rule under IC 4-22-2.

(2) Adopt its budget on a calendar year or fiscal year as it shall determine.

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

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

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

(6) Make and execute contracts and all other instruments with either public or private entities.

(7) Communicate with the employees of the Indiana ~~development~~ finance authority to the extent reasonably desirable in working on a guarantee of an industrial development obligation or credit enhancement obligation.

(8) Deposit all uninvested funds of the public deposit insurance fund in a separate account or accounts in financial institutions that are designated as depositories to receive state funds under IC 5-13-9.5. The money in these accounts shall be paid out on checks signed by the chairman or other officers or employees of the board as it shall authorize.

(9) Take any other act necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter.

(b) In enforcing any obligation of the borrower or any other person under the documents evidencing a guarantee, the board may renegotiate the guarantee, modify the rate of interest, term of the industrial development obligation or credit enhancement obligation, payment of any installment of principal or interest, or any other term of any documents, settle any obligation on the security or receipt of property or the other terms as in its discretion it deems advantageous to the public deposit insurance fund, and take any other action necessary or convenient to such enforcement.

(c) The records of the board for depositories relating to negotiations between it and prospects for industrial development obligation or credit enhancement obligation guarantees are excepted from the provisions of IC 5-14-3-3.

SECTION 81. IC 5-13-12-7, AS AMENDED BY P.L.4-2005, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. (a) The board for depositories shall manage and operate the insurance fund. All expenses incident to the administration of the fund shall be paid out of the money accumulated in it subject to the direction of the board for depositories.

(b) Effective January 1 and July 1 in each year, the board shall before those dates redetermine the amount of the reserve to be maintained by the insurance fund. The establishment or any change in the reserve for losses shall be determined by the board based on a study to be made or updated by actuaries, economists, or other consultants based on the history of losses, earnings on the funds, conditions of the depositories, economic conditions affecting particular depositories or depositories in general, and any other factors that the board considers relevant in making its determination. The reserve determined by the board must be

sufficient to ensure the safekeeping and prompt payment of public funds to the extent they are not covered by insurance of any federal deposit insurance agency.

(c) At the end of each biennial period during which depositories have had public funds on deposit under this chapter and paid the assessments levied by the board, the board shall compute its receipts from assessments and all other sources and its expenses and losses and determine the profit derived from the operation of the fund for the period. Until the amount of the reserve for losses has been accumulated, all assessments levied for a biennial period shall be retained by the fund. The amount of the assessments, if any, levied by the board shall, to the extent the fund exceeds the reserve for losses at the end of a biennial period commencing July 1 of each odd-numbered year, be distributed to the depositories that had public funds on deposit during the biennial period in which the assessments were paid. The distribution shall be made to the respective depositories in the proportion that the total assessments paid by each depository during that period bears to the total assessments then paid by all depositories. A distribution to which any closed depository would otherwise be entitled shall be set off against any claim that the insurance fund may have against the closed depository.

(d) The board may invest, reinvest, and exchange investments of the insurance fund in excess of the cash working balance in any of the following:

(1) In bonds, notes, certificates, and other valid obligations of the United States, either directly or, subject to the limitations in subsection (e), in the form of securities of or other interests in an open-end no-load management-type investment company or investment trust registered under the provisions of the Investment Company Act of 1940, as amended (15 U.S.C. 80a et seq.).

(2) In bonds, notes, debentures, and other securities issued by a federal agency or a federal instrumentality and fully guaranteed by the United States either directly or, subject to the limitations in subsection (e), in the form of securities of or other interests in an open-end no-load management-type investment company or investment trust registered under the provisions of the Investment Company Act of 1940, as amended (15 U.S.C. 80a et seq.).

(3) In bonds, notes, certificates, and other valid obligations of a state, or of an Indiana political subdivision that are issued under law, the issuers of which, for five (5) years before the date of the investment, have promptly paid the principal and interest on their bonds and other legal obligations.

(4) In bonds or other obligations of the ~~state office building commission.~~ **Indiana finance authority issued under IC 4-13.5.**

(5) In investments permitted the state under IC 5-13-10.5.

(6) In guarantees of industrial development obligations or credit enhancement obligations, or both, for the purposes of retaining and increasing employment in enterprises in Indiana, subject to the limitations and conditions set out in this subdivision, subsection (e), and section 8 of this chapter. An individual guarantee of the board under this subdivision must not exceed eight million dollars ($8,000,000).

(7) In guarantees of bonds or notes issued under IC 5-1.5-4-1, subject to the limitations and conditions set out in subsection (e) and section 8 of this chapter.

(8) In bonds, notes, or other valid obligations of the Indiana ~~development~~ finance authority that have been issued in conjunction with the authority's acquisition, development, or improvement of property or other interests for an industrial development project (as defined in IC 4-4-10.9-11) that the authority has undertaken for the purposes of retaining or increasing employment in existing or new enterprises in Indiana, subject to the limitations in subsection (e).

(9) In notes or other debt obligations of counties, cities, and towns that have been issued under IC 6-1.1-39 for borrowings from the industrial development fund under IC 5-28-9 for purposes of retaining or increasing employment in existing or new enterprises in Indiana, subject to the limitations in subsection (e).

(10) In bonds or other obligations of the Indiana housing finance authority.

(e) The investment authority of the board under subsection (d) is subject to the following limitations:

(1) For investments under subsection (d)(1) and (d)(2), the portfolio of an open-end no-load management-type investment company or investment trust must be limited to:

(A) direct obligations of the United States and obligations of a federal agency or a federal instrumentality that are fully guaranteed by the United States; and

(B) repurchase agreements fully collateralized by obligations described in clause (A), of which the company or trust takes delivery either directly or through an authorized custodian.

(2) Total outstanding investments in guarantees of industrial development obligations and credit enhancement obligations under subsection (d)(6) must not exceed the greater of:

(A) ten percent (10%) of the available balance of the insurance fund; or

(B) fourteen million dollars ($14,000,000).

(3) Total outstanding investments in guarantees of bond bank obligations under subsection (d)(7) must not exceed the greater of:

(A) twenty percent (20%) of the available balance of the insurance fund; or

(B) twenty-four million dollars ($24,000,000).

(4) Total outstanding investments in bonds, notes, or other obligations of the Indiana ~~development~~ finance authority under subsection (d)(8) may not exceed the greater of:

(A) fifteen percent (15%) of the available balance of the insurance fund; or

(B) twenty million dollars ($20,000,000).

However, after June 30, 1988, the board may not make any additional investment in bonds, notes, or other obligations of the Indiana ~~development~~ finance authority **issued under IC 4-4-11,** and the board may invest an amount equal to the remainder, if any, of:

(i) fifteen percent (15%) of the available balance of the insurance fund; minus

(ii) the board's total outstanding investments in bonds, notes, or other obligations of the Indiana ~~development~~ finance authority **issued under IC 4-4-11;**

in guarantees of industrial development obligations or credit enhancement obligations, or both, as authorized by subsection (d)(6). In such a case, the outstanding investments, as authorized by subsection (d)(6) and (d)(8), may not exceed in total the greater of twenty-five percent (25%) of the available balance of the insurance fund or thirty-four million dollars ($34,000,000).

(5) Total outstanding investments in notes or other debt obligations of counties, cities, and towns under subsection (d)(9) may not exceed the greater of:

(A) ten percent (10%) of the available balance of the insurance fund; or

(B) twelve million dollars ($12,000,000).

(f) For purposes of subsection (e), the available balance of the insurance fund does not include the outstanding principal amount of any fund investment in a corporate note or obligation or the part of the fund that has been established as a reserve for losses.

(g) Except as provided in section 4 of this chapter, all interest and other income earned on investments of the insurance fund and all amounts collected by the board accrue to the fund.

(h) Members of the board and any officers or employees of the board are not subject to personal liability or accountability by reason of any investment in any of the obligations listed in subsection (d).

(i) The board shall, when directed by the state board of finance constituted by IC 4-9.1-1-1, purchase the loan made by the state board of finance under IC 4-10-18-10(i). The loan shall be purchased by the board at a purchase price equal to the total of:

(1) the principal amount of the loan;

(2) the deferred interest payable on the loan; and

(3) accrued interest to the date of purchase by the board.

Members of the board and any officers or employees of the board are not subject to personal liability or accountability by reason of the purchase of the loan under this subsection.

SECTION 82. IC 5-13-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. (a) The board for depositories, in making the industrial development obligation or credit enhancement obligation guarantees authorized under section 7(d)(6) of this chapter, shall comply with the following limitations:

(1) A guarantee shall be made only of industrial development obligations or credit enhancement obligations for the purpose of retaining, retaining and expanding, or bringing significant employment into Indiana, as determined by the board under subdivision (3)(A).

(2) Each industrial development obligation or credit enhancement obligation must be guaranteed not only by the board but also by the Indiana ~~development~~ finance authority created by IC 4-4-11. Each guarantee must provide that in the event of a valid claim of loss by the lender, the lessor, or the issuer of the credit enhancement arising under the industrial development obligation or credit enhancement documents, the amount of the loss, up to two million dollars ($2,000,000), shall first be paid by the industrial development project guaranty fund created by IC 4-4-11-16, and only the remainder of the loss, if any, shall to the extent guaranteed be paid by the public deposit insurance fund. Neither fund is responsible for the amount due from the other under its guarantee.

(3) The guarantee of the industrial development obligation or credit enhancement obligation by the board for depositories must be recommended by the Indiana ~~development~~ finance authority. Subject to that recommendation, the board for depositories may make the guarantee if it determines:

(A) that the guarantee creates a reasonable probability that loss in Indiana employment that would occur will be significantly reduced or that Indiana's employment will be significantly expanded;

(B) that the consequent reduction in employment loss or the expansion in employment will enhance the economic stability of the community or communities in the state where the borrower or lessee conducts its business;

(C) that there is reasonable probability that the industrial development obligation will be repaid or satisfied or that the credit enhancement will be satisfied; and

(D) that the industrial development obligation or credit enhancement obligation and guarantee are protected against loss and the borrower or lessee has agreed to pay the insurance fund a guarantee premium annually as provided in subdivision (6).

(4) Protection against loss on the industrial development obligation or credit enhancement obligation guaranteed will be provided:

(A) in loan transactions by:

(i) a valid security agreement;

(ii) mortgage;

(iii) combination of (i) and (ii); or

(iv) other document; and

(B) in lease transactions by the guaranteed party's rights as owner of the leased property.

(5) The term of the guarantee must not exceed twenty (20) years. The amount of the guarantee provided by the board, together with the corresponding guarantee to be provided by the industrial development project guaranty fund under subdivision (2), must not exceed:

(A) the lesser of:

(i) ninety percent (90%) of the unpaid balance of the obligation; or

(ii) ninety percent (90%) of the appraised fair market value of the real estate;

if the obligation is backed by real estate;

(B) the lesser of:

(i) seventy-five percent (75%) of the unpaid balance of the obligation; or

(ii) seventy-five percent (75%) of the appraised fair market value of the equipment;

if the obligation is backed by equipment; or

(C) a weighted average of the figures derived under clauses (A)(ii) and (B)(ii) if the obligation is backed by real estate and equipment.

(6) The guarantee premium to be received by the public deposit insurance fund for the guarantee must be at an annual percentage rate on the outstanding principal amount of the industrial development obligation or the credit enhancement obligation of not less, in the discretion of the board, than the market rate for guarantees, mortgage insurance rates, or letters of credit used for similar purposes at the time the guarantee is made. However, the annual percentage rate must not exceed two percent (2%) of the outstanding principal obligation.

(b) The following conditions apply to the making of bond bank obligation guarantees under section 7(d)(7) of this chapter:

(1) Each bond bank obligation guaranteed must be secured by a pledge of securities of a qualified entity (as defined in IC 5-1.5-1-8) under an indenture of trust requiring an adequate debt reserve fund.

(2) The board for depositories shall fix the one (1) time or annual charge to be paid by the bond bank for each guarantee in an amount considered by the board to be appropriate and consistent with the market rate for that guarantee, taking into consideration the terms of the indenture applicable to the bond bank obligation.

(3) The board for depositories may agree to other terms for each guarantee that the secretary-investment manager certifies as being commercially reasonable and that the board, in its judgment, determines to be proper.

(c) Any claim, loss, or debt arising out of any guarantee authorized by section 7(d)(6) or 7(d)(7) of this chapter is the obligation of the board for depositories payable out of the public deposit insurance fund only and does not constitute a debt, liability, or obligation of the state or a pledge of the faith and credit of the state. The document evidencing any guarantee must have on its face the words, "The obligations created by this guarantee (or other document as appropriate) do not constitute a debt, liability, or obligation of the state or a pledge of the faith and credit of the state but are obligations of the board for public depositories and are payable solely out of the public deposit insurance fund, and neither the faith and credit nor the taxing power of the state is pledged to the payment of any obligation hereunder.".

(d) Any claim of loss by a lender or lessor under a guarantee authorized by section 7(d)(6) or 7(d)(7) of this chapter, at the time it is made in writing to the board, has priority against the fund on all claims made after that time.

SECTION 83. IC 5-13-12-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. With regard to direct obligations of the Indiana ~~development~~ finance authority that have been issued in conjunction with an industrial development project undertaken by the authority, including those obligations that are guaranteed by the board under this chapter or purchased by the board under section 7(d)(8) of this chapter, the board may upon the request of the authority permit a subordination of any valid security agreement, mortgage, combinations thereof, or other appropriate document securing the direct obligations, if the board in its discretion determines that the subordination is reasonably necessary to accomplish the objectives of the industrial development project.

SECTION 84. IC 5-14-1.5-6.1, AS AMENDED BY SEA 335-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.1. (a) As used in this section, "public official" means a person:

(1) who is a member of a governing body of a public agency; or

(2) whose tenure and compensation are fixed by law and who executes an oath.

(b) Executive sessions may be held only in the following instances:

(1) Where authorized by federal or state statute.

(2) For discussion of strategy with respect to any of the following:

(A) Collective bargaining.

(B) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing.

(C) The implementation of security systems.

(D) The purchase or lease of real property by the governing body up to the time a contract or option to purchase or lease is executed by the parties.

However, all such strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries.

(3) For discussion of the assessment, design, and implementation of school safety and security measures, plans, and systems.

(4) Interviews with industrial or commercial prospects or agents of industrial or commercial prospects by the Indiana economic development corporation, the office of tourism development, the Indiana ~~development~~ finance authority, or economic development commissions.

(5) To receive information about and interview prospective employees.

(6) With respect to any individual over whom the governing body has jurisdiction:

(A) to receive information concerning the individual's alleged misconduct; and

(B) to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is:

(i) a physician; or

(ii) a school bus driver.

(7) For discussion of records classified as confidential by state or federal statute.

(8) To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs.

(9) To discuss a job performance evaluation of individual employees. This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process.

(10) When considering the appointment of a public official, to do the following:

(A) Develop a list of prospective appointees.

(B) Consider applications.

(C) Make one (1) initial exclusion of prospective appointees from further consideration.

Notwithstanding IC 5-14-3-4(b)(12), a governing body may release and shall make available for inspection and copying in accordance with IC 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three (3) unless there are fewer than three (3) prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to the public.

(11) To train school board members with an outside consultant about the performance of the role of the members as public officials.

(12) To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under IC 15-5-1.1 or IC 25.

(c) A final action must be taken at a meeting open to the public.

(d) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b). The requirements stated in section 4 of this chapter for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(e) A governing body may not conduct an executive session during a meeting, except as otherwise permitted by applicable statute. A meeting may not be recessed and reconvened with the intent of circumventing this subsection.

SECTION 85. IC 5-14-3-4.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 4.7. (a) Records relating to negotiations between the Indiana finance authority and industrial, research, or commercial prospects are excepted from section 3 of this chapter at the discretion of the authority if the records are created while negotiations are in progress.**

(b) Notwithstanding subsection (a), the terms of the final offer of public financial resources communicated by the authority to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(c) When disclosing a final offer under subsection (b), the authority shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

SECTION 86. IC 5-20-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. ~~Authority Creation; Membership; Terms; Expenses.~~ (a) There is created a public body corporate and politic of the state of Indiana to be known as the "Indiana housing ~~finance~~ **and community development** authority". The authority shall consist of the ~~director of the department of financial institutions, the director of the department of commerce, the state treasurer and four (4) persons appointed by the governor, no more than two (2) of whom~~ **following seven (7) members:**

(1) The lieutenant governor or the lieutenant governor's designee.

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

(3) The public finance director of the Indiana finance authority, or the public finance director's designee.

(4) Four (4) members appointed by the governor.

Not more than three (3) of the members of the authority appointed under subdivision (4) shall be members of the same political party. ~~Of the members first appointed by the governor, two (2) shall be designated to serve for a term of three (3) years and two (2) for a term of four (4) years from the dates of their appointments, but thereafter~~ Members of the authority ~~shall be~~ appointed **by the governor shall serve** for a term of four (4) years, except that all vacancies shall be filled for the unexpired term. **However,** any appointed member of the authority shall be removable at ~~will by~~ **the pleasure of** the governor, with or without cause. A member of the authority shall receive no compensation for ~~his~~ **the member's** services but shall be entitled to **reimbursement for** the necessary expenses, including traveling expenses, incurred in the discharge of ~~his~~ **the member's** duties. Each member shall hold office until ~~his~~ **the member's** successor has been appointed and has qualified. A certificate of appointment or reappointment of any members shall be filed with the authority and this certificate shall be conclusive evidence of the due and proper appointments of the member.

(b) The powers of the authority shall be vested in the members thereof in office from time to time. A majority of the members of the authority shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Action may be taken by the authority upon a vote of a majority of the members present, unless the bylaws of the authority require a larger number. Meetings of the members of the authority may be held anywhere within or outside the state.

(c) The governor shall appoint a chairman and vice-chairman from the members of the authority. The ~~authority shall employ~~ **governor shall appoint** an executive director **for the authority, who shall serve at the pleasure of the governor and receive compensation as fixed by the authority. The authority shall employ** legal and technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. The authority may also engage independent legal counsel to assist it. The authority may delegate to one (1) or more of its agents or employees such powers or duties as it may deem proper.

(d) The authority may also contract with any entity, including the Indiana finance authority, to provide staff or services, including the functions of the executive director and employees of the authority, under such terms as the authority determines.

SECTION 87. IC 5-20-1-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 3.5. Before the issuance of any bonds under this chapter:**

(1) the executive director of the authority;

(2) each member of the authority; and

(3) any other employee or agent of the authority authorized by resolution of the authority to handle funds or sign checks;

shall execute a surety bond in the penal sum of fifty thousand dollars ($50,000). If an individual described in subdivisions (1) through (3) is already covered by a bond required by state law, the individual need not obtain another bond if the bond required by state law is in at least the penal sum specified in this section and covers the individual's activities for the authority. In lieu of this bond, the chairman of the authority may execute a blanket surety bond covering each member, the executive director, and the employees or other officers of the authority. Each surety bond must be conditioned upon the faithful performance of the individual's duties, and shall be issued by a surety company authorized to transact business in Indiana as surety. At all times after the issuance of any surety bonds, these surety bonds shall be maintained in full force and effect. All costs of the surety bonds shall be borne by the authority.

SECTION 88. IC 5-20-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. (a) The authority has all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the power:

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

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

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

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

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

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

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

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

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

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

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

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

(13) to provide technical and advisory services to sponsors, builders, and developers of residential housing and to

residents and potential residents, including housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

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

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

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

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

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

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

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

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

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

(23) **notwithstanding IC 5-13, but subject to the requirements of any trust agreement entered into by the authority,** to invest: ~~any funds held in reserve or in sinking fund accounts or any money not required for immediate disbursement in obligations of the state, the United States, or their agencies or instrumentalities and such other obligors as may be permitted under the terms of any resolution authorizing the issuance of the authority's obligations;~~

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

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

(C) proceeds of bonds or notes;

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

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

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

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

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

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

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

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

(28) to service mortgage loans made or acquired by the authority and to impose and collect reasonable fees and charges in connection with such servicing; **and**

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

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

(b) The authority shall structure and administer any program conducted under subsection (a)(3) or (a)(4) in order to assure that no mortgage loan shall knowingly be made to a person whose adjusted family income shall exceed one hundred twenty-five percent (125%) of the median income for the geographic area within which the person resides and at least forty percent (40%) of the mortgage loans so financed shall be for persons whose adjusted family income shall be below eighty percent (80%) of the median income for such area.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) Beginning with the 1991 program year, the authority, when directed by the governor, shall administer:

(1) the rental rehabilitation program established by the Housing Assistance Act of 1937 (42 U.S.C. 1437o); and

(2) federal funds allocated to the rental rehabilitation program under the Housing Assistance Act of 1937 (42 U.S.C. 1437o).

(f) The authority may contract with the division of family and children and the department of commerce so that the authority may administer the program and funds described under subsection (e) for program years before 1991.

(g) Beginning May 15, 2005, the authority shall identify, promote, assist, and fund home ownership education programs conducted throughout Indiana by nonprofit counseling agencies certified by the authority using funds appropriated under section 27 of this chapter. The attorney general and the entities listed in IC 4-6-12-4(a)(1) through IC 4-6-12-4(a)(10) shall cooperate with the authority in implementing this subsection.

SECTION 89. IC 5-20-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. ~~Authority Authorization and Operation of Revenue Bond Financing.~~ (a) **Subject to the approval of the governor,** the authority is hereby authorized to issue bonds or notes, or a combination thereof, to carry out and effectuate its purposes and powers. The principal of, and the interest on, such bonds or notes shall be payable solely from the funds provided for such payment in this chapter. The authority may secure the repayment of such bonds and notes by the pledge of mortgages and notes of others, revenues derived from operations and loan repayments, the proceeds of its bonds, and any available revenues or assets of the authority. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the authority, at such price or prices and under such terms and conditions as may be determined by the authority. Any such bonds or notes shall bear interest at such rate or rates as may be determined by the authority. Notes shall mature at such time or times not exceeding ten (10) years from their date or dates, and bonds shall mature at such time or times not exceeding forty-five (45) years from their date or dates, as may be determined by the authority. The authority shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or outside the state. In case any officer whose signature, or a facsimile of whose signature, shall appear on any bonds or notes or coupons attached thereto shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The authority may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the authority authorizing the sale of its bonds or notes, such bonds or notes may be sold in such manner, either at public or private sale, and for such price as the authority shall determine to be for the best interest of the authority and to best effectuate the purposes of this chapter.

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

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

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

SECTION 90. IC 5-20-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 18. The authority shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor, **the budget committee,** and the general assembly. An annual report submitted under this section to the general assembly must be in an

electronic format under IC 5-14-6. The report shall set forth a complete operating and financial statement of the authority during such year, and a copy of such report shall be available to inspection by the public at the Indianapolis office of the authority. The authority shall cause an audit of its books and accounts to be made at least once in each year by an independent certified public accountant and the cost thereof may be paid from any available money of the authority.

SECTION 91. IC 5-20-1-27 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 27. (a) The home ownership education account within the state general fund is established to support the home ownership education programs established under section 4(g) of this chapter. The account is administered by the authority.**

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

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

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

SECTION 92. IC 5-26-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. The commission shall pay its obligations under any use and occupancy agreement or any other contract or lease with the ~~state office building commission~~ **Indiana finance authority** from money deposited in the infrastructure fund before making any other disbursement or expenditure of the money.

SECTION 93. IC 5-28-8-4, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. As used in this chapter, "qualified entity" means the state, a political subdivision of the state, an agency of the state or a political subdivision of the state, a nonprofit corporation, or the Indiana ~~development~~ finance authority established under IC 4-4-10.9 and IC 4-4-11.

SECTION 94. IC 5-28-25-1, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. As used in this chapter, "eligible entity" means:

(1) a city;

(2) a town;

(3) a county;

(4) a special taxing district;

(5) an economic development commission established under IC 36-7-12;

(6) a nonprofit corporation;

(7) a corporation established under IC 23-7-1.1 (before its repeal on August 1, 1991) or IC 23-17 to distribute water for domestic and industrial use;

(8) a regional water, sewage, or solid waste district;

(9) a conservancy district that includes in its purpose the distribution of domestic water or the collection and treatment of waste; or

(10) the Indiana ~~development~~ finance authority established under IC 4-4-11.

SECTION 95. IC 6-3.1-9-1, AS AMENDED BY P.L.4-2005, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. As used in this chapter:

"Business firm" means any business entity authorized to do business in the state of Indiana that has state tax liability.

"Community services" means any type of counseling and advice, emergency assistance, medical care, recreational facilities, housing facilities, or economic development assistance to individuals, groups, or neighborhood organizations in an economically disadvantaged area.

"Crime prevention" means any activity which aids in the reduction of crime in an economically disadvantaged area.

"Economically disadvantaged area" means an enterprise zone, or any area in Indiana that is certified as an economically disadvantaged area by the Indiana ~~economic development corporation~~ **housing finance authority** after consultation with the community services agency. The certification shall be made on the basis of current indices of social and economic conditions, which shall include but not be limited to the median per capita income of the area in relation to the median per capita income of the state or standard metropolitan statistical area in which the area is located.

"Education" means any type of scholastic instruction or scholarship assistance to an individual who resides in an economically disadvantaged area that enables the individual to prepare for better life opportunities.

"Enterprise zone" means an enterprise zone created under IC 5-28-15.

"Job training" means any type of instruction to an individual who resides in an economically disadvantaged area that enables the individual to acquire vocational skills so that the individual can become employable or be able to seek a higher grade of employment.

"Neighborhood assistance" means either:

(1) furnishing financial assistance, labor, material, and technical advice to aid in the physical or economic improvement of any part or all of an economically disadvantaged area; or

(2) furnishing technical advice to promote higher employment in any neighborhood in Indiana.

"Neighborhood organization" means any organization, including but not limited to a nonprofit development corporation:

(1) performing community services in an economically disadvantaged area; and

(2) holding a ruling:

(A) from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation under the provisions of the Internal Revenue Code; and

(B) from the department of state revenue that the organization is exempt from income taxation under IC 6-2.5-5-21.

"Person" means any individual subject to Indiana gross or adjusted gross income tax.

"State fiscal year" means a twelve (12) month period beginning on July 1 and ending on June 30.

"State tax liability" means the taxpayer's total tax liability that is incurred under:

(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax); and

(2) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this chapter.

"Tax credit" means a deduction from any tax otherwise due and payable under IC 6-3 or IC 6-5.5.

SECTION 96. IC 6-3.1-9-2, AS AMENDED BY P.L.4-2005, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) A business firm or a person who contributes to a neighborhood organization or who engages in the activities of providing neighborhood assistance, job training or education for individuals not employed by the business firm or person, or for community services or crime prevention in an economically disadvantaged area shall receive a tax credit as provided in section 3 of this chapter if the ~~board of the~~ Indiana ~~economic development corporation~~ **housing finance authority** approves the proposal of the business firm or person, setting forth the program to be conducted, the area selected, the estimated amount to be invested in the program, and the plans for implementing the program.

(b) The ~~board of the~~ Indiana ~~economic development corporation,~~ **housing finance authority,** after consultation with the community services agency and the commissioner of revenue, may adopt rules for the approval or disapproval of these proposals.

SECTION 97. IC 6-3.1-9-4, AS AMENDED BY P.L.4-2005, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. (a) Any business firm or person which desires to claim a tax credit as provided in this chapter shall file with the department, in the form that the department may prescribe, an application stating the amount of the contribution or investment which it proposes to make which would qualify for a tax credit, and the amount sought to be claimed as a credit. The application shall include a certificate evidencing approval of the contribution or program by the ~~board of the~~ Indiana ~~economic development corporation.~~ **housing finance authority.**

(b) The ~~board of the~~ Indiana ~~economic development corporation~~ **housing finance authority** shall give priority in issuing certificates to applicants whose contributions or programs directly benefit enterprise zones.

(c) The department shall promptly notify an applicant whether, or the extent to which, the tax credit is allowable in the state fiscal year in which the application is filed, as provided in section 5 of this chapter. If the credit is allowable in that state fiscal year, the applicant shall within thirty (30) days after receipt of the notice file with the department of state revenue a statement, in the form and accompanied by the proof of payment as the department may prescribe, setting forth that the amount to be claimed as a credit under this chapter has been paid to an organization for an approved program or purpose, or permanently set aside in a special account to be used solely for an approved program or purpose.

(d) The department may disallow any credit claimed under this chapter for which the statement or proof of payment is not filed within the thirty (30) day period.

SECTION 98. IC 6-3.1-23-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. As used in this chapter, "qualified investment" means costs that:

(1) result from work performed in Indiana to conduct a voluntary remediation, whether or not under IC 13-25-5, that involves the remediation of a brownfield;

(2) are not recovered by a taxpayer from another person after the taxpayer has made a good faith effort to recover the costs;

(3) are not paid from state financial assistance;

(4) result in taxable income to any other Indiana taxpayer; and

(5) are approved by the department of environmental management and the Indiana ~~development~~ finance authority under section 12 of this chapter.

SECTION 99. IC 6-3.1-23-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 5. (a) A taxpayer is entitled to a credit equal to the amount determined under section 6 of this chapter against the taxpayer's state tax liability for a taxable year if the following requirements are satisfied:

(1) The taxpayer does the following:

(A) Makes a qualified investment in that taxable year.

(B) Makes a good faith attempt to recover the costs of the environmental damages from the liable parties.

(C) Submits a plan to the legislative body that:

(i) describes the taxpayer's proposed redevelopment of the property;

(ii) indicates the sources and amounts of money to be used for the remediation and proposed redevelopment of the property; and

(iii) estimates the value of the remediation and proposed redevelopment.

(D) Certifies to the legislative body that the taxpayer:

(i) has never had an ownership interest in an entity that contributed; and

(ii) has not contributed;

to contamination (as defined in IC 13-11-2-43) that is the subject of the voluntary remediation, as determined under the written standards adopted by the department of environmental management and the Indiana ~~development~~ finance authority.

(2) The legislative body, after holding a public hearing of which notice was given under IC 5-3-1, adopts a resolution:

(A) determining that:

(i) the estimate of the value of the remediation and proposed redevelopment included in the plan under subdivision (1)(C)(iii) is reasonable for projects of that nature; and

(ii) the plan submitted under subdivision (1)(C) is in the best interest of the community;

(B) determining that the taxpayer:

(i) has never had an ownership interest in an entity that contributed; and

(ii) has not contributed;

to contamination (as defined in IC 13-11-2-43) that is the subject of the voluntary remediation, as determined under the written standards adopted by the department of environmental management and the Indiana ~~development~~ finance authority; and

(C) approving the credit.

(3) The department determines under section 15 of this chapter that the taxpayer's return claiming the credit is filed with the department before the maximum amount of credits allowed under this chapter is met.

(b) In determining whether the redevelopment is in the best interest of the community, the legislative body must consider, among other things, whether the proposed development promotes:

(1) the development of housing;

(2) the development of green space;

(3) the development of high technology businesses; or

(4) the creation or retention of high paying jobs.

SECTION 100. IC 6-3.1-23-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 12. (a) To be entitled to a credit under this chapter, a taxpayer must request the department of environmental management and the Indiana ~~development~~ finance authority to determine if costs incurred in a voluntary remediation involving a brownfield are qualified investments.

(b) The request under subsection (a) must be made before the costs are incurred.

(c) Upon receipt of a request under subsection (a), the department of environmental management and the Indiana ~~development~~ finance authority shall:

(1) examine the costs under the standards adopted by the department of environmental management; and

(2) certify any costs that the department and the authority determine to be a qualified investment.

(d) Upon completion of a voluntary remediation for which costs have been certified as a qualified investment under subsection (c), the taxpayer:

(1) shall notify the department of environmental management; and

(2) shall request from the department of environmental management:

(A) with respect to voluntary remediation conducted under IC 13-25-5, the certificate of completion issued by the commissioner under IC 13-25-5-16 for the voluntary remediation work plan under which the costs certified under subsection (c)(2) were incurred; or

(B) with respect to voluntary remediation not conducted under IC 13-25-5, a certification of the costs incurred for the voluntary remediation that are consistent with the costs certified under subsection (c)(2).

SECTION 101. IC 6-3.1-23-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13. (a) To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department of state revenue.

(b) The taxpayer shall submit the following to the department of state revenue:

(1) The certification of the qualified investment by the department of environmental management and the Indiana ~~development~~ finance authority under section 12(c) of this chapter.

(2) Either:

(A) an official copy of the certification referred to in section 12(d)(2)(A) of this chapter; or

(B) the certification issued by the department of environmental management in response to a request under section 12(d)(2)(B) of this chapter.

(3) Proof of payment of the certified qualified investment.

(4) A copy of the legislative body's resolution adopted under section 5(a)(2) of this chapter.

(5) Information that the department determines is necessary for the calculation of the credit provided by this chapter.

SECTION 102. IC 6-3.1-23-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. (a) The amount of tax credits allowed under this chapter may not exceed one million dollars ($1,000,000) in a state fiscal year unless the Indiana ~~development~~ finance authority determines under subsection (e) that money is available for additional tax credits in a particular state fiscal year. However, if the maximum amount of tax credits allowed under this subsection exceeds the amount available in the subaccount of the environmental remediation revolving loan fund (IC 13-19-5), the maximum amount of tax credits allowed under this subsection is reduced to the amount available.

(b) The department shall record the time of filing of each return claiming a credit under section 13 of this chapter and shall, except as provided in subsection (c), grant the credit to the taxpayer, if the taxpayer otherwise qualifies for a tax credit under this chapter, in the chronological order in which the return is filed in the state fiscal year.

(c) If the total credits approved under this section equal the maximum amount allowable in a state fiscal year, a return claiming the credit filed later in that same fiscal year may not be approved. However, if an applicant for whom a credit has been approved fails to file the information required by section 13 of this chapter, an amount equal to the credit previously allowed or set aside for the applicant may be allowed to the next eligible applicant or applicants until the total amount has been allowed. In addition, the department may, if the applicant so requests, approve a credit application, in whole or in part, with respect to the next succeeding state fiscal year.

(d) The department of state revenue shall report the total credits granted under this chapter for each state fiscal year to the Indiana ~~development~~ finance authority. The Indiana ~~development~~ finance authority shall transfer to the state general fund an amount equal to the total credits granted from the subaccount of the environmental remediation revolving loan fund (IC 13-19-5).

(e) At the end of each state fiscal year, the Indiana ~~development~~ finance authority may determine whether money is available in the subaccount of the environmental remediation revolving loan fund (IC 13-19-5) to provide tax credits in excess of the amount set forth

in subsection (a) in the subsequent state fiscal year.

(f) Before December 31 of each year, the Indiana ~~development~~ finance authority may assess the demand for tax credits under this chapter and determine whether the need for other brownfield activities is greater than the need for tax credits. If the Indiana ~~development~~ finance authority determines that the need for other brownfield activities is greater than the need for tax credits, the authority may set aside up to three-fourths (3/4) of the amount of allowable tax credits for the subsequent state fiscal year and use it for other brownfield projects.

(g) Except as provided in subsection (h), the Indiana ~~development~~ finance authority may use money set aside under subsection (f) for any permissible purpose.

(h) Money specifically appropriated for tax credits may not be set aside for another use.

SECTION 103. IC 6-3.1-23-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 17. The Indiana ~~development~~ finance authority, after consulting with the department of environmental management and the budget agency and without complying with IC 4-22-2, may adopt guidelines to govern the administration of this chapter.

SECTION 104. IC 8-1-8.6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. The fund may be used only to defray a portion of the cost of additional capacity (related to a steel facility's consumption of electricity in Public Service of Indiana's system) added to the Public Service of Indiana system and in any rate proceeding before the utility regulatory commission involving the cost of this new capacity, the fund will be allocated to the ratepayers of Public Service of Indiana. The utility regulatory commission shall determine the specific ratemaking methodology for allocation and distribution of the ratepayer protection fund to Public Service of Indiana's ratepayers in an order and present the order to the Indiana ~~development~~ finance authority. The Indiana ~~development~~ finance authority shall disburse the fund based on the order of the utility regulatory commission.

SECTION 105. IC 8-1-33 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]:

Chapter 33. Indiana Broadband Development Program

Sec. 1. (a) The general assembly finds that certain areas of Indiana are not being adequately served with broadband services.

(b) The general assembly declares that it is a valid public purpose for the Indiana finance authority to issue bonds and notes, and loan the proceeds of those bonds and notes to the program, so that the authority may provide for financing or refinancing to broadband developers and broadband operators serving underserved areas.

Sec 2. As used in this chapter, "affordable broadband services" means broadband services that are available at a price reasonably comparable to the price charged for broadband services in an area that is not an underserved area.

Sec. 3. As used in this chapter, "authority" refers to the Indiana finance authority established by IC 4-4-11-4.

Sec. 4. As used in this chapter, "broadband developer" means a person selected by the authority to acquire, construct, develop, and create any part of the broadband infrastructure.

Sec. 5. As used in this chapter, "broadband development program" or "program" refers to the Indiana broadband development program established by section 15 of this chapter.

Sec. 6. As used in this chapter, "broadband infrastructure" includes all facilities, hardware, and software and other intellectual property used for and necessary to provide broadband services in underserved areas of Indiana, including voice, video, and data.

Sec. 7. As used in this chapter, "broadband operator" means a person selected by the authority to operate any part of the broadband infrastructure.

Sec. 8. As used in this chapter, "broadband services" includes services, including voice, video, and data, that provide capacity for transmission of more than two hundred (200) kilobits per second in at least one (1) direction regardless of the technology or medium used, including wireless, copper wire, fiber optic cable, or coaxial cable. If voice transmission capacity is offered in conjunction with other services using transmission of more than two hundred (200) kilobits per second, the voice transmission capacity may be less than two hundred (200) kilobits per second. The authority shall annually reconsider the two hundred (200) kilobits threshold under this section with a bias toward raising the threshold in a manner consistent with technological advances.

Sec. 9. As used in this chapter, "development costs" means the costs associated with the broadband infrastructure that have been approved by the authority and includes all the following:

(1) The costs for the planning, acquiring, leasing, constructing and maintaining of the broadband infrastructure.

(2) Payments for options to purchase, deposits on contracts of purchase, and payments for the purchases of properties for the broadband infrastructure.

(3) Financing, refinancing, acquisition, demolition, construction, rehabilitation, and site development of new and existing buildings.

(4) Carrying charges during construction.

(5) Purchases of hardware, software, facilities, or other expenses related to the broadband infrastructure.

(6) Legal, organizational, and marketing expenses, project manager and clerical staff salaries, office rent, and other incidental expenses.

(7) Payment of fees for preliminary feasibility studies and advances for planning, engineering, and architectural work.

(8) Any other costs and expenses necessary for the acquisition, construction, maintenance, and operation of all or part of the broadband infrastructure.

Sec. 10. As used in this chapter, "person" means an individual, a corporation, a rural electric membership corporation, a limited or general partnership, a joint venture,

a limited liability company, or a governmental entity, including a body corporate and politic, political subdivision, municipal corporation, school, college, university, hospital, health care facility, library, or nonprofit organization. The term does not include the state.

Sec. 11. (a) As used in this chapter, "relevant services" refers to:

(1) cable service (as defined in 47 U.S.C. 522(6));

(2) telecommunications service (as defined in 47 U.S.C. 153(46)); and

(3) information service (as defined in 47 U.S.C. 153(20)).

(b) The term includes:

(1) advanced services (as defined in 47 CFR 51.5);

(2) broadband service; and

(3) Internet Protocol enabled services;

however classified by the Federal Communications Commission.

Sec. 12. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13. The term includes any entity:

(1) owned, operated, or controlled by a political subdivision; or

(2) in which a political subdivision otherwise has an interest, whether direct or indirect.

Sec. 13. As used in this chapter, "underserved area" means an area within Indiana that the authority determines does not have a person that:

(1) provides broadband service in the area at the time of the authority's inquiry under section 14 of this chapter; or

(2) intends to provide broadband service not later than three (3) months after the date of the authority's inquiry under section 14 of this chapter.

Sec. 14. (a) The authority shall conduct an inquiry to determine underserved areas within Indiana. The authority shall send a request to each person that provides a relevant service within one hundred (100) miles of the proposed broadband service area. A request under this subsection must inquire as to whether the person:

(1) provides broadband service; or

(2) intends to provide broadband service not later than three (3) months after the date of the authority's request under this subsection;

in the proposed broadband service area. This section does not empower the authority to require providers of broadband service to disclose confidential and proprietary business plans and other confidential information without adequate protection of the information.

(b) The authority may determine that there is not a person that provides or intends to provide broadband service in the proposed broadband service area if the authority's inquiry under subsection (a) results in any of the following:

(1) The authority does not receive a response to any of the requests sent under subsection (a) within twenty (20) days after the date the requests were sent.

(2) The authority:

(A) receives one (1) or more responses to a request under subsection (a) that indicate that the persons responding provide broadband service in the proposed broadband service area at the time of the request; and

(B) determines that no person responding actually provides broadband service in the designated area.

(3) The authority:

(A) receives one (1) or more responses to a request under subsection (a) that indicate that the persons responding intend to provide broadband service in the proposed broadband service area not later than three (3) months after the date of the authority's request under subsection (a); and

(B) determines, after the appropriate amount of time, that no person responding actually provided broadband service in the proposed broadband service area not later than three (3) months after the date of the authority's written request under subsection (a).

Sec. 15. (a) The Indiana broadband development program is established in order to encourage the provision of affordable broadband services and networks that will:

(1) ensure the long term growth of and the enhancement and delivery of services by the business, educational, medical, commercial, nonprofit, and governmental entities in underserved areas in Indiana; and

(2) benefit residential, commercial, public, governmental, and nonprofit entities in underserved areas in Indiana.

(b) The authority shall administer the broadband development program.

Sec. 16. (a) The powers of the authority under this chapter include all those necessary to carry out and effectuate the purposes of this chapter, including the following:

(1) To invest any money of the authority at the authority's discretion, in any obligations determined proper by the authority, and name and use depositories for the authority's money.

(2) To receive and distribute state or local funding, including grants, loans, and appropriations.

(3) To make loans or grants to broadband developers and broadband operators that will acquire, construct, maintain, and operate all or part of the broadband infrastructure serving underserved areas.

(4) To provide operating assistance to make broadband services more affordable to broadband developers, broadband operators, and broadband customers in underserved areas, in conjunction with broadband infrastructure financed by the authority.

(5) To set construction, operation, and financing standards for the broadband infrastructure in connection with authority financing and to provide for inspections to determine compliance with those standards.

(6) To investigate, evaluate, and assess the current broadband infrastructure and the future broadband infrastructure needs of Indiana and to encourage and

participate in aggregation strategies for the broadband services of all public entities and nonprofit corporations in Indiana to maximize the interconnectivity and efficiencies of the broadband infrastructure.

(7) To make expenditures necessary to carry out the authority's duties under this chapter, including paying the authority's operating expenses.

(b) As part of an application for financing under this chapter, a broadband developer or broadband operator must file with the authority a participation plan for small and minority owned businesses and a communitywide outreach plan to educate the public with respect to the availability of broadband services. The authority may not approve an application unless a plan is submitted under this subsection.

SECTION 106. IC 8-9.5-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. As used in this chapter:

"Authority" refers to the Indiana ~~transportation~~ finance authority established under ~~section 2 of this chapter.~~ **IC 4-4-11.**

"Department" refers to the Indiana department of transportation established under IC 8-23-2.

"Toll bridge" means a bridge with approaches, avenues of access, fills, causeways, and connecting bridges or ferries under IC 8-16-1.

"Toll road project" has the meaning specified in IC 8-15-2-4(4).

SECTION 107. IC 8-9.5-8-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16. (a) The rural transportation road fund is established as a special revenue fund to be administered by the ~~transportation~~ **Indiana** finance authority.

(b) The money in the rural transportation road fund at the end of any state fiscal year does not revert to any other fund.

(c) The treasurer of state may invest the money in the rural transportation road fund in the manner provided by law for investing money in the state general fund.

(d) The rural transportation road fund is to be used only for the purpose of supplementing the revenues received by the ~~transportation~~ **Indiana** finance authority as tolls imposed for the use of any toll road or toll bridge project.

SECTION 108. IC 8-9.5-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. As used in this chapter, "authority" means:

(1) an authority or agency established under IC 8-1-2.2 or IC 8-9.5 through IC 8-23;

(2) **when acting under an affected statute (as defined in IC 4-4-10.9-1.2),** the ~~commission~~ **Indiana finance authority** established ~~under IC 4-13.5;~~ **by IC 4-4-11;**

(3) only in connection with a program established under IC 13-18-13 or IC 13-18-21, the bank established under IC 5-1.5; ~~or~~

(4) a fund or program established under IC 13-18-13 or IC 13-18-21;

(5) the Indiana health and educational facility financing authority established by IC 5-1-16; and

(6) the Indiana housing finance authority established by IC 5-20-1.

SECTION 109. IC 8-10-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. (a) There is hereby created a commission to be known as the "Indiana port commission" and by that name the commission may sue and be sued, and plead and be impleaded. The commission hereby created is a body both corporate and politic in the state of Indiana, and the exercise by the commission of the powers conferred by this article in the construction, operation, and maintenance of a port or project shall be deemed and held to be essential governmental functions of the state, but the commission shall not however be immune from liability by reason thereof.

(b) The commission shall consist of seven (7) members, appointed by the governor, no more than four (4) of whom shall be members of the same political party. The members shall be residents of the state, and shall have been qualified electors therein for a period of at least five (5) years next preceding their appointment. The members of the commission first appointed shall continue in office for terms expiring, in the case of two (2) members, on July 1, 1962, and in the case of three (3) members, on July 1, 1963, July 1, 1964, and July 1, 1965, and the first two (2) members appointed after January 1, 1975, shall continue in office for terms expiring July 1, 1977, for one (1) member and July 1, 1979, for the other member, respectively, and until their respective successors shall be duly appointed and qualified. The term of any member of the commission first appointed shall be designated by the governor. The successor of each such member shall be appointed for a term of four (4) years, except that any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term, and a member of the commission shall be eligible for reappointment. The governor may at any time remove any member of the commission for misfeasance, nonfeasance, or malfeasance in office. The members of the commission shall, within ten (10) days after their appointment, meet and qualify by subscribing an oath to discharge honestly and faithfully the duties of their office as members of such commission. The commission shall thereafter elect one (1) of the members as chairman and another as vice-chairman, and shall appoint a secretary-treasurer who need not be a member of the commission. Four (4) members of the commission shall constitute a quorum and the affirmative vote of four (4) members shall be necessary for any official action taken by the commission. No vacancy in the membership of the commission shall impair the rights of a quorum to exercise all the rights and perform all the duties of the commission.

(c) Before the issuance of any revenue bonds under the provisions of this article:

(1) each appointed member of the commission; ~~shall give a surety bond to the state in the penal sum of twenty-five thousand dollars ($25,000) and~~

(2) the secretary-treasurer; **and**

(3) any other employee or agent of the commission authorized by resolution of the commission to handle funds or sign checks;

shall give a surety bond to the state in the penal sum of fifty thousand dollars ($50,000). Each such surety bond must be conditioned upon the faithful performance of the **individual's**

duties, ~~of the office,~~ to be executed by a surety company authorized to transact business in the state as surety and to be approved by the governor and filed in the office of the secretary of state.

(d) Each appointed member of the commission shall receive an annual salary of seven thousand five hundred dollars ($7,500), payable in monthly instalments. However, no members of such commission as appointed hereunder shall receive any salary except a per diem as fixed and approved by the budget director until said commission is able to carry on the full operations as intended by this chapter, and the budget director, subject to the approval of the governor of the state of Indiana, shall determine when said salaries for said commission members shall commence.

(e) Each member shall be reimbursed for ~~his~~ **the member's** actual expenses necessarily incurred in the performance of ~~his~~ **the member's** duties.

(f) All expenses incurred in carrying out the provisions of this article shall be payable solely from funds provided under the authority of this article and no liability or obligation shall be incurred by the commission hereunder beyond the extent to which moneys shall have been provided under the authority of this article.

SECTION 110. IC 8-10-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13. (a) **Subject to the approval of the governor,** the commission is hereby authorized to provide by resolution, at one **(1)** time or from time to time, for the issuance of revenue bonds of the state for the purpose of paying all or any part of the cost of a port or project under this chapter or IC 8-10-4. The principal of and the interest on such bonds shall be payable solely from the revenues specifically pledged to the payment thereof. The bonds of each issue shall be dated, shall bear interest at any rate, shall mature at such time or times not exceeding ~~fifty (50)~~ **thirty-five (35)** years from the date thereof, as may be determined by the commission**,** and may be made redeemable before maturity, at the option of the commission, at such price or prices and under such terms and conditions as may be fixed by the commission in the authorizing resolution.

(b) The commission shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state.

(c) The bonds shall be signed in the name of the commission, by its chairman or vice chairman or by the facsimile signature of such chairman or vice chairman, and the official seal of the commission, or facsimile thereof, shall be affixed thereto and attested by the secretary-treasurer of the commission, and any coupons attached thereto shall bear the facsimile signature of the chairman of the commission. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if ~~he~~ **the officer** had remained in office until such delivery.

(d) All bonds issued under this article shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state of Indiana.

(e) The bonds may be issued in coupon or in registered form, or both, as the commission may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(f) The bonds shall be sold at public sale in accordance with IC 4-1-5, except as provided in IC 8-10-4.

(g) No action to contest the validity of any bonds issued by the commission under this article shall be commenced more than thirty (30) days following the adoption of the resolution approving the bonds as provided in this article.

(h) The commission shall cooperate with and use the assistance of the Indiana finance authority established under IC 4-4-11 in the issuance of the bonds under this chapter or IC 8-10-4.

SECTION 111. IC 8-10-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 22. (a) The commission shall cause an audit of its books and accounts to be made at least once each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operations of the commission's ports and projects. The accounts, books, and records of the Indiana port commission shall be audited annually by the state board of accounts, and the cost of such audit may be treated as a part of the cost of construction or of operations of the commission's ports and projects.

(b) The commission shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor, ~~Each member of the general assembly shall receive a copy of the report by making a request for it to the chairman of the commission.~~ **the budget committee, and the general assembly. An annual report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6.** Each report shall set forth a complete operating and financial statement for the commission during the fiscal year it covers.

SECTION 112. IC 8-10-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. **(a)** In addition to the powers conferred upon the Indiana port commission by other provisions of this article, **and subject to subsection (b),** the commission, in connection with any self-liquidating project, shall have the following powers notwithstanding any other provision of this article to the contrary:

~~(a)~~ **(1)** The revenue bonds issued by the commission to finance the cost of such self-liquidating project may be issued without regard to any maximum interest rate limitation in this article or any other law.

~~(b)~~ **(2)** The revenue bonds issued by the commission to finance the cost of such self-liquidating project may be sold in such manner, either at public or private sale, as the commission may determine, and the provisions of IC 4-1-5 shall not be applicable to such sale.

~~(c)~~ **(3)** IC 4-13.6, IC 5-16-1, IC 5-16-2, IC 5-16-3, IC 5-16-5, IC 5-16-5.5, IC 5-16-6, IC 5-16-6.5, IC 5-16-8, IC 5-16-9,

IC 5-16-10, IC 5-16-11, IC 5-16-11.1, IC 8-10-1-7(12), IC 8-10-1-29, and IC 36-1-12 do not apply to a project to be leased to a private party whose payments are expected to be sufficient to pay all debt service on bonds issued by the commission to finance the project.

(b) The issuance of revenue bonds by the commission under this chapter is subject to the approval of the governor.

SECTION 113. IC 8-14.5-1-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 4. This article:**

(1) applies to the authority only when acting for the purposes set forth in this article; and

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

SECTION 114. IC 8-14.5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. "Authority" refers to the Indiana ~~transportation~~ finance authority established under ~~IC 8-9.5-8-2.~~ **IC 4-4-11.**

SECTION 115. IC 8-15-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. (a) In order to remove the handicaps and hazards on the congested highways in Indiana, to facilitate vehicular traffic throughout the state, to promote the agricultural and industrial development of the state, and to provide for the general welfare by the construction of modern express highways embodying safety devices, including center division, ample shoulder widths, long sight distances, multiple lanes in each direction, and grade separations at intersections with other highways and railroads, the authority may:

(1) construct, reconstruct, maintain, repair, and operate toll road projects at such locations as shall be approved by the governor;

(2) in accordance with such alignment and design standards as shall be approved by the authority and subject to IC 8-9.5-8-10, issue toll road revenue bonds of the state payable solely from funds pledged for their payment, as authorized by this chapter, to pay the cost of such projects;

(3) finance, develop, construct, reconstruct, improve, or maintain public improvements, such as roads and streets, sewerlines, waterlines, and sidewalks for manufacturing or commercial activities within a county through which a toll road passes if these improvements are within the county and are within an area that is located:

(A) ten (10) miles on either side of the center line of a toll road project; or

(B) two (2) miles on either side of the center line of any limited access highway that interchanges with a toll road project;

(4) in cooperation with the Indiana department of transportation or a political subdivision, construct, reconstruct, or finance the construction or reconstruction of an arterial highway or an arterial street that is located within ten (10) miles of the center line of a toll road project and that:

(A) interchanges with a toll road project; or

(B) intersects with a road or a street that interchanges with a toll road project;

(5) assist in developing existing transportation corridors in northwestern Indiana; and

(6) exercise these powers in participation with any governmental entity or with any individual, partnership, limited liability company, or corporation.

(b) Notwithstanding subsection (a), the authority shall not construct, maintain, operate, nor contract for the construction, maintenance, or operation of transient lodging facilities on, or adjacent to, such toll road projects.

(c) This chapter:

(1) applies to the authority only when acting for the purposes set forth in this chapter; and

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

SECTION 116. IC 8-15-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. As used in this chapter, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(1) "Authority" refers to the Indiana ~~transportation~~ finance authority established under ~~IC 8-9.5-8-2.~~ **IC 4-4-11.**

(2) "Capitalized interest" means:

(A) interest costs on toll road revenue bonds before and during the period of construction of the project for the payment of the cost of which the bonds were issued, and for one (1) year after completion of construction; and

(B) interest costs on succeeding lien bonds authorized by this chapter for the period from the date of such bonds until the date when the prior outstanding toll road revenue bonds, for which revenues are pledged, are retired, but not later than ten (10) years from the date of issue of the succeeding lien bonds.

(3) "Department" refers to the Indiana department of transportation.

(4) "Project" or "toll road project" means any express highway, superhighway, or motorway constructed under the provisions of this chapter or accepted as a toll road under IC 8-23-7, including all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, tollhouses, service stations, and administration, storage, and other buildings and facilities which the authority may deem necessary or desirable for the operation of the project, together with all property, rights, easements, and interests which may be acquired by the authority for the construction or the operation of the project. "Project" or "toll road project" includes any subsequent improvement, betterment, enlargement, extension, or reconstruction of an existing project. Each project or toll road project may be constructed or extended in such sections as the authority may from time to time determine, and shall be separately designated by name or number, which designation shall also apply to any project which is a subsequent improvement, betterment, enlargement, extension, or reconstruction of such project. The construction, maintenance, or operation, of transient lodging facilities on, or adjacent to any such project, or the contracting therefor,

shall not be considered as within the definition of "project" or "toll road project".

(5) "Cost" as applied to a toll road project or any part of a toll road project includes:

(A) the cost of construction, including bridges over or under existing highways and railroads;

(B) the cost of acquisition of all land, rights-of-way, property, rights, easements, and interests acquired by the authority for such construction;

(C) the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved;

(D) the cost of diverting highways, interchange of highways, and access roads to private property, including the cost of land or easements therefor;

(E) the cost of all machinery and equipment;

(F) financing charges and capitalized interest;

(G) the cost of funding any reserves to secure the payment of toll road revenue bonds;

(H) the cost of traffic estimates and of engineering and legal expenses, plans, specifications, surveys, estimates of cost and revenues;

(I) other expenses necessary or incident to determining the feasibility or practicability of constructing any such project;

(J) administrative expense;

(K) such other expenses as may be necessary or incident to the construction of the project, the financing of such construction, and the placing of the project in operation; and

(L) the cost of conversion to a toll road project of a state highway or part of a highway accepted as a toll road project under IC 8-23-7.

Any obligation or expense incurred by the department for surveys, borings, preparation of plans and specifications, and other engineering services in connection with the construction of a project under this chapter or for the repayment of a grant from a federal agency which the authority itself would be authorized to repay under section 5(9) of this chapter in connection with such project or with the issuance of bonds for the payment of the cost of such project, shall be regarded as a part of the cost of such project and shall be reimbursed to the state out of the proceeds of toll road revenue bonds as authorized.

(6) "Owner" includes all individuals, copartnerships, associations, limited liability companies, or corporations having any title or interest in any property, rights, easements, and interests authorized to be acquired by this chapter.

(7) "Revenues" means all tolls, rentals, gifts, grants, money, and all other funds and property coming into the possession or under the control of the authority by virtue of the terms and provisions of this chapter, except the proceeds from the sale of bonds issued under the provisions of this chapter and earnings thereon.

(8) "Public roads" includes all public highways, roads, and streets in the state, whether maintained by the state, county, city, township, or other political subdivision.

(9) "Transient lodging facility" means accommodations for overnight or temporary habitation, including, but not limited to, hotels, motels, motor courts, lodges, and inns, for persons using any toll road project.

(10) "Toll road bonds" means all bonds issued under the provisions of this chapter, including refunding bonds and succeeding lien bonds.

(11) "State highway" means a public road for which the department is responsible under IC 8-23-2.

SECTION 117. IC 8-16-1-0.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 0.1. As used in this chapter:

"Authority" refers to the Indiana ~~transportation~~ finance authority established under ~~IC 8-9.5-8-2.~~ **IC 4-4-11.**

"Department" refers to the Indiana department of transportation.

SECTION 118. IC 8-16-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. (a) The authority shall have the power:

~~(1) to establish bylaws and, under IC 4-22-2, rules and regulations for its own government;~~

~~(2)~~ **(1)** to make and enter into all contracts or agreements; and

~~(3)~~ **(2)** to do all things necessary or incidental to the performance of its duties and the execution of its powers under this chapter.

(b) The authority may employ engineering, architectural, and construction experts, inspectors, and such other employees as may be necessary in its opinion to implement this chapter and fix their compensation, all of whom shall do such work as the authority may direct. All expenses so incurred by the authority shall be paid solely from funds provided under the authority of this chapter.

(c) This chapter:

(1) applies to the authority only when acting for the purposes set forth in this chapter; and

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

SECTION 119. IC 8-21-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. As used in this chapter, "authority" ~~means~~ **refers to** the ~~transportation~~ **Indiana** finance authority established under ~~IC 8-9.5-8-2.~~ **IC 4-4-11.**

SECTION 120. IC 8-21-12-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 10.5. This chapter:**

(1) applies to the authority only when acting for the purposes set forth in this chapter; and

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

SECTION 121. IC 8-23-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13. "Authority" refers to the Indiana ~~transportation~~ finance authority established under ~~IC 8-9.5-8-2.~~ **IC 4-4-11.**

SECTION 122. IC 8-23-2-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4.1. The department is responsible for the following activities:

(1) The identification, development, coordination, and implementation of the state's transportation policies.

(2) The approval of applications for federal transportation grants from funds allocated to the state:

(A) from the Highway Trust Fund (23 U.S.C.);

(B) from the Aviation Trust Fund (49 U.S.C.);

(C) through the Federal Transit Administration (49 U.S.C. 5301 et seq.); or

(D) from any other federal grant that has a transportation component.

(3) The review, revision, adoption, and submission of budget proposals.

(4) The construction, reconstruction, improvement, maintenance, and repair of:

(A) state highways; and

(B) a toll road project or toll bridge in accordance with a contract or lease entered into with the Indiana ~~transportation~~ finance authority under IC 8-9.5-8-7 or IC 8-9.5-8-8.

(5) The administration of programs as required by law, including the following:

(A) IC 8-3-1 (railroads).

(B) IC 8-3-1.5 (rail preservation).

(C) IC 8-21-1 (aeronautics).

(D) IC 8-21-9 (airports).

(E) IC 8-21-11 (aviation development program).

SECTION 123. IC 8-23-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 6. (a) The department, through the commissioner or the commissioner's designee, may do the following:

(1) Acquire by purchase, gift, or condemnation, sell, abandon, own in fee or a lesser interest, hold, or lease property in the name of the state, or otherwise dispose of or encumber property to carry out its responsibilities.

(2) Contract with persons outside the department to do those things that in the commissioner's opinion cannot be adequately or efficiently performed by the department.

(3) Enter into:

(A) a contract with the Indiana ~~transportation~~ finance authority under IC 8-9.5-8-7; or

(B) a lease with the Indiana ~~transportation~~ finance authority under IC 8-9.5-8-8;

for the construction, reconstruction, improvement, maintenance, repair, or operation of toll road projects under IC 8-15-2 and toll bridges under IC 8-16-1.

(4) Sue and be sued, including, with the approval of the attorney general, the compromise of any claims of the department.

(5) Hire attorneys.

(6) Perform all functions pertaining to the acquisition of property for transportation purposes, including the compromise of any claims for compensation.

(7) Hold investigations and hearings concerning matters covered by orders and rules of the department.

(8) Execute all documents and instruments necessary to carry out its responsibilities.

(9) Make contracts and expenditures, perform acts, enter into agreements, and make rules, orders, and findings that are necessary to comply with all laws, rules, orders, findings, interpretations, and regulations promulgated by the federal government in order to:

(A) qualify the department for; and

(B) receive;

federal government funding on a full or participating basis.

(10) Adopt rules under IC 4-22-2 to carry out its responsibilities.

(11) Establish regional offices.

(12) Adopt a seal.

(13) Perform all actions necessary to carry out the department's responsibilities.

(14) Order a utility to relocate the utility's facilities and coordinate the relocation of customer service facilities if:

(A) the facilities are located in a highway, street, or road; and

(B) the department determines that the facilities will interfere with a planned highway or bridge construction or improvement project funded by the department.

(15) Reimburse a utility:

(A) in whole or in part for extraordinary costs of relocation of facilities;

(B) in whole for unnecessary relocations;

(C) in accordance with IC 8-23-26-12 and IC 8-23-26-13;

(D) in whole for relocations covered by IC 8-1-9; and

(E) to the extent that a relocation is a taking of property without just compensation.

(16) Provide state matching funds and undertake any surface transportation project eligible for funding under federal law. However, money from the state highway fund and the state highway road construction and improvement fund may not be used to provide operating subsidies to support a public transportation system or a commuter transportation system.

(b) In the performance of contracts and leases with the Indiana ~~transportation~~ finance authority, the department has authority under IC 8-15-2, in the case of toll road projects and IC 8-16-1, in the case of toll bridges necessary to carry out the terms and conditions of those contracts and leases.

(c) The department shall:

(1) classify as confidential any estimate of cost prepared in conjunction with analyzing competitive bids for projects until a bid below the estimate of cost is read at the bid opening;

(2) classify as confidential that part of the parcel files that contain appraisal and relocation documents prepared by the department's land acquisition division; and

(3) classify as confidential records that are the product of systems designed to detect collusion in state procurement and contracting that, if made public, could impede detection of collusive behavior in securing state contracts.

This subsection does not apply to parcel files of public agencies or affect IC 8-23-7-10.

SECTION 124. IC 9-21-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. The maximum speed limits set forth in section 2 of this chapter may be altered as follows:

(1) By local jurisdictions under section 6 of this chapter.

(2) By the Indiana department of transportation under section 12 of this chapter.

(3) By the ~~transportation~~ **Indiana** finance authority under IC 8-15-2-17.2.

(4) For the purposes of speed limits on a highway on the national system of interstate and defense highways, by order of the commissioner of the Indiana department of transportation to conform to any federal regulation concerning state speed limit laws.

(5) In worksites, by all jurisdictions under section 11 of this chapter.

SECTION 125. IC 9-21-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. (a) Subject to subsection (b), the Indiana department of transportation, the ~~transportation~~ **Indiana** finance authority, or a local authority may establish temporary maximum speed limits in their respective jurisdictions and in the vicinity of a worksite without conducting an engineering study and investigation required under this article. The establishing authority shall post signs notifying the traveling public of the temporary maximum speed limits established under this section.

(b) Worksite speed limits set under this section must be ten (10) miles below the maximum established speed limit. A worksite speed limit may not exceed forty-five (45) miles per hour in any location.

SECTION 126. IC 13-11-2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16. (a) "Authority", for purposes of IC 13-22-10, refers to the Indiana hazardous waste facility site approval authority.

(b) "Authority", for purposes of **IC 13-18-13, IC 13-18-21, and** IC 13-19-5, refers to the Indiana ~~development~~ finance authority created under IC 4-4-11.

SECTION 127. IC 13-11-2-83 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 83. (a) "Financial assistance agreement", for purposes of IC 13-18-13, refers to an agreement between:

(1) the ~~budget agency,~~ **Indiana finance authority;** and

(2) a ~~political subdivision,~~ **participant under IC 13-18-13;** establishing the terms and conditions of a loan or other financial assistance, including forgiveness of principal if allowed under federal law, by the state to the ~~political subdivision.~~ **participant under that chapter.**

(b) "Financial assistance agreement", for purposes of IC 13-19-5, means an agreement between the authority and a political subdivision that:

(1) is approved by the budget agency; and

(2) establishes the terms and conditions of a loan or other financial assistance by the state to the political subdivision.

(c) "Financial assistance agreement", for purposes of IC 13-18-21, refers to an agreement between:

(1) the ~~budget agency,~~ **Indiana finance authority;** and

(2) a participant **under IC 13-18-21;**

establishing the terms and conditions of a loan or other financial assistance, including forgiveness of principal if allowed under federal law, by the state to the participant **under IC 13-18-21.**

SECTION 128. IC 13-11-2-151.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 151.1. "Participant" **means the following:**

(1) For purposes of IC 13-18-13:

(A) a political subdivision; or

(B) any person, entity, association, trust, or other manner of participant permitted by law to enter contractual arrangements for a purpose eligible for assistance under the Clean Water Act.

(2) For purposes of ~~this chapter and~~ **the drinking water revolving loan program under** IC 13-18-21: ~~means:~~

~~(1)~~ **(A)** a political subdivision; or

~~(2)~~ **(B)** any ~~other owner or operator of a public water system.~~ **person, entity, association, trust, or other manner of participant permitted by law to enter contractual arrangements for a purpose eligible for assistance under the Safe Drinking Water Act.**

(3) For purposes of the supplemental drinking water and wastewater assistance program under IC 13-18-21-21 through IC 13-18-21-29:

(A) a political subdivision; or

(B) any person, entity, association, trust, or other manner of participant permitted by law to enter contractual arrangements for a purpose eligible for assistance under IC 13-18-21-21 through IC 13-18-21-29.

SECTION 129. IC 13-11-2-195.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 195.5. "Safe Drinking Water Act", for purposes of this chapter and IC 13-18-21, refers to:**

(1) 42 U.S.C. 300f et seq.; and

(2) regulations adopted under 42 U.S.C. 300f et seq.

SECTION 130. IC 13-15-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. The commissioner may suspend the processing of an application, and the period described under sections 1 through 6 of this chapter is suspended, if one (1) of the following occurs:

(1) The department determines that the application is incomplete and has mailed a notice of deficiency to the applicant that specifies the parts of the application that:

(A) do not contain adequate information for the department to process the application; or

(B) are not consistent with applicable law.

The period described under sections 1 through 6 of this chapter shall be suspended during the first two (2) notices of deficiency sent to an applicant under this subdivision. If more than two (2) notices of deficiency are issued on an application,

the period may not be suspended unless the applicant agrees in writing to defer processing of the application pending the applicant's response to the notice of deficiency. A notice of deficiency may include a request for the applicant to conduct tests or sampling to provide information necessary for the department to process the application. If an applicant's response does not contain complete information to satisfy all deficiencies described in a notice of deficiency, the department shall notify the applicant not later than thirty (30) working days after receiving the response. The commissioner shall resume processing the application, and the period described under sections 1 through 6 of this chapter resumes on the earlier of the date the department receives and stamps as received the applicant's complete information or the date marked by the department on a certified mail return receipt accompanying the applicant's complete information.

(2) The commissioner receives a written request from an applicant to:

(A) withdraw; or

(B) defer processing of;

the application for the purposes of resolving an issue related to a permit or to provide additional information concerning the application.

(3) The department is required by federal law or by an agreement with the United States Environmental Protection Agency for a federal permit program to transmit a copy of the proposed permit to the administrator of the United States Environmental Protection Agency for review and possible objections before the permit may be issued. The period described under sections 1 through 6 of this chapter shall be suspended from the time the department submits the proposed permit to the administrator for review until:

(A) the department receives the administrator's concurrence or objection to the issuance of the proposed permit; or

(B) the period established in federal law by which the administrator is required to make objections expires without the administrator having filed an objection.

(4) A board initiates emergency rulemaking under ~~IC 4-22-2-37.1(a)(14)~~ **IC 4-22-2-37.1(a)(13)** to revise the period described under sections 1 through 6 of this chapter.

SECTION 131. IC 13-18-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) The wastewater revolving loan fund is established to provide money for loans and other financial assistance to or for the benefit of ~~political subdivisions~~ **participants** under this chapter. **The authority shall administer, hold, and manage the fund.**

(b) The general assembly may appropriate money to the fund. Grants or gifts of money to the fund from the federal government or other sources and the proceeds of the sale of:

(1) gifts to the fund; and

(2) loans and other financial assistance, as provided in sections 10 through 14 of this chapter;

shall be deposited in the fund.

(c) Repayments of loans and other financial assistance, including interest, premiums, and penalties, shall be deposited in the fund.

(d) The ~~treasurer of state~~ **authority** shall invest the money in the fund that is:

(1) not currently needed to meet the obligations of the fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from these investments shall be deposited in the fund.

(e) As an alternative to subsection (d), the ~~budget agency~~ **authority** may invest or cause to be invested all or a part of the fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may permit disbursements by the trustee to:

(1) the department;

(2) the budget agency;

(3) a ~~political subdivision;~~ **participant;**

(4) the Indiana bond bank; ~~or~~

(5) the authority; or

~~(5)~~ **(6)** any person to which the ~~department, the budget agency~~ **authority** or a ~~political subdivision~~ **participant** is obligated, as provided in the trust agreement or indenture.

~~The state board of finance must approve any trust agreement or indenture before execution.~~

(f) Except as provided in the ~~federal~~ Clean Water Act, the cost of administering the fund may be paid from the fund.

(g) All money accruing to the fund is appropriated continuously for the purposes specified in this chapter.

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

SECTION 132. IC 13-18-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. **(a)** Money in the fund may be used to do the following:

(1) Provide loans or other financial assistance to ~~political subdivisions~~ **participants** for the planning, designing, construction, renovation, improvement, or expansion of wastewater collection and treatment systems and other activities necessary or convenient to complete these tasks.

(2) Pay the cost of administering the fund and the program.

(3) Conduct all other activities that are permitted by the ~~federal~~ Clean Water Act.

(b) The authority may contract with the department, the budget agency, or any other entity or person for assistance in administering the program and the fund or in carrying out the purposes of this chapter.

SECTION 133. IC 13-18-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 5. The ~~department~~ **authority** shall do the following:

(1) **Administer, hold, and** manage all aspects of **the fund,** the program, **the supplemental fund,** and **the** supplemental program ~~except as provided under section 6 of~~ **in accordance**

with this chapter.

(2) Be the point of contact in relations with the United States Environmental Protection Agency. ~~except as provided under section 6 of this chapter.~~

~~(3) Cooperate with the budget agency in the administration and management of the program and supplemental program.~~

~~(4) Cooperate with the budget agency in preparing~~ **(3) Prepare** and ~~providing~~ **provide** program information.

~~(5) Review~~ **(4) Ensure that** each proposed financial assistance agreement ~~to determine whether the agreement~~ meets the environmental and technical aspects of the program or supplemental program.

~~(6)~~ **(5)** Periodically inspect project design and construction to determine compliance with the following:

(A) This chapter.

(B) The ~~federal~~ Clean Water Act.

(C) Construction plans and specifications.

~~(7)~~ **(6)** Negotiate ~~jointly with the budget agency,~~ the negotiable aspects of each financial assistance agreement.

~~(8) If not accepted and held by the budget agency, accept and hold any letter of credit from the federal government~~ **(7) Manage any payment systems** through which the state receives grant payments **from the federal government** for the program and disbursements to the fund.

~~(9) Prepare jointly with the budget agency, annual reports concerning the following:~~

~~(A) The fund.~~

~~(B) The program.~~

~~(C) The supplemental fund.~~

~~(D) The supplemental program.~~

~~(10) Submit the reports prepared under subdivision (9) to the governor and the general assembly. A report submitted under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.~~

~~(11) Enter into memoranda of understanding with the budget agency concerning the administration and management of the following:~~

~~(A) The fund.~~

~~(B) The program.~~

~~(C) The supplemental fund.~~

~~(D) The supplemental program.~~

(8) Be the point of contact with participants and other interested persons in preparing and providing program information.

(9) Prepare or cause to be prepared each financial assistance agreement.

(10) Sign each financial assistance agreement.

(11) Conduct or cause to be conducted an evaluation as to the financial ability of each participant to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement in accordance with the terms of the agreement.

SECTION 134. IC 13-18-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. **(a)** The ~~budget agency~~ **authority** may do the following:

(1) Employ:

(A) fiscal consultants;

(B) engineers;

(C) bond counsel;

(D) other special counsel;

(E) accountants; and

(F) any other consultants, employees, and agents;

that the ~~budget agency~~ **authority** considers necessary to carry out the purposes of this chapter.

(2) Fix and pay the compensation of those persons employed in subdivision (1) from money:

(A) available in the fund or supplemental fund; or

(B) otherwise made available for the program or the supplemental program.

(3) Enter into memoranda of understanding with the department and the budget agency concerning the administration and management of the following:

(A) The fund.

(B) The program.

(C) The supplemental fund.

(D) The supplemental program.

(4) Provide services to a participant in connection with a loan or other financial assistance, including advisory and other services.

(b) Notwithstanding any other law, the authority, program, or fund, or any person or agent acting on behalf of the authority or program, is not liable in damages or otherwise to any participant or party seeking to be a participant for any act or omission in connection with a loan or other financial assistance, or any application, service, or other undertaking, allowed by or taken under this chapter.

(c) No direction given by or service or other undertaking allowed or taken under this chapter by the authority is a defense for or otherwise excuses any act or omission of a participant otherwise required or imposed by law upon a participant.

SECTION 135. IC 13-18-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. (a) The ~~department and the budget agency~~ **authority** may:

~~(1) provide services to a political subdivision in connection with a loan or other financial assistance, including advisory and other services; and~~

~~(2)~~ **(1)** charge a fee for services provided; **and**

~~(b) The department and the budget agency may~~

(2) charge a fee for costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance to or for the benefit of a ~~political subdivision~~ **participant** under this chapter, regardless of whether the application is approved or rejected.

~~(c)~~ **(b)** A ~~political subdivision~~ **participant** may pay fees charged under this section.

SECTION 136. IC 13-18-13-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 9. ~~(a)~~ The ~~department~~ **authority** shall use a priority ranking system ~~to~~

~~recommend~~ **in making** loans or other financial assistance from the fund. The ~~department~~ **authority, in consultation with the department,** shall develop the priority ranking system to achieve optimum water quality consistent with the water quality goals of the state and the ~~federal~~ Clean Water Act.

~~(b) Based on the recommendations made under subsection (a), the budget agency may make loans and provide other financial assistance from the fund to or for the benefit of political subdivisions.~~

SECTION 137. IC 13-18-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. The ~~budget agency~~ **authority** may make loans or provide other financial assistance from the fund to or for the benefit of a ~~political subdivision~~ **participant** under the following conditions:

(1) The loan or other financial assistance must be used:

(A) for:

(i) planning, designing, constructing, renovating, improving, or expanding wastewater collection and treatment systems; ~~and~~

(ii) any purpose eligible for assistance under the Clean Water Act; and

(iii) other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish **guaranties,** reserves, or sinking funds, **including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by clause (A);** or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan or other financial assistance during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Any other costs or expenses necessary or incident to the loan, other financial assistance, or the administration of the fund and the program.

~~(2) Subject to section 15 of this chapter, upon recommendation of the budget agency, the state board of finance shall establish the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies.~~

~~(3)~~ **(2)** The ~~budget agency~~ **authority** shall establish the terms and conditions that the ~~budget agency~~ **authority** considers necessary or convenient to:

(A) make loans; or

(B) provide other financial assistance under this chapter.

(3) Notwithstanding any other law, the authority may establish and implement requirements that:

(A) apply to loans and other financial assistance to be made to participants that are not political subdivisions; and

(B) are different from, or in addition to, requirements that apply to loans and financial assistance made to political subdivisions.

SECTION 138. IC 13-18-13-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. A loan or other financial assistance from the fund must be accompanied by the following:

(1) All papers and opinions required by the ~~budget agency.~~ **authority.**

(2) Unless otherwise provided by ~~rule,~~ **the guidelines of the authority,** the following:

(A) An approving opinion of nationally recognized bond counsel.

(B) A certification and guarantee of signatures.

(C) A certification that, as of the date of the loan or other financial assistance:

(i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or

(ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.

(D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

SECTION 139. IC 13-18-13-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 12. A ~~political subdivision~~ **participant** receiving a loan or other financial assistance from the fund shall enter into a financial assistance agreement. A financial assistance agreement is a valid, binding, and enforceable agreement of the ~~political subdivision.~~ **participant.**

SECTION 140. IC 13-18-13-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13. The ~~budget agency~~ **authority** may sell loans or evidences of other financial assistance and other obligations of ~~political subdivisions~~ **participants** evidencing the loans or other financial assistance from the fund periodically at any price and on terms acceptable to the ~~budget agency.~~ **authority.** Proceeds of sales under this section shall be deposited in the fund.

SECTION 141. IC 13-18-13-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 14. (a) The ~~budget agency~~ **authority** may pledge loans or evidences of other financial assistance and other obligations of ~~political subdivisions~~ **participants** evidencing the loans or other financial assistance from the fund to secure:

(1) other loans or financial assistance from the fund to or for the benefit of ~~political subdivisions,~~ **participants;** or

(2) other loans or financial assistance from the supplemental fund to or for the benefit of ~~political subdivisions,~~ **participants;**

to the extent permitted by the ~~federal~~ Clean Water Act.

(b) The ~~budget agency~~ **authority** must approve the terms of a pledge under this section.

(c) Notwithstanding any other law, a pledge of property made by the department and the budget agency under this section or IC 4-23-21-8(e) (before its repeal) **or a pledge of property made by the authority under this section** is binding from the time the pledge is made. **Any pledge of property made by the department and the budget agency under this section or IC 4-23-21-8(e) (before its repeal) is binding on the authority.** Revenues, other money, or other property pledged and thereafter received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

(1) the department;

(2) the budget agency; ~~or~~

(3) the fund; **or**

(4) the authority;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the ~~budget agency.~~ **authority.**

(e) Action taken to:

(1) enforce a pledge under this section or IC 4-23-21-8(e) (before its repeal); and

(2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section or IC 4-23-21-8(e) (before its repeal) does not create a liability or indebtedness of the state.

SECTION 142. IC 13-18-13-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. (a) ~~In recommending to the state board of finance the interest rate or parameters for establishing the interest rate on each loan, as provided in section 10 of this chapter, the budget agency shall recommend and the state board of finance shall establish the following:~~

~~(1) A base or subsidized interest rate that:~~

~~(A) would be payable by political subdivisions other than political subdivisions described in subdivision (2) or (3); and~~

~~(B) may provide for the payment of no interest during all or a part of the estimated construction period for the wastewater treatment system.~~

~~(2) A base reduced or more heavily subsidized interest rate, that:~~

~~(A) would be payable by political subdivisions whose median household incomes are:~~

~~(i) not more than the state nonmetropolitan median household income, as determined and reported by the federal government periodically; and~~

~~(ii) not less than eighty-one percent (81%) of the state nonmetropolitan median household income; and~~

~~(B) may provide for the payment of no interest during all or a part of the estimated construction period for the wastewater collection and treatment system.~~

~~(3) A base zero (0) or most heavily subsidized interest rate that:~~

~~(A) would be payable on loans made to political subdivisions whose median household incomes are not more than eighty percent (80%) of the state nonmetropolitan household income; and~~

~~(B) may provide for the payment of no interest during all or a part of the estimated construction period of the wastewater collection and treatment system.~~

The authority shall establish the interest rate or parameters for establishing the interest rate on each loan made under this chapter, including parameters for establishing the amount of interest subsidies.

(b) The ~~budget agency;~~ **authority,** in ~~recommending to the state board of finance~~ **setting** the interest rate or parameters for establishing the interest rate on each loan, ~~under section 10 of this chapter, shall~~ **may** take into account the following:

(1) Credit risk.

(2) Environmental enforcement and protection.

(3) Affordability.

(4) Other fiscal factors the ~~budget agency~~ **authority** considers relevant, **including the program's cost of funds and whether the financial assistance provided to a particular participant is taxable or tax exempt under federal law.**

Based on the factors set forth in subdivisions (1) through (4), more than one (1) interest rate may be established and used for loans or other financial assistance to different participants or for different loans or other financial assistance to the same participants.

~~(c) In enacting this section, the general assembly understands that, in financing the program, the Indiana bond bank issued at the budget agency's request, and will continue to issue at the budget agency's request:~~

~~(1) revenue bonds payable from and secured by political subdivisions; and~~

~~(2) loan payments made by and loan payments made to political subdivisions.~~

~~It is not the intent of the general assembly to cause the budget agency or the state board of finance to establish interest rates on loans or parameters for establishing interest rates that would cause the bond bank's revenue bonds to be insecure or otherwise negatively affect the ability of the state to continue to finance the program.~~

SECTION 143. IC 13-18-13-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16. The ~~budget agency~~ **authority** shall require that a ~~political subdivision~~ **participant** receiving a loan or other financial assistance under this chapter establish under applicable statute and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the ~~political subdivision~~ **participant** to:

(1) operate and maintain the wastewater collection and treatment system; and

(2) pay the obligations of the system.

SECTION 144. IC 13-18-13-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 17. (a) Notwithstanding any other law and if provided in a financial

assistance agreement, any state department or state agency, including the treasurer of state:

(1) that is the custodian of money payable to a ~~political subdivision,~~ **participant,** other than money in payment for goods or services provided by the ~~political subdivision;~~ **participant;** and

(2) after written notice from the budget director that the ~~political subdivision~~ **participant** is in default on the payment of principal or interest on a loan or evidence of other financial assistance;

may withhold payment of money from that ~~political subdivision~~ **participant** and pay over the money to the ~~budget agency~~ **authority** or the Indiana bond bank as directed by the ~~budget director,~~ **chairman of the authority,** for the purpose of curing the default.

(b) The withholding of payment from the ~~political subdivision~~ **participant** and payment to:

(1) the ~~budget agency,~~ **authority;** or

(2) the Indiana bond bank;

as applicable, may not adversely affect the validity of the ~~defaulted~~ loan or other financial assistance.

SECTION 145. IC 13-18-13-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 18. The ~~water pollution control board and the budget agency~~ **authority** may ~~jointly~~ adopt ~~rules under~~ **guidelines, without complying with** IC 4-22-2, ~~including emergency rules under IC 4-22-2-37.1,~~ to ~~implement~~ **govern the administration of** this chapter.

SECTION 146. IC 13-18-13-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 19. (a) Notwithstanding any other law, a political subdivision may borrow money from the ~~budget agency~~ **authority** by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision shall observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.

(b) Notwithstanding any other law, a political subdivision may issue and sell its notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of its bonds or other available money at the time the notes are due. The notes must be issued pursuant to a resolution or ordinance and the proceeds must be used to carry out the purposes specified in this chapter.

(c) A political subdivision that issues notes under subsection (b) or IC 4-23-21-13 (before its repeal) may renew or extend the notes periodically on terms agreed to with the ~~budget agency,~~ **authority,** and the ~~budget agency~~ **authority** may purchase and sell the renewed or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.

(d) The notes issued by a political subdivision under subsection (b), including any renewals or extensions, must mature:

(1) in the amounts; and

(2) at the times not exceeding four (4) years from the date of original issuance;

that are agreed to by the political subdivision and the ~~budget agency.~~ **authority.**

(e) Compliance with subsection (b) constitutes full authority for a political subdivision to issue its notes and sell the notes to the ~~department and the budget agency,~~ **authority,** and the political subdivision is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of its notes. These notes are:

(1) valid and binding obligations of the political subdivision;

(2) enforceable in accordance with the terms of the notes; and

(3) payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes.

(f) If the political subdivision issues bonds, all or part of the proceeds of which will be used to pay the notes issued under subsection (b), neither:

(1) the provisions of this section; nor

(2) the actual issuance by a political subdivision of notes under subsection (b);

relieves the political subdivision of the obligation to comply with the statutory requirements for the issuance of bonds.

SECTION 147. IC 13-18-13-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 20. (a) As an alternative to making loans or providing other financial assistance to ~~political subdivisions,~~ **participants,** the ~~budget agency~~ **authority** may use the money in the fund or the supplemental fund to provide a leveraged loan program and other financial assistance programs permitted by the ~~federal~~ Clean Water Act to or for the benefit of ~~political subdivisions,~~ **participants,** including using money in the fund or the supplemental fund to enhance the obligations of ~~political subdivisions~~ **participants** issued for the purposes of this chapter by:

(1) granting money to:

(A) be deposited in:

(i) a capital or reserve fund established under ~~IC 5-1.5~~ **IC 4-4-11** or another statute or a trust agreement or indenture as contemplated by ~~IC 13-18-13-2(c),~~ **section 2(e) of this chapter;** or

(ii) an account established within such a fund; or

(B) provide interest subsidies;

(2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a ~~political subdivision~~ **participant** or for bonds issued by **the authority or** the Indiana bond bank, if credit market access is improved or interest rates are reduced; or

(3) guaranteeing all or a part of obligations issued by ~~political subdivisions~~ **participants** or of bonds issued by **the authority or** the Indiana bond bank.

(b) The ~~budget agency~~ **authority** may enter into any agreements with the Indiana bond bank or ~~political subdivisions~~ **participants** to carry out the purposes specified in this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund and the supplemental fund. A

guarantee under subsection (a)(3) does not create a liability or indebtedness of the state.

SECTION 148. IC 13-18-21-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) The drinking water revolving loan fund is established to provide money for loans and other financial assistance under this chapter to or for the benefit of participants, including forgiveness of principal if allowed under federal law. **The authority shall administer, hold, and manage the fund.**

(b) The general assembly may appropriate money to the fund. Grants or gifts of money to the fund from the federal government or other sources and the proceeds of the sale of:

(1) gifts to the fund; and

(2) loans and other financial assistance, as provided in sections 10 through 14 of this chapter;

shall be deposited in the fund.

(c) Repayments of loans and other financial assistance, including interest, premiums, and penalties, shall be deposited in the fund.

(d) The ~~treasurer of state~~ **authority** shall invest the money in the fund that is:

(1) not currently needed to meet the obligations of the fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from these investments shall be deposited in the fund.

(e) As an alternative to subsection (d), the ~~budget agency~~ **authority** may invest or cause to be invested all or part of the fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, an investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may allow disbursements by the trustee to:

(1) the department;

(2) the budget agency;

(3) a participant;

(4) the Indiana bond bank; ~~or~~

(5) the authority; or

~~(5)~~ **(6)** any person to which the ~~department, the budget agency~~ **authority** or a participant is obligated, as provided in the trust agreement or indenture.

~~The state board of finance must approve any trust agreement or indenture before execution.~~

(f) Except as provided in the ~~federal~~ Safe Drinking Water Act, ~~(42 U.S.C. 300f et seq.),~~ the cost of administering the fund and the program may be paid from the fund or from ~~four percent (4%) of the~~ **other** money. ~~allotted to the state under 42 U.S.C. 300j-12.~~

(g) All money accruing to the fund and money allotted to the state under 42 U.S.C. 300j-12 is appropriated continuously for the purposes specified in this chapter.

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

SECTION 149. IC 13-18-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. (a) Money in the fund may be used to do the following:

(1) Provide loans or other financial assistance to participants for the:

(A) planning;

(B) designing;

(C) construction;

(D) renovation;

(E) improvement;

(F) expansion; or

(G) any combination of clauses (A) through (F);

for public water systems that will facilitate compliance with national primary drinking water regulations applicable to public water systems under the ~~federal~~ Safe Drinking Water Act ~~(42 U.S.C. 300f et seq.)~~ or otherwise significantly further the health protection objectives of the ~~federal~~ Safe Drinking Water Act ~~(42 U.S.C. 300f et seq.)~~ and other activities necessary or convenient to complete these tasks.

(2) ~~Except as provided in the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.),~~ Pay the cost of administering the fund and the program.

(3) Conduct all other activities that are allowed by the ~~federal~~ Safe Drinking Water Act. ~~(42 U.S.C. 300f et seq.).~~

~~(b) Notwithstanding section 2(g) of this chapter, if an adequate state match is available, the department and the budget agency may use not more than two percent (2%) of the funds allotted to the state under 42 U.S.C. 300j-12 to provide technical assistance to participants for public water systems serving not more than ten thousand (10,000) persons in Indiana. The department and the budget agency may jointly contract with a person or persons to provide the technical assistance. Funds used under this subsection may not be used for enforcement actions.~~

~~(c) To the extent permitted by this chapter, fifteen percent (15%) of the amount credited to the fund in a state fiscal year shall be available solely for providing loan assistance to participants for public water systems regularly serving less than ten thousand (10,000) persons in Indiana to the extent that the money can be obligated for eligible projects under the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).~~

~~(d) To avoid the loss of money allotted to the state under 42 U.S.C. 300j-12 et seq.,~~ **(b)** The ~~budget agency and the department~~ **authority** shall develop and implement a strategy to assist participants in acquiring and maintaining technical, managerial, and financial capacity as contemplated by 42 U.S.C. 300g-9. ~~This is all the legal authority required by the state for the budget agency and the department~~ to **The authority shall** ensure that all new community water systems and new nontransient, noncommunity water systems, as contemplated by the ~~federal~~ Safe Drinking Water Act, ~~(42 U.S.C. 300f et seq.),~~ commencing operations after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each federal primary drinking water regulation in effect on the date operations commence. ~~The department has primary responsibility to carry out this subsection.~~

~~(c)~~ **(c)** This chapter does not require the ~~budget agency~~ **authority** to provide a loan or other financial assistance to any participant that would cause any bonds or other obligations issued

to finance the program to lose their exemption from federal income taxation.

(d) The authority may contract with the department, the budget agency, or any other entity or person for assistance in administering the program and the fund and in carrying out the purposes of this chapter.

SECTION 150. IC 13-18-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 5. The ~~department~~ **authority** shall do the following:

(1) **Administer, hold, and** manage all aspects of **the fund,** the program, ~~except as provided by section 6 of this chapter.~~ **the supplemental fund, and the supplemental program in accordance with this chapter.**

(2) Be the point of contact in relations with the United States Environmental Protection Agency. ~~except as provided in section 6 of this chapter.~~

~~(3) Cooperate with the budget agency in the administration and management of the program.~~

~~(4) Cooperate with the budget agency in preparing and providing~~ **(3) Prepare and provide** program **and supplemental program** information.

~~(5) Review~~ **(4) Ensure that** each proposed financial assistance agreement ~~to determine whether the agreement~~ meets the environmental and technical aspects of the program **or the supplemental program.**

~~(6)~~ **(5)** Periodically inspect project design and construction to determine compliance with the following:

(A) This chapter.

(B) The ~~federal~~ Safe Drinking Water Act. ~~(42 U.S.C. 300f et seq.).~~

(C) Construction plans and specifications.

~~(7)~~ **(6)** Negotiate ~~jointly with the budget agency,~~ the negotiable aspects of each financial assistance agreement.

~~(8) If not accepted and held by the budget agency, accept and hold any letter of credit from the federal government~~ **(7) Manage any payment system** through which the state receives grant payments **from the federal government** for the program and disbursements to the fund.

~~(9)~~ **(8)** Prepare ~~jointly with the budget agency,~~ annual reports concerning the following:

(A) The fund.

(B) The program.

(C) The supplemental fund.

(D) The supplemental program.

~~(10) Submit the reports prepared under subdivision (9) to the governor and the general assembly. A report submitted under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.~~

~~(11) Enter into memoranda of understanding with the budget agency concerning the administration and management of the following:~~

~~(A) The fund.~~

~~(B) The program.~~

~~(C) The supplemental fund.~~

~~(D) The supplemental program.~~

(9) Be the point of contact with participants and other interested persons in preparing and providing program information.

(10) Prepare or cause to be prepared each financial assistance agreement.

(11) Sign each financial assistance agreement.

(12) Conduct or cause to be conducted an evaluation as to the financial ability of each participant to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement.

SECTION 151. IC 13-18-21-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. The ~~budget agency~~ **authority** may do the following:

(1) Employ:

(A) fiscal consultants;

(B) engineers;

(C) bond counsel;

(D) special counsel;

(E) accountants; and

(F) any other consultants, employees, and agents;

that the ~~budget agency~~ **authority** considers necessary to carry out the purposes of this chapter.

(2) Fix and pay the compensation of persons employed in subdivision (1) from money:

(A) available in the fund **and the supplemental fund;** or

(B) otherwise made available for the program **and the supplemental program.**

(3) Enter into memoranda of understanding with the department and the budget agency concerning the administration and management of the fund, the program, the supplemental fund, and the supplemental program.

(4) Provide services to a participant in connection with a loan or other financial assistance, including advisory and other services.

SECTION 152. IC 13-18-21-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. (a) The ~~department and the budget agency~~ **authority** may:

~~(1) provide services to a participant in connection with a loan or other financial assistance, including advisory and other services; and~~

~~(2)~~ **(1)** charge a fee for services provided; ~~(b) The department and the budget agency may~~ **and**

(2) charge a fee for costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance under this chapter to or for the benefit of a participant, regardless of whether the application is approved or rejected.

~~(c)~~ **(b)** A ~~political subdivision~~ **participant** may pay fees charged under this section.

SECTION 153. IC 13-18-21-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 9. ~~(a)~~ The ~~department~~ **authority** shall use a priority ranking system ~~to recommend~~ **in making** loans or other financial assistance from the fund. The ~~department~~ **authority** shall develop the priority ranking

system consistent with federal primary drinking water regulations and health protection objectives of the ~~federal~~ Safe Drinking Water Act. ~~(42 U.S.C. 300f et seq.).~~

~~(b) Based on the recommendations made under subsection (a), the budget agency may make loans and provide other financial assistance from the fund to or for the benefit of participants.~~

SECTION 154. IC 13-18-21-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. The ~~budget agency~~ **authority** may make loans or provide other financial assistance from the fund to or for the benefit of a participant under the following conditions:

(1) The loan or other financial assistance must be used:

(A) for:

(i) planning, designing, constructing, renovating, improving, and expanding public water systems; ~~and~~

(ii) any purpose eligible for assistance under the Safe Drinking Water Act; and

(iii) for other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish **guaranties,** reserves or sinking funds, **including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by clause (A);** or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan or other financial assistance during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the loan, other financial assistance, or the administration of the fund and the program.

~~(2) Subject to section 15 of this chapter, upon recommendation of the budget agency, the state board of finance shall establish the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies.~~

~~(3)~~ **(2)** The ~~budget agency~~ **authority** shall establish the terms and conditions that the ~~budget agency~~ **authority** considers necessary or convenient to:

(A) make loans; or

(B) provide other financial assistance under this chapter.

~~(4)~~ **(3)** Notwithstanding any other law, the ~~budget agency~~ **authority** may establish and implement requirements that:

(A) apply to loans and other financial assistance to be made to participants that are not political subdivisions; and

(B) are different from, or in addition to, requirements that apply to loans and financial assistance made to political subdivisions.

SECTION 155. IC 13-18-21-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. A loan or other financial assistance from the fund must be accompanied by the following:

(1) All papers and opinions required by the ~~budget agency.~~ **authority.**

(2) Unless otherwise provided by ~~rule,~~ **the guidelines of the authority,** the following:

(A) An approving opinion of nationally recognized bond counsel.

(B) A certification and guarantee of signatures.

(C) A certification that, as of the date of the loan or other financial assistance:

(i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or

(ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.

(D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

SECTION 156. IC 13-18-21-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13. The ~~budget agency~~ **authority** may sell loans or evidence of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the fund periodically at any price and on terms acceptable to the ~~budget agency.~~ **authority.** Proceeds of sales under this section shall be deposited in the fund.

SECTION 157. IC 13-18-21-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 14. (a) The ~~budget agency~~ **authority** may pledge loans or evidence of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the fund to secure:

(1) other loans or financial assistance from the fund to or for the benefit of participants; or

(2) other loans or financial assistance from the supplemental fund to or for the benefit of participants;

to the extent allowed by the ~~federal~~ Safe Drinking Water Act. ~~(42 U.S.C. 300f et seq.).~~

(b) The ~~budget agency~~ **authority** must approve the terms of a pledge under this section.

(c) Notwithstanding any other law, a pledge of property made **by the department and the budget agency under this section, or a pledge of property made by the authority** under this section, is binding from the time the pledge is made. **Any pledge of property made by the department and the budget agency under this section is binding on the authority.** Revenues, other money, or other property pledged and received are immediately subject to the lien of the pledge without any other act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

(1) the department;

(2) the budget agency; ~~or~~

(3) the fund; **or**

(4) the authority;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the ~~budget agency.~~ **authority.**

(e) Action taken to:

(1) enforce a pledge under this section; and

(2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section does not create a liability or indebtedness of the state.

SECTION 158. IC 13-18-21-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. (a) ~~In recommending to the state board of finance the interest rate or parameters for establishing the interest rate on each loan (other than a loan to a qualified entity described in IC 13-11-2-164(b)(4)), as provided in section 10 of this chapter, the budget agency shall recommend and the state board of finance shall establish the following:~~

~~(1) A base or subsidized interest rate that:~~

~~(A) would be payable by participants other than participants described in subdivision (2) or (3); and~~

~~(B) may provide that payment of interest is not required during all or part of the estimated construction period for the public water system.~~

~~(2) A base reduced or more heavily subsidized interest rate that:~~

~~(A) is payable by a participant with median household incomes that are:~~

~~(i) not more than the state median household income for an area that is not a metropolitan area, as determined and reported periodically by the federal government; and~~

~~(ii) not less than eighty-one percent (81%) of the state median household income for an area that is not a metropolitan area; and~~

~~(B) may provide that payment of interest is not required during all or part of the estimated construction period for the public water system.~~

~~(3) A base of zero (0) or the most heavily subsidized interest rate that:~~

~~(A) would be payable on loans made to participants with median household incomes that are not more than eighty percent (80%) of the state household income for an area that is not a metropolitan area; and~~

~~(B) may provide that payment of interest is not required during all or part of the estimated construction period of the public water system.~~

The authority shall establish the interest rate or parameters for establishing the interest rate on each loan made under this chapter, including parameters for establishing the amount of interest subsidies.

(b) The ~~budget agency,~~ **authority,** in ~~recommending to the state board of finance~~ **setting** the interest rate or parameters for establishing the interest rate on each loan, ~~(including all loans to participants that are not political subdivisions) under section 10 of this chapter,~~ may take into account the following:

(1) Credit risk.

(2) Environmental, water quality, and health protection.

(3) Affordability.

(4) Other fiscal factors the ~~budget agency~~ **authority** considers relevant, including the program's cost of funds and whether the financial assistance provided to a particular participant is taxable or tax exempt under federal law.

Based on the factors set forth in subdivisions (1) through (4), more than one (1) interest rate may be established and used for loans ~~made~~ **or other financial assistance** to different participants ~~in the same interest rate category.~~

~~(c) In financing the program, the Indiana bond bank and the Indiana development finance authority shall issue at the budget agency's request:~~

~~(1) revenue bonds payable from and secured by participants; and~~

~~(2) loan payments made by and to participants.~~

~~The budget agency or the state board of finance is not required by this chapter to establish interest rates on loans or parameters for establishing interest rates that would cause any revenue bonds to be insecure or otherwise negatively affect the ability of the state to continue to finance the program.~~ **or for different loans or other financial assistance to the same participants.**

SECTION 159. IC 13-18-21-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16. The ~~budget agency~~ **authority** shall require a participant receiving a loan or other financial assistance under this chapter to establish under applicable law and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the participant to:

(1) operate and maintain the public water system; and

(2) pay the obligations of the public water system.

SECTION 160. IC 13-18-21-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 17. (a) Notwithstanding any other law and if provided in a financial assistance agreement, a state department or state agency, including the treasurer of state, that is the custodian of money payable to a participant, other than money in payment for goods or services provided by the participant, may withhold payment of money from that participant and pay over the money to the ~~budget agency~~ **authority** or the Indiana bond bank, as directed by the ~~budget director,~~ **chairman of the authority,** for the purpose of curing a default. ~~Withholding payment under this subsection may not occur until after written notice from the budget director that the participant is in default on the payment of principal or interest on a loan or evidence of other financial assistance.~~

(b) The withholding of payment from the participant and payment to:

(1) the ~~budget agency;~~ **authority;** or

(2) the Indiana bond bank;

as applicable, may not adversely affect the validity of the ~~defaulted~~

loan or other financial assistance.

SECTION 161. IC 13-18-21-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 18. The ~~water pollution control board and the budget agency~~ **authority** may ~~jointly~~ adopt ~~rules under~~ **guidelines, without complying with** IC 4-22-2, ~~including emergency rules under IC 4-22-2-37.1,~~ to ~~implement~~ **govern the administration of** this chapter.

SECTION 162. IC 13-18-21-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 19. (a) Notwithstanding any other law, a political subdivision may borrow money under this chapter by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision shall observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.

(b) Notwithstanding any other law, a political subdivision may issue and sell notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of bonds or other available money at the time the notes are due. The notes must be issued under a resolution or ordinance and the proceeds must be used to carry out the purposes specified in this chapter.

(c) A political subdivision that issues notes under subsection (b) may renew or extend the notes periodically on terms agreed to with the ~~budget agency,~~ **authority,** and the ~~budget agency~~ **authority** may purchase and sell the renewed or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.

(d) The notes issued by a political subdivision under subsection (b), including any renewals or extensions, must mature:

(1) in the amounts; and

(2) at the times not exceeding four (4) years from the date of original issuance;

that are agreed to by the political subdivision and the ~~budget agency.~~ **authority.**

(e) Compliance with subsection (b) constitutes full authority for a political subdivision to issue notes and sell the notes to the ~~department and the budget agency,~~ **authority,** and the political subdivision is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of the notes. The notes are:

(1) valid and binding obligations of the political subdivision;

(2) enforceable in accordance with the terms of the notes; and

(3) payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes.

(f) If the political subdivision issues bonds, all or part of the proceeds of which will be used to pay notes issued under subsection (b), the:

(1) provisions of this section; or

(2) actual issuance by a political subdivision of notes under subsection (b);

do not relieve the political subdivision of the obligation to comply with the statutory requirements for the issuance of bonds.

SECTION 163. IC 13-18-21-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 20. (a) As an alternative to making loans or providing other financial assistance to participants, the ~~budget agency~~ **authority** may use the money in the fund to provide a leveraged loan program and other financial assistance programs allowed by the ~~federal~~ Safe Drinking Water Act ~~(42 U.S.C. 300f et seq.)~~ to or for the benefit of participants, including using money in the fund or a supplemental fund, including the supplemental fund established by section 22 of this chapter, to enhance the obligations of participants issued for the purposes of this chapter by:

(1) granting money to:

(A) be deposited in:

(i) a capital or reserve fund established under ~~IC 5-1.5~~ **IC 4-4-11** or another statute or a trust agreement or indenture as contemplated by IC 13-18-21-2(e); or

(ii) an account established within a fund described in item (i); or

(B) provide interest subsidies;

(2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a participant or for bonds issued by the Indiana bond bank or the ~~Indiana development finance~~ authority if credit market access is improved or interest rates are reduced; or

(3) guaranteeing all or part of:

(A) obligations issued by participants; or

(B) bonds issued by the Indiana bond bank or the ~~Indiana development finance~~ authority.

(b) The ~~budget agency~~ **authority** may enter into any agreements with the Indiana bond bank ~~the Indiana development finance authority,~~ or participants to carry out the purposes specified in this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund. A guarantee under subsection (a)(3) does not create a liability or indebtedness of the state.

SECTION 164. IC 13-18-21-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 22. (a) The supplemental drinking water and wastewater assistance fund is established to provide money for grants, loans, and other financial assistance to or for the benefit of

~~(1)~~ participants for the purposes described in ~~section 23(1) of this chapter; and~~

~~(2) political subdivisions for the purposes described in section 23(2)~~ **section 23** of this chapter.

(b) The general assembly may appropriate money to the supplemental fund. Grants or gifts of money to the supplemental fund and proceeds of the sale of:

(1) gifts to the supplemental fund; and

(2) loans and other financial assistance, as provided in sections 25 through 29 of this chapter;

shall be deposited in the supplemental fund.

(c) Repayments of loans and other financial assistance from the supplemental fund, including interest, premiums, and penalties,

shall be deposited in the supplemental fund.

(d) The ~~treasurer of state~~ **authority** shall invest the money in the supplemental fund that is:

(1) not currently needed to meet the obligations of the supplemental fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from the investments shall be deposited in the supplemental fund.

(e) As an alternative to the investment provided for in subsection (d), the ~~budget agency~~ **authority** may invest or cause to be invested all or a part of the supplemental fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with one (1) or more trust agreements or indentures. A trust agreement or indenture may permit disbursements by the trustee to **the authority,** the department, the budget agency, a participant, ~~the Indiana bond bank,~~ or any other person as provided in the trust agreement or indenture. ~~The state board of finance must approve the form of any trust agreement or indenture before execution.~~

(f) The cost of administering the supplemental fund may be paid from money in the supplemental fund.

(g) All money accruing to the supplemental fund is appropriated continuously for the purposes specified in this chapter.

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

(i) The authority shall administer, hold, and manage the supplemental fund.

SECTION 165. IC 13-18-21-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 23. Money in the supplemental fund may be used to do the following:

(1) Provide grants, loans, or other financial assistance to or for the benefit of participants for the planning, designing, acquisition, construction, renovation, improvement, or expansion of public water systems and other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the ~~federal~~ Clean Water Act or the ~~federal~~ Safe Drinking Water Act.

(2) Provide grants, loans, or other financial assistance to or for the benefit of ~~political subdivisions~~ **participants** for the planning, designing, acquisition, construction, renovation, improvement, or expansion of wastewater or storm water collection and treatment systems and other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the ~~federal~~ Clean Water Act or the ~~federal~~ Safe Drinking Water Act.

(3) Provide grants to political subdivisions for tasks associated with the development and preparation of:

(A) long term control plans;

(B) use attainability analyses; and

(C) storm water management programs.

(4) Pay the cost of administering the supplemental fund and the supplemental program.

(5) Conduct all other activities that are permitted by the ~~federal~~ Clean Water Act or the ~~federal~~ Safe Drinking Water Act.

SECTION 166. IC 13-18-21-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 24. The ~~budget agency~~ **authority** shall develop criteria to ~~recommend~~ **make or provide** grants, loans, or other financial assistance from the supplemental fund.

SECTION 167. IC 13-18-21-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 25. (a) The ~~budget agency~~ **authority** may make grants or loans or provide other financial assistance from the supplemental fund for the benefit of a participant under the following conditions:

(1) A grant, loan, or other financial assistance may be used:

(A) for planning, designing, acquiring, constructing, renovating, improving, or expanding public water systems, and other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish **guaranties,** reserves, or sinking funds, **including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by clause (A);** or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the supplemental fund or the supplemental program.

(2) The ~~budget agency~~ **authority** must establish the terms and conditions that the ~~budget agency~~ **authority** considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.

(b) In addition to its powers under subsection (a), the ~~budget agency~~ **authority** may also make grants or loans or provide other financial assistance from the supplemental fund to or for the benefit of a ~~political subdivision~~ **participant** under the following conditions:

(1) A grant, loan, or other financial assistance may be used:

(A) for planning, designing, acquiring, constructing, renovating, improving, or expanding wastewater or storm water collection and treatment systems, and other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish **guaranties,** reserves, or sinking funds, **including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a**

purpose permitted by clause (A); or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the supplemental fund or the supplemental program.

(2) A grant may be used for tasks associated with the development and preparation of:

(A) long term control plans;

(B) use attainability analyses; and

(C) storm water management programs.

(3) The ~~budget agency~~ **authority** must establish the terms and conditions that the ~~budget agency~~ **authority** considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.

SECTION 168. IC 13-18-21-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 26. (a) A grant, loan, or other financial assistance from the supplemental fund must be accompanied by all papers and opinions required by the ~~budget agency.~~ **authority.**

(b) ~~Unless otherwise provided by rule,~~ **The authority may require that** a loan or other financial assistance ~~must~~ be accompanied by the following:

(1) A certification and guarantee of signatures.

(2) A certification that, as of the date of the loan or other financial assistance, no litigation is pending challenging the validity of or entry into:

(A) the grant, loan, or other financial assistance; or

(B) any security for the loan or other financial assistance.

~~(c) The budget agency may require~~

(3) Any other certifications, agreements, security, or requirements that the authority requests.

(4) An approving opinion of nationally recognized bond counsel.

SECTION 169. IC 13-18-21-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 28. (a) The ~~budget agency~~ **authority** may sell loans or evidences of other financial assistance and other obligations evidencing the loans or other financial assistance from the supplemental fund:

(1) periodically;

(2) at any price; and

(3) on terms acceptable to the ~~budget agency.~~ **authority.**

(b) Proceeds of sales under this section shall be deposited in the supplemental fund, the wastewater revolving loan fund, or the fund at the direction of the ~~budget director.~~ **authority.**

SECTION 170. IC 13-18-21-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 29. (a) The ~~budget agency~~ **authority** may pledge:

(1) loans or evidences of other financial assistance; and

(2) other obligations evidencing the loans or other financial assistance;

from the supplemental fund to secure other loans or financial assistance from the fund, the wastewater revolving loan fund, or the supplemental fund for the benefit of participants.

(b) The terms of a pledge under this section must be acceptable to the ~~budget agency.~~ **authority.**

(c) Notwithstanding any other law, a pledge of property made by the ~~budget agency~~ **authority** under this section is binding from the time the pledge is made. Revenues, other money, or other property pledged and thereafter received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

(1) the ~~department,~~ **authority;**

(2) the budget agency; or

(3) the supplemental fund;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the ~~budget agency.~~ **authority.**

(e) Action taken to:

(1) enforce a pledge under this section; and

(2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section does not create a liability or indebtedness of the state.

SECTION 171. IC 13-19-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. The environmental remediation revolving loan program is established to assist in the remediation of brownfields to encourage the rehabilitation, redevelopment, and reuse of real property by political subdivisions by providing **grants,** loans, forgivable loans, or other financial assistance to political subdivisions to conduct any of the following activities:

(1) Identification and acquisition of brownfields within a political subdivision as suitable candidates for redevelopment following the completion of remediation activities.

(2) Environmental assessment of identified brownfields and other activities necessary or convenient to complete the environmental assessments.

(3) Remediation activities conducted on brownfields, **including remediation of petroleum contamination.**

(4) The clearance of real property under IC 36-7-14-12.2 or IC 36-7-15.1-7 in connection with remediation activities.

(5) Other activities necessary or convenient to complete remediation activities on brownfields.

SECTION 172. IC 13-19-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) The environmental remediation revolving loan fund is established for the purpose of providing money for loans and other financial assistance, including grants, to or for the benefit of political subdivisions under this chapter. ~~The fund shall be administered by~~ The authority **shall administer, hold, and manage the fund.**

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

(c) The fund consists of the following:

(1) Appropriations made by the general assembly.

(2) Grants and gifts intended for deposit in the fund.

(3) Repayments of loans and other financial assistance, including premiums, interest, and penalties.

(4) Proceeds from the sale of loans and other financial assistance under section 9 of this chapter.

(5) Interest, premiums, gains, or other earnings on the fund.

(6) Money transferred from the hazardous substances response trust fund under IC 13-25-4-1(a)(9).

(d) The authority shall invest the money in the fund not currently needed to meet the obligations of the fund in ~~the same manner as other public funds may be invested.~~ **accordance with an investment policy adopted by the authority.** Interest, premiums, gains, or other earnings from these investments shall be credited to the fund.

(e) As an alternative to subsection (d), the authority may invest or cause to be invested all or a part of the fund in a fiduciary account with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may allow disbursements by the trustee to:

(1) the authority;

(2) a political subdivision;

~~(2)~~ **(3)** the Indiana bond bank; or

~~(3)~~ **(4)** any person to which the authority, the Indiana bond bank, or a political subdivision is obligated, including a trustee that is a financial institution for a grantor trust;

as provided in the trust agreement or indenture. The budget agency ~~and the state board of finance~~ must approve any trust agreement or indenture before its execution.

SECTION 173. IC 13-19-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. The authority shall do the following under this chapter:

(1) Be responsible for the management of all aspects of the program.

(2) Prepare and provide program information.

(3) Negotiate the negotiable aspects of each financial assistance agreement and submit the agreement to the budget agency for approval.

(4) Sign each financial assistance agreement.

(5) Review each proposed project and financial assistance agreement to determine if the project meets the credit, economic, or fiscal criteria established by ~~rule or guidance document.~~ **guidelines of the authority.**

(6) Periodically inspect or cause to be inspected projects to determine compliance with this chapter.

~~(7) Prepare annual reports concerning the fund and the program and submit the reports to the governor and the general assembly. A report submitted under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.~~

(7) Conduct or cause to be conducted an evaluation concerning the financial ability of a political subdivision to:

(A) pay a loan or other financial assistance and other obligations evidencing loans or other financial assistance, if required to be paid; and

(B) otherwise comply with terms of the financial assistance agreement.

(8) Evaluate or cause to be evaluated the technical aspects of the political subdivision's:

(A) environmental assessment of potential brownfield properties;

(B) proposed remediation; and

(C) remediation activities conducted on brownfield properties.

(9) Inspect or cause to be inspected remediation activities conducted under this chapter.

(10) Act as a liaison with the department to the United States Environmental Protection Agency regarding the program.

(11) Be a point of contact for political subdivisions concerning questions about the program.

~~(8)~~ **(12)** Enter into memoranda of understanding, **as necessary,** with the department and the budget agency concerning the administration and management of the fund and the program.

SECTION 174. IC 13-19-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 6. **(a)** The authority may do the following:

(1) Employ:

(A) fiscal consultants;

(B) engineers;

(C) bond counsel;

(D) other special counsel;

(E) accountants; and

(F) any other consultants, employees, and agents;

that the authority considers necessary to carry out the purposes of this chapter.

(2) Fix and pay the compensation of persons employed under subdivision (1) from money available in the fund or otherwise made available for the program.

(3) Provide services to a political subdivision in connection with a loan or other financial assistance, including advisory and other services.

(b) Notwithstanding any other law, the authority, program, or fund, or any person or agent acting on behalf of the authority or program, is not liable in damages or otherwise to any political subdivision for any act or omission in connection with a loan or other financial assistance, or any application, service, or other undertaking, allowed by or taken under this chapter.

(c) No direction given by or service or other undertaking allowed or taken under this chapter by the authority is a defense for or otherwise excuses any act or omission of a political subdivision otherwise required or imposed by law upon

a political subdivision.

SECTION 175. IC 13-19-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. **(a)** The authority may provide services to a political subdivision in connection with a loan or other financial assistance, including advisory and other services, **and may charge a fee for:**

(1) services provided; and

(2) costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance to or for the benefit of a political subdivision under this chapter, regardless of whether the application is approved or rejected.

(b) A political subdivision may pay fees charged under this section.

SECTION 176. IC 13-19-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. The authority ~~shall develop~~ **may use** a priority ranking system ~~for~~ **in** making loans and providing other financial assistance under this chapter based on the following:

(1) Socioeconomic distress in an area, as determined by the poverty level and unemployment rate in the area.

(2) The technical evaluation by the department under section ~~5(1)(A)~~ **3(8)(A)** and ~~section 5(1)(B).~~ **3(8)(B) of this chapter.**

(3) Other factors determined by the authority, including the following:

(A) The number and quality of jobs that would be generated by a project.

(B) Housing, recreational, and educational needs of communities.

(C) Any other factors the authority determines will assist in the implementation of this chapter.

SECTION 177. IC 13-19-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 9. ~~(a) Based on the priority ranking system established under section 8 of this chapter, the authority may make loans or provide other financial assistance from the fund to or for the benefit of a political subdivision under this section.~~

~~(b)~~ **(a)** A loan or other financial assistance must be used for at least one (1) of the purposes under section 1 of this chapter and may be used for any of the following purposes:

(1) To:

(A) establish **guaranties,** reserves, or sinking funds, ~~or provide interest subsidies.~~ **including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by this chapter; or**

(B) provide interest subsidies.

(2) To pay financing charges, including interest on the loan or other financial assistance during remediation and for a reasonable period after the completion of remediation.

(3) To pay consultant, advisory, and legal fees, and any other costs or expenses resulting from:

(A) the assessment, planning, or remediation of a brownfield; or

(B) the loan or other financial assistance.

~~(c) Upon the recommendation of the authority and the approval of the budget agency, the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies, shall be established by the state board of finance.~~

(b) The authority shall establish the interest rate or parameters for establishing the interest rate on each loan made under this chapter, including parameters for establishing the amount of interest subsidies.

(c) The authority, in setting the interest rate or parameters for establishing the interest rate on each loan, may take into account the following:

(1) Credit risk.

(2) Environmental enforcement and protection.

(3) Affordability.

(4) Other fiscal factors the authority considers relevant, including the program's cost of funds and whether the financial assistance provided to a particular political subdivision is taxable or tax exempt under federal law.

Based on the factors set forth in subdivisions (1) through (4), more than one (1) interest rate may be established and used for loans or other financial assistance to different political subdivisions or for different loans or other financial assistance to the same political subdivision.

(d) Not more than ten percent (10%) of the money available in the fund during a year may be loaned or otherwise provided to any one (1) political subdivision.

(e) Before a political subdivision may receive a loan or other financial assistance, including grants, from the fund, a political subdivision must submit the following:

(1) Documentation of community and neighborhood comment concerning the use of a brownfield on which remediation activities will be undertaken after remediation activities are completed.

(2) A plan for repayment of the loan or other financial assistance, if applicable.

(3) An approving opinion of a nationally recognized bond counsel if required by the authority.

(4) A summary of the environmental objectives of the proposed project.

(f) A political subdivision that receives a loan or other financial assistance from the fund shall enter into a financial assistance agreement. A financial assistance agreement is a valid, binding, and enforceable agreement of the political subdivision.

(g) ~~With the approval of the budget agency,~~ The authority may sell or assign:

(1) loans or evidence of other financial assistance; and

(2) other obligations of political subdivisions evidencing the loans or other financial assistance from the fund;

at any price and on terms acceptable to the authority. Proceeds of sales or assignments under this subsection shall be deposited in the fund. A sale or an assignment under this subsection does not create

a liability or an indebtedness of the state or the authority except, in the case of the authority, strictly in accordance with the sale or assignment terms.

(h) The authority may pledge loans or evidences of other financial assistance and other obligations of political subdivisions evidencing the loans or other financial assistance from the fund to secure other loans or financial assistance from the fund to or for the benefit of political subdivisions. The terms of a pledge under this subsection must be approved by the budget agency. Notwithstanding any other law, a pledge of property made by the authority and approved by the budget agency under this subsection is binding from the time the pledge is made. Revenues, other money, or other property pledged and then received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, ~~the department, the budget agency,~~ a trustee, or the fund, regardless of whether the parties have notice of a lien. A resolution, an indenture, or other instrument by which a pledge is created is not required to be filed or recorded, except in the records of the authority. ~~or the budget agency.~~ An action taken to enforce a pledge under this subsection and to realize the benefits of the pledge is limited to the property pledged. A pledge under this subsection does not create a liability or an indebtedness of the state or the authority except, in the case of the authority, strictly in accordance with the pledge terms.

SECTION 178. IC 13-19-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. Notwithstanding any other law and if provided in a financial assistance agreement, any state department or state agency, including the treasurer of state, that is the custodian of money payable to a political subdivision, other than money in payment for goods or services provided by the political subdivision, after written notice from the budget director that the political subdivision is in default on the payment of principal or interest on a loan or evidence of other financial assistance, may:

(1) withhold payment of money from that political subdivision; and

(2) pay over the money to the authority, a trustee that is a financial institution for a grantor trust, or the Indiana bond bank, as directed by the ~~budget director,~~ **chairman of the authority,** for the purpose of curing the default.

However, the withholding of payment from the political subdivision and payment to the authority, a trustee, or the Indiana bond bank may not adversely affect the validity of the defaulted loan or other financial assistance.

SECTION 179. IC 13-19-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. The authority may adopt guidelines ~~or guidance documents~~ without complying with IC 4-22-2 to ~~implement~~ **govern the administration of** this chapter.

SECTION 180. IC 13-19-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 12. (a) Notwithstanding any other law, a political subdivision may borrow money from the authority by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision must observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.

(b) Notwithstanding any other law, a political subdivision may issue and sell its notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of its bonds or other available money at the time the notes are due. The:

(1) notes must be issued in accordance with a resolution or an ordinance; and

(2) proceeds must be used to carry out this chapter.

(c) A political subdivision that issues notes under subsection (b) may renew or extend the notes on terms agreed to with the authority. The authority may purchase and ~~see~~ **sell** the renewed or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.

(d) The notes issued by a political subdivision under subsection (b), including renewals or extensions, mature in the amounts and at the times, not exceeding four (4) years from the date of original issuance, **that are** agreed to by the political subdivision and the authority.

(e) Compliance with subsection (b) constitutes full authority for a political subdivision to issue notes and sell the notes to the authority. The political subdivision is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of its notes. The notes are valid and binding obligations of the political subdivision and are enforceable in accordance with the terms of the notes and payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes. ~~However,~~ If the political subdivision issues bonds, all or part of the proceeds of which will be used to pay the notes issued under subsection (b), neither this section nor the actual issuance by a political subdivision of its notes under subsection (b) relieves the political subdivision of its obligation to comply with the statutory requirements for the issuance of its bonds.

SECTION 181. IC 13-19-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13. (a) As an alternative to making loans or providing other financial assistance to political subdivisions, the authority ~~after obtaining the approval of the budget agency,~~ may use the money in the fund ~~or~~ **to** provide a leveraged loan program and other financial assistance programs to or for the benefit of political subdivisions, including using money in the fund to enhance a political subdivision's obligations under this chapter by:

(1) granting money to:

(A) be deposited in:

(i) a capital or reserve fund established under ~~IC 5-1.5~~ **IC 4-4-11** or another law, including this chapter; or

(ii) any account established within the fund; or

(B) provide interest subsidies;

(2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs

for obligations of a political subdivision or for bonds or other obligations issued by a trustee that is a financial institution for a grantor trust, **the authority,** or ~~by~~ the Indiana bond bank if credit market access is improved or interest rates are reduced; or

(3) guaranteeing all or a part of obligations issued by political subdivisions or of bonds or other obligations issued by a trustee that is a financial institution for a grantor trust, **the authority,** or ~~by~~ the Indiana bond bank.

(b) The authority ~~and the budget agency~~ may enter into any agreements with:

(1) a trustee that is a financial institution for a grantor trust;

(2) the Indiana bond bank; or

(3) political subdivisions;

to carry out this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund. A guarantee under subsection (a)(3) does not create a liability or an indebtedness of the state or of the authority except, in the case of the authority, strictly in accordance with the guarantee terms.

(d) Notwithstanding any other law, the authority is considered a qualified entity for purposes of IC 5-1.5.

SECTION 182. IC 13-19-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. (a) The authority may deposit appropriations or other money received under this chapter after June 30, 1999, into an account of the fund. The authority ~~shall~~ **may** use money deposited in the account to award forgivable loans to political subdivisions for remediation or other brownfield redevelopment activities. The authority shall, in the manner provided by section 11 of this chapter, adopt guidelines to establish a political subdivision's eligibility for a forgivable loan. The guidelines ~~must~~ **may** provide priority for projects that:

(1) involve abandoned gas stations or underground storage tank issues; or

(2) are located within one-half (0.5) mile of any of the following:

(A) A child care center (as defined by IC 12-7-2-28.4).

(B) A child care home (as defined by IC 12-7-2-28.6).

(C) A child caring institution (as defined by IC 12-7-2-29).

(D) A school age child care program (as defined by IC 12-17-12-5).

(E) An elementary or a secondary school attended by students in kindergarten or grades 1 through 12.

(b) Not more than twenty percent (20%) of the total amount of loans provided for a project under this chapter may be in the form of a forgivable loan.

(c) The financial assistance agreement for a project to be financed with a forgivable loan must specify economic development or redevelopment goals for the project that must be achieved before the political subdivision will be released from its obligation to repay the forgivable loan.

SECTION 183. IC 14-13-1-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 30. (a) The acquisition, construction, or improvement of real property, a facility, a betterment, or an improvement constituting part of a project of the commission, including acquisition of the site for a project, may be financed in whole or in part by the issuance **before July 1, 2005,** of bonds payable solely out of the net income received from the operation of the real property, facility, betterment, or improvement.

(b) If the commission desires to finance an acquisition, a construction, or an improvement in whole or in part as provided in this section or sections 31 through 36 of this chapter, the commission must adopt a resolution authorizing the issuance of bonds. The resolution must set forth the following:

(1) The date on which the principal of the bonds matures, not exceeding forty (40) years from the date of issuance.

(2) The maximum interest rate to be paid on the bonds.

(3) Other terms and conditions upon which the bonds are issued.

(c) The commission shall take all actions necessary to issue the bonds in accordance with the resolution. The commission may enter into a trust agreement with a trust company as trustee for the bondholders. An action to contest the validity of any bonds to be issued under this chapter may not be brought after the fifteenth day following the receipt of bids for the bonds.

SECTION 184. IC 14-13-1-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 36. (a) The commission may issue refunding bonds **before July 1, 2005,** in the name of the commission for the following purposes:

(1) Refunding any bonds then outstanding and issued under this chapter or under IC 14-6-29 (before its repeal), including payment of redemption premium and interest accrued or to accrue to the date of redemption of the outstanding bonds.

(2) If considered advisable by the commission, constructing improvements, extensions, or enlargements of a facility, a betterment, or an improvement in connection with which the bonds to be refunded have been issued.

(b) The issuance of the refunding bonds, the maturity dates and other details, and all rights, duties, and obligations of the holders of the refunding bonds and of the commission with respect to the refunding bonds are subject to this chapter.

SECTION 185. IC 14-14-1-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 2.5. This article:**

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

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

SECTION 186. IC 14-14-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. As used in this chapter, "commission" ~~refers to the recreational development commission created by this chapter.~~ **means the Indiana finance authority established by IC 4-4-11-4.**

SECTION 187. IC 14-14-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. ~~The recreational development commission is created. The commission is a body both corporate and politic, and~~ The exercise by the commission of the powers conferred by this chapter in the acquisition, construction,

improvement, operation, and maintenance of a park project is an essential governmental function of the state. **For purposes of this chapter,** the commission is a tax supported institution within the meaning of "agency" for the purposes of IC 34-30-9.

SECTION 188. IC 14-14-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 18. The commission may do the following:

~~(1) Adopt bylaws for the regulation of the commission's affairs and the conduct of the commission's business.~~

~~(2) Adopt an official seal that may not be the seal of the state.~~

~~(3) Maintain a principal office at the place within Indiana the commission designates.~~

~~(4) Sue and be sued and plead and be impleaded in the commission's own name. All process shall be served on the commission by delivering a copy:~~

~~(A) to the principal office of the commission with the person in charge or with the secretary of the commission; and~~

~~(B) to the office of the attorney general.~~

~~(5)~~ **(1)** Make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of the commission's duties and the execution of the commission's powers under this chapter. If the cost of a contract for construction or for the purchase of equipment, materials, or supplies involves an expenditure of more than twenty thousand dollars ($20,000), the commission shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in Marion County, Indiana, and in other publications if the commission determines. The notice must state the general character of the work and the general character of the materials to be furnished, the place where the plans and specifications may be examined, and the time and place of receiving bids. Each bid must contain the full name of every person or company interested in the bid and must be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of the bidder's proposal secured. The commission may reject any and all bids. A bond with good and sufficient surety approved by the commission is required of all contractors in an amount equal to at least fifty percent (50%) of the contract price conditioned upon the faithful performance of the contract.

~~(6)~~ **(2)** Employ employees, fix their compensation, and define their duties.

~~(7)~~ **(3)** Contract for the following:

(A) Services, including services of engineers, architects, accountants, attorneys, financial advisers, project or construction managers, consultants, and experts as well as other contract services.

(B) Construction.

(C) Materials.

(D) Supplies.

~~(8)~~ **(4)** Conduct studies of the financial feasibility of proposed park projects.

~~(9)~~ **(5)** Use the services of professional and other personnel employed by a department or an agency of the state for purposes of studying the feasibility of or designing, constructing, or maintaining a park project.

~~(10)~~ **(6)** Receive and accept:

(A) from a federal agency grants for or in aid of the acquisition, construction, improvement, or development of a park project; and

(B) aid or contributions from any source of money, property, labor, or other things of value;

to be held, used, and applied only for the purposes, consistent with the purposes of this chapter, for which the grants and contributions may be made.

~~(11)~~ **(7)** Provide coverage for the commission's employees under IC 27-7-2 and IC 22-4.

~~(12)~~ **(8)** Do all acts and things necessary or proper to carry out the powers expressly granted in this chapter.

~~(13)~~ **(9)** Hold, use, administer, and expend the money appropriated or transferred to the commission, administer a general operating fund, the revolving fund created by this chapter, create and administer any other fund considered desirable, and enter into a covenant or pledge with respect to a fund created.

~~(14)~~ **(10)** Accept advances or grants from a state agency or fund authorized to make advances or grants and, for advances, enter into agreements concerning the repayment of the advance and repay the advances.

SECTION 189. IC 15-1.5-2-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 14. Before the issuance of any bonds under this chapter:**

(1) the executive director of the commission;

(2) each member of the commission; and

(3) any other employee or agent of the commission authorized by resolution of the commission to handle funds or sign checks;

shall execute a surety bond in the penal sum of fifty thousand dollars ($50,000). If an individual described in subdivisions (1) through (3) is already covered by a bond required by state law, the individual need not obtain another bond if the bond required by state law is in at least the penal sum specified in this section and covers the individual's activities for the authority. In lieu of this bond, the chairman of the commission may execute a blanket surety bond covering each member, the executive director, and the employees or other officers of the commission. Each surety bond must be conditioned upon the faithful performance of the individual's duties, and shall be issued by a surety company authorized to transact business in Indiana as surety. At all times after the issuance of any surety bonds, these surety bonds shall be maintained in full force and effect. All costs of the surety bonds shall be borne by the commission.

SECTION 190. IC 15-1.5-3-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE MAY 15, 2005]: **Sec. 10. The commission shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor, the budget committee, and the general assembly. An annual report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6. The report shall set forth a complete operating and financial statement of the commission during that year.**

SECTION 191. IC 15-1.5-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) **Subject to the approval of the governor,** the commission may, by resolution, authorize and issue revenue bonds to:

(1) pay all or part of the cost of a project; or

(2) refund outstanding revenue bonds.

(b) The principal of and the interest on bonds must be payable solely from the revenues specifically pledged to the payment of the principal and the interest on the bonds.

(c) The bonds of each issue shall be dated and must mature at a time not exceeding thirty (30) years from the date of the bonds.

(d) The bonds may be made redeemable before maturity, at the option of the commission, at a price and under terms and conditions fixed by the commission.

(e) The commission shall determine the form of the bonds and shall fix the denomination of the bonds and the place of payment of principal and interest, which may be at any bank or trust company in the United States.

(f) The bonds shall be signed in the name of the commission by the commission chairman or by the facsimile signature of the commission chairman.

(g) The official seal of the commission, or a facsimile of the seal, must be affixed to the bonds and attested by the executive director of the commission.

(h) If an officer whose signature or a facsimile of whose signature appears on a bond ceases to be an officer before the delivery of the bonds, the signature or facsimile is nevertheless valid and sufficient for all purposes the same as if the officer had remained in office until the delivery.

(i) Bonds issued under this chapter have all the qualities and incidents of negotiable instruments under the laws of Indiana.

(j) Bonds may be issued in registered form.

(k) Bonds shall be sold in accordance with the requirements of IC 4-1-5.

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

SECTION 192. IC 15-7-4.9-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2.5. "Authority" refers to the Indiana ~~development~~ finance authority created by IC 4-4-11.

SECTION 193. IC 15-7-5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 1.5. This chapter:**

(1) applies to the authority only when acting for the purposes set forth in this chapter; and

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

SECTION 194. IC 16-22-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. As the tax is collected, the levies become a part of the hospital funds without further appropriation by the county fiscal body and may be invested in accordance with IC 16-22-3-20. The levies shall be separately accounted for as a hospital cumulative building fund and may not be used for any purposes other than that for which the cumulative building fund was established, except for the following:

(1) A lease entered into with an authority or the Indiana health **and educational** facility financing authority established under IC 5-1-16-2 may provide that the lease agreement to pay lease rentals be paid in whole or in part from the hospital cumulative building fund.

(2) If a loan has been obtained for the same purposes for which the cumulative building fund was established, the fund may be used to pay principal and interest on the bonds, notes, or other evidences of indebtedness of the hospital.

SECTION 195. IC 20-12-6-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16. No bonds shall be issued by ~~said~~ **the** corporations under the provisions of this chapter without the specific approval of the state budget committee, budget agency, and the governor of the state of Indiana. **The budget agency may request and consider the recommendation of the staff of the Indiana finance authority with respect to the approval of a bond issue under this section.**

SECTION 196. IC 20-12-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. No bonds shall be issued by ~~said~~ **the** respective trustees under the provisions of this chapter without the specific approval of the ~~state~~ budget committee, budget agency, and the governor. ~~of the state of Indiana.~~ **The budget agency may request and consider the recommendation of the staff of the Indiana finance authority with respect to the approval of a bond issue under this section.**

SECTION 197. IC 20-12-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. No bonds shall be issued by ~~said~~ **the** corporations under the provisions of this chapter without the specific approval of the ~~state~~ budget committee, budget agency, and the governor. ~~of the state of Indiana.~~ **The budget agency may request and consider the recommendation of the staff of the Indiana finance authority with respect to the approval of a bond issue under this section.**

SECTION 198. IC 20-12-63-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 1.5. This chapter:**

(1) applies to the authority only when acting for the purposes set forth in this chapter; and

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

SECTION 199. IC 20-12-63-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. For the purposes of this chapter, unless the context clearly requires otherwise, the following words are defined as follows:

(1) "Authority" ~~means~~ **refers to** the Indiana **health and** educational ~~facilities~~ **facility finance** authority **established by**

IC 5-1-16-2.

(2) "Project" means:

(A) the acquisition, construction, enlarging, remodeling, renovation, improvement, furnishing, or equipping of an educational facility by the authority for a private institution of higher education; or

(B) the funding of any liability, other loss, or insurance reserves or the funding and contribution of such insurance reserves or other capital to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses.

(3) "Cost" means all costs necessary or incident to the acquisition, construction, or funding of a project, including the costs of refunding or refinancing outstanding indebtedness incurred for the financing of such project, reserves for principal and interest, engineering, legal, architectural and all other necessary and incidental expenses, together with interest on bonds issued to finance the project to a date six (6) months subsequent to the estimated date of completion.

(4) "Bonds" means revenue bonds, notes, bond anticipation notes, or other obligations of the authority issued under this chapter, including refunding bonds, notes, bond anticipation notes, or other obligations.

(5) "Bond resolution" means the resolution or resolutions and the trust agreement, if any, authorizing or providing for the terms and conditions applicable to bonds issued pursuant to this chapter.

(6) "Educational facility" means any property located within the state which:

(A) is suitable for:

(i) the instruction, feeding, recreation, or housing of students;

(ii) the conduct of research or other work of a private institution of higher education; or

(iii) use, by a private institution of higher education, in connection with any educational, research, or related or incidental activity conducted by the private institution of higher education;

(B) is suitable for use as or in connection with the following: an academic facility, administrative facility, agricultural facility, assembly hall, athletic facility, auditorium, boating facility, campus, communication facility, computer facility, continuing education facility, classroom, dining hall, dormitory, exhibition hall, firefighting facility, fire prevention facility, food service and preparation facility, gymnasium, greenhouse, health care facility, hospital, housing, instructional facility, laboratory, library, maintenance facility, medical facility, museum, offices, parking area, physical education facility, recreational facility, research facility, stadium, storage facility, student union, study facility, theater, or utility;

(C) is not used or to be used for sectarian instruction or study or as a place for devotional activities or workshop; and

(D) is not used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination.

(7) "Eligible member" means a corporation defined under IC 20-12-6-1 or any private institution of higher education.

(8) "Liability or loss insurance reserves" means a fund or funds set aside as a reserve to cover risk retained by an eligible member in connection with liability claims or other losses.

(9) "Liability" means legal liability for damages (including costs of defense, legal costs and fees, and other claims expenses) because of injuries to other persons or entities, damage to the property or business of other persons or entities, or other damage or loss to such other persons or entities resulting from or arising out of any activity of an eligible member.

(10) "Private institution of higher education" means a nonprofit educational institution with a principal office in Indiana that:

(A) is not owned or controlled by the state of Indiana or any political subdivision, agency, instrumentality, district, or municipality of the state of Indiana;

(B) is authorized by law to provide a program of education beyond the high school level;

(C) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(D) provides an educational program:

(i) for which the institution awards an associate degree;

(ii) for which the institution awards a bachelors degree;

(iii) admission into which is conditioned upon the prior attainment of a bachelor's degree or equivalent, for which the institution awards either a post graduate degree or provides not less than a two (2) year program which is acceptable for full credit toward a post graduate degree; or

(iv) of two (2) years duration in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(E) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, is an institution whose credits are accepted on transfer by not less than three (3) institutions which are so accredited for credit on the same basis as if transferred from an institution so accredited; and

(F) does not discriminate in the admission of students on the basis of race, color, or creed.

(11) "Property" means any real, personal, or mixed property, or any interest therein, including, without limitation, any real estate, appurtenances, buildings, easements, equipment,

furnishings, furniture, improvements, machinery, rights-of-way and structures, or any interest therein.

(12) "Revenues" means with respect to any project the rents, fees, charges, and other income or profit derived therefrom.

(13) "Risk retention group" means a trust, pool, corporation, limited liability company, partnership, or joint venture funded by and owned and operated for the benefit of more than one (1) eligible member.

SECTION 200. IC 20-12-63-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. The authority shall have the **following** functions and powers: ~~set forth in this section.~~

~~(1) The authority may adopt rules and bylaws for the regulation of the authority's business.~~

~~(2) The authority may adopt an official seal and alter the official seal.~~

~~(3) The authority may maintain an office at a place or places designated by the authority.~~

~~(4) The authority may sue and be sued, plead and be impleaded in the authority's own name.~~

~~(5)~~ **(1)** The authority may determine the location and character of any project to be financed under this chapter. The authority may construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease as lessee or lessor, regulate any project, or enter into contracts for any purpose stated in this subdivision. The authority may designate a private institution of higher education as the authority's agent to carry out the authority of this subsection.

~~(6)~~ **(2)** The authority may issue bonds or fund and refund bonds as provided in this chapter.

~~(7)~~ **(3)** The authority may require that the rates, rents, fees, or charges established by a private institution of higher education are sufficient to discharge the institution's obligations to the authority but shall have no other jurisdiction over such rates, rents, fees, or charges.

~~(8)~~ **(4)** The authority may establish rules for the use of a project or any portion thereof and designate a private institution of higher education as the authority's agent to establish rules for the use of a project undertaken for that institution.

~~(9)~~ **(5)** The authority may employ consulting engineers, architects, attorneys, accountants, trustees, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in the authority's judgment, and fix their compensation.

~~(10)~~ **(6)** The authority may receive and accept from any source loans, contributions, or grants for or in aid of the construction or funding of a project or any portion thereof in either money, property, labor, or other things of value and, when required, use such funds, property, or labor only for the purposes for which the money, property, or labor was loaned, contributed, or granted.

~~(11)~~ **(7)** The authority may make loans to any private institution of higher education for the cost of a project, including the establishment of liability or other loss insurance reserves or the contribution of those reserves to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses in accordance with an agreement between the authority and the private institution of higher education. No such loan may exceed the total cost of the project as determined by such institution and approved by the authority.

~~(12)~~ **(8)** The authority may make loans to a private institution of higher education to refund outstanding obligations or advances issued, made, or given by such institution for the cost of a project, including the establishment of liability or other loss insurance reserves or the contribution of those reserves to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses. In addition, the authority may issue bonds and make loans to a private institution of higher education to refinance indebtedness incurred or to reimburse advances made for projects undertaken prior to the date of the bond issue whenever the authority finds that such financing is in the public interest and either:

(A) alleviates a financial hardship upon the private institution of higher education;

(B) results in a lesser cost of education; or

(C) enables the private institution of higher education to offer greater security for a loan or loans to finance a new project or projects or to effect savings in interest costs or more favorable amortization terms.

~~(13)~~ **(9)** The authority may charge to and apportion among private institutions of higher education the authority's administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter.

~~(14)~~ **(10)** The authority may, for financing purposes, combine a project or projects and some or all future projects of any private institution or institutions of higher education provided that:

(A) the authority obtains the consent of all of the private institutions of higher education which are involved, or when financing loans for the funding of liability or other loss insurance reserves or for the providing of those reserves or other capital to be contributed to a risk retention group, the authority obtains the consent of all of the eligible members that are involved; and

(B) the money set aside in any fund or funds pledged for any series of bonds or issue of bonds are held for the sole benefit of such series or issue separate and apart from the money pledged for any other series or issue of bonds of the authority.

To facilitate the combining of projects, bonds may be issued in series under one (1) or more resolutions or trust agreements and be fully open end, thus providing for unlimited issuance of additional series, or partially open end, limited as to additional series, all in the discretion of the authority. Notwithstanding any provision of this chapter to the contrary, the authority may permit a private institution of higher

education to substitute one (1) or more educational facilities of similar value (as determined by an independent appraiser satisfactory to the authority) as security for any educational facility financed under this chapter on such terms and conditions as the authority may prescribe.

~~(15)~~ **(11)** The authority may mortgage all or any portion of any project and any other educational facilities conveyed to the authority for such purpose and the site or sites thereof, whether presently owned or subsequently acquired, for the benefit of the holders of the bonds of the authority issued to finance such project or any portion thereof or issued to refund or refinance outstanding indebtedness of a private institution of higher education as permitted by this chapter.

~~(16)~~ **(12)** The authority may join in a risk retention group with corporations (as defined in IC 20-12-6-1) or any private institution of higher education.

~~(17)~~ **(13)** The authority may do all things necessary to carry out the purposes of this chapter.

SECTION 201. IC 20-12-63-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 22. Except as otherwise provided in section 21(c) of this chapter or in any trust indenture providing for the issuance of bonds, the authority may invest: ~~any funds in:~~

~~(1) direct obligations of the United States of America;~~

~~(2) obligations on which the timely payment of principal and interest is fully guaranteed by the United States of America;~~

~~(3) obligations of the federal banks for cooperatives, farm credit banks, federal home loan banks, Federal National Mortgage Association and Government National Mortgage Association; and~~

~~(4) certificates of deposit or time deposits constituting direct obligations of any bank as defined in IC 28-1-1 through IC 28-1-23, but only in those certificates of deposit or time deposits in banks which are insured by the Bank Insurance Fund of the Federal Deposit Insurance Corporation, if then in existence.~~

~~Any such securities may be purchased at their offering or market price at the time of the purchase. All such securities so purchased shall mature or be redeemable on a date or dates prior to the time when, in the judgment of the authority, the funds so invested will be required for expenditure. The express judgment of the authority as to the time when any funds will be required for expenditure or be redeemable is final and conclusive.~~

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

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

(3) proceeds of bonds or notes;

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

SECTION 202. IC 20-12-63-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 26. (a) Notwithstanding any other provision of this chapter to the contrary, the authority may:

(1) finance the cost of an educational facility or refund outstanding indebtedness of a private institution of higher education, as authorized under section ~~11(12)~~ **11(8)** of this chapter; or

(2) finance the establishment of liability or other loss insurance reserves or the contribution of such reserves or other capital to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses;

by issuing its bonds for the purpose of loaning the proceeds to a private institution of higher education for the cost of a project or to refund or refinance outstanding indebtedness or reimburse advances made in connection with a project in accordance with an agreement between the authority and the institution and in exchange for the institution's promissory note or notes. Any such promissory notes shall have the same principal amounts, maturities, and interest rates as the bonds so being issued, may be secured by a first mortgage lien on the educational facility so being financed or by a first mortgage lien or security interest in other real or personal property or funds acceptable to the authority subject to such exceptions as the authority may approve and created by a mortgage instrument or security agreement satisfactory to the authority, and may be insured or guaranteed by others. Any such bonds shall be payable solely out of the payments to be made on such promissory notes and under such agreement and shall not exceed in principal amount the cost of such educational facility, as determined by the private institution of higher education, or the necessary amount of these liability or other loss insurance reserves, and approved by the authority. In other respects any such bonds shall be subject to the provisions of section 15(c) of this chapter and the trust agreement or indenture creating such bonds may contain such of the provisions set forth in section 15(d) of this chapter as the authority may deem appropriate.

(b) In the event that an educational facility is financed and mortgaged pursuant to this section, the title to such facility shall remain in the private institution of higher education owning the same, subject to the lien of the mortgage securing the promissory notes then being purchased, and there shall be no lease of such facility between the authority and such institution.

(c) The provisions of section 14 of this chapter shall not apply to any educational facility or any liability or other loss insurance reserves financed pursuant to this section, but the authority shall return the promissory notes purchased through the issuance of bonds under this chapter to the private institution of higher education issuing such promissory notes when:

(1) such bonds have been fully paid and retired or adequate provision has been made to pay and retire the same fully;

(2) all other conditions of the trust agreement or indenture creating such bonds have been satisfied; and

(3) the lien thereof has been released in accordance with the provisions thereof.

SECTION 203. IC 27-1-29-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 17. (a) As used in this section:

(1) "basic fund" refers to the political subdivision risk management fund established by this chapter; and

(2) "catastrophic fund" refers to the political subdivision catastrophic liability fund established by IC 27-1-29.1.

(b) **Before July 1, 2005,** the commission may issue its bonds or notes in amounts that it considers necessary to provide funds to:

(1) establish or maintain the reserve account in the catastrophic fund provided for in IC 27-1-29.1-8;

(2) provide for the payment of liabilities payable out of the basic fund to the extent such liabilities exceed the money in the basic fund; and

(3) pay, fund, or refund, regardless of when due, the principal of or interest or redemption premiums on bonds or notes issued under subdivision (1) or (2).

Bonds or notes issued under subdivision (2) must mature within three (3) years after their date of issuance.

(c) The bonds or notes of the commission may be issued and sold by the commission to the Indiana bond bank under IC 5-1.5.

(d) Every issue of bonds or notes is an obligation of the commission. An issue of bonds or notes under subsection (b)(1) is payable solely from assessments imposed by the commission under IC 27-1-29.1 on political subdivisions that are members of the catastrophic fund, and the commission may secure such bonds or notes by a pledge of assessments imposed under IC 27-1-29.1. An issue of bonds or notes under subsection (b)(2) is payable solely from assessments imposed by the commission under section 12 of this chapter on political subdivisions that are members of the basic fund, and the commission may secure such bonds or notes by a pledge of assessments imposed under section 12 of this chapter.

(e) A bond or note of the commission:

(1) is not a debt, liability, loan of credit, or pledge of the faith and credit of the state; and

(2) must contain on its face a statement that the commission is obligated to pay principal and interest, and the redemption premium, if any, and that the faith, credit, and taxing power of the state are not pledged to the payment of the bond or note.

(f) The state pledges to and agrees with the holders of the bonds or notes issued under this chapter that the state will not:

(1) limit or restrict the rights vested in the commission to fulfill the terms of any agreement made with the holders of its bonds or notes; or

(2) in any way impair the rights or remedies of the holders of the bonds or notes;

until the bonds or notes, together with the interest on the bonds or notes, and interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met, paid, and discharged.

(g) The bonds or notes of the commission are negotiable instruments for all purposes of IC 26-1, subject only to the provisions of the bonds and notes for registration.

(h) Bonds or notes of the commission must be authorized by resolution of the commission, may be issued in one (1) or more series, and must:

(1) bear the date;

(2) mature at the time or times;

(3) be in the denomination;

(4) be in the form;

(5) carry the conversion or registration privileges;

(6) have the rank or priority;

(7) be executed in the manner;

(8) be payable from the sources in the medium of payment at the place inside or outside the state; and

(9) be subject to the terms of redemption;

as the resolution of the commission or the trust agreement securing the bonds or notes provides.

(i) Bonds or notes may be issued under this chapter without obtaining the consent of any agency of the state and without any other proceeding or condition other than the proceedings or conditions specified in this chapter.

(j) The rate or rates of interest on the bonds or notes may be fixed or variable. Variable rates shall be determined in the manner and in accordance with the procedures set forth in the resolution authorizing the issuance of the bonds or notes. Bonds or notes bearing a variable rate of interest may be converted to bonds or notes bearing a fixed rate or rates of interest, and bonds or notes bearing a fixed rate or rates of interest may be converted to bonds or notes bearing a variable rate of interest, to the extent and in the manner set forth in the resolution pursuant to which the bonds or notes are issued. The interest on bonds or notes may be payable semiannually or annually or at any other interval or intervals as may be provided in the resolution, or the interest may be compounded and paid at maturity or at any other times as may be specified in the resolution.

(k) The bonds or notes may be made subject, at the option of the holders, to mandatory redemption by the commission at the times and under the circumstances set forth in the authorizing resolution.

(l) Bonds or notes of the commission may be sold at public or private sale at such price, either above or below the principal amount, as the commission fixes. If bonds or notes of the commission are to be sold at public sale, the commission shall comply with IC 5-1-11 and shall publish notice of the sale in accordance with IC 5-3-1-2 in two (2) newspapers published and of general circulation in Indianapolis.

(m) The commission may periodically issue its notes under this chapter and pay and retire the principal of the notes, pay the interest due on the notes, or fund or refund the notes from proceeds of bonds or of other notes or from other funds or money of the commission available for that purpose in accordance with a contract between the commission and the holders of the notes.

(n) The commission may secure any bonds or notes issued under this chapter by a trust agreement by and between the commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside Indiana.

(o) The trust agreement or the resolution providing for the issuance of the bonds or notes may contain provisions for protecting and enforcing the rights and remedies of the holders of any such bonds or notes as are reasonable and proper and not in violation of law.

(p) The trust agreement or resolution may set forth the rights and remedies of the holders of any bonds or notes and of the trustee and may restrict the individual right of action by the holders.

(q) In addition to the provisions of subsections (n) through (p), any trust agreement or resolution may contain other provisions the commission considers reasonable and proper for the security of the

holders of any bonds or notes.

(r) All expenses incurred in carrying out the provisions of the trust agreement or resolution may be paid from assessments, revenues, or assets pledged or assigned to the payment of the principal of and the interest on bonds and notes or from any other funds available to the commission.

(s) Notwithstanding the restrictions of any other law, all financial institutions, investment companies, insurance companies, insurance associations, executors, administrators, guardians, trustees, and other fiduciaries may legally invest sinking funds, money, or other funds belonging to them or within their control in bonds or notes issued under this chapter.

(t) All bonds or notes issued under this chapter are issued by a body corporate and politic of this state, but not a state agency, and for an essential public and government purpose and the bonds and notes, the interest thereon, the proceeds received by a holder from the sale of the bonds or notes to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, and proceeds received at maturity, and the receipt of the interest and proceeds are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

SECTION 204. IC 28-5-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 6. (a) Every company may exercise all the powers conferred upon domestic corporations by IC 23-1 but only to the extent that those powers may be necessary, convenient, or expedient to accomplish the purposes for which it is organized. Subject to the restrictions and limitations contained in this chapter, every company may exercise the following powers:

(1) To issue, negotiate, and sell its secured or unsecured certificates of investment or indebtedness, subject to subdivision (17), upon terms and conditions, in any form, and payable at times that are not inconsistent with this chapter and, subject to subsection (c), bearing a rate of interest approved by the department.

(2) To make, purchase, discount, or otherwise acquire extensions of credit under IC 24-4.5.

(3) To lend money without security or upon the security of comakers, personal endorsement, or the mortgage of real or personal property or the mortgage or pledge of bailment leases or rentals due and to become due thereunder and other choses in action, and to contract for interest, discount, fees, charges, or other consideration fixed or permitted by any laws of Indiana concerning interest, discount, or usury.

(4) To discount, purchase, or otherwise acquire notes, bills of exchange, acceptances, bailment leases, and the property covered thereby or the rentals due or to become due thereunder or other choses in action and, subject to such restrictions the department imposes, to become owner or lessor of personal or real property acquired upon the request and for the use of a customer, and to incur additional obligations incident to becoming an owner or lessor of the property. The liability of a lessee under the lease does not constitute an obligation (as defined in section 8 of this chapter).

(5) To purchase or construct buildings and hold legal title to them, to be leased for public purposes to municipal corporations or other public authorities having resources sufficient to make payment of all rentals as they become due. Each lease agreement shall provide that upon expiration, the lessee shall become owner of the building.

(6) To invest in bonds, notes, or certificates which are:

(A) the direct or indirect obligations of the United States or of the state;

(B) obligations of mutual funds or financial institutions if the obligations represent a participation in a fund invested in, or are secured by, direct or indirect obligations of the United States owned by the mutual fund or financial institution;

(C) the direct obligations of a civil or school county, township, city, town, other taxing district, municipality of Indiana;

(D) a special taxing district in Indiana;

(E) issued by or in the name of:

(i) the trustees of Indiana University;

(ii) the trustees of Purdue University;

(iii) the trustees of Ball State University;

(iv) the trustees of Indiana State University; or

(v) the Indiana **health and** educational ~~facilities~~ **facility finance** authority **under IC 20-12-63;**

(F) issued by or in the name of any municipality of Indiana and payable from the revenues to be derived from the operation of facilities for the production or distribution of water, electricity, gas, or from the operation of sewage works; or

(G) the obligations of any Indiana toll road commission, public library, or schoolhouse holding corporation first mortgage bonds;

which district, municipality, taxing unit, or corporation is not then in default in the payment of either principal or interest on any of its funded obligations and has not so defaulted for a period of more than six (6) months within the five (5) year period immediately preceding the purchase of the securities.

(7) To invest in bonds, notes, or debentures rated in one (1) of the first four (4) classifications established by one (1) or more standard rating services specified by the department that satisfy requirements of marketability prescribed periodically by the department that are the obligations of a person, a firm, a limited liability company, a corporation, a state, a territory, an insular possession of the United States, or a county, township, town, city, taxing district, or municipality thereof which is not then in default in the payment of either principal or interest on any of its funded obligations and has not so defaulted within the five (5) year period immediately preceding the purchase of the securities and other investment securities prescribed by the department by rule. As used in this section, the term "investment securities" means marketable obligations evidencing indebtedness of a person,

firm, limited liability company, or corporation in the form of bonds, notes, or debentures commonly known as "investment securities" and the definition of the term "investment securities" prescribed by the department by rule. Except as is otherwise provided in this chapter or otherwise permitted by law, nothing contained in this subdivision authorizes the purchase by an industrial loan and investment company of shares of stock or other securities, unless the purchase is necessary to prevent loss under a debt previously contracted in good faith and stocks or other securities so purchased or acquired shall, within six (6) months from the time of its purchase, be sold or disposed of at public or private sale, unless otherwise ordered by the department.

(8) To invest in bonds or debentures issued under and by the authority of the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1429), or of the Home Owners' Loan Act (12 U.S.C. 1461 through 1468), or obligations issued by or for farm credit banks, and banks for cooperatives under the Farm Credit Act of 1971 (12 U.S.C. 2001 through 2279aa-14).

(9) To invest in insured shares of an insured savings association organized under the laws of Indiana, and in insured shares of an insured federal savings association whose principal place of business is located in Indiana; and in certificates of indebtedness or investment of an industrial loan and investment company organized under the laws of Indiana. However, not more than twenty percent (20%) of the resources of the company may be invested in the insured shares of any such association nor more than ten percent (10%) of sound capital in such certificates of industrial loan and investment companies.

(10) To make loans and advances of credit and purchases of obligations representing loans and advances of credit as are eligible for insurance by the federal housing administrator, and to obtain insurance from the administrator.

(11) To make loans secured by mortgage on real property or leasehold, insured by the federal housing administrator, or makes a commitment to insure and to obtain insurance from the administrator.

(12) To purchase, invest in, and dispose of notes or bonds secured by mortgage or trust deed insured by the federal housing administrator or debentures issued by the federal housing administrator, or bonds or other securities insured by national mortgage associations.

(13) To discount, purchase, or otherwise acquire charge accounts, and drafts and bills of exchange evidencing charge accounts and to impose and collect monthly service charges and maintenance charges on charge accounts, drafts, or bills of exchange which are owned or acquired in amounts agreed upon between the company and the obligor, or obligors, on charge accounts, drafts, and bills of exchange.

(14) To purchase or otherwise acquire property, real or personal, tangible or intangible, in which the company has a security interest to secure a debt owing to the company contracted in good faith or the purchase or acquisition of which property is considered expedient to prevent loss from a debt owing to the company contracted in good faith, and for such purpose to engage in any lawful business considered necessary or expedient by the company to preserve, protect, or make saleable the property. Property thus purchased or acquired shall be sold and disposed of within two (2) years, or a longer period permitted by the department, after the purchase or acquisition.

(15) To act as trustee of a trust created in the United States and forming part of a stock bonus, pension, or profit sharing plan that is qualified for tax treatment under Section 401(d) of the Internal Revenue Code, and to act as trustee or custodian of an individual retirement account within the meaning of Section 408 of the Internal Revenue Code, if the funds of that trust or account are only invested in certificates of investment or indebtedness of the company or in obligations or securities issued by that company. All funds held under this subdivision in a fiduciary capacity may be commingled by the company for appropriate investment purposes. However, individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under the authority of this subdivision.

(16) To do anything necessary and appropriate to obtain or maintain federal deposit insurance under the Federal Deposit Insurance Corporation Act (12 U.S.C. 1811 through 1833e) or insurance under any other federal or Indiana law providing insurance for certificates of investment or indebtedness issued by a company. A company that obtains and maintains federal deposit insurance is not required to obtain approval from the department concerning the rate of interest payable on, or the form, the terms, or the conditions of the certificates of investment or indebtedness, and the company may exercise all of the powers that are conferred upon institutions maintaining federal deposit insurance that are not in conflict with Indiana law.

(17) To become a member of a federal home loan bank and acquire, own, pledge, sell, assign, or otherwise dispose of shares of the capital stock of a federal home loan bank.

(18) To borrow money and procure advances from a federal home loan bank and to transfer, assign to, and pledge with the federal home loan bank any of the bonds, notes, contracts, mortgages, securities, or other property of the company held or acquired as security for the payment of the loans and advances.

(19) To possess and exercise all rights, powers, and privileges conferred upon and do and perform all acts and things required of members or shareholders of a federal home loan bank, or by the provisions of 12 U.S.C. 1421 through 1449.

(20) Subject to section 6.3 of this chapter, to exercise the rights and privileges (as defined in section 6.3(a) of this chapter) that are or may be granted to national banks domiciled in Indiana.

(b) No law of this state prescribing the nature, amount, or form of security or requiring security upon which loans or advances of credit may be made, or prescribing or limiting interest rates upon loans or advances of credit, or prescribing or limiting the period for

which loans or advances of credit may be made, applies to loans, advances of credit, or purchases made pursuant to subsection (a)(10), (a)(11), or (a)(12).

(c) If any national or state chartered bank or savings association is not limited by law with regard to the rate of interest payable on any type or category of checking account, savings account, or deposit, certificate of deposit, membership share, or other account, then industrial loan and investment companies are similarly not limited with regard to the interest payable on certificates of investment or indebtedness.

SECTION 205. IC 34-30-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. IC 4-4-11-30 and IC 4-4-21-23 (Concerning members, officers, employees, and agents of the Indiana ~~development~~ finance authority for acts authorized by law).

SECTION 206. IC 34-30-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. IC 4-13.5-4-4(g) (Concerning the state for monetary damages for obligations of or violation by the ~~state office building commission).~~ **Indiana finance authority).**

SECTION 207. IC 34-30-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. IC 5-1-16-28 (Concerning bonds issued ~~for an~~ **by the** Indiana health **and educational** facility financing authority **under IC 5-1-16).**

SECTION 208. IC 34-30-2-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 25. IC 8-14.5-6-11 (Concerning the state for violations of IC 8-14.5 or for payments of bonds or notes of the Indiana ~~transportation~~ finance authority).

SECTION 209. IC 34-30-2-87 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 87. IC 20-12-63-15 (Concerning members of, and persons executing bonds for, the Indiana **health and** educational ~~facilities~~ **facility finance** authority **under IC 20-12-63).**

SECTION 210. IC 36-7-15.2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. The determination of the commission to create a district under this chapter must be approved by ordinance of the legislative body of the unit before the commission transmits its resolution to the Indiana ~~development~~ finance authority and the department of state revenue under section 16 of this chapter.

SECTION 211. IC 36-7-15.2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16. Within thirty (30) days after the approval of the creation of the district by the unit under section 15 of this chapter, the commission shall transmit to the department of state revenue and the Indiana ~~development~~ finance authority the following:

(1) A certified copy of the resolution designating the district.

(2) A complete list of street names and the range of street numbers of each street located within the district.

(3) Information concerning the proposed redevelopment and economic development of the district, which information may be modified from time to time after the initial filing.

(4) A certificate by the presiding officer of the commission stating that the commission will pursue the implementation of the plan for the redevelopment and economic development of the district in an expeditious manner.

SECTION 212. THE FOLLOWING ARE REPEALED [EFFECTIVE MAY 15, 2005]: IC 4-13.5-1-1.5; IC 4-13.5-1-2; IC 4-13.5-1-3.1; IC 4-13.5-1-4; IC 4-13.5-5; IC 5-1-16-10; IC 8-9.5-8-2; IC 8-9.5-8-3; IC 8-9.5-8-4.1; IC 8-14.5-3-8; IC 13-18-13-4; IC 13-18-13-6; IC 13-18-21-4; IC 13-18-21-6; IC 13-19-5-4; IC 13-19-5-5; IC 13-19-5-16; IC 14-14-1-8; IC 14-14-1-9; IC 14-14-1-10; IC 14-14-1-11; IC 14-14-1-12; IC 14-14-1-13; IC 14-14-1-14; IC 14-14-1-15; IC 14-14-1-15.5; IC 20-12-63-4; IC 20-12-63-5; IC 20-12-63-6; IC 20-12-63-7; IC 20-12-63-8; IC 20-12-63-9; IC 20-12-63-10; IC 20-12-63-11.5; IC 20-12-63-27.5.

SECTION 213. [EFFECTIVE MAY 15, 2005] **(a) As used in this SECTION, "entity" means the following:**

(1) The Indiana development finance authority.

(2) The state office building commission.

(3) The Indiana transportation finance authority.

(4) The recreational development commission.

(b) As used in this SECTION, "IFA" means the Indiana finance authority established by IC 4-4-11-4, as amended by this act.

(c) On May 15, 2005, all powers, duties, and liabilities of each entity are transferred to the IFA, as the successor agency.

(d) On May 15, 2005, all records and property of each entity, including appropriations and other funds under the control or supervision of the entity, are transferred to the IFA, as the successor agency.

(e) After May 14, 2005, any amounts owed to an entity before May 15, 2005, are considered to be owed to the IFA, as the successor agency.

(f) After May 14, 2005, a reference to an entity in a statute, rule, or other document is considered a reference to the IFA, as the successor agency.

(g) All powers, duties, and liabilities of an entity with respect to bonds issued by that entity in connection with any trust agreement or indenture securing those bonds are transferred to the IFA, as the successor agency. The rights of the trustee under any trust agreement or indenture and the rights of the bondholders of an entity remain unchanged, although the powers, duties, and liabilities of the entity have been transferred to the IFA, as the successor agency.

SECTION 214. [EFFECTIVE MAY 15, 2005] **(a) On May 15, 2005, all powers, duties, and liabilities of:**

(1) the Indiana health facility financing authority; and

(2) the Indiana educational facilities authority;

are transferred to the Indiana health and educational facility financing authority established by IC 5-1-16-2, as amended by this act, as the successor agency.

(b) On May 15, 2005, all records and property of:

(1) the Indiana health facility financing authority; and

(2) the Indiana educational facilities authority;

including appropriations and other funds under their control or supervision, are transferred to the Indiana health and educational facility financing authority established by IC 5-1-16-2, as amended by this act, as the successor agency.

(c) After May 14, 2005, any amounts owed to:

(1) the Indiana health facility financing authority; and

(2) the Indiana educational facilities authority;

before May 15, 2005, are considered to be owed to the Indiana health and educational facility financing authority established by IC 5-1-16-2, as amended by this act, as the successor agency.

(d) After May 14, 2005, a reference to:

(1) the Indiana health facility financing authority; and

(2) the Indiana educational facilities authority;

in a statute, rule, or other document is considered a reference to the Indiana health and educational facility financing authority established by IC 5-1-16-2, as amended by this act, as the successor agency.

(e) All powers, duties, and liabilities of:

(1) the Indiana health facility financing authority; and

(2) the Indiana educational facilities authority;

with respect to bonds issued in connection with any trust agreement or indenture securing those bonds are transferred to the Indiana health and educational facility financing authority established by IC 5-1-16-2, as amended by this act, as the successor agency. The rights of the trustee under any trust agreement or indenture described in this subsection and the rights of the holders of any bonds described in this subsection remain unchanged, although the powers, duties, and liabilities of the issuer have been transferred to the Indiana health and educational facility financing authority established by IC 5-1-16-2, as amended by this act, as the successor agency.

SECTION 215. [EFFECTIVE MAY 15, 2005] **(a) On May 15, 2005, all powers, duties, agreements, and liabilities of the treasurer of state, the auditor of state, the department of environmental management, and the budget agency with respect to:**

(1) the wastewater revolving loan program established by IC 13-18-13-1;

(2) the drinking water revolving loan program established by IC 13-18-21-1; and

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

are transferred to the Indiana finance authority, as the successor agency, for the limited purposes described in subdivisions (1) through (3).

(b) On May 15, 2005, all records, money, and other property of the treasurer of state, the auditor of state, the department of environmental management, and the budget agency with respect to:

(1) the wastewater revolving loan program established by IC 13-18-13-1;

(2) the drinking water revolving loan program established by IC 13-18-21-1; and

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

are transferred to the Indiana finance authority as the successor agency for the limited purposes described in subdivisions (1) through (3).

(c) After May 14, 2005, 85 IAC 1, 85 IAC 2, 327 IAC 13, and 327 IAC 14 are void. The publisher of the Indiana Administrative Code and the Indiana Register shall remove these articles from the Indiana Administrative Code.

(d) After May 14, 2005, any proposed rules amending 85 IAC 1, 85 IAC 2, 327 IAC 13, or 327 IAC 14 that were officially proposed and published in the Indiana Register before May 15, 2005, shall be treated as if they were withdrawn under IC 4-22-2-41.

(e) On May 15, 2005, all powers, duties, agreements, and liabilities of the Indiana bond bank, the Indiana department of environmental management, and the budget agency with respect to:

(1) the outstanding bonds issued for:

(A) the wastewater revolving loan program established by IC 13-18-13-1; or

(B) the drinking water revolving loan program established by IC 13-18-21-1; and

(2) any trust agreement or indenture, security agreement, purchase agreement, or other undertaking entered into in connection with the bonds described in subdivision (1);

are transferred to the Indiana finance authority, as the successor agency, for the limited purposes described in subdivisions (1) and (2). The rights of the trustee and the bondholders with respect to any bonds or any trust agreement or indenture, security agreement, purchase agreement, or other undertaking described in this subsection remain the same, although the powers, duties, agreements, and liabilities of the Indiana bond bank have been transferred to the Indiana finance authority and the Indiana finance authority shall be considered to have assumed all those powers, duties, agreements, and liabilities as if the Indiana finance authority were the Indiana bond bank for those limited purposes.

SECTION 216. [EFFECTIVE MAY 15, 2005] **(a) The legislative services agency shall prepare legislation for introduction in the 2006 regular session of the general assembly to organize and correct statutes affected by:**

(1) the establishment of the Indiana finance authority; and

(2) changing the name of the Indiana housing finance authority to the Indiana housing and community development authority, as provided by IC 5-20-1-3, as amended by this act.

(b) This SECTION expires July 1, 2006.

SECTION 217. [EFFECTIVE MAY 15, 2005] **After May 14, 2005, a reference to the Indiana housing finance authority in a statute, rule, or other document is considered a reference to the Indiana housing and community development authority established by IC 5-20-1-3, as amended by this act, as the successor agency.**

SECTION 218. [EFFECTIVE MAY 15, 2005] **(a) A representative of the Indiana finance authority shall, at a meeting of the budget committee before January 1, 2006, present a report concerning the implementation of this act.**

(b) This SECTION expires July 1, 2006.

SECTION 219. [EFFECTIVE MAY 15, 2005] **(a) The terms of office of the members of:**

(1) the Indiana development finance authority;

(2) the state office building commission;

(3) the Indiana transportation finance authority; and

(4) the recreational development commission;

serving on May 14, 2005, terminate on May 15, 2005.

(b) Notwithstanding IC 4-4-11-5, as amended by this act, the initial terms of office of the three (3) members appointed by the governor to the Indiana finance authority are as follows:

(1) One (1) member for a term of one (1) year.

(2) Two (2) members for a term of two (2) years.

(c) The initial terms begin May 15, 2005.

(d) This SECTION expires July 1, 2006.

SECTION 220. [EFFECTIVE MAY 15, 2005] **(a) The terms of office of the members of:**

(1) the Indiana health facility financing authority; and

(2) the Indiana educational facilities authority;

serving on May 14, 2005, terminate on May 15, 2005.

(b) Notwithstanding IC 5-1-16-3, as amended by this act, the initial terms of office of the four (4) members appointed by the governor to the Indiana health and educational facility financing authority under IC 5-1-16-3, as amended by this act, are as follows:

(1) Two (2) members for a term of two (2) years.

(2) Two (2) members for a term of four (4) years.

(c) The initial terms begin May 15, 2005.

(d) This SECTION expires July 1, 2006.

SECTION 221. [EFFECTIVE MAY 15, 2005] **(a) The terms of office of the members of the Indiana housing finance authority serving on May 14, 2005, terminate on May 15, 2005.**

(b) Notwithstanding IC 5-20-1-3, as amended by this act, the initial terms of office of the four (4) members appointed by the governor to the Indiana housing and community development authority established by IC 5-20-1-3, as amended by this act, are as follows:

(1) Two (2) members for a term of two (2) years.

(2) Two (2) members for a term of four (4) years.

(c) The initial terms begin May 15, 2005.

(d) This SECTION expires July 1, 2006.

SECTION 222. [EFFECTIVE MAY 15, 2005] **IC 6-3.1-9-1, IC 6-3.1-9-2, and IC 6-3.1-9-4, all as amended by this act, apply to applications for tax credits filed under IC 6-3.1-9 after May 14, 2005.**

SECTION 223. [EFFECTIVE MAY 15, 2005] **(a) Notwithstanding the transfer of responsibility for administration of the individual development accounts program to the lieutenant governor by P.L.4-2005, SECTION 151, beginning May 15, 2005:**

(1) the Indiana housing finance authority is responsible for the administration of the program;

(2) any rules, policies, or guidelines adopted by the department of commerce or the lieutenant governor concerning the program are considered rules, policies, and guidelines of the Indiana housing finance authority until the authority adopts replacement rules, policies, or guidelines;

(3) the Indiana housing finance authority becomes the owner of all property and obligations relating to the program; and

(4) any appropriations relating to the program are transferred to the Indiana housing finance authority.

(b) This SECTION expires July 1, 2007.

SECTION 224. **An emergency is declared for this act.**

(Reference is to ESB 578 as reprinted March 29, 2005.)

Hershman, Chair	Buell
Mrvan	E. Harris
Senate Conferees	House Conferees

Roll Call 533: yeas 49, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 590–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 590 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 16-18-2-106.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 106.3. For purposes of IC 16-42-3 and IC 16-42-22, "electronic signature" means an electronic sound, symbol, or process:**

(1) attached to or logically associated with an electronically transmitted prescription or order; and

(2) executed or adopted by a person;

with the intent to sign the electronically transmitted prescription or order.

SECTION 2. IC 16-18-2-106.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 106.4. For purposes of IC 16-42-3, IC 16-42-19, and IC 16-42-22, "electronically transmitted" or "electronic transmission" means the transmission of a prescription in electronic form. The term does not include transmission of a prescription by facsimile.**

SECTION 3. IC 16-28-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. A health facility that possesses unused medication that meets the requirements of ~~IC 25-26-13-25(i)(1)~~ **IC 25-26-13-25(j)(1)** through ~~IC 25-26-13-25(i)(6).~~ **IC 25-26-13-25(j)(6):**

(1) shall return medication that belonged to a Medicaid recipient; and

(2) may return other unused medication;

to the pharmacy that dispensed the medication.

SECTION 4. IC 16-42-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) This section applies to a drug intended for use by humans that:

(1) is a habit forming drug to which section 4(4) of this chapter applies;

(2) because of:

(A) the drug's toxicity or other potential for harmful effect;

(B) the method of the drug's use; or

(C) the collateral measures necessary to the drug's use;

is not safe for use except under the supervision of a practitioner licensed by law to administer the drug; or

(3) is limited by an approved application under Section 505 of the Federal Act or section 7 or 8 of this chapter to use under the professional supervision of a practitioner licensed by law to administer the drug.

(b) A drug described in subsection (a) may be dispensed only:

(1) upon a written **or an electronically transmitted** prescription of a practitioner licensed by law to administer the drug;

(2) upon an oral prescription of the practitioner that is reduced promptly to writing and filed by the ~~pharmacist,~~ **pharmacist or pharmacist intern (as defined in IC 25-26-13-2);** or

(3) by refilling a ~~written or oral~~ prescription if the refilling is authorized by the prescriber either in the original prescription, **by an electronically transmitted order that is recorded in an electronic format,** or by oral order that is reduced promptly to writing **or is entered into an electronic format** and filed by the pharmacist **or pharmacist intern (as defined in IC 25-26-13-2).**

(c) If a prescription for a drug described in subsection (a) does not indicate how many times the prescription may be refilled, if any, the prescription may not be refilled unless the pharmacist is subsequently authorized to do so by the practitioner.

(d) The act of dispensing a drug contrary to subsection (a), (b), or (c) is considered to be an act that results in a drug being misbranded while held for sale.

(e) A drug dispensed by filling or refilling a ~~written or oral~~ prescription of a practitioner licensed by law to administer the drug is exempt from the requirements of section 4(2), 4(3), 4(4), 4(5), 4(6), 4(7), 4(8), and 4(9) of this chapter if the drug bears a label containing the following:

(1) The name and address of the dispenser.

(2) The serial number and date of the prescription or of the prescription's filling.

(3) The name of the drug's prescriber and, if stated in the prescription, the name of the patient.

(4) The directions for use and cautionary statements, if any, contained in the prescription.

This exemption does not apply to any drugs dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail or to a drug dispensed in violation of subsection (a), (b), (c), or (d).

(f) The state department may adopt rules to remove drugs subject to section 4(4) of this chapter, section 7 of this chapter, or section 8 of this chapter from the requirements of subsections (a) through (d) when the requirements are not necessary for the protection of public health. Drugs removed from the prescription requirements of the Federal Act by regulations issued under the Federal Act may also, by rules adopted by the state department, be removed from the requirement of subsections (a) through (d).

(g) A drug that is subject to subsections (a) through (d) is considered to be misbranded if at any time before dispensing the drug's label fails to bear the statement "Caution: Federal Law Prohibits Dispensing Without Prescription" or "Caution: State Law Prohibits Dispensing Without Prescription". A drug to which subsections (a) through (d) ~~does~~ **do** not apply is considered to be misbranded if, at any time before dispensing, the drug's label bears the caution statement described in this subsection.

(h) This section does not relieve a person from a requirement prescribed by or under authority of law with respect to drugs included within the classifications of narcotic drugs or marijuana as defined in the applicable federal and state laws relating to narcotic drugs and marijuana.

(i) A drug may be dispensed under subsection (b) upon an electronically transmitted prescription only to the extent permitted by federal law.

SECTION 5. IC 16-42-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Sections 7 and 8 of this chapter do not apply to the following:

(1) To a drug dispensed on a written **or an electronically transmitted** prescription signed by **or with an electronic signature of** a physician, dentist, or veterinarian (except a drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail) if the physician, dentist, or veterinarian is licensed by law to administer the drug, and the drug bears a label containing the name and place of business of the dispenser, the serial number and date of the prescription, and the name of the physician, dentist, or veterinarian.

(2) To a drug exempted by rule of the state department and that is intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of drugs.

(3) To a drug sold in Indiana or introduced into intrastate commerce at any time before the enactment of the Federal Act, if the drug's labeling contained the same representations concerning the conditions of the drug's use.

(4) To any drug that is licensed under the Public Health Service Act of July 1, 1944 (58 Stat. 682, as amended; 42 U.S.C. 201 et seq.) or under the Animal Virus-Serum Toxin Act of March 4, 1913 (13 Stat. 832; 21 U.S.C. 151 et seq.).

(5) To a drug subject to section 4(10) of this chapter.

(b) Rules exempting drugs intended for investigational use under subsection (a)(2) may, within the discretion of the state department among other conditions relating to the protection of the public health, provide for conditioning the exemption upon the following:

(1) The submission to the state department, before any clinical testing of a new drug is undertaken, of reports by the manufacturer or the sponsor of the investigation of the drug or preclinical tests, including tests on animals, of the drug

adequate to justify the proposed clinical testing.

(2) The manufacturer or the sponsor of the investigation of a new drug proposed to be distributed to investigators for clinical testing obtaining a signed agreement from each of the investigators that patients to whom the drug is administered will be under the manufacturer's or sponsor's personal supervision or under the supervision of investigators responsible to the manufacturer or sponsor and that the manufacturer or sponsor will not supply the drug to any other investigator or to clinics for administration to human beings.

(3) The establishment and maintenance of the records and the making of the reports to the state department by the manufacturer or the sponsor of the investigation of the drug of data (including analytical reports by investigators) obtained as the result of the investigational use of the drug that the state department finds will enable the state department to evaluate the safety and effectiveness of the drug if an application is filed under section 8 of this chapter.

(c) Rules exempting drugs intended for investigational use under subsection (a)(2) must provide that the exemption is conditioned upon the manufacturer or the sponsor of the investigation requiring that experts using the drugs for investigational purposes certify to the manufacturer or sponsor that the experts will inform any human beings to whom the drugs or any controls used in connection with the drugs are being administered that the drugs are being used for investigational purposes and will obtain the consent of the human beings or their representatives, except where they consider it not feasible or, in their professional judgment, contrary to the best interests of the human beings.

(d) This section does not require a clinical investigator to submit directly to the state department reports on the investigational use of drugs. The regulations adopted under Section 505(i) of the Federal Act are the rules in Indiana. The state may adopt rules, whether or not in accordance with regulations promulgated under the Federal Act.

SECTION 6. IC 16-42-19-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. As used in this chapter, "prescription" means:

(1) a written order to or for an ultimate user for a drug or device containing the name and address of the patient, the name and strength or size of the drug or device, the amount to be dispensed, adequate directions for the proper use of the drug or device by the patient, and the name of the practitioner, issued and signed by a practitioner; or

(2) an order transmitted by other means of communication from a practitioner that is:

(A) immediately reduced to writing by the ~~pharmacist;~~ **pharmacist or pharmacist intern (as defined in IC 25-26-13-2); or**

(B) for an electronically transmitted prescription:

(i) has the electronic signature of the practitioner; and

(ii) is recorded by the pharmacist in an electronic format.

SECTION 7. IC 16-42-19-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. Except as authorized under ~~IC 25-26-13-25(c),~~ **IC 25-26-13-25(d),** a person may not refill a prescription or drug order for a legend drug except in the manner designated on the prescription or drug order or by the authorization of the practitioner.

SECTION 8. IC 16-42-22-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. As used in this chapter, "customer" means the individual for whom a prescription is written **or electronically transmitted** or the individual's representative.

SECTION 9. IC 16-42-22-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. **(a)** Each written prescription issued by a practitioner must have two (2) signature lines printed at the bottom of the prescription form, one (1) of which must be signed by the practitioner for the prescription to be valid. Under the blank line on the left side of the form must be printed the words "Dispense as written.". Under the blank line on the right side of the form must be printed the words "May substitute.".

(b) Each electronically transmitted prescription issued by a practitioner must:

(1) have an electronic signature; and

(2) include the electronically transmitted instructions "Dispense as written." or "May substitute.".

SECTION 10. IC 16-42-22-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) For substitution to occur for a prescription other than a prescription filled under the Medicaid program (42 U.S.C. 1396 et seq.), the children's health insurance program established under IC 12-17.6-2, or the Medicare program (42 U.S.C. 1395 et seq.):

(1) the practitioner must:

(A) sign on the line under which the words "May substitute" appear; **or**

(B) for an electronically transmitted prescription, electronically transmit the instruction "May substitute."; and

(2) the pharmacist must inform the customer of the substitution.

(b) This section does not authorize any substitution other than substitution of a generically equivalent drug product.

SECTION 11. IC 16-42-22-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. If the practitioner communicates instructions to the pharmacist orally **or electronically,** the pharmacist shall:

(1) indicate the instructions in the pharmacist's own handwriting on the written copy of the prescription order; **or**

(2) record the electronically transmitted instructions in an electronic format.

SECTION 12. IC 16-42-22-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) If a prescription is filled under the Medicaid program (42 U.S.C. 1396 et seq.), the children's health insurance program established under IC 12-17.6-2, or the Medicare program (42 U.S.C. 1395 et seq.), the pharmacist shall substitute a generically equivalent drug product

and inform the customer of the substitution if the substitution would result in a lower price unless:

(1) the words "Brand Medically Necessary" are:

(A) written in the practitioner's own writing on the form; or

(B) electronically transmitted with an electronically transmitted prescription; or

(2) the practitioner has indicated that the pharmacist may not substitute a generically equivalent drug product by:

(A) orally stating that a substitution is not permitted; **or**

(B) for an electronically transmitted prescription, indicating with the electronic prescription that a substitution is not permitted.

(b) If a practitioner orally states that a generically equivalent drug product may not be substituted, the practitioner must subsequently forward to the pharmacist a written **or electronically transmitted** prescription with the "Brand Medically Necessary" instruction appropriately indicated in the physician's own handwriting.

(c) This section does not authorize any substitution other than substitution of a generically equivalent drug product.

SECTION 13. IC 16-42-22-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. The pharmacist shall record on the prescription **in writing or in an electronic format for an electronically transmitted prescription** the name of the manufacturer or distributor, or both, of the actual drug product dispensed under this chapter.

SECTION 14. IC 25-26-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this chapter:

"Board" means the Indiana board of pharmacy.

"Controlled drugs" are those drugs on schedules I through V of the Federal Controlled Substances Act or on schedules I through V of IC 35-48-2.

"Counseling" means effective communication between a pharmacist and a patient concerning the contents, drug to drug interactions, route, dosage, form, directions for use, precautions, and effective use of a drug or device to improve the therapeutic outcome of the patient through the effective use of the drug or device.

"Dispensing" means issuing one (1) or more doses of a drug in a suitable container with appropriate labeling for subsequent administration to or use by a patient.

"Drug" means:

(1) articles or substances recognized in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them;

(2) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;

(3) articles other than food intended to affect the structure or any function of the body of man or animals; or

(4) articles intended for use as a component of any article specified in subdivisions (1) through (3) and devices.

"Drug order" means a written order in a hospital or other health care institution for an ultimate user for any drug or device, issued and signed by a practitioner, or an order transmitted by other means of communication from a practitioner, which is immediately reduced to writing by the pharmacist, registered nurse, or other licensed health care practitioner authorized by the hospital or institution. The order shall contain the name and bed number of the patient; the name and strength or size of the drug or device; unless specified by individual institution policy or guideline, the amount to be dispensed either in quantity or days; adequate directions for the proper use of the drug or device when it is administered to the patient; and the name of the prescriber.

"Drug regimen review" means the retrospective, concurrent, and prospective review by a pharmacist of a patient's drug related history that includes the following areas:

(1) Evaluation of prescriptions or drug orders and patient records for drug allergies, rational therapy contradictions, appropriate dose and route of administration, appropriate directions for use, or duplicative therapies.

(2) Evaluation of prescriptions or drug orders and patient records for drug-drug, drug-food, drug-disease, and drug-clinical laboratory interactions.

(3) Evaluation of prescriptions or drug orders and patient records for adverse drug reactions.

(4) Evaluation of prescriptions or drug orders and patient records for proper utilization and optimal therapeutic outcomes.

"Drug utilization review" means a program designed to measure and assess on a retrospective and prospective basis the proper use of drugs.

"Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article including any component part or accessory, which is:

(1) recognized in the official United States Pharmacopoeia, official National Formulary, or any supplement to them;

(2) intended for use in the diagnosis of disease or other conditions or the cure, mitigation, treatment, or prevention of disease in man or other animals; or

(3) intended to affect the structure or any function of the body of man or other animals and which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

"Electronic data intermediary" means an entity that provides the infrastructure that connects a computer system or another electronic device used by a prescribing practitioner with a computer system or another electronic device used by a pharmacy to facilitate the secure transmission of:

(1) an electronic prescription order;

(2) a refill authorization request;

(3) a communication; and

(4) other patient care information;

between a practitioner and a pharmacy.

"Electronic signature" means an electronic sound, symbol,

or process:

(1) attached to or logically associated with a record; and

(2) executed or adopted by a person;

with the intent to sign the record.

"Electronically transmitted" or "electronic transmission" means the transmission of a prescription in electronic form. The term does not include the transmission of a prescription by facsimile.

"Investigational or new drug" means any drug which is limited by state or federal law to use under professional supervision of a practitioner authorized by law to prescribe or administer such drug.

"Legend drug" has the meaning set forth in IC 16-18-2-199.

"License" and "permit" are interchangeable and mean a written certificate from the Indiana board of pharmacy for the practice of pharmacy or the operation of a pharmacy.

"Nonprescription drug" means a drug that may be sold without a prescription and that is labeled for use by a patient in accordance with state and federal laws.

"Person" means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, or municipality, or a legal representative or agent, unless this chapter expressly provides otherwise.

"Practitioner" has the meaning set forth in IC 16-42-19-5.

"Pharmacist" means a person licensed under this chapter.

"Pharmacist extern" means a pharmacy student enrolled full time in an approved school of pharmacy and who is working in a school sponsored, board approved program related to the practice of pharmacy.

"Pharmacist intern" means a person who is working to secure additional hours of practice and experience prior to making application for a license to practice as a pharmacist.

"Pharmacy" means any facility, department, or other place where prescriptions are filled or compounded and are sold, dispensed, offered, or displayed for sale and which has as its principal purpose the dispensing of drug and health supplies intended for the general health, welfare, and safety of the public, without placing any other activity on a more important level than the practice of pharmacy.

"The practice of pharmacy" or "the practice of the profession of pharmacy" means a patient oriented health care profession in which pharmacists interact with and counsel patients and with other health care professionals concerning drugs and devices used to enhance patients' wellness, prevent illness, and optimize the outcome of a drug or device, by accepting responsibility for performing or supervising a pharmacist intern, a pharmacist extern, or an unlicensed person under section 18(a)(4) of this chapter to do the following acts, services, and operations:

(1) The offering of or performing of those acts, service operations, or transactions incidental to the interpretation, evaluation, and implementation of prescriptions or drug orders.

(2) The compounding, labeling, administering, dispensing, or selling of drugs and devices, including radioactive substances, whether dispensed under a practitioner's prescription or drug order or sold or given directly to the ultimate consumer.

(3) The proper and safe storage and distribution of drugs and devices.

(4) The maintenance of proper records of the receipt, storage, sale, and dispensing of drugs and devices.

(5) Counseling, advising, and educating patients, patients' caregivers, and health care providers and professionals, as necessary, as to the contents, therapeutic values, uses, significant problems, risks, and appropriate manner of use of drugs and devices.

(6) Assessing, recording, and reporting events related to the use of drugs or devices.

(7) Provision of the professional acts, professional decisions, and professional services necessary to maintain all areas of a patient's pharmacy related care as specifically authorized to a pharmacist under this article.

~~"Prescription" means a written order or an order transmitted by other means of communication from a practitioner to or for an ultimate user for any drug or device containing the name and address of the patient, the name and strength or size of the drug or device, the amount to be dispensed, adequate directions for the proper use of the drug or device by the patient, and the name of the practitioner issued and, if the prescription is in written form, signed by a practitioner.~~

"Prescription" means a written order or an order transmitted by other means of communication from a practitioner to or for an ultimate user for any drug or device containing:

(1) the name and address of the patient;

(2) the date of issue;

(3) the name and strength or size (if applicable) of the drug or device;

(4) the amount to be dispensed (unless indicated by directions and duration of therapy);

(5) adequate directions for the proper use of the drug or device by the patient;

(6) the name of the practitioner; and

(7) ~~the signature of the practitioner~~ if the prescription:

(A) is in written form, **the signature of the practitioner; or**

(B) is in electronic form, the electronic signature of the practitioner.

"Qualifying pharmacist" means the pharmacist who will qualify the pharmacy by being responsible to the board for the legal operations of the pharmacy under the permit.

"Record" means all papers, letters, memoranda, notes, prescriptions, drug orders, invoices, statements, patient medication charts or files, computerized records, or other written indicia, documents, or objects which are used in any way in connection with the purchase, sale, or handling of any drug or device.

"Sale" means every sale and includes:

(1) manufacturing, processing, transporting, handling, packaging, or any other production, preparation, or repackaging;

(2) exposure, offer, or any other proffer;

(3) holding, storing, or any other possession;

(4) dispensing, giving, delivering, or any other supplying; and

(5) applying, administering, or any other using.

SECTION 15. IC 25-26-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The board may:

(1) promulgate rules and regulations under IC 4-22-2 for implementing and enforcing this chapter;

(2) establish requirements and tests to determine the moral, physical, intellectual, educational, scientific, technical, and professional qualifications for applicants for pharmacists' licenses;

(3) refuse to issue, deny, suspend, or revoke a license or permit or place on probation or fine any licensee or permittee under this chapter;

(4) regulate the sale of drugs and devices in the state of Indiana;

(5) impound, embargo, confiscate, or otherwise prevent from disposition any drugs, medicines, chemicals, poisons, or devices which by inspection are deemed unfit for use or would be dangerous to the health and welfare of the citizens of the state of Indiana; the board shall follow those embargo procedures found in IC 16-42-1-18 through IC 16-42-1-31, and persons may not refuse to permit or otherwise prevent members of the board or their representatives from entering such places and making such inspections;

(6) prescribe minimum standards with respect to physical characteristics of pharmacies, as may be necessary to the maintenance of professional surroundings and to the protection of the safety and welfare of the public;

(7) subject to IC 25-1-7, investigate complaints, subpoena witnesses, schedule and conduct hearings on behalf of the public interest on any matter under the jurisdiction of the board;

(8) prescribe the time, place, method, manner, scope, and subjects of licensing examinations which shall be given at least twice annually; and

(9) perform such other duties and functions and exercise such other powers as may be necessary to implement and enforce this chapter.

(b) The board shall adopt rules under IC 4-22-2 for the following:

(1) Establishing standards for the competent practice of pharmacy.

(2) Establishing the standards for a pharmacist to counsel individuals regarding the proper use of drugs.

(c) The board may grant or deny a temporary variance to a rule it has adopted if:

(1) the board has adopted rules which set forth the procedures and standards governing the grant or denial of a temporary variance; and

(2) the board sets forth in writing the reasons for a grant or denial of a temporary variance.

(d) The board shall adopt rules and procedures, in consultation with the medical licensing board, concerning the electronic transmission of prescriptions. The rules adopted under this subsection must address the following:

(1) Privacy protection for the practitioner and the practitioner's patient.

(2) Security of the electronic transmission.

(3) A process for approving electronic data intermediaries for the electronic transmission of prescriptions.

(4) Use of a practitioner's United States Drug Enforcement Agency registration number.

(5) Protection of the practitioner from identity theft or fraudulent use of the practitioner's prescribing authority.

SECTION 16. IC 25-26-13-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25. (a) All original prescriptions, whether in written or electronic format, shall be numbered and maintained in numerical and chronological order, or in a manner approved by the board and accessible for at least two (2) years in the pharmacy. A prescription transmitted from a practitioner by means of communication other than writing must immediately be reduced to writing or recorded in an electronic format by the pharmacist. The files shall be open for inspection to any member of the board or its duly authorized agent or representative.

(b) A prescription may be electronically transmitted from the practitioner by computer or another electronic device to a pharmacy that is licensed under this article or any other state or territory. An electronic data intermediary that is approved by the board:

(1) may transmit the prescription information between the prescribing practitioner and the pharmacy;

(2) may archive copies of the electronic information related to the transmissions as necessary for auditing and security purposes; and

(3) must maintain patient privacy and confidentiality of all archived information as required by applicable state and federal laws.

~~(b)~~ **(c)** Except as provided in subsection ~~(c),~~ **(d),** a prescription for any drug, the label of which bears either the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may not be refilled without written, **electronically transmitted,** or oral authorization of a licensed practitioner.

~~(c)~~ **(d)** A prescription for any drug, the label of which bears either the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may be refilled by a pharmacist one (1) time without the written, **electronically transmitted,** or oral authorization of a licensed practitioner if all of the following conditions are met:

(1) The pharmacist has made every reasonable effort to contact the original prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.

(2) The pharmacist believes that, under the circumstances, failure to provide a refill would be seriously detrimental to the patient's health.

(3) The original prescription authorized a refill but a refill would otherwise be invalid for either of the following reasons:

(A) All of the authorized refills have been dispensed.

(B) The prescription has expired under subsection ~~(f).~~ **(g).**

(4) The prescription for which the patient requests the refill was:

(A) originally filled at the pharmacy where the request for a refill is received and the prescription has not been transferred for refills to another pharmacy at any time; or

(B) filled at or transferred to another location of the same pharmacy or its affiliate owned by the same parent corporation if the pharmacy filling the prescription has full access to prescription and patient profile information that is simultaneously and continuously updated on the parent corporation's information system.

(5) The drug is prescribed for continuous and uninterrupted use and the pharmacist determines that the drug is being taken properly in accordance with IC 25-26-16.

(6) The pharmacist shall document the following information regarding the refill:

(A) The information required for any refill dispensed under subsection ~~(d).~~ **(e).**

(B) The dates and times that the pharmacist attempted to contact the prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.

(C) The fact that the pharmacist dispensed the refill without the authorization of a licensed practitioner.

(7) The pharmacist notifies the original prescribing practitioner of the refill and the reason for the refill by the practitioner's next business day after the refill has been made by the pharmacist.

(8) Any pharmacist initiated refill under this subsection may not be for more than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day. However, a pharmacist may dispense a drug in an amount greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day if:

(A) the drug is packaged in a form that requires the pharmacist to dispense the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day; or

(B) the pharmacist documents in the patient's record the amount of the drug dispensed and a compelling reason for dispensing the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day.

(9) Not more than one (1) pharmacist initiated refill is dispensed under this subsection for a single prescription.

(10) The drug prescribed is not a controlled substance.

A pharmacist may not refill a prescription under this subsection if the practitioner has designated on the prescription form the words "No Emergency Refill".

~~(d)~~ **(e)** When refilling a prescription, the refill record shall include:

(1) the date of the refill;

(2) the quantity dispensed if other than the original quantity; and

(3) the dispenser's identity on:

(A) the original prescription form; or

(B) another board approved, uniformly maintained, readily retrievable record.

~~(e)~~ **(f)** The original prescription form or the other board approved record described in subsection ~~(d)~~ **(e)** must indicate by the number of the original prescription the following information:

(1) The name and dosage form of the drug.

(2) The date of each refill.

(3) The quantity dispensed.

(4) The identity of the pharmacist who dispensed the refill.

(5) The total number of refills for that prescription.

~~(f)~~ **(g)** A prescription is valid for not more than one (1) year after the original date of issue.

~~(g)~~ **(h)** A pharmacist may not knowingly dispense a prescription after the demise of the practitioner, unless in the pharmacist's professional judgment it is in the best interest of the patient's health.

~~(h)~~ **(i)** A pharmacist may not knowingly dispense a prescription after the demise of the patient.

~~(i)~~ **(j)** A pharmacist or a pharmacy shall not resell, reuse, or redistribute a medication that is returned to the pharmacy after being dispensed unless the medication:

(1) was dispensed to a patient:

(A) residing in an institutional facility (as defined in 856 IAC 1-28.1-1(6)); or

(B) in a hospice program under IC 16-25;

(2) was properly stored and securely maintained according to sound pharmacy practices;

(3) is returned unopened and:

(A) was dispensed in the manufacturer's original:

(i) bulk, multiple dose container with an unbroken tamper resistant seal; or

(ii) unit dose package; or

(B) was packaged by the dispensing pharmacy in a:

(i) multiple dose blister container; or

(ii) unit dose package;

(4) was dispensed by the same pharmacy as the pharmacy accepting the return;

(5) is not expired; and

(6) is not a controlled substance (as defined in IC 35-48-1-9), unless the pharmacy holds a Type II permit (as described in section 17 of this chapter).

~~(j)~~ **(k)** A pharmacist may use the pharmacist's professional judgment as to whether to accept medication for return under this section.

~~(k)~~ **(l)** A pharmacist who violates subsection ~~(c)~~ **(d)** commits a Class A infraction.

SECTION 17. IC 25-26-13-25.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 25.5. A prescription may be transmitted electronically from a practitioner to a pharmacy only through the use of an electronic data intermediary approved by the board.**

SECTION 18. IC 25-26-15-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. As used in this chapter, "prescription" means a written order or an order transmitted by other means of communication that is immediately reduced to writing by the pharmacist **or, for electronically transmitted orders, recorded in an electronic format** from an optometrist to or for an ultimate user for a drug or device, containing:

(1) the name and address of the patient;

(2) the date of issue;

(3) the name and strength or size (if applicable) of the drug or device;

(4) the amount to be dispensed (unless indicated by directions and duration of therapy);

(5) adequate directions for the proper use of the drug or device by the patient;

(6) the name and certification number of the prescribing optometrist; and

(7) ~~the signature of the optometrist~~ if the prescription:

(A) is in written form, **the signature of the optometrist; or**

(B) is in electronic form, the electronic signature of the optometrist.

SECTION 19. IC 25-26-20-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Except as provided in subsections (b) and (c), unadulterated drugs that meet the requirements set forth in ~~IC 25-26-13-25(i)~~ **IC 25-26-13-25(j)** may be donated without a prescription or drug order to the regional drug repository program by the following:

(1) A pharmacist or pharmacy.

(2) A wholesale drug distributor.

(3) A hospital licensed under IC 16-21.

(4) A health care facility (as defined in IC 16-18-2-161).

(5) A hospice.

(6) A practitioner.

(b) An unadulterated drug that:

(1) was returned under IC 25-26-13-25; and

(2) was prescribed for a Medicaid recipient;

may not be donated under this section unless the Medicaid program has been credited for the product cost of the drug as provided in policies under the Medicaid program.

(c) A controlled drug may not be donated under this section.

SECTION 20. IC 27-13-38-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. Subject to IC 16-42-22:

(1) a pharmacist shall not substitute; and

(2) a health maintenance organization shall not require the substitution of;

a different single source brand name drug for a single source brand name drug written on a prescription form **or electronically transmitted to a pharmacy** unless the substitution is approved by the prescribing provider.

SECTION 21. IC 35-48-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Except for dosages medically required for a period of not more than forty-eight (48) hours that are dispensed by or on the direction of a practitioner or medication dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in schedule II may be dispensed without the written prescription of a practitioner.

(b) In emergency situations, as defined by rule of the board, schedule II drugs may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of section 7 of this chapter. No prescription for a schedule II substance may be refilled.

(c) Except for dosages medically required for a period of not more than forty-eight (48) hours that are dispensed by or on the direction of a practitioner, or medication dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in schedule III or IV, which is a prescription drug as determined under IC 16-42-19, shall not be dispensed without a written or oral prescription of a practitioner. The prescription shall not be filled or refilled more than six (6) months after the date thereof or be refilled more than five (5) times, unless renewed by the practitioner. **Prescriptions for schedule III, IV, and V controlled substances may be transmitted by facsimile from the practitioner or the agent of the practitioner to a pharmacy. The facsimile prescription is equivalent to an original prescription to the extent permitted under federal law.**

(d) A controlled substance included in schedule V shall not be distributed or dispensed other than for a medical purpose.

SECTION 22. IC 35-48-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. As used in this chapter, "identification number" refers to **the following:**

(1) The unique number contained on any of the following:

~~(1)~~ **(A)** A valid driver's license of a recipient or a recipient's representative issued under Indiana law or the law of any other state.

~~(2)~~ **(B)** A recipient's or a recipient representative's valid military identification card.

~~(3)~~ **(C)** A valid identification card of a recipient or a recipient's representative issued by:

~~(A)~~ **(i)** the bureau of motor vehicles ~~and~~ **as** described in IC 9-24-16-3; or

~~(B)~~ **(ii)** any other state and that is similar to the identification card issued by the bureau of motor vehicles.

~~(4)~~ **(D)** If the recipient is an animal:

~~(A)~~ **(i)** the valid driver's license issued under Indiana law or the law of any other state;

~~(B)~~ **(ii)** the valid military identification card; or

~~(C)~~ **(iii)** the valid identification card issued by the bureau of motor vehicles and described in IC 9-24-16-3 or a valid identification card of similar description that is issued by any other state;

of the animal's owner.

(2) The identification number or phrase designated by the central repository.

SECTION 23. IC 35-48-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. The advisory committee shall provide for a controlled substance prescription monitoring program that includes the following components:

(1) Each time a controlled substance designated by the advisory committee under IC 35-48-2-5 through IC 35-48-2-10 is dispensed, the dispenser shall transmit to the central repository the following information:

(A) The recipient's name.

(B) The recipient's or the recipient representative's identification number **or the identification number or phrase designated by the central repository.**

(C) The recipient's date of birth.

(D) The national drug code number of the controlled substance dispensed.

(E) The date the controlled substance is dispensed.

(F) The quantity of the controlled substance dispensed.

(G) The number of days of supply dispensed.

(H) The dispenser's United States Drug Enforcement Agency registration number.

(I) The prescriber's United States Drug Enforcement Agency registration number.

(J) An indication as to whether the prescription was transmitted to the pharmacist orally or in writing.

(2) The information required to be transmitted under this section must be transmitted not more than fifteen (15) days after the date on which a controlled substance is dispensed.

(3) A dispenser shall transmit the information required under this section by:

(A) an electronic device compatible with the receiving device of the central repository;

(B) a computer diskette;

(C) a magnetic tape; or

(D) a pharmacy universal claim form;

that meets specifications prescribed by the advisory committee.

(4) The advisory committee may require that prescriptions for controlled substances be written on a one (1) part form that cannot be duplicated. However, the advisory committee may not apply such a requirement to prescriptions filled at a pharmacy with a Type II permit (as described in IC 25-26-13-17) and operated by a hospital licensed under IC 16-21, or prescriptions ordered for and dispensed to bona fide enrolled patients in facilities licensed under IC 16-28. The committee may not require multiple copy prescription forms and serially numbered prescription forms for any prescriptions written. The committee may not require different prescription forms for any individual drug or group of drugs. Prescription forms required under this subdivision must be jointly approved by the committee and by the Indiana board of pharmacy established by IC 25-26-13-3.

(5) The costs of the program.

(Reference is to ESB 590 as printed March 18, 2005.)

Riegsecker, Chair	Budak
Simpson	C. Brown
Senate Conferees	House Conferees

Roll Call 534: yeas 49, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 591–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 591 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete the title and insert the following:

A BILL FOR AN ACT concerning professions and occupations.

Delete everything after the enacting clause and insert the following:

SECTION 1. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "board members" refers to the members of a board referred to in subsection (b).**

(b) At least three (3) board members from each of the following boards shall meet as required under subsection (e):

(1) The state psychology board established under IC 25-33-1-3.

(2) The social worker, marriage and family therapist, and mental health counselor board established under IC 25-23.6-2-1.

An equal number of members from each board must be present at a meeting held under subsection (e).

(c) Each board specified under subsection (b) shall elect a board member to serve as a co-chair of a meeting required under subsection (e). The board members shall meet at the call of the co-chairs. The co-chairs shall:

(1) provide reasonable notice of a meeting to the board members; and

(2) preside over a meeting.

(d) For a meeting under this SECTION, board members are entitled to receive the per diem allowed under IC 25-33-1-3 and IC 25-23.6-2-3 governing the respective boards specified in subsection (b).

(e) The board members shall meet at least one (1) time before July 1, 2005, to establish, for recommendation to the legislative council:

(1) definitions of:

(A) the term "diagnosis";

(B) the term "assessment";

(C) the term "psychological testing"; and

(D) the term "appraisal instrument"; and

(2) criteria that an individual regulated by a board specified in subsection (b) should be required to meet to be authorized to:

(A) perform an assessment;

(B) determine a diagnosis;

(C) perform psychological testing; and

(D) use or administer an appraisal instrument.

(f) The board members who meet as required in subsection (e) shall submit to the legislative council not later than October 1, 2005, a report that includes the following:

(1) Each date the board members met.

(2) A summary of the discussions that occurred at each meeting.

(3) A statement of the issues, definitions, criteria, or language that has been agreed upon by a majority of the board members as required under subsection (e).

(4) A statement of any remaining issues, definitions, criteria, or language that has not been agreed upon by a majority of the board members.

(5) Any other information requested by the legislative council.

The report must be in an electronic format under IC 5-14-6.

(g) This SECTION expires June 30, 2006.

SECTION 2. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 25-33-1-3(g) and IC 25-33-1-14, the state psychology board may not adopt new rules to establish, maintain, and update a list of restricted psychology tests and instruments (as defined in IC 25-33-1-14(b)) until after December 31, 2005.**

(b) This SECTION does not effect any rules adopted by the state psychology board before the passage of this act.

(c) This SECTION expires June 30, 2006.

SECTION 3. **An emergency is declared for this act**

(Reference is to ESB 591 as printed March 30, 2005.)

Miller, Chair	T. Brown
Sipes	Fry
Senate Conferees	House Conferees

Roll Call 535: yeas 48, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 615–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 615 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 12-10-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The board consists of the following ~~nine (9)~~ **fifteen (15)** members:

(1) The director of the division of family and children or the director's designee.

(2) The chairman of the Indiana state commission on aging or the chairman's designee.

(3) ~~Two (2)~~ **Three (3)** citizens at least sixty (60) years of age, nominated by ~~one (1)~~ **two (2)** or more organizations that:

(A) represent senior citizens; and

(B) have statewide membership.

(4) One (1) citizen less than sixty (60) years of age nominated by one (1) or more organizations that:

(A) represent individuals with disabilities; and

(B) have statewide membership.

(5) One (1) citizen less than sixty (60) years of age nominated by one (1) or more organizations that:

(A) represent individuals with mental illness; and

(B) have statewide membership.

(6) One (1) provider who provides services under IC 12-10-10.

(7) One (1) licensed physician, nurse, or nurse practitioner who specializes either in the field of gerontology or in the field of disabilities.

(8) ~~One (1)~~ **Two (2)** home care services ~~advocate~~ **advocates** or policy ~~specialist~~ **specialists** nominated by ~~one (1)~~ **two (2)** or more:

(A) organizations;

(B) associations; or

(C) nongovernmental agencies;

that advocate on behalf of home care consumers, **including an organization listed in subdivision (3) that represents senior citizens or persons with disabilities.**

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

(10) Two (2) members of the house of representatives, who may not be members of the same political party, appointed by the speaker of the house of representatives with the advice of the minority leader of the house of representatives.

The members of the board listed in subdivisions (9) and (10) are nonvoting members.

(b) The members of the board designated by subsection (a)(3) through (a)(8) shall be appointed by the governor for terms of two (2) years. In case of a vacancy, the governor shall appoint an individual to serve for the remainder of the unexpired term.

(c) The division shall establish notice and selection procedures to notify the public of the board's nomination process described in this chapter. Information must be distributed through:

(1) the area agencies on aging; and

(2) all organizations, associations, and nongovernmental agencies that work with the division on home care issues and programs.

SECTION 2. IC 12-10-11-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. The board shall do the following:

(1) Establish long term goals of the state for the provision of a continuum of care for the elderly and disabled based on the following:

(A) Individual independence, dignity, and privacy.

(B) Long term care services that are:

(i) integrated, accessible, and responsible; and

(ii) available in home and community settings.

(C) Individual choice in planning and managing long term care.

(D) Access to an array of long term care services:

(i) for an individual to receive care that is appropriate for the individual's needs; and

(ii) to enable a case manager to have cost effective alternatives available in the construction of care plans and the delivery of services.

(E) Long term care services that include home care, community based services, assisted living, congregate care, adult foster care, and institutional care.

(F) Maintaining an individual's dignity and self-reliance to protect the fiscal interests of both taxpayers and the state.

(G) Long term care services that are fiscally sound.

(2) Review state policies on community and home care services.

(3) Recommend the adoption of rules under IC 4-22-2.

(4) Recommend legislative changes affecting community and home care services.

(5) Recommend the coordination of the board's activities with the activities of other boards and state agencies concerned with community and home care services.

(6) Evaluate cost effectiveness, quality, scope, and feasibility of a state administered system of community and home care services.

(7) Evaluate programs for financing services to those in need of a continuum of care.

(8) Evaluate state expenditures for community and home care services, taking into account efficiency, consumer choice, competition, and equal access to providers.

(9) Develop policies that support the participation of families and volunteers in meeting the long term care needs of individuals.

(10) Encourage the development of funding for a continuum of care from private resources, including insurance.

(11) Develop a cost of services basis and a program of cost reimbursement for those persons who can pay all or a part of the cost of the services rendered. The division shall use this cost of services basis and program of cost reimbursement in administering IC 12-10-10. The cost of services basis and program of cost reimbursement must include a client cost share formula that:

(A) imposes no charges for an eligible individual whose income does not exceed one hundred fifty percent (150%) of the federal income poverty level; and

(B) does not impose charges for the total cost of services provided to an individual under the community and home options to institutional care for the elderly and disabled program unless the eligible individual's income exceeds three hundred fifty percent (350%) of the federal income poverty level.

The calculation of income for an eligible individual must include the deduction of the individual's medical expenses and the medical expenses of the individual's spouse and dependent children who reside in the eligible individual's household.

(12) Establish long term goals for the provision of guardianship services for adults.

(13) Coordinate activities and programs with the activities of other boards and state agencies concerning the provision of guardianship services.

(14) Recommend statutory changes affecting the guardianship of indigent adults.

(15) Review a proposed rule concerning home and community based services as required under section 9 of this chapter.

SECTION 3. IC 12-10-11-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9. (a) The board shall be given the opportunity to review a proposed rule concerning home and community based services for:**

(1) elderly individuals; or

(2) individuals with disabilities;

at least three (3) months before a proposed rule may be published in the Indiana Register.

(b) If the proposing agency fails to give the board the opportunity to review a proposed rule described in subsection (a), the rule:

(1) is void; and

(2) must be withdrawn by the proposing agency.

(c) The board may determine that the proposed rule reviewed by the board under this section should be subject to a public comment period. If the board makes a determination that a public comment period is necessary, the board shall set the:

(1) date and time;

(2) location; and

(3) format;

of the public comment period for the proposed rule.

(d) After a public hearing, if the board determines that a proposed rule is substantially out of compliance with state law governing home and community based services, the board shall request that the agency proposing the rule modify or withdraw the proposed rule. If a proposed rule is modified under this subsection, the modified rule must be reviewed by the board.

SECTION 4. P.L.274-2003, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 7. (a) As used in this SECTION, "board" refers to the community and home options to institutional care for the elderly and disabled board established by IC 12-10-11-1.

(b) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(c) As used in this SECTION, "waiver" refers to the aged and disabled Medicaid waiver.

(d) Before September 1, 2003, the office shall discuss and review any amendment to the waiver required under this SECTION with the board.

(e) Before October 1, ~~2003,~~ **2005,** the office shall apply to the United States Department of Health and Human Services to amend the waiver to include in the waiver any service that is offered under the community and home options to institutional care for the elderly and disabled (CHOICE) program established by IC 12-10-10-6. A service provided under this subsection may not be more restrictive than the corresponding service provided under IC 12-10-10.

(f) The office may not implement the waiver until the office files an affidavit with the governor attesting that the amendment to the waiver applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the waiver is approved.

(g) If the office receives approval for the amendment to the waiver under this SECTION from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (f), the office shall implement the waiver not more than sixty (60) days after the governor receives the affidavit.

(h) Before January 1, ~~2004,~~ **2006,** the office shall meet with the board to discuss any changes to other state Medicaid waivers that are necessary to provide services that may not be more restrictive than the services provided under the CHOICE program. The office shall recommend the changes determined necessary by this subsection to the governor.

(i) The office may adopt rules under IC 4-22-2 necessary to implement this SECTION.

(j) This SECTION expires July 1, ~~2008.~~ **2010.**

SECTION 5. P.L.274-2003, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 8. (a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(b) As used in this SECTION, "waiver" refers to a Medicaid waiver approved by the United States Department of Health and Human Services (42 U.S.C. 1396 et seq.).

(c) Before September 1, ~~2003,~~ **2005,** the office shall seek approval from the United States Department of Health and Human Services to amend the waiver to modify income eligibility requirements to include spousal impoverishment protection provisions under 42 U.S.C. 1396r-5 that are at least at the level of the spousal impoverishment protections afforded to individuals who reside in health facilities licensed under IC 16-28. The office also shall seek approval for twenty thousand (20,000) additional waiver slots at no additional cost to the state.

(d) The office may not implement the waiver amendments until the office files an affidavit with the governor attesting that the federal waiver 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 waiver amendment is approved.

(e) If the United States Department of Health and Human Services approves the waiver amendment requested under this SECTION and the governor receives the affidavit filed under subsection (d), the office shall implement the waiver amendments not more than sixty (60) days after the governor receives the affidavit.

(f) The office may adopt rules under IC 4-22-2 necessary to implement this SECTION.

(g) This SECTION expires July 1, ~~2008.~~ **2010.**

SECTION 6. P.L.274-2003, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 10. (a) As used in this SECTION, "office" refers to the office of the secretary of family and social services established by IC 12-8-1-1.

(b) Before July 1, ~~2004,~~ **2006,** the office shall have self-directed care options services available for:

(1) the community and home options to institutional care for the elderly and disabled program established by IC 12-10-10-6; and

(2) a Medicaid waiver;

for an eligible individual who chooses self-directed care services.

(c) This SECTION expires December 31, ~~2006.~~ **2008.**

SECTION 7. P.L.274-2003, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 12. (a) Before December 31, ~~2003,~~ **2005,** the secretary of family and social services (IC 12-8-1-2) shall discuss with the community and home options to institutional care for the elderly and disabled (CHOICE) board established by IC 12-10-11-1, and with any other agency, volunteer, volunteer group, faith based group, or individual that the secretary considers appropriate, the establishment of a system of integrated services, including:

(1) transportation;

(2) housing;

(3) education; and

(4) workforce development;

to enhance the viability and availability of home and community based care.

(b) The secretary shall report to the governor and the budget committee any recommendations for funding these services.

(c) This SECTION expires December 31, ~~2004.~~ **2006.**

SECTION 8. P.L.274-2003, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 14. (a) Beginning July 1, 2003, the office of Medicaid policy and planning shall implement a policy that allows the amount of Medicaid funds necessary to provide for services to follow an individual who is transferring from institutional care to Medicaid home and community based care. The amount may not exceed the amount that would have been spent on the individual if the individual had stayed in institutional care.

(b) This SECTION expires July 1, ~~2005.~~ **2007.**

SECTION 9. **An emergency is declared for this act.**

(Reference is to ESB 615 as reprinted March 23, 2005.)

Server, Chair	Becker
Rogers	C. Brown
Senate Conferees	House Conferees

Roll Call 536: yeas 48, nays 0. Report adopted.

11:25 a.m.

The Chair declared a recess until 1:30 p.m.

Recess

The Senate reconvened at 1:57 p.m., with the President of the Senate in the Chair.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Senate Concurrent Resolution 55 and the same is herewith returned to the Senate.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has adopted the Conference Committee Reports on Engrossed House Bills 1365–1, 1407–1, and 1453–1.

M. CAROLINE SPOTTS
Principal Clerk of the House

MOTIONS TO CONCUR IN HOUSE AMENDMENTS

SENATE MOTION

Madam President: I move that the Senate do concur with the House amendments to Engrossed Senate Bill 452.

KENLEY

Roll Call 537: yeas 50, nays 0. Motion prevailed.

LETTER FROM THE GOVERNOR

April 27, 2005

The Honorable Robert D. Garton
President Pro Tempore
Indiana State Senate
114th General Assembly
Statehouse
Indianapolis, Indiana 46204

Dear President Garton:

In accordance with Article 5, Section 14(a)(3) of the Constitution of the State of Indiana, I am permitting Senate Enrolled Act 512, enacted during the regular session of the 114th General Assembly and related to town government and annexation, to become law without my signature. I have filed the Act with the Secretary of State.

My decision not to sign reflects my degree of uncertainty as to the constitutionality of this bill, given that its annexation provisions may be interpreted to be impermissible special legislation under Article 4, Section 23 of our Constitution. As the Indiana Supreme Court held two years ago in a case involving a similar annexation statute, special legislation must be reasonably related to special or distinct characteristics that are inherent in the location to which it applies, and that location must be the o nly one possessing those special characteristics. In so holding, the Court found that, to pass constitutional muster, the special legislation must be supported by facts justifying the special treatment it affords to a locality.

I am not convinced that this test has been met by SEA 512, which provides certain annexation rights and benefits to various municipalities without identifying the factual basis on which to justify their special treatment under the law. On the other hand, our system establishes a presumption in favor of a statute's constitutionality, and the Supreme Court, not the Governor, is the final arbiter of such questions. As a result, I am allowing the Act to become law without my signature.

Sincerely,

Mitchell E. Daniels, Jr.
Governor

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
EHB 1001–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill 1001 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete the title and insert the following:

A BILL FOR AN ACT concerning state and local administration and to make an appropriation.

Delete everything after the enacting clause and insert the following:

SECTION 1. [EFFECTIVE JULY 1, 2005]

(a) The following definitions apply throughout this act:

(1) "Augmentation allowed" means the governor and the budget agency are authorized to add to an appropriation in this act from revenues accruing to the fund from which the appropriation was made.

(2) "Biennium" means the period beginning July 1, 2005, and ending June 30, 2007.

Appropriations appearing in the biennial column for construction or other permanent improvements do not revert under IC 4-13-2-19 and may be allotted.

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.

(3) "Deficiency appropriation" or "special claim" means an appropriation available during the 2004-2005 fiscal year.

(4) "Equipment" includes machinery, implements, tools, furniture, furnishings, vehicles, and other articles that have a calculable period of service that exceeds twelve (12) calendar months.

(5) "Fee replacement" includes payments to universities to be used to pay indebtedness resulting from financing the cost of planning, purchasing, rehabilitation, construction, repair, leasing, lease-purchasing, or otherwise acquiring land, buildings, facilities, and equipment to be used for academic and instructional purposes.

(6) "Other operating expense" includes payments for "services other than personal", "services by contract", "supplies, materials, and parts", "grants, subsidies, refunds, and awards", "in-state travel", "out-of-state travel", and "equipment".

(7) "Pension fund contributions" means the state of Indiana's contributions to a specific retirement fund.

(8) "Personal services" includes payments for salaries and wages to officers and employees of the state (either regular or temporary), payments for compensation awards, and the employer's share of Social Security, health insurance, life insurance, dental insurance, vision insurance, deferred compensation - state match, leave conversion, disability, and retirement fund contributions.

(9) "SSBG" means the Social Services Block Grant. This was formerly referred to as "Title XX".

(10) "State agency" means:

(A) each office, officer, board, commission, department, division, bureau, committee, fund, agency, authority, council, or other instrumentality of the state;

(B) each hospital, penal institution, and other institutional enterprise of the state;

(C) the judicial department of the state; and

(D) the legislative department of the state.

However, this term does not include cities, towns, townships, school cities, school townships, school districts, other municipal corporations or political subdivisions of the state, or universities and colleges supported in whole or in part by state funds.

(11) "Total operating expense" includes payments for both "personal services" and "other operating expense".

(b) The state board of finance may authorize advances to boards or persons having control of the funds of any institution or department of the state of a sum of money out of any appropriation available at such time for the purpose of establishing working capital to provide for payment of expenses in the case of emergency when immediate payment is necessary or expedient. Advance payments shall be made by warrant by the auditor of state, and properly itemized and receipted bills or invoices shall be filed by the board or persons receiving the advance payments.

(c) All money appropriated by this act shall be considered either a direct appropriation or an appropriation from a rotary or revolving fund.

(1) Direct appropriations are subject to withdrawal from the state treasury and for expenditure for such purposes, at such time, and in such manner as may be prescribed by law. Direct appropriations are not subject to return and rewithdrawal from the state treasury, except for the correction of an error which may have occurred in any transaction or for reimbursement of expenditures which have occurred in the same fiscal year.

(2) A rotary or revolving fund is any designated part of a fund that is set apart as working capital in a manner prescribed by law and devoted to a specific purpose or purposes. The fund consists of earnings and income only from certain sources or a combination thereof. The money in the fund shall be used for the purpose designated by law as working capital. The fund at any time consists of the original appropriation thereto, if any, all receipts accrued to the fund, and all money withdrawn from the fund and invested or to be invested. The fund shall be kept intact by separate entries in the auditor of state's office, and no part thereof shall be used for any purpose other than the lawful purpose of the fund or revert to any other fund at any time. However, any unencumbered excess above any prescribed amount shall be transferred to the state general fund at the close of each fiscal year unless otherwise specified in the Indiana Code.

SECTION 2. [EFFECTIVE JULY 1, 2005]

For the conduct of state government, its offices, funds, boards, commissions, departments, societies, associations, services, agencies, and undertakings, and for other appropriations not otherwise provided by statute, the following sums in SECTIONS 3 through 10 are appropriated for the periods of time designated from the general fund of the state of Indiana or other specifically designated funds.

In this act, whenever there is no specific fund or account designated, the appropriation is from the general fund.

SECTION 3. [EFFECTIVE JULY 1, 2005]

GENERAL GOVERNMENT

A. LEGISLATIVE

FOR THE GENERAL ASSEMBLY		
LEGISLATORS' SALARIES - HOUSE		
Total Operating Expense	**5,013,333**	**5,014,333**

	FY 2005-06 Appro.	*FY 2006-07 Appro.*	*Biennial Appros.*
HOUSE EXPENSES			
Total Operating Expense	**7,803,042**	**7,806,100**	
LEGISLATORS' SALARIES - SENATE			
Total Operating Expense	**1,140,203**	**1,232,406**	
SENATE EXPENSES			
Total Operating Expense	**8,406,750**	**8,826,192**	

	FY 2005-06 Appropriation	*FY 2006-07 Appropriation*	*Biennial Appros.*

Included in the above appropriations for house and senate expenses are funds for a legislative business per diem allowance, meals, and other usual and customary expenses associated with legislative affairs. Except as provided below, this allowance is to be paid to each member of the general assembly for every day, including Sundays, during which the general assembly is convened in regular or special session, commencing with the day the session is officially convened and concluding with the day the session is adjourned sine die. However, after five (5) consecutive days of recess, the legislative business per diem allowance is to be made on an individual voucher basis until the recess concludes.

Members of the general assembly are entitled, when authorized by the speaker of the house or the president pro tempore of the senate, to the legislative business per diem allowance for each and every day engaged in official business.

The legislative business per diem allowance that each member of the general assembly is entitled to receive equals the maximum daily amount allowable to employees of the executive branch of the federal government for subsistence expenses while away from home in travel status in the Indianapolis area. The legislative business per diem changes each time there is a change in that maximum daily amount.

In addition to the legislative business per diem allowance, each member of the general assembly shall receive the mileage allowance in an amount equal to the standard mileage rates for personally owned transportation equipment established by the federal Internal Revenue Service for each mile necessarily traveled from the member's usual place of residence to the state capitol. However, if the member traveled by a means other than by motor vehicle, and the member's usual place of residence is more than one hundred (100) miles from the state capitol, the member is entitled to reimbursement in an amount equal to the lowest air travel cost incurred in traveling from the usual place of residence to the state capitol. During the period the general assembly is convened in regular or special session, the mileage allowance shall be limited to one (1) round trip each week per member.

Any member of the general assembly who is appointed, either by the governor, speaker of the house, president or president pro tempore of the senate, house or senate minority floor leader, or Indiana legislative council to serve on any research, study, or survey committee or commission, or who attends any meetings authorized or convened under the auspices of the Indiana legislative council, including pre-session conferences and federal-state relations conferences, is entitled, when authorized by the legislative council, to receive the legislative business per diem allowance for each day in actual attendance and is also entitled to a mileage allowance, at the rate specified above, for each mile necessarily traveled from the member's usual place of residence to the state capitol, or other in-state site of the committee, commission, or conference. The per diem allowance and the mileage allowance permitted under this paragraph shall be paid from the legislative council appropriation for legislator and lay member travel unless the member is attending an out-of-state meeting, as authorized by the speaker of the house of representatives or the president pro tempore of the senate, in which case the member is entitled to receive:

(1) the legislative business per diem allowance for each day the member is engaged in approved out-of-state travel; and

(2) reimbursement for traveling expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the legislative council.

Notwithstanding the provisions of this or any other statute, the legislative council may adopt, by resolution, travel policies and procedures that apply only to members of the general assembly or to the staffs of the house of representatives, senate, and legislative services agency, or both members and staffs. The legislative council may apply these travel policies and procedures to lay members serving on research, study, or survey committees or commissions that are under the jurisdiction of the legislative council. Notwithstanding any other law, rule, or policy, the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency do not apply to members of the general assembly, to the staffs of the house of representatives, senate, or legislative services agency, or to lay members serving on research, study, or survey committees or commissions under the jurisdiction of the legislative council (if the legislative council applies its travel policies and procedures to lay members under the authority of this SECTION), except that, until the legislative council adopts travel policies and procedures, the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency apply to members of the general assembly, to the staffs of the house of representatives, senate, and legislative services agency, and to lay members serving on research, study, or survey committees or commissions under the jurisdiction of the legislative council. The executive director of the legislative services agency is

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.

responsible for the administration of travel policies and procedures adopted by the legislative council. The auditor of state shall approve and process claims for reimbursement of travel related expenses under this paragraph based upon the written affirmation of the speaker of the house of representatives, the president pro tempore of the senate, or the executive director of the legislative services agency that those claims comply with the travel policies and procedures adopted by the legislative council. If the funds appropriated for the house and senate expenses and legislative salaries are insufficient to pay all the necessary expenses incurred, including the cost of printing the journals of the house and senate, there is appropriated such further sums as may be necessary to pay such expenses.

LEGISLATORS' SUBSISTENCE		
LEGISLATORS' EXPENSES - HOUSE		
Total Operating Expense	2,015,396	2,015,396
LEGISLATORS' EXPENSES - SENATE		
Total Operating Expense	1,046,728	1,046,728

Each member of the general assembly is entitled to a subsistence allowance of forty percent (40%) of the maximum daily amount allowable to employees of the executive branch of the federal government for subsistence expenses while away from home in travel status in the Indianapolis area:
(1) each day that the general assembly is not convened in regular or special session; and
(2) each day after the first session day held in November and before the first session day held in January.

However, the subsistence allowance under subdivision (2) may not be paid with respect to any day after the first session day held in November and before the first session day held in January with respect to which all members of the general assembly are entitled to a legislative business per diem.

The subsistence allowance is payable from the appropriations for legislators' subsistence.

The officers of the senate are entitled to the following amounts annually in addition to the subsistence allowance: president pro tempore, $6,500; assistant president pro tempore, $2,500; majority floor leader emeritus, $1,500; majority floor leader, $5,000; assistant majority floor leader, $1,000; majority caucus chair, $5,000; assistant majority caucus chair, $1,000; appropriations committee chair, $5,000; tax and fiscal policy committee chair, $5,000; appropriations committee ranking majority member, $1,500; tax and fiscal policy committee ranking majority member, $1,500; majority whip, $3,500; assistant majority whip, $1,000; minority floor leader, $5,500; minority leader pro tempore, $1,000; minority caucus chair,

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.

$4,500; minority assistant floor leader, $4,500; appropriations committee ranking minority member, $2,000; tax and fiscal policy committee ranking minority member, $2,000; minority whip, $2,500; assistant minority whip, $500; and assistant minority caucus chair, $500.

Officers of the house of representatives are entitled to the following amounts annually in addition to the subsistence allowance: speaker of the house, $6,500; speaker pro tempore, $5,000; deputy speaker pro tempore, $1,500; majority leader, $5,000; majority caucus chair, $5,000; assistant majority caucus chair, $1,000; ways and means committee chair, $5,000; ways and means committee ranking majority member, $3,000; ways and means committee, chairman of the education subcommittee, $1,500; speaker pro tempore emeritus, $1,500; budget subcommittee chair, $3,000; majority whip, $3,500; assistant majority whip, $1,000; assistant majority leader, $1,000; minority leader, $5,500; minority caucus chair, $4,500; ways and means committee ranking minority member, $3,500; minority whip, $2,500; assistant minority leader, $4,500; second assistant minority leader, $1,500; and deputy assistant minority leader, $1,000.

If the senate or house of representatives eliminates a committee or officer referenced in this SECTION and replaces the committee or officer with a new committee or position, the foregoing appropriations for subsistence shall be used to pay for the new committee or officer. However, this does not permit any additional amounts to be paid under this SECTION for a replacement committee or officer than would have been spent for the eliminated committee or officer. If the senate or house of representatives creates a new additional committee or officer, the foregoing appropriations for subsistence shall be used to pay for the new committee or officer in amounts determined by the legislative council.

If the funds appropriated for legislators' subsistence are insufficient to pay all the subsistence incurred, there are hereby appropriated such further sums as may be necessary to pay such subsistence.

FOR THE LEGISLATIVE COUNCIL AND THE LEGISLATIVE SERVICES AGENCY		
Total Operating Expense	8,475,000	8,880,000
LEGISLATOR AND LAY MEMBER TRAVEL		
Total Operating Expense	570,000	570,000

If the funds above appropriated for the legislative council and the legislative services agency and legislator and lay member travel are insufficient to pay all the necessary expenses incurred, there are hereby appropriated such further sums as may be necessary to pay those expenses.

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.

Any person other than a member of the general assembly who is appointed by the governor, speaker of the house, president or president pro tempore of the senate, house or senate minority floor leader, or legislative council to serve on any research, study, or survey committee or commission is entitled, when authorized by the legislative council, to a per diem instead of subsistence of $75 per day during the 2005-2007 biennium. In addition to the per diem, such a person is entitled to mileage reimbursement, at the rate specified for members of the general assembly, for each mile necessarily traveled from the person's usual place of residence to the state capitol or other in-state site of the committee, commission, or conference. However, reimbursement for any out-of-state travel expenses claimed by lay members serving on research, study, or survey committees or commissions under the jurisdiction of the legislative council shall be based on SECTION 14 of this act, until the legislative council applies those travel policies and procedures that govern legislators and their staffs to such lay members as authorized elsewhere in this SECTION. The allowance and reimbursement permitted in this paragraph shall be paid from the legislative council appropriations for legislative and lay member travel unless otherwise provided for by a specific appropriation.

LEGISLATIVE COUNCIL CONTINGENCY FUND		
Total Operating Expense		223,614

Disbursements from the fund may be made only for purposes approved by the chairman and vice chairman of the legislative council.

The legislative services agency shall charge the following fees, unless the legislative council sets these or other fees at different rates:

Annual subscription to the session document service for sessions ending in odd-numbered years: $900

Annual subscription to the session document service for sessions ending in even-numbered years: $500

Per page charge for copies of legislative documents: $0.15

Annual charge for interim calendar: $10

Daily charge for the journal of either house: $2

PRINTING AND DISTRIBUTION		
Total Operating Expense	750,000	840,000

The above funds are appropriated for the printing and distribution of documents published by the legislative council.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.

These documents include journals, bills, resolutions, enrolled documents, the acts of the first and second regular sessions of the 114th general assembly, the supplements to the Indiana Code for fiscal years 2005-2006 and 2006-2007, and the publication of the Indiana Administrative Code and the Indiana Register. Upon completion of the distribution of the Acts and the supplements to the Indiana Code, as provided in IC 2-6-1.5, remaining copies may be sold at a price or prices periodically determined by the legislative council. If the above appropriations for the printing and distribution of documents published by the legislative council are insufficient to pay all of the necessary expenses incurred, there are hereby appropriated such sums as may be necessary to pay such expenses.

COUNCIL OF STATE GOVERNMENTS ANNUAL DUES		
Other Operating Expense	130,084	134,637
NATIONAL CONFERENCE OF STATE LEGISLATURES ANNUAL DUES		
Other Operating Expense	155,109	161,313
NATIONAL CONFERENCE OF INSURANCE LEGISLATORS ANNUAL DUES		
Other Operating Expense	10,000	10,000

FOR THE INDIANA LOBBY REGISTRATION COMMISSION		
Total Operating Expense	218,285	218,395

FOR THE PUBLIC EMPLOYEES' RETIREMENT FUND LEGISLATORS' RETIREMENT FUND		
Total Operating Expense	100,000	100,000

B. JUDICIAL

FOR THE SUPREME COURT		
Personal Services	5,910,307	6,021,373
Other Operating Expense	1,601,800	1,601,800

The above appropriation for the supreme court personal services includes the subsistence allowance as provided by IC 33-38-5-8.

LOCAL JUDGES' SALARIES		
Personal Services	51,838,297	52,453,432
Other Operating Expense	39,000	39,000
COUNTY PROSECUTORS' SALARIES		
Personal Services	22,547,129	22,564,812
Other Operating Expense	31,000	31,000

The above appropriations for county prosecutors' salaries represent the amounts authorized by IC 33-39-6-5 and that are to be paid from the state general fund.

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.

In addition to the appropriations for local judges' salaries and for county prosecutors' salaries, there are hereby appropriated for personal services the amounts that the state is required to pay for salary changes or for additional courts created by the 114th general assembly.

TRIAL COURT OPERATIONS		
Total Operating Expense	**353,500**	**353,500**
INDIANA CONFERENCE FOR LEGAL EDUCATION OPPORTUNITY		
Total Operating Expense	**625,000**	**625,000**

The above funds are appropriated to the division of state court administration in compliance with the provisions of IC 33-24-13-7.

PUBLIC DEFENDER COMMISSION		
Total Operating Expense	**4,600,000**	**4,600,000**

The above appropriation is made in addition to the distribution authorized by IC 33-37-7-9(c) for the purpose of reimbursing counties for indigent defense services provided to a defendant. The division of state court administration of the supreme court of Indiana shall provide staff support to the commission and shall administer the public defense fund. The administrative costs may come from the public defense fund. Any balance in the public defense fund is appropriated to the public defender commission.

GUARDIAN AD LITEM		
Total Operating Expense	**802,325**	**804,133**

The division of state court administration shall use the foregoing appropriation to administer an office of guardian ad litem and court appointed special advocate services and to provide matching funds to counties that are required to implement, in courts with juvenile jurisdiction, a guardian ad litem and court appointed special advocate program for children who are alleged to be victims of child abuse or neglect under IC 31-33 and to administer the program. A county may use these matching funds to supplement amounts collected as fees under IC 31-40-3 to be used for the operation of guardian ad litem and court appointed special advocate programs. The county fiscal body shall appropriate adequate funds for the county to be eligible for these matching funds.

CIVIL LEGAL AID		
Total Operating Expense	**1,000,000**	**1,000,000**

The above funds are appropriated to the division of state court administration in compliance with the provisions of IC 33-24-12-7.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.

SPECIAL JUDGES - COUNTY COURTS		
Personal Services	**15,000**	**15,000**
Other Operating Expense	**119,000**	**119,000**

If the funds appropriated above for special judges of county courts are insufficient to pay all of the necessary expenses that the state is required to pay under IC 34-35-1-4, there are hereby appropriated such further sums as may be necessary to pay these expenses.

COMMISSION ON RACE AND GENDER FAIRNESS		
Total Operating Expense	**260,996**	**260,996**
FOR THE CLERK OF THE SUPREME AND APPELLATE COURTS		
Personal Services	**752,945**	**753,505**
Other Operating Expense	**185,070**	**185,070**
FOR THE COURT OF APPEALS		
Personal Services	**7,892,116**	**7,973,431**
Other Operating Expense	**1,183,820**	**1,183,220**

The above appropriations for the court of appeals personal services includes the subsistence allowance provided by IC 33-38-5-8.

FOR THE TAX COURT		
Personal Services	**491,179**	**498,420**
Other Operating Expense	**123,272**	**123,272**
FOR THE JUDICIAL CENTER		
Personal Services	**1,230,853**	**1,260,061**
Other Operating Expense	**801,342**	**801,342**

The above appropriations for the judicial center include the appropriations for the judicial conference.

DRUG AND ALCOHOL PROGRAMS FUND		
Total Operating Expense	**299,010**	**299,010**

The above funds are appropriated under IC 33-37-7-9 for the purpose of administering, certifying, and supporting alcohol and drug services programs under IC 12-23-14. However, if the receipts are less than the appropriation, the center may not spend more than is collected.

INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION		
Total Operating Expense	**54,492**	**55,944**

Augmentation allowed from fee increases enacted in the 2003 general assembly under IC 11-13-4.5-4.

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
FOR THE PUBLIC DEFENDER			
Personal Services	5,242,831	5,385,118	
Other Operating Expense	985,133	985,133	
FOR THE PUBLIC DEFENDER COUNCIL			
Personal Services	801,743	802,348	
Other Operating Expense	318,009	318,009	
FOR THE PROSECUTING ATTORNEYS' COUNCIL			
Personal Services	533,169	533,549	
Other Operating Expense	574,489	574,489	
DRUG PROSECUTION			
Drug Prosecution Fund (IC 33-39-8-6)			
Total Operating Expense	103,436	103,436	
Augmentation allowed.			
FOR THE PUBLIC EMPLOYEES' RETIREMENT FUND			
JUDGES' RETIREMENT FUND			
Other Operating Expense	8,800,000	9,500,000	
PROSECUTORS' RETIREMENT FUND			
Other Operating Expense	170,000	190,000	

C. EXECUTIVE

FOR THE GOVERNOR'S OFFICE			
Personal Services	2,160,617	2,162,265	
Other Operating Expense	125,904	125,904	
GOVERNOR'S RESIDENCE			
Total Operating Expense	179,657	179,761	
GOVERNOR'S CONTINGENCY FUND			
Total Operating Expense			170,000

Direct disbursements from the above contingency fund are not subject to the provisions of IC 5-22.

GOVERNOR'S FELLOWSHIP PROGRAM			
Total Operating Expense	170,000	170,000	
FOR THE WASHINGTON LIAISON OFFICE			
Total Operating Expense	195,000	195,000	
FOR THE LIEUTENANT GOVERNOR			
Personal Services	1,765,075	1,765,075	
Other Operating Expense	788,725	788,725	
CONTINGENCY FUND			
Total Operating Expense			37,240

Direct disbursements from the above contingency fund are not subject to the provisions of IC 5-22.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
FOR THE SECRETARY OF STATE			
ADMINISTRATION			
Personal Services	378,199	378,488	
Other Operating Expense	23,429	23,429	
BUSINESS SERVICES			
Personal Services	853,317	853,897	
Other Operating Expense	136,976	136,976	
SECURITIES DIVISION			
Personal Services	774,806	775,356	
Other Operating Expense	97,061	95,694	
FOR THE ATTORNEY GENERAL			
ATTORNEY GENERAL			
From the General Fund	12,662,763	12,662,764	
From the Motor Vehicle Odometer Fund (IC 9-29-1-5)	89,211	89,211	
Augmentation allowed.			
From the Medicaid Fraud Control Unit Fund	576,065	585,123	
Augmentation allowed.			
From the Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)	250,000	250,000	
Augmentation allowed.			
From the Abandoned Property Fund (IC 32-34-1-33)	171,570	171,570	
Augmentation allowed.			

The amounts specified from the General Fund, Motor Vehicle Odometer Fund, Medicaid Fraud Control Unit Fund, Tobacco Master Settlement Agreement Fund, and Abandoned Property Fund are for the following purposes:

Personal Services	12,578,568	12,587,627	
Other Operating Expense	1,171,041	1,171,041	
HOMEOWNER PROTECTION UNIT (IC 4-6-12-9)			
Total Operating Expense	120,000	120,000	
MEDICAID FRAUD UNIT			
Total Operating Expense	829,356	829,789	

The above appropriations to the Medicaid fraud unit are the state's matching share of the state Medicaid fraud control unit under IC 4-6-10 as prescribed by 42 U.S.C. 1396b(q). Augmentation allowed from collections.

UNCLAIMED PROPERTY			
Abandoned Property Fund (IC 32-34-1-33)			
Personal Services	1,080,199	1,080,926	
Other Operating Expense	3,439,706	3,439,706	
Augmentation allowed.			

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.

D. FINANCIAL MANAGEMENT

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
FOR THE AUDITOR OF STATE			
Personal Services	4,484,169	4,487,428	
Other Operating Expense	1,423,832	1,388,632	
TECHNOLOGY MODERNIZATION AND UPGRADE			
Pay Phone Fund			
Total Operating Expense	600,000	600,000	
GOVERNORS' AND GOVERNORS' SURVIVING SPOUSES' PENSIONS			
Total Operating Expense	125,000	125,000	

The above appropriations for governors' and governors' surviving spouses' pensions are made under IC 4-3-3.

FOR THE STATE BOARD OF ACCOUNTS			
Personal Services	19,507,669	19,522,499	
Other Operating Expense	1,348,860	1,348,860	
FOR THE STATE BUDGET COMMITTEE			
Total Operating Expense	60,000	60,000	

Notwithstanding IC 4-12-1-11(b), the salary per diem of the legislative members of the budget committee is an amount equal to one hundred fifty percent (150%) of the legislative business per diem allowance. If the above appropriations are insufficient to carry out the necessary operations of the budget committee, there are hereby appropriated such further sums as may be necessary.

FOR THE OFFICE OF MANAGEMENT AND BUDGET			
Personal Services	794,755	795,682	
Other Operating Expense	212,176	212,176	
FOR THE STATE BUDGET AGENCY			
Personal Services	2,773,434	2,776,490	
Other Operating Expense	919,882	919,882	
BUILD INDIANA FUND ADMINISTRATION			
Build Indiana Fund (IC 4-30-17)			
Other Operating Expense	1	1	
DEPARTMENTAL AND INSTITUTIONAL EMERGENCY CONTINGENCY FUND			
Total Operating Expense		10,000,000	

The foregoing departmental and institutional emergency contingency fund appropriation is subject to allotment to departments, institutions, and all state agencies by the budget agency with the approval of the governor. These allocations may be made upon written request of proper officials, showing that contingencies exist that require additional funds for meeting necessary expenses. The budget committee shall be advised of each transfer request and allotment.

PERSONAL SERVICES/FRINGE BENEFITS CONTINGENCY FUND			
Total Operating Expense		89,000,000	

The foregoing personal services/fringe benefits contingency fund appropriation is subject to allotment to departments, institutions, and all state agencies by the budget agency with the approval of the governor.

The foregoing personal services/fringe benefits contingency fund appropriation may only be used for salary increases, fringe benefit increases, and for an employee leave conversion program for state employees in the 2005-2007 biennium and may not be used for any other purpose. The foregoing personal services/fringe benefits contingency fund appropriation does not revert at the end of the biennium but remains in the personal services/fringe benefits contingency fund.

COMPREHENSIVE HEALTH INSURANCE ASSOCIATION STATE SHARE			
Total Operating Expense	30,500,000	32,200,000	
Augmentation Allowed			
SCHOOL AND LIBRARY INTERNET CONNECTION			
Build Indiana Fund (IC 4-30-17)			
Other Operating Expense		7,000,000	

Of the foregoing appropriations $2,300,000 each year shall be used for schools under IC 4-34-3-4 and $1,200,000 each year shall be used for libraries under IC 4-34-3-2.

INSPIRE (IC 4-34-3-2)			
Build Indiana Fund (IC 4-30-17)			
Other Operating Expense		2,500,000	
FOR THE TREASURER OF STATE			
Personal Services	827,187	827,811	
Other Operating Expense	42,350	42,350	

The treasurer of state, the board for depositories, the Indiana commission for higher education, and the state student assistance commission shall cooperate and provide to the Indiana education savings authority the following:

(1) Clerical and professional staff and related support.

(2) Office space and services.

(3) Reasonable financial support for the development of rules, policies, programs, and guidelines, including authority operations and travel.

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.

E. TAX ADMINISTRATION

FOR THE DEPARTMENT OF REVENUE
COLLECTION AND ADMINISTRATION
General Fund
50,713,568 48,553,653
Motor Carrier Regulation Fund (IC 8-2.1-23)
770,021 770,021
Charity Gaming Enforcement Fund (IC 4-33-10)
988,951 988,951
Motor Vehicle Highway Account (IC 8-14-1)
2,374,180 2,374,180
Augmentation allowed from the Motor Carrier Regulation Fund, Charity Gaming Enforcement Fund, and the Motor Vehicle Highway Account.

The amounts specified from the General Fund, Motor Carrier Regulation Fund, Charity Gaming Enforcement Fund, and the Motor Vehicle Highway Account are for the following purposes:

Personal Services	**40,414,374**	**40,442,835**
Other Operating Expense	**14,432,346**	**12,243,970**

With the approval of the governor and the budget agency, the department shall annually reimburse the state general fund for expenses incurred in support of the collection of dedicated fund revenue according to the department's cost allocation plan.

With the approval of the governor and the budget agency, the foregoing sums for the department of state revenue may be augmented to an amount not exceeding in total, together with the above specific amounts, one and one-tenth percent (1.1%) of the amount of money collected by the department of state revenue from taxes and fees.

OUTSIDE COLLECTIONS

Total Operating Expense	**2,700,000**	**2,700,000**

With the approval of the governor and the budget agency, the foregoing sums for the department of state revenue's outside collections may be augmented to an amount not exceeding in total, together with the above specific amounts, one and one-tenth percent (1.1%) of the amount of money collected by the department from taxes and fees.

MOTOR CARRIER REGULATION
Motor Carrier Regulation Fund (IC 8-2.1-23)

Personal Services	**1,519,316**	**1,519,920**
Other Operating Expense	**3,796,100**	**3,796,100**

Augmentation allowed from the Motor Carrier Regulation Fund.

MOTOR FUEL TAX DIVISION
Motor Vehicle Highway Account (IC 8-14-1)

Personal Services	**8,643,079**	**8,649,105**
Other Operating Expense	**1,062,900**	**1,062,900**

Augmentation allowed from the Motor Vehicle Highway Account.

In addition to the foregoing appropriations, there is hereby appropriated to the department of revenue motor fuel tax division an amount sufficient to pay claims for refunds on license-fee-exempt motor vehicle fuel as provided by law. The sums above appropriated from the motor vehicle highway account for the operation of the motor fuel tax division, together with all refunds for license-fee-exempt motor vehicle fuel, shall be paid from the receipts of those license fees before they are distributed as provided by IC 6-6-1.1.

FOR THE INDIANA GAMING COMMISSION
State Gaming Fund (IC 4-33-13-3)

Personal Services	**2,134,159**	**2,135,732**
Other Operating Expense	**689,500**	**689,500**

INVESTIGATION
State Gaming Fund (IC 4-33-13-3)

Personal Services	**875,000**	**875,000**
Other Operating Expense	**454,450**	**454,450**

The foregoing appropriations to the Indiana gaming commission are made from revenues accruing to the state gaming fund under IC 4-33-13-3 before any distribution is made under IC 4-33-13-5.
Augmentation allowed.

The foregoing appropriations to the Indiana gaming commission are made instead of the appropriation made in IC 4-33-13-4.

FOR THE INDIANA HORSE RACING COMMISSION
Indiana Horse Racing Commission Operating Fund (IC 4-31-10-2)

Personal Services	**2,136,556**	**2,137,198**
Other Operating Expense	**712,358**	**712,358**

Augmentation allowed.

STANDARDBRED ADVISORY BOARD
Standardbred Horse Fund (IC 15-5-5.5-9.5)

Total Operating Expense	**193,500**	**193,500**

Augmentation allowed.

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
FOR THE DEPARTMENT OF LOCAL GOVERNMENT FINANCE			
Personal Services	4,119,403	4,122,337	
Other Operating Expense	730,917	730,917	

From the above appropriations for the department of local government finance, travel subsistence and mileage allowances may be paid for members of the local government tax control board created by IC 6-1.1-18.5-11 and the state school property tax control board created by IC 6-1.1-19-4.1, under state travel regulations.

FOR THE INDIANA BOARD OF TAX REVIEW			
Personal Services	1,318,469	1,319,521	
Other Operating Expense	115,090	115,090	

Augmentation allowed from fee increases enacted by P.L.245-2003 and reimbursements from any county under IC 6-1.1-4-34(f), regardless of when the fees or reimbursements were received.

F. ADMINISTRATION

FOR THE DEPARTMENT OF ADMINISTRATION			
Personal Services	13,583,850	13,593,433	
Other Operating Expense	7,635,798	7,635,798	
FOR THE STATE PERSONNEL DEPARTMENT			
Personal Services	3,500,000	3,500,000	
Other Operating Expense	400,000	400,000	
STATE EMPLOYEES' APPEALS COMMISSION			
Personal Services	134,738	134,830	
Other Operating Expense	13,257	13,257	
FOR THE OFFICE OF TECHNOLOGY			
Pay Phone Fund			
Total Operating Expense	2,490,000	2,490,000	

Augmentation allowed.

The pay phone fund is established for the procurement of hardware, software, and related equipment and services needed to expand and enhance the state campus backbone and other central information technology initiatives. Such procurements may include, but are not limited to, wiring and rewiring of state offices, Internet services, video conferencing, telecommunications, application software, and related services. The fund consists of the net proceeds received from contracts with companies providing phone services at state institutions and other state properties. The fund shall be administered by the budget agency. Money in the fund may be spent by the office in compliance with a plan approved by the budget agency. Any money remaining in the fund at the end of any fiscal year does not revert to the general fund or any other fund but remains in the pay phone fund.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
FOR THE COMMISSION ON PUBLIC RECORDS			
Personal Services	1,328,319	1,329,301	
Other Operating Expense	156,364	156,364	
FOR THE OFFICE OF THE PUBLIC ACCESS COUNSELOR			
Personal Services	148,323	148,436	
Other Operating Expense	5,134	5,134	

G. OTHER

FOR THE COMMISSION ON UNIFORM STATE LAWS			
Total Operating Expense	43,584	43,584	
FOR THE OFFICE OF INSPECTOR GENERAL			
Personal Services	1,010,968	1,011,268	
Other Operating Expense	134,096	134,096	
STATE ETHICS COMMISSION			
Personal Service	260,816	261,006	
Other Operating Expense	2,596	2,596	
FOR THE SECRETARY OF STATE			
ELECTION DIVISION			
Personal Services	652,669	653,145	
Other Operating Expense	202,907	202,907	
ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS (HAVA TITLE II)			
Total Operating Expense	688,880	0	

H. COMMUNITY SERVICES

FOR THE GOVERNOR'S OFFICE OF FAITH BASED & COMMUNITY INITIATIVES			
Personal Services	263,974	264,340	
Other Operating Expense	76,869	76,869	

SECTION 4. [EFFECTIVE JULY 1, 2005]

PUBLIC SAFETY

A. CORRECTION

FOR THE DEPARTMENT OF CORRECTION			
CENTRAL OFFICE			
Personal Services	8,365,099	8,371,234	
Other Operating Expense	2,392,191	2,392,191	
ESCAPEE COUNSEL AND TRIAL EXPENSE			
Other Operating Expense	198,000	198,000	
COUNTY JAIL MISDEMEANANT HOUSING			
Total Operating Expense	4,281,101	4,281,101	

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
ADULT CONTRACT BEDS			
Total Operating Expense	10,235,735	10,235,735	
STAFF DEVELOPMENT AND TRAINING			
Personal Services	1,404,251	1,405,258	
Other Operating Expense	448,388	448,388	
PAROLE DIVISION			
Personal Services	5,749,346	5,753,450	
Other Operating Expense	804,943	804,943	
PAROLE BOARD			
Personal Services	552,124	552,544	
Other Operating Expense	35,590	35,590	
INFORMATION MANAGEMENT SERVICES			
Personal Services	2,364,202	2,366,020	
Other Operating Expense	1,922,620	1,922,620	
JUVENILE TRANSITION			
Personal Services	1,181,277	1,182,115	
Other Operating Expense	4,051,694	4,051,694	
COMMUNITY CORRECTIONS PROGRAMS			
Total Operating Expense			55,763,764

The above appropriation for community corrections programs is not subject to transfer to any other fund or to transfer, assignment, or reassignment for any other use or purpose by the state board of finance notwithstanding IC 4-9.1-1-7 and IC 4-13-2-23 or by the budget agency notwithstanding IC 4-12-1-12, or any other law.

DRUG PREVENTION AND OFFENDER TRANSITION			
Total Operating Expense	988,293	988,487	

The above appropriation shall be used for minimum security release programs, transition programs, mentoring programs, and supervision of and assistance to adult and juvenile offenders to promote the successful integration of the offender into the community.

CENTRAL EMERGENCY RESPONSE			
Personal Services	1,179,746	1,180,570	
Other Operating Expense	455,738	455,738	
MEDICAL SERVICES			
Other Operating Expense	27,260,811	27,260,811	

The above appropriations for medical services shall be used only for services that are determined to be medically necessary.

DRUG ABUSE PREVENTION			
Drug Abuse Fund (IC 11-8-2-11)			
Personal Services	40,716	40,742	
Other Operating Expense	113,000	113,000	

Augmentation allowed.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
COUNTY JAIL MAINTENANCE CONTINGENCY FUND			
Other Operating Expense	17,281,044	17,281,044	

Disbursements from the fund shall be made for the purpose of reimbursing sheriffs for the cost of incarcerating in county jails persons convicted of felonies to the extent that such persons are incarcerated for more than five (5) days after the day of sentencing, at the rate of $35 per day. In addition to the per diem, the state shall reimburse the sheriffs for expenses determined by the sheriff to be medically necessary incurred in providing medical care to the convicted persons. However, if the sheriff or county receives money with respect to a convicted person (from a source other than the county), the per diem or medical expense reimbursement with respect to the convicted person shall be reduced by the amount received. A sheriff shall not be required to comply with IC 35-38-3-4(a) or transport convicted persons within five (5) days after the day of sentencing if the department of correction does not have the capacity to receive the convicted person.

Augmentation allowed.

MEDICAL SERVICE PAYMENTS			
Total Operating Expense	25,000,000	25,000,000	

These appropriations for medical service payments are made to pay for services determined to be medically necessary for committed individuals, patients and students of institutions under the jurisdiction of the department of correction, the state department of health, the division of mental health, the school for the blind, the school for the deaf, or the division of disability, aging, and rehabilitative services if the services are provided outside these institutions. These appropriations may not be used for payments for medical services that are covered by IC 12-16 unless these services have been approved under IC 12-16. These appropriations shall not be used for payment for medical services which are payable from an appropriation in this act for the state department of health, the division of mental health, the school for the blind, the school for the deaf, the division of disability, aging, and rehabilitative services, or the department of correction, or that are reimbursable from funds for medical assistance under IC 12-15. If these appropriations are insufficient to make these medical service payments, there is hereby appropriated such further sums as may be necessary.

Direct disbursements from the above contingency fund are not subject to the provisions of IC 4-13-2.

FOR THE DEPARTMENT OF ADMINISTRATION			
DEPARTMENT OF CORRECTION OMBUDSMAN BUREAU			
Personal Services	135,966	136,067	
Other Operating Expense	13,124	13,124	

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
FOR THE DEPARTMENT OF CORRECTION			
INDIANA STATE PRISON			
Personal Services	28,327,153	28,345,171	
Other Operating Expense	5,819,137	5,819,137	
VOCATIONAL TRAINING PROGRAM			
Total Operating Expense	257,291	257,291	
PENDLETON CORRECTIONAL FACILITY			
Personal Services	28,133,124	28,152,801	
Other Operating Expense	6,931,289	6,931,289	
CORRECTIONAL INDUSTRIAL FACILITY			
Personal Services	19,842,899	19,856,310	
Other Operating Expense	4,035,819	4,035,819	
INDIANA WOMEN'S PRISON			
Personal Services	11,666,382	11,673,614	
Other Operating Expense	1,928,211	1,928,211	
PUTNAMVILLE CORRECTIONAL FACILITY			
Personal Services	28,542,062	28,561,207	
Other Operating Expense	5,595,717	5,595,717	
WABASH VALLEY CORRECTIONAL FACILITY			
Personal Services	38,442,605	38,467,484	
Other Operating Expense	7,469,855	7,469,855	
PLAINFIELD JUVENILE CORRECTIONAL FACILITY			
Personal Services	13,401,073	13,410,386	
Other Operating Expense	2,386,012	2,386,012	
INDIANAPOLIS JUVENILE CORRECTIONAL FACILITY			
Personal Services	14,618,497	14,626,547	
Other Operating Expense	1,711,469	1,711,469	
BRANCHVILLE CORRECTIONAL FACILITY			
Personal Services	17,856,336	17,868,319	
Other Operating Expense	2,945,374	2,945,374	
WESTVILLE CORRECTIONAL FACILITY			
Personal Services	42,249,577	42,278,476	
Other Operating Expense	7,690,288	7,690,288	
WESTVILLE MAXIMUM CONTROL FACILITY			
Personal Services	5,428,434	5,432,101	
Other Operating Expense	582,757	582,757	
ROCKVILLE CORRECTIONAL FACILITY FOR WOMEN			
Personal Services	15,746,198	15,757,032	
Other Operating Expense	2,712,522	2,712,522	
PLAINFIELD CORRECTIONAL FACILITY			
Personal Services	25,173,242	25,190,068	
ther Operating Expense	5,464,545	5,464,545	
RECEPTION AND DIAGNOSTIC CENTER			
Personal Services	11,780,995	11,789,124	
Other Operating Expense	1,217,704	1,217,704	
MIAMI CORRECTIONAL FACILITY			
Personal Services	28,785,622	28,804,798	
Other Operating Expense	4,617,107	4,617,107	
NEW CASTLE CORRECTIONAL FACILITY			
Personal Services	12,203,968	12,212,345	
Other Operating Expense	2,779,105	2,779,105	

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
SOCIAL SERVICES BLOCK GRANT			
General Fund			
Total Operating Expense	9,948,380	9,955,962	
Work Release - Study Release Special Revenue Fund (IC 11-10-8-6.5)			
Total Operating Expense	466,014	466,014	
Augmentation allowed from Work Release - Study Release Special Revenue Fund and Social Services Block Grant.			
HENRYVILLE CORRECTIONAL FACILITY			
Personal Services	2,018,547	2,019,927	
Other Operating Expense	379,381	379,381	
CHAIN O' LAKES CORRECTIONAL FACILITY			
Personal Services	1,819,881	1,820,956	
Other Operating Expense	380,606	380,606	
MEDARYVILLE CORRECTIONAL FACILITY			
Personal Services	1,899,480	1,900,654	
Other Operating Expense	330,727	330,727	
ATTERBURY CORRECTIONAL FACILITY			
Personal Services	2,048,622	2,049,962	
Other Operating Expense	350,351	350,351	
MADISON CORRECTIONAL FACILITY			
Personal Services	3,114,891	3,116,892	
Other Operating Expense	468,019	468,019	
EDINBURGH CORRECTIONAL FACILITY			
Personal Services	2,849,220	2,851,122	
Other Operating Expense	363,155	363,155	
LAKESIDE CORRECTIONAL FACILITY			
Personal Services	4,904,199	4,907,478	
Other Operating Expense	732,602	732,602	
FORT WAYNE JUVENILE CORRECTIONAL FACILITY			
Personal Services	1,425,664	1,426,588	
Other Operating Expense	436,233	436,233	
SOUTH BEND JUVENILE CORRECTIONAL FACILITY			
Personal Services	4,343,067	4,345,596	
Other Operating Expense	2,886,037	2,886,037	
LOGANSPORT INTAKE/DIAGNOSTIC FACILITY			
Personal Services	2,868,870	2,870,666	
Other Operating Expense	536,690	536,690	
NORTH CENTRAL JUVENILE CORRECTIONAL FACILITY			
Personal Services	8,296,951	8,301,236	
Other Operating Expense	1,294,293	1,294,293	
CAMP SUMMIT			
Personal Services	2,545,249	2,546,766	
Other Operating Expense	362,040	362,040	
PENDLETON JUVENILE CORRECTIONAL FACILITY			
Personal Services	14,161,982	14,170,029	
Other Operating Expense	2,530,172	2,530,172	
B. LAW ENFORCEMENT			
FOR THE INDIANA STATE POLICE AND MOTOR CARRIER INSPECTION			

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
From the General Fund			
	40,416,979	40,426,519	
From the Motor Vehicle Highway Account (IC 8-14-1)			
	70,416,982	70,426,522	
From the Motor Carrier Regulation Fund (IC 8-2.1-23)			
	4,025,699	4,026,788	

Augmentation allowed from the general fund, the motor vehicle highway account, and the motor carrier regulation fund.

The amounts specified from the General Fund, the Motor Vehicle Highway Account, and the Motor Carrier Regulation Fund are for the following purposes:

Personal Services	104,557,210	104,577,379
Other Operating Expense	10,302,450	10,302,450

The above appropriations for personal services and other operating expense include funds to continue the state police minority recruiting program. In addition to any funds that may be expended for accident reporting from the "accident report account" under IC 9-29-11-1, there are included in the appropriations for Indiana state police and motor carrier inspection such additional funds as necessary for administering accident reporting as required under IC 9-26-3.

The foregoing appropriations for the Indiana state police and motor carrier inspection include funds for the police security detail to be provided to the Indiana state fair board. However, amounts actually expended to provide security for the Indiana state fair board as determined by the budget agency shall be reimbursed by the Indiana state fair board to the state general fund.

ODOMETER FRAUD INVESTIGATION

From the Motor Vehicle Odometer Fund (IC 9-29-1-5)

Total Operating Expense	95,841	95,841

Augmentation allowed.

STATE POLICE TRAINING

From the State Police Training Fund (IC 5-2-8-5)

Total Operating Expense	303,722	303,722

Augmentation allowed.

FORENSIC AND HEALTH SCIENCES LABORATORIES

From the Motor Vehicle Highway Account (IC 8-14-1)

Personal Services	2,683,888	2,685,880
Other Operating Expense	1,602,961	1,602,961

Augmentation allowed.

ENFORCEMENT AID

From the General Fund

Total Operating Expense	40,000	40,000

From the Motor Vehicle Highway Account (IC 8-14-1)

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
Total Operating Expense	40,000	40,000	

The above appropriations for enforcement aid are to meet unforeseen emergencies of a confidential nature. They are to be expended under the direction of the superintendent and to be accounted for solely on the superintendent's authority.

PENSION FUND

From the General Fund

Total Operating Expense	3,800,302	6,087,313

From the Motor Vehicle Highway Account (IC 8-14-1)

Total Operating Expense	3,800,306	6,087,318

The above appropriations shall be paid into the state police pension fund provided for in IC 10-12-2 in twelve (12) equal installments on or before July 30 and on or before the 30th of each succeeding month thereafter.

BENEFIT FUND

From the General Fund

Total Operating Expense	1,513,750	1,513,750

Augmentation allowed.

From the Motor Vehicle Highway Account (IC 8-14-1)

Total Operating Expense	1,513,750	1,513,750

Augmentation allowed.

All benefits that accrue to members shall be paid by warrant drawn on the treasurer of state by the auditor of state on the basis of claims filed and approved by the trustees of the state police pension and benefit funds created by IC 10-12-2.

SUPPLEMENTAL PENSION

General Fund

Total Operating Expense	1,437,500	1,437,500

Augmentation allowed.

Motor Vehicle Highway Account (IC 8-14-1)

Total Operating Expense	1,437,500	1,437,500

Augmentation allowed.

If the above appropriations for supplemental pension for any one (1) year are greater than the amount actually required under the provisions of IC 10-12-5, then the excess shall be returned proportionately to the funds from which the appropriations were made. If the amount actually required under IC 10-12-5 is greater than the above appropriations, then, with the approval of the governor and the budget agency, those sums may be augmented from the general fund and the motor vehicle highway account.

ACCIDENT REPORTING

Accident Report Account (IC 9-29-11-1)

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
Total Operating Expense	91,140	91,140	
Augmentation allowed.			
DRUG INTERDICTION			
Drug Interdiction Fund (IC 10-11-7)			
Total Operating Expense	273,420	273,420	
Augmentation allowed.			
FOR THE INTEGRATED PUBLIC SAFETY COMMISSION			
PROJECT SAFE-T			
Integrated Public Safety Communications Fund (IC 5-26-4-1)			
Total Operating Expense	13,205,269	13,205,269	
Augmentation allowed.			
FOR THE ADJUTANT GENERAL			
Personal Services	9,659,149	7,946,862	
Other Operating Expense	3,595,193	2,790,351	
NAVAL FORCES			
Personal Services	149,991	150,089	
Other Operating Expense	68,983	68,983	
DISABLED SOLDIERS' PENSION			
Other Operating Expense	16,507	16,507	
GOVERNOR'S CIVIL AND MILITARY CONTINGENCY FUND			
Total Operating Expense			707,340

The above appropriations for the adjutant general governor's civil and military contingency fund are made under IC 10-16-11-1.

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
FOR THE CRIMINAL JUSTICE INSTITUTE			
ADMINISTRATIVE MATCH			
Total Operating Expense	440,467	440,467	
DRUG ENFORCEMENT MATCH			
Total Operating Expense	2,096,955	2,096,955	
VICTIM AND WITNESS ASSISTANCE FUND			
Victim and Witness Assistance Fund (IC 5-2-6-14)			
Total Operating Expense	591,132	591,132	
Augmentation allowed.			
ALCOHOL AND DRUG COUNTERMEASURES			
Alcohol and Drug Countermeasures Fund (IC 9-27-2-11)			
Total Operating Expense	516,558	516,558	
Augmentation allowed.			
STATE DRUG FREE COMMUNITIES FUND			
State Drug Free Communities Fund (IC 5-2-10-2)			
Total Operating Expense	501,099	501,099	
Augmentation allowed.			
INDIANA SAFE SCHOOLS			
General Fund			
Total Operating Expense	1,660,300	1,660,300	
Indiana Safe Schools Fund (IC 5-2-10.1-2)			
Total Operating Expense	406,700	406,700	
Augmentation allowed from Indiana Safe Schools Fund.			

Of the above appropriations for the Indiana safe schools program, $1,317,000 is appropriated annually to provide grants to school corporations for school safe haven programs, emergency preparedness programs, and school safety programs, and $750,000 is appropriated annually for use in providing training to school safety specialists.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
OFFICE OF TRAFFIC SAFETY			
Motor Vehicle Highway Account (IC 8-14-1)			
Personal Services	457,669	457,777	
Other Operating Expense	11,093,645	11,093,645	
Augmentation allowed.			

The above appropriation for the office of traffic safety is from the motor vehicle highway account and may be used to fund traffic safety projects that are included in a current highway safety plan approved by the governor and the budget agency. The department shall apply to the national highway traffic safety administration for reimbursement of all eligible project costs. Any federal reimbursement received by the department for the highway safety plan shall be deposited into the motor vehicle highway account.

PROJECT IMPACT			
Total Operating Expense	196,000	196,000	
VICTIMS OF VIOLENT CRIME ADMINISTRATION			
Violent Crime Victims Compensation Fund (IC 5-2-6.1-40)			
Personal Services	185,665	185,720	
Other Operating Expense	2,548,565	2,548,565	
Augmentation allowed.			
FOR THE CORONERS' TRAINING BOARD			
Coroners' Training and Continuing Education Fund (IC 4-23-6.5-8)			
Personal Services	30,000	30,000	
Other Operating Expense	485,429	485,429	
Augmentation allowed.			
FOR THE INDIANA DEPARTMENT OF GAMING RESEARCH			
Personal Services	157,519	157,632	
Other Operating Expense	88,658	88,658	
Augmentation allowed from fees accruing under IC 4-33-18-8.			
FOR THE LAW ENFORCEMENT TRAINING ACADEMY			
From the General Fund	1,622,820	1,624,857	
From the Law Enforcement Academy Training Fund (IC 5-2-1-13(b))	2,803,013	2,803,013	

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
Augmentation allowed from Law Enforcement Academy Training Fund.			
The amounts specified from the General Fund and the Law Enforcement Academy Training Fund are for the following purposes:			
Personal Services	**3,083,774**	**3,085,811**	
Other Operating Expense	**1,342,059**	**1,342,059**	
C. REGULATORY AND LICENSING			
FOR THE BUREAU OF MOTOR VEHICLES			
Motor Vehicle Highway Account (IC 8-14-1)			
Personal Services	**20,056,862**	**20,047,781**	
Other Operating Expense	**16,589,473**	**16,589,473**	
Augmentation allowed.			
LICENSE PLATES			
Motor Vehicle Highway Account (IC 8-14-1)			
Total Operating Expense	**5,390,000**	**5,390,000**	
Augmentation allowed.			
DEALER INVESTIGATOR EXPENSES			
Motor Vehicle Odometer Fund (IC 9-29-1-5)			
Total Operating Expense	**263,228**	**263,228**	
Augmentation allowed.			
FINANCIAL RESPONSIBILITY COMPLIANCE VERIFICATION			
Financial Responsibility Compliance Verification Fund (IC 9-25-9-7)			
Total Operating Expense	**7,777,970**	**7,778,371**	
Augmentation allowed.			
ABANDONED VEHICLES			
Abandoned Vehicle Fund (IC 9-22-1-28)			
Total Operating Expense	**36,260**	**36,260**	
Augmentation allowed.			
STATE MOTOR VEHICLE TECHNOLOGY			
State Motor Vehicle Technology Fund (IC 9-29-16-1)			
Total Operating Expense	**5,098,968**	**5,098,968**	
Augmentation allowed.			
FOR THE DEPARTMENT OF LABOR			
Personal Services	**1,019,407**	**1,020,143**	
Other Operating Expense	**114,673**	**114,673**	
INDUSTRIAL HYGIENE			
Personal Services	**1,246,719**	**1,247,594**	
Other Operating Expense	**117,031**	**117,031**	
BUREAU OF MINES AND MINING			
Personal Services	**109,621**	**109,697**	
Other Operating Expense	**19,104**	**19,104**	
M.I.S. RESEARCH AND STATISTICS			
Personal Services	**237,799**	**237,963**	
Other Operating Expense	**20,299**	**20,299**	

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
The above funds are appropriated to occupational safety and health, industrial hygiene, and to management information services research and statistics to provide the total program cost of the Indiana occupational safety and health plan as approved by the United States Department of Labor. Inasmuch as the state is eligible to receive from the federal government partial reimbursement of the state's total Indiana occupational safety and health plan program cost, it is the intention of the general assembly that the department of labor make application to the federal government for the federal share of the total program cost. Federal funds received shall be considered a reimbursement of state expenditures and as such shall be deposited into the state general fund.			
OCCUPATIONAL SAFETY AND HEALTH			
Personal Services	**2,314,796**	**2,316,387**	
Other Operating Expense	**198,885**	**198,885**	
EMPLOYMENT OF YOUTH			
Fund for Employment of Youth (IC 20-8.1-4-31)			
Total Operating Expense	**75,443**	**75,473**	
Augmentation allowed.			
BUREAU OF SAFETY EDUCATION AND TRAINING			
Special Fund for Safety and Health Consultation Services (IC 22-8-1.1-48)			
Personal Services	**893,884**	**894,498**	
Other Operating Expense	**189,792**	**189,792**	
Augmentation allowed.			
Federal cost reimbursements for expenses attributable to the Bureau of Safety Education and Training appropriations shall be deposited into the special fund for safety and health consultation services.			
FOR THE INSURANCE DEPARTMENT			
From the General Fund			
	3,428,470	**3,431,292**	
From the Department of Insurance Fund (IC 27-1-3-28)			
	2,363,439	**2,363,439**	
Augmentation allowed from the Department of Insurance Fund.			
The amounts specified from the General Fund and the Department of Insurance Fund are for the following purposes:			
Personal Services	**4,734,217**	**4,737,039**	
Other Operating Expense	**1,057,692**	**1,057,692**	
BAIL BOND DIVISION			
Bail Bond Enforcement and Administration Fund (IC 27-10-5-1)			
Personal Services	**108,119**	**108,188**	
Other Operating Expense	**14,660**	**14,660**	

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
Augmentation allowed.			
PATIENTS' COMPENSATION AUTHORITY			
Patients' Compensation Fund (IC 34-18-6-1)			
Personal Services	620,860	621,057	
Other Operating Expense	68,525	68,525	
Augmentation allowed.			
POLITICAL SUBDIVISION RISK MANAGEMENT			
Political Subdivision Risk Management Fund (IC 27-1-29-10)			
Personal Services	221,502	221,569	
Other Operating Expense	52,525	52,525	
Augmentation allowed.			
MINE SUBSIDENCE INSURANCE			
Mine Subsidence Insurance Fund (IC 27-7-9-7)			
Personal Services	118,535	118,622	
Other Operating Expense	201,765	201,765	
Augmentation allowed.			
FOR THE ALCOHOL AND TOBACCO COMMISSION			
Enforcement and Administration Fund (IC 7.1-4-10-1)			
Personal Services	4,963,688	4,513,135	
Other Operating Expense	887,278	887,278	
Augmentation allowed.			
EXCISE OFFICER TRAINING (IC 5-2-8-8)			
Total Operating Expense	6,860	6,860	
Augmentation allowed from the Alcoholic Beverage Enforcement Officer Training Fund.			
FOR THE DEPARTMENT OF FINANCIAL INSTITUTIONS			
Financial Institutions Fund (IC 28-11-2-9)			
Personal Services	5,884,768	5,889,224	
Other Operating Expense	1,530,776	1,531,496	
Augmentation allowed.			
FOR THE PROFESSIONAL LICENSING AGENCY			
Personal Services	4,307,807	4,310,715	
Other Operating Expense	1,500,531	1,500,531	
EMBALMERS' AND FUNERAL DIRECTORS' EDUCATION (IC 25-15-9-13)			
Funeral Services Education Fund (IC 25-15-9-13)			
Total Operating Expense	4,900	4,900	
Augmentation allowed.			
FOR THE CIVIL RIGHTS COMMISSION			
Personal Services	2,097,270	2,098,776	
Other Operating Expense	266,515	266,515	

It is the intention of the general assembly that the civil rights commission shall apply to the federal government for funding based upon the processing of employment and housing discrimination complaints by the civil rights commission. Such federal funds received by the state shall be considered as a reimbursement of state expenditures and shall be deposited into the state general fund.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
FOR THE UTILITY CONSUMER COUNSELOR			
Public Utility Fund (IC 8-1-6-1)			
Personal Services	3,800,352	3,803,139	
Other Operating Expense	455,065	455,065	
Augmentation allowed.			
EXPERT WITNESS FEES AND AUDIT			
Public Utility Fund (IC 8-1-6-1)			
Total Operating Expense		1,550,000	
Augmentation allowed.			
FOR THE UTILITY REGULATORY COMMISSION			
Public Utility Fund (IC 8-1-6-1)			
Personal Services	5,239,324	5,243,244	
Other Operating Expense	1,966,515	1,966,515	
Augmentation allowed.			
FOR THE WORKERS' COMPENSATION BOARD			
Personal Services	1,800,788	1,802,034	
Other Operating Expense	89,869	89,869	
FOR THE STATE BOARD OF ANIMAL HEALTH			
Personal Services	3,172,896	3,175,065	
Other Operating Expense	680,927	680,927	
INDEMNITY FUND			
Total Operating Expense		49,430	
Augmentation allowed.			
MEAT & POULTRY INSPECTION			
Total Operating Expense	1,781,628	1,782,624	
FOR THE DEPARTMENT OF HOMELAND SECURITY (IC 10-19-2-1)			
From the General Fund	1,713,284	1,714,547	
From the Fire and Building Services Fund (IC 22-12-6-1)	11,256,238	11,262,655	
Augmentation allowed from the fire and building services fund.			

The amounts specified from the general fund and the fire and building services fund are for the following purposes:

Personal Services	11,163,455	11,171,135	
Other Operating Expense	1,806,067	1,806,067	
DEPARTMENT OF HOMELAND SECURITY CONTINGENCY FUND			
Total Operating Expense	242,500	242,500	

The above appropriations for the department of homeland security contingency fund are made to the contingency fund under IC 10-14-3-28. The above appropriations shall be in addition to any unexpended balances in the fund as of June 30, 2005.

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
DIRECTION CONTROL AND WARNING			
Total Operating Expense	30,182	30,182	
INDIVIDUAL AND FAMILY ASSISTANCE			
Total Operating Expense	1	1	
Augmentation allowed.			
PUBLIC ASSISTANCE			
Total Operating Expense	1	1	
Augmentation allowed.			

The above appropriations for the department of homeland security represent the total program cost for civil defense and for emergency medical services for each fiscal year. It is the intent of the general assembly that the department of homeland security apply to the Federal Emergency Management Agency for all federal reimbursement funds for which Indiana is eligible. All funds received shall be deposited into the state general fund.

SECTION 5. [EFFECTIVE JULY 1, 2005]

CONSERVATION AND ENVIRONMENT

A. NATURAL RESOURCES

FOR THE DEPARTMENT OF NATURAL RESOURCES - ADMINISTRATION		
Personal Services	4,864,533	4,868,008
Other Operating Expense	728,150	728,150
ENTOMOLOGY AND PLANT PATHOLOGY DIVISION		
Personal Services	760,732	761,281
Other Operating Expense	161,937	161,937
ENTOMOLOGY AND PLANT PATHOLOGY FUND (IC 14-24-10-3)		
Total Operating Expense		23,359
Augmentation allowed.		
ENGINEERING DIVISION		
Personal Services	1,588,440	1,589,599
Other Operating Expense	71,351	71,351
STATE MUSEUM		
Personal Services	5,498,536	5,502,194
Other Operating Expense	2,031,841	2,031,841
HISTORIC PRESERVATION DIVISION		
Personal Services	937,701	938,370
Other Operating Expense	41,125	41,125
STATE HISTORIC SITES		
Personal Services	2,139,718	2,140,920
Other Operating Expense	381,787	381,787

From the above appropriations, $75,000 in each state fiscal year shall be used for the Grissom Museum.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
WABASH RIVER HERITAGE CORRIDOR			
Total Operating Expense	97,849	97,849	
OUTDOOR RECREATION DIVISION			
Personal Services	850,544	851,170	
Other Operating Expense	44,019	44,019	
NATURE PRESERVES DIVISION			
Personal Services	908,197	908,859	
Other Operating Expense	52,164	52,164	
DEPARTMENT OF NATURAL RESOURCES FINANCIAL MANAGEMENT			
Personal Services	148,372	148,483	
Other Operating Expense	41,718	41,718	
WATER DIVISION			
Personal Services	4,938,614	4,942,191	
Other Operating Expense	663,935	663,935	

All revenues accruing from state and local units of government and from private utilities and industrial concerns as a result of water resources study projects, and as a result of topographic and other mapping projects, shall be deposited into the state general fund, and such receipts are hereby appropriated, in addition to the foregoing amounts, for water resources studies.

GREAT LAKES COMMISSION		
Other Operating Expense	61,000	61,000
DEER RESEARCH AND MANAGEMENT		
Deer Research and Management Fund (IC 14-22-5-2)		
Total Operating Expense	174,000	174,000
Augmentation allowed.		
OIL AND GAS DIVISION		
From the General Fund		
	1,207,046	1,207,388
From the Oil and Gas Fund (IC 6-8-1-27)		
	139,750	140,176
Augmentation allowed from Oil and Gas Fund.		

The amounts specified from the General Fund and the Oil and Gas Fund are for the following purposes:

Personal Services	1,066,435	1,067,203
Other Operating Expense	280,361	280,361

STATE PARKS AND RESERVOIRS		
From the General Fund		
	10,161,162	10,168,398
From the State Parks and Reservoirs Special Revenue Fund (IC 14-19-8-2)		
	21,136,316	21,160,811
Augmentation allowed from State Parks and Reservoirs Special Revenue Fund.		

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.

The amounts specified from the General Fund and the State Parks and Reservoirs Special Revenue Fund are for the following purposes:

Personal Services	24,409,278	24,441,009
Other Operating Expense	6,888,200	6,888,200

SNOWMOBILE/OFFROAD VEHICLE LICENSING FUND

Snowmobile/Offroad Licensing Fund (IC 14-16-1-30)

Total Operating Expense	139,908	139,908

Augmentation allowed.

LAW ENFORCEMENT DIVISION

From the General Fund

9,207,707 9,208,185

From the Fish and Wildlife Fund (IC 14-22-3-2)

11,060,370 11,061,123

Augmentation allowed from the Fish and Wildlife Fund.

The amounts specified from the General Fund and the Fish and Wildlife Fund are for the following purposes:

Personal Services	17,010,154	17,011,385
Other Operating Expense	3,257,923	3,257,923

FISH AND WILDLIFE DIVISION

Fish and Wildlife Fund (IC 14-22-3-2)

Personal Services	13,271,453	13,279,686
Other Operating Expense	4,056,937	4,056,937

Augmentation allowed.

FORESTRY DIVISION

From the General Fund

1,406,350 1,406,609

From the State Forestry Fund (IC 14-23-3-2)

7,948,375 7,952,921

Augmentation allowed from the State Forestry Fund.

The amounts specified from the General Fund and the State Forestry Fund are for the following purposes:

Personal Services	7,850,802	7,855,607
Other Operating Expense	1,503,923	1,503,923

All money expended by the division of forestry of the department of natural resources for the detention and suppression of forest, grassland, and wasteland fires shall be through the enforcement division of the department, and the employment with such money of all personnel, with the exception of emergency labor, shall be in accordance with IC 14-9-8.

RECLAMATION DIVISION

From the General Fund

36,857 36,857

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.

From the Natural Resources Reclamation Division Fund (IC 14-34-14-2)

5,228,074 5,231,437

Augmentation allowed from the Natural Resources Reclamation Division Fund.

The amounts specified from the General Fund and the Natural Resources Reclamation Division Fund are for the following purposes:

Personal Services	4,585,013	4,588,376
Other Operating Expense	679,918	679,918

In addition to any of the foregoing appropriations for the department of natural resources, any federal funds received by the state of Indiana for support of approved outdoor recreation projects for planning, acquisition, and development under the provisions of the federal Land and Water Conservation Fund Act, P.L.88-578, are appropriated for the uses and purposes for which the funds were paid to the state, and shall be distributed by the department of natural resources to state agencies and other governmental units in accordance with the provisions under which the funds were received.

LAKE MICHIGAN COASTAL PROGRAM

Cigarette Tax Fund (IC 6-7-1-29.1)

Personal Services	113,000	113,000
Other Operating Expense	30,000	30,000

Augmentation allowed.

LAKE AND RIVER ENHANCEMENT

Lake and River Enhancement Fund (IC 6-6-11-12.5)

Total Operating Expense 4,685,811

Augmentation allowed.

CONSERVATION OFFICERS' MARINE ENFORCEMENT FUND

Lake and River Enhancement Fund (IC 6-6-11-12.5)

Total Operating Expense	182,759	182,759

Augmentation allowed.

HERITAGE TRUST

Total Operating Expense	1,000,000	1,000,000

B. OTHER NATURAL RESOURCES

FOR THE WORLD WAR MEMORIAL COMMISSION

Personal Services	1,025,997	1,026,680
Other Operating Expense	143,509	143,509

All revenues received as rent for space in the buildings located at 777 North Meridian Street and 700 North Pennsylvania Street, in the city of Indianapolis, that exceed the costs of operation and maintenance of the space rented, shall be paid

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.

into the general fund. The American Legion shall provide for the complete maintenance of the interior of these buildings.

FOR THE WHITE RIVER PARK COMMISSION

Total Operating Expense	1,309,965	1,309,965

FOR THE ST. JOSEPH RIVER BASIN COMMISSION

Total Operating Expense	70,029	70,029

C. ENVIRONMENTAL MANAGEMENT

FOR THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT ADMINISTRATION

From the General Fund	4,302,355	4,386,235
From the State Solid Waste Management Fund (IC 13-20-22-2)	128,388	128,465
From the Waste Tire Management Fund (IC 13-20-13-8)	60,182	60,218
From the Title V Operating Permit Program Trust Fund (IC 13-17-8-1)	742,243	742,684
From the Environmental Management Permit Operation Fund (IC 13-15-11-1)	862,606	863,148
From the Environmental Management Special Fund (IC 13-14-12-1)	216,654	216,782
From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)	316,957	317,145
From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)	56,167	56,201
From the Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)	1,628,925	1,629,890

Augmentation allowed from the State Solid Waste Management Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund.

The amounts specified from the General Fund, State Solid Waste Management Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund are for the following purposes:

Personal Services	6,113,111	6,117,395
Other Operating Expense	2,201,366	2,283,373

LABORATORY CONTRACTS

General Fund	708,362	777,825
Environmental Management Special Fund (IC 13-14-12-1)	425,999	425,999
Hazardous Substances Response Trust Fund (IC 13-25-4-1)	1,277,997	1,277,997

Augmentation allowed from the Environmental Management Special Fund and the Hazardous Substances Response Trust Fund.

The amounts specified from the General Fund, Environmental Management Special Fund, and the Hazardous Substance Response Trust Fund are for the following purpose:

Total Operating Expense	2,412,358	2,481,821

NORTHWEST REGIONAL OFFICE

From the General Fund	523,982	524,332
From the State Solid Waste Management Fund (IC 13-20-22-2)	31,639	31,659
From the Waste Tire Management Fund (IC 13-20-13-8)	8,925	8,931
From the Title V Operating Permit Program Trust Fund (IC 13-17-8-1)	283,124	283,308
From the Environmental Management Permit Operation Fund (IC 13-15-11-1)	135,480	135,571
From the Environmental Management Special Fund (IC 13-14-12-1)	64,089	64,130
From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)	48,677	48,709
From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)	8,113	8,118
From the Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)	231,202	231,349

Augmentation allowed from the State Solid Waste Management Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental

	FY 2005-06 Appro.	*FY 2006-07 Appro.*	*Biennial Appros.*

Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund.

The amounts specified from the General Fund, State Solid Waste Management Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund are for the following purposes:

Personal Services	**1,206,917**	**1,207,793**
Other Operating Expense	**128,314**	**128,314**

NORTHERN REGIONAL OFFICE

From the General Fund

374,610 374,843

From the State Solid Waste Management Fund (IC 13-20-22-2)

46,856 46,883

From the Waste Tire Management Fund (IC 13-20-13-8)

5,679 5,682

From the Title V Operating Permit Program Trust Fund (IC 13-17-8-1)

276,161 276,325

From the Environmental Management Permit Operation Fund (IC 13-15-11-1)

123,527 123,626

From the Environmental Management Special Fund (IC 13-14-12-1)

66,732 66,772

From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)

39,048 39,071

From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)

4,970 4,973

From the Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)

146,951 147,035

Augmentation allowed from the State Solid Waste Management Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund.

	FY 2005-06 Appropriation	*FY 2006-07 Appropriation*	*Biennial Appros.*

The amounts specified from the General Fund, State Solid Waste Management Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund are for the following purposes:

Personal Services	**932,226**	**932,902**
Other Operating Expense	**152,308**	**152,308**

SOUTHWEST REGIONAL OFFICE

From the General Fund

387,639 387,863

From the State Solid Waste Management Fund (IC 13-20-22-2)

97,931 97,987

From the Waste Tire Management Fund (IC 13-20-13-8)

6,045 6,048

From the Title V Operating Permit Program Trust Fund (IC 13-17-8-1)

146,896 146,981

From the Environmental Management Permit Operation Fund (IC 13-15-11-1)

86,445 86,497

From the Environmental Management Special Fund (IC 13-14-12-1)

52,594 52,624

From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)

55,010 55,042

From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)

5,440 5,443

From the Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)

154,150 154,239

Augmentation allowed from the State Solid Waste Management Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund.

The amounts specified from the General Fund, State Solid Waste Management Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund,

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.

Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund are for the following purposes:

Personal Services	793,774	794,348
Other Operating Expense	198,376	198,376

LEGAL AFFAIRS

From the General Fund

779,039 779,561

From the State Solid Waste Management Fund (IC 13-20-22-2)

40,958 40,983

From the Waste Tire Management Fund (IC 13-20-13-8)

4,428 4,431

From the Title V Operating Permit Program Trust Fund (IC 13-17-8-1)

242,425 242,573

From the Environmental Management Permit Operation Fund (IC 13-15-11-1)

180,435 180,553

From the Environmental Management Special Fund (IC 13-14-12-1)

61,990 62,027

From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)

91,877 91,932

From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)

16,604 16,614

From the Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)

468,246 468,528

Augmentation allowed from the State Solid Waste Management Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund.

The amounts specified from the General Fund, State Solid Waste Management Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund are for the following purposes:

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
Personal Services	1,762,962	1,764,162	
Other Operating Expense	123,040	123,040	

ENFORCEMENT

From the General Fund

1,056,384 1,057,122

From the Title V Operating Permit Program Trust Fund (IC 13-17-8-1)

733,137 733,746

From the Environmental Management Special Fund (IC 13-14-12-1)

80,186 80,253

From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)

3,273 3,276

From the Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)

1,636 1,637

Augmentation allowed from the Title V Operating Permit Program Trust Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, and the Underground Petroleum Storage Tank Excess Liability Trust Fund.

The amounts specified from the General Fund, Title V Operating Permit Program Trust Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund are for the following purposes:

Personal Services	1,794,769	1,796,187
Other Operating Expense	79,847	79,847

INVESTIGATIONS

From the General Fund

191,601 191,702

From the State Solid Waste Management Fund (IC 13-20-22-2)

6,819 6,822

From the Waste Tire Management Fund (IC 13-20-13-8)

4,636 4,638

From the Title V Operating Permit Program Trust Fund (IC 13-17-8-1)

44,721 44,744

From the Environmental Management Permit Operation Fund (IC 13-15-11-1)

55,627 55,657

From the Environmental Management Special Fund (IC 13-14-12-1)

13,089 13,096

	FY 2005-06 Appro.	*FY 2006-07 Appro.*	*Biennial Appros.*
From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)	**22,632**	**22,643**	
From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)	**4,362**	**4,364**	
From the Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)	**120,799**	**120,862**	
Augmentation allowed from the State Solid Waste Management Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground PetroleumStorage Tank Excess Liability Trust Fund.			
The amounts specified from the General Fund, State Solid Waste Management Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund are for the following purposes:			
Personal Services	**333,715**	**333,957**	
Other Operating Expense	**130,571**	**130,571**	
PLANNING AND ASSESSMENT			
From the General Fund	**444,517**	**444,834**	
From the State Solid Waste Management Fund (IC 13-20-22-2)	**8,389**	**8,395**	
From the Waste Tire Management Fund (IC 13-20-13-8)	**5,705**	**5,709**	
From the Title V Operating Permit Program Trust Fund (IC 13-17-8-1)	**55,033**	**55,071**	
From the Environmental Management Permit Operation Fund (IC 13-15-11-1)	**68,454**	**68,505**	
From the Environmental Management Special Fund (IC 13-14-12-1)	**16,107**	**16,118**	
From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)	**27,852**	**27,872**	

	FY 2005-06 Appropriation	*FY 2006-07 Appropriation*	*Biennial Appros.*
From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)	**5,370**	**5,374**	
From the Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)	**148,654**	**148,757**	
Augmentation allowed from the State Solid Waste Management Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund.			
The amounts specified from the General Fund, State Solid Waste Management Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund are for the following purposes:			
Personal Services	**763,868**	**764,422**	
Other Operating Expense	**16,213**	**16,213**	
MEDIA AND COMMUNICATIONS			
From the General Fund	**418,483**	**418,762**	
From the State Solid Waste Management Fund (IC 13-20-22-2)	**10,533**	**10,539**	
From the Waste Tire Management Fund (IC 13-20-13-8)	**7,161**	**7,165**	
From the Title V Operating Permit Program Trust Fund (IC 13-17-8-1)	**69,097**	**69,142**	
From the Environmental Management Permit Operation Fund (IC 13-15-11-1)	**85,949**	**86,008**	
From the Environmental Management Special Fund (IC 13-14-12-1)	**20,224**	**20,237**	
From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)	**34,970**	**34,992**	
From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)	**6,741**	**6,745**	
From the Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)	**186,648**	**186,769**	

	FY 2005-06 Appro.	*FY 2006-07 Appro.*	*Biennial Appros.*
Augmentation allowed from the State Solid Waste Management Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund.			
The amounts specified from the General Fund, State Solid Waste Management Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund are for the following purposes:			
Personal Services	**795,024**	**795,577**	
Other Operating Expense	**44,782**	**44,782**	
PUBLIC POLICY AND PLANNING			
From the General Fund	**161,608**	**161,718**	
From the State Solid Waste Management Fund (IC 13-20-22-2)	**5,908**	**5,912**	
From the Waste Tire Management Fund (IC 13-20-13-8)	**4,019**	**4,021**	
From the Title V Operating Permit Program Trust Fund (IC 13-17-8-1)	**38,752**	**38,777**	
From the Environmental Management Permit Operation Fund (IC 13-15-11-1)	**48,207**	**48,240**	
From the Environmental Management Special Fund (IC 13-14-12-1)	**11,342**	**11,349**	
From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)	**19,613**	**19,625**	
From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)	**3,780**	**3,782**	
From the Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)	**104,682**	**104,752**	
Augmentation allowed from the State Solid Waste Management Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund.			
The amounts specified from the General Fund, State Solid Waste Management Fund, Waste Tire Management Fund, Title V Operating Permit Program Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Underground Petroleum Storage Tank Trust Fund, and Underground Petroleum Storage Tank Excess Liability Trust Fund are for the following purposes:			
Personal Services	**353,663**	**353,928**	
Other Operating Expense	**44,248**	**44,248**	
OHIO RIVER VALLEY WATER SANITATION COMMISSION			
Environmental Management Special Fund (IC 13-14-12-1)			
Total Operating Expense	**242,900**	**242,900**	
Augmentation allowed.			
OFFICE OF ENVIRONMENTAL RESPONSE			
Personal Services	**1,948,562**	**1,949,976**	
Other Operating Expense	**575,485**	**575,485**	
POLLUTION PREVENTION AND TECHNICAL ASSISTANCE			
Personal Services	**1,045,497**	**1,046,263**	
Other Operating Expense	**249,790**	**249,790**	
PCB INSPECTIONS			
Environmental Management Permit Operation Fund (IC 13-15-11-1)			
Total Operating Expense	**40,001**	**40,001**	
Augmentation allowed.			
U.S. GEOLOGICAL SURVEY CONTRACTS			
Environmental Management Special Fund (IC 13-14-12-1)			
Total Operating Expense	**62,890**	**62,890**	
Augmentation allowed.			
STATE SOLID WASTE GRANTS MANAGEMENT			
State Solid Waste Management Fund (IC 13-20-22-2)			
Personal Services	**232,830**	**232,997**	
Other Operating Expense	**1,372,630**	**1,372,630**	
Augmentation allowed.			
VOLUNTARY CLEAN-UP PROGRAM			
Voluntary Remediation Fund (IC 13-25-5-21)			
Personal Services	**326,625**	**326,858**	
Other Operating Expense	**551,500**	**551,500**	
Augmentation allowed.			
TITLE V AIR PERMIT PROGRAM			
Title V Operating Permit Program Trust Fund (IC 13-17-8-1)			
Personal Services	**6,131,432**	**6,135,885**	

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
Other Operating Expense	4,374,989	4,374,989	
Augmentation allowed.			
WATER MANAGEMENT PERMITTING			
From the General Fund			
	1,919,924	1,921,119	
From the Environmental Management Permit Operation Fund (IC 13-15-11-1)			
	4,205,935	4,208,554	
Augmentation allowed from the Environmental Management Permit Operation Fund.			

The amounts specified from the General Fund and the Environmental Management Permit Operation Fund are for the following purposes:

Personal Services	5,331,613	5,335,427
Other Operating Expense	794,246	794,246

SOLID WASTE MANAGEMENT PERMITTING			
From the General Fund			
	2,007,190	2,008,514	
From the Environmental Management Permit Operation Fund (IC 13-15-11-1)			
	3,102,309	3,104,355	
Augmentation allowed from the Environmental Management Permit Operation Fund.			

The amounts specified from the General Fund and the Environmental Management Permit Operation Fund are for the following purposes:

Personal Services	4,714,580	4,717,950
Other Operating Expense	394,919	394,919

HAZARDOUS WASTE MANAGEMENT PERMITTING			
From the General Fund			
	2,492,889	2,494,350	
From the Environmental Management Permit Operation Fund (IC 13-15-11-1)			
	2,978,130	2,979,879	
Augmentation allowed from the Environmental Management Permit Operation Fund.			

The amounts specified from the General Fund and the Environmental Management Permit Operation Fund are for the following purposes:

Personal Services	4,445,660	4,448,870
Other Operating Expense	1,025,359	1,025,359

SAFE DRINKING WATER PROGRAM			
From the General Fund			
	571,429	571,807	
From the Environmental Management Permit Operation Fund (IC 13-15-11-1)			
	2,094,366	2,894,837	

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
Augmentation allowed from the Environmental Management Permit Operation Fund.			

The amounts specified from the General Fund and the Environmental Management Permit Operation Fund are for the following purposes:

Personal Services	1,075,952	1,077,970
Other Operating Expense	1,589,843	2,388,674

WATERSHED MANAGEMENT			
Environmental Management Special Fund (IC 13-14-12-1)			
Total Operating Expense	24,037	24,037	
Augmentation allowed.			
CLEAN VESSEL PUMPOUT			
Environmental Management Special Fund (IC 13-14-12-1)			
Total Operating Expense	58,475	58,475	
Augmentation allowed.			
GROUNDWATER PROGRAM			
Environmental Management Special Fund (IC 13-14-12-1)			
Total Operating Expense	287,001	287,126	
Augmentation allowed.			
UNDERGROUND STORAGE TANK PROGRAM			
Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)			
Total Operating Expense	137,215	137,277	
Augmentation allowed.			
AIR MANAGEMENT OPERATING			
From the General Fund			
	886,788	887,229	
From the Environmental Management Special Fund (IC 13-14-12-1)			
	1,698,889	1,699,738	
Augmentation allowed from the Environmental Management Special Fund.			

The amounts specified from the General Fund and the Environmental Management Special Fund are for the following purposes:

Personal Services	1,776,421	1,777,711
Other Operating Expense	809,256	809,256

WATER MANAGEMENT NON-PERMITTING			
Personal Services	3,137,463	3,139,726	
Other Operating Expense	391,681	490,466	
GREAT LAKES INITIATIVE			
Environmental Management Special Fund (IC 13-14-12-1)			
Total Operating Expense	96,160	96,160	
Augmentation allowed.			
OUTREACH OPERATOR TRAINING			
From the General Fund			
	14,014	13,983	

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
From the Environmental Management Special Fund (IC 13-14-12-1)			
	27,292	27,323	
Augmentation allowed from the Environmental Management Special Fund (IC 13-14-12-1).			

The amounts specified from the general fund and the environmental management special fund are for the following purposes:

Total Operating Expense	41,306	41,306	

LEAKING UNDERGROUND STORAGE TANKS

Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)			
Personal Services	124,465	124,555	
Other Operating Expense	44,109	44,109	
Augmentation allowed.			

CORE SUPERFUND

Hazardous Substances Response Trust Fund (IC 13-25-4-1)			
Total Operating Expense	127,435	127,467	
Augmentation allowed.			

AUTO EMISSIONS TESTING PROGRAM

Personal Services	153,161	153,270	
Other Operating Expense	7,592,411	7,344,013	

The above appropriations for auto emissions testing are the maximum amounts available for this purpose. If it becomes necessary to conduct additional tests in other locations, the above appropriations shall be prorated among all locations.

HAZARDOUS WASTE SITE - STATE CLEAN-UP

Hazardous Substances Response Trust Fund (IC 13-25-4-1)			
Personal Services	914,494	915,153	
Other Operating Expense	1,323,811	1,323,811	
Augmentation allowed.			

HAZARDOUS WASTE SITES - NATURAL RESOURCE DAMAGES

Hazardous Substances Response Trust Fund (IC 13-25-4-1)			
Personal Services	174,348	174,474	
Other Operating Expense	680,991	680,991	
Augmentation allowed.			

SUPERFUND MATCH

Hazardous Substances Response Trust Fund (IC 13-25-4-1)			
Total Operating Expense	354,985	354,985	
Augmentation allowed.			

HOUSEHOLD HAZARDOUS WASTE

Hazardous Substances Response Trust Fund (IC 13-25-4-1)			
Personal Services	39,934	39,960	
Other Operating Expense	443,816	443,816	
Augmentation allowed.			

ASBESTOS TRUST - OPERATING

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
Asbestos Trust Fund (IC 13-17-6-3)			
Personal Services	358,456	358,709	
Other Operating Expense	150,384	150,384	
Augmentation allowed.			

UNDERGROUND PETROLEUM STORAGE TANK - OPERATING

Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)			
Personal Services	201,977	202,035	
Other Operating Expense	28,128,801	28,128,801	
Augmentation allowed.			

WASTE TIRE MANAGEMENT

Waste Tire Management Fund (IC 13-20-13-8)			
Total Operating Expense	1,054,000	1,054,000	
Augmentation allowed.			

VOLUNTARY COMPLIANCE

Environmental Management Special Fund (IC 13-14-12-1)			
Personal Services	140,598	140,696	
Other Operating Expense	217,737	217,737	
Augmentation allowed.			

ENVIRONMENTAL MANAGEMENT SPECIAL FUND - OPERATING

Environmental Management Special Fund (IC 13-14-12-1)			
Total Operating Expense	1,100,000	1,100,000	
Augmentation allowed.			

SMALL TOWN COMPLIANCE

Environmental Management Special Fund (IC 13-14-12-1)			
Total Operating Expense	60,000	60,000	
Augmentation allowed.			

WETLANDS PROTECTION

Environmental Management Special Fund (IC 13-14-12-1)			
Total Operating Expense	50,401	50,401	
Augmentation allowed.			

MERCURY REDUCTION OUTREACH GRANT

Total Operating Expense	87,590	87,590	

PETROLEUM TRUST - OPERATING

Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)			
Personal Services	242,896	243,081	
Other Operating Expense	462,885	462,885	
Augmentation allowed.			

LEAD BASED PAINT ACTIVITIES PROGRAM

Lead Trust Fund (IC 13-17-14-6)			
Total Operating Expense	21,638	21,646	
Augmentation allowed.			

Notwithstanding any other law, with the approval of the Governor and the budget agency, the above appropriations for hazardous waste management - permitting, wetlands protection, watershed management, groundwater program, underground storage tanks, air management operating, asbestos trust operating, lead based paint activities program,

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.

water management non-permitting, pollution prevention incentives for states, safe drinking water program, and any other appropriation eligible to be included in a performance partnership grant may be used to fund activities incorporated into a performance partnership grant between the United States Environmental Protection Agency and the department of environmental management.

FOR THE OFFICE OF ENVIRONMENTAL ADJUDICATION		
Personal Services	**232,179**	**232,335**
Other Operating Expense	**82,114**	**82,114**

SECTION 6. [EFFECTIVE JULY 1, 2005]

ECONOMIC DEVELOPMENT

A. AGRICULTURE

FOR THE DEPARTMENT OF AGRICULTURE		
Personal Services	**1,437,305**	**1,438,352**
Other Operating Expense	**239,431**	**239,431**

The above appropriations include funds for the farm counseling program and the land resources council. Not more than $279,000 in each state fiscal year may be allocated from the above appropriations to the farm counseling program.

VALUE ADDED RESEARCH PROGRAM		
General Fund		
Total Operating Expense	**250,000**	**250,000**
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)		
Total Operating Expense	**600,000**	**600,000**
CLEAN WATER INDIANA		
Cigarette Tax Fund (IC 6-7-1-29.1)		
Total Operating Expense	**3,750,000**	**3,750,000**

The foregoing appropriations for Clean Water Indiana may be allotted only if there is an allocation from the cigarette tax for Clean Water Indiana. Augmentation allowed.

SOIL CONSERVATION DIVISION		
Cigarette Tax Fund (IC 6-7-1-29.1)		
Total Operating Expense	**1,968,750**	**1,968,750**

Augmentation allowed.

B. COMMERCE

FOR THE LIEUTENANT GOVERNOR		
OFFICE OF RURAL AFFAIRS		
Personal Services	**1,385,176**	**1,385,176**
Other Operating Expense	**240,508**	**240,612**
RURAL DEVELOPMENT ADMINISTRATION		
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)		
Total Operating Expense	**2,400,000**	**2,400,000**
RURAL DEVELOPMENT COUNCIL		
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)		
Total Operating Expense	**1,203,480**	**1,203,483**
OFFICE OF TOURISM		
Total Operating Expense	**4,360,032**	**4,360,032**
RECYCLING PROMOTION AND ASSISTANCE PROGRAM		
Indiana Recycling Promotion and Assistance Fund (IC 4-23-5.5-14)		
Total Operating Expense	**1,500,000**	**1,500,000**
Augmentation allowed.		
RECYCLING OPERATING		
Indiana Recycling Promotion and Assistance Fund (IC 4-23-5.5-14)		
Personal Services	**56,700**	**56,741**
Other Operating Expense	**172,930**	**172,930**
Augmentation allowed.		
STATE ENERGY PROGRAM		
Total Operating Expense	**283,648**	**283,648**

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.

FOR THE INDIANA ECONOMIC DEVELOPMENT CORPORATION		
ADMINISTRATIVE AND FINANCIAL SERVICES		
From the General Fund		
	6,605,894	**6,611,741**
From the Training 2000 Fund (IC 5-28-7-5)		
	185,630	**185,630**
From the Industrial Development Grant Fund (IC 5-28-25-4)		
	52,139	**52,139**

The amounts specified from the General Fund, Training 2000 Fund, and Industrial Development Grant Fund are for the following purposes:

Total Operating Expense	**6,843,663**	**6,849,510**
INTERNATIONAL TRADE		
Total Operating Expense	**1,394,676**	**1,394,676**
ENTERPRISE ZONE PROGRAM		
Indiana Enterprise Zone Fund (IC 5-28-15-6)		
Total Operating Expense	**260,024**	**260,065**
Augmentation allowed.		
LOCAL ECONOMIC DEVELOPMENT ORGANIZATION/ REGIONAL ECONOMIC DEVELOPMENT ORGANIZATION (LEDO/REDO) MATCHING GRANT PROGRAM		
Total Operating Expense		**1,900,000**
TRAINING 2000		
Total Operating Expense		**23,150,038**

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
BUSINESS PROMOTION PROGRAM			
Total Operating Expense			**2,271,508**
TRADE PROMOTION PROGRAM			
Total Operating Expense	**200,000**	**200,000**	
ECONOMIC DEVELOPMENT GRANT AND LOAN PROGRAM			
Total Operating Expense			**1,200,000**
INDUSTRIAL DEVELOPMENT GRANT PROGRAM			
Total Operating Expense			**6,500,000**
21ST CENTURY RESEARCH & TECHNOLOGY FUND			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**37,500,000**	**37,500,000**	
TECHNOLOGY DEVELOPMENT GRANT PROGRAM			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**4,500,000**	**4,500,000**	

FOR THE INDIANA FINANCE AUTHORITY (IFA)

CAPITAL ACCESS PROGRAM			
Total Operating Expense			**1,242,500**
ENVIRONMENTAL REMEDIATION REVOLVING LOAN PROGRAM			
Total Operating Expense			**2,500,000**
PROJECT GUARANTY PROGRAM			
Total Operating Expense			**1,800,000**
BUSINESS DEVELOPMENT LOAN PROGRAM			
Total Operating Expense			**2,000,000**

FOR THE HOUSING AND COMMUNITY DEVELOPMENT AUTHORITY

INDIANA INDIVIDUAL DEVELOPMENT ACCOUNTS			
Total Operating Expense	**1,000,000**	**1,000,000**	

The housing and community development authority shall collect and report to the family and social services administration (FSSA) all data required for FSSA to meet the data collection and reporting requirements in 45 CFR Part 265.

Family and social services administration, division of family resources shall apply all qualifying expenditures for individual development accounts deposits toward Indiana's maintenance of effort under the federal Temporary Assistance to Needy Families (TANF) program (45 CFR 260 et seq.).

C. EMPLOYMENT SERVICES

FOR THE DEPARTMENT OF WORKFORCE DEVELOPMENT ADMINISTRATION

Total Operating Expense	**1,148,027**	**1,148,027**	
WOMEN'S COMMISSION			
Personal Services	**113,666**	**113,746**	
Other Operating Expense	**5,153**	**5,153**	
COMMISSION ON HISPANIC/LATINO AFFAIRS			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**124,188**	**124,235**	

The above appropriations are in addition to any funding for the commission derived from funds appropriated to the department of workforce development.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.

D. OTHER ECONOMIC DEVELOPMENT

FOR THE STATE BUDGET AGENCY

I-LIGHT FIBER OPTIC SYSTEM			
Total Operating Expense	**1,000,000**	**1,000,000**	

SECTION 7. [EFFECTIVE JULY 1, 2005]

TRANSPORTATION

FOR THE DEPARTMENT OF TRANSPORTATION

For the conduct and operation of the department of transportation, the following sums are appropriated for the periods designated, from the state general fund, the public mass transportation fund, the industrial rail service fund, the state highway fund, the motor vehicle highway account, the distressed road fund, the state highway road construction and improvement fund, the motor carrier regulation fund, and the crossroads 2000 fund.

PLANNING AND ADMINISTRATION			
From the State Highway Fund (IC 8-23-9-54)			
		509,370	**509,666**
From the Public Mass Transportation Fund (IC 8-23-3-8)			
		207,623	**207,744**
From the Industrial Rail Service Fund (IC 8-3-1.7-2)			
		30,760	**30,778**

Augmentation allowed from the Public Mass Transportation Fund, Industrial Rail Service Fund, and State Highway Fund.

The amounts specified from the Public Mass Transportation Fund, Industrial Rail Service Fund, and State Highway Fund are for the following purposes:

Personal Services	**583,247**	**583,587**
Other Operating Expense	**164,506**	**164,601**

The above appropriations may be used to match federal funds available for planning and administration of transportation in Indiana.

INTERMODAL OPERATING		
From the State Highway Fund (IC 8-23-9-54)		
	533,581	**533,915**
From the Public Mass Transportation Fund (IC 8-23-3-8)		
	370,542	**370,770**
From the Industrial Rail Service Fund (IC 8-3-1.7-2)		
	370,542	**370,770**

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
Augmentation allowed from the State Highway Fund, Public Mass Transportation Fund and Industrial Rail Service Fund.			
The amounts specified from the State Highway Fund, the Public Mass Transportation Fund, and the Industrial Rail Service Fund are for the following purposes:			
Personal Services	1,096,212	1,096,891	
Other Operating Expense	178,453	178,564	
INTERMODAL GRANT PROGRAM			
Department of Transportation Administration Fund			
Total Operating Expense	42,000	42,000	
Public Mass Transportation Fund (IC 8-23-3-8)			
Total Operating Expense	37,500	37,500	
Augmentation allowed from Public Mass Transportation Fund.			
RAILROAD GRADE CROSSING IMPROVEMENT			
State Highway Fund (IC 8-23-9-54)			
Total Operating Expense	465,000	465,000	
HIGH SPEED RAIL			
Industrial Rail Service Fund			
Matching Funds			40,000
Augmentation allowed.			
PUBLIC MASS TRANSPORTATION			
Public Mass Transportation Fund (IC 8-23-3-8)			
Total Operating Expense	31,009,377	31,628,396	
Augmentation allowed.			

The appropriations are to be used solely for the promotion and development of public transportation. The department of transportation shall allocate funds based on a formula approved by the commissioner of the department of transportation.

The department of transportation may distribute public mass transportation funds to an eligible grantee that provides public transportation in Indiana.

The state funds can be used to match federal funds available under the Federal Transit Act (49 U.S.C. 1601, et seq.), or local funds from a requesting grantee.

Before funds may be disbursed to a grantee, the grantee must submit its request for financial assistance to the department of transportation for approval. Allocations must be approved by the governor and the budget agency after review by the budget committee and shall be made on a reimbursement basis. Only applications for capital and operating assistance may be approved. Only those grantees that have met the reporting requirements under IC 8-23-3 are eligible for assistance under this appropriation.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
HIGHWAY OPERATING			
State Highway Fund (IC 8-23-9-54)			
Personal Services	207,986,295	208,125,958	
Other Operating Expense	40,256,068	40,255,120	
The above appropriations for personal services and other operating expense include an increase of 4,325,383 each year to add additional professional staff and equipment to increase the department's plan design and right-of-way capability.			
HIGHWAY BUILDINGS AND GROUNDS			
State Highway Fund (IC 8-23-9-54)			
Total Operating Expense			10,000,000
The above appropriations for highway buildings and grounds may be used for land acquisition, site development, construction and equipping of new highway facilities and for maintenance, repair, and rehabilitation of existing state highway facilities after review by the budget committee.			
HIGHWAY VEHICLE AND ROAD MAINTENANCE EQUIPMENT			
State Highway Fund (IC 8-23-9-54)			
Other Operating Expense	18,820,600	18,820,600	
The above appropriations for highway operating and highway vehicle and road maintenance equipment may be used for personal services, equipment, and other operating expense, including the cost of transportation for the governor.			
HIGHWAY MAINTENANCE WORK PROGRAM			
State Highway Fund (IC 8-23-9-54)			
Other Operating Expense	74,000,000	74,000,000	

The above appropriations for the highway maintenance work program may be used for:
(1) materials for patching roadways and shoulders;
(2) repairing and painting bridges;
(3) installing signs and signals and painting roadways for traffic control;
(4) mowing, herbicide application, and brush control;
(5) drainage control;
(6) maintenance of rest areas, public roads on properties of the department of natural resources, and driveways on the premises of all state facilities;
(7) materials for snow and ice removal;
(8) utility costs for roadway lighting; and
(9) other special maintenance and support activities consistent with the highway maintenance work program.

HIGHWAY CAPITAL IMPROVEMENTS			
State Highway Fund (IC 8-23-9-54)			
Right-of-Way			

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
Expense	17,000,000	17,000,000	
Formal Contracts			
Expense	156,736,104	157,122,472	
Consulting Services			
Expense	22,300,000	24,000,000	
Institutional Road			
Construction	5,000,000	5,000,000	

The above appropriations for the capital improvements program may be used for:
(1) bridge rehabilitation and replacement;
(2) road construction, reconstruction, or replacement;
(3) construction, reconstruction, or replacement of travel lanes, intersections, grade separations, rest parks, and weigh stations;
(4) relocation and modernization of existing roads;
(5) resurfacing;
(6) erosion and slide control;
(7) construction and improvement of railroad grade crossings, including the use of the appropriations to match federal funds for projects;
(8) small structure replacements;
(9) safety and spot improvements; and
(10) right-of-way, relocation, and engineering and consulting expenses associated with any of the above types of projects.

The appropriations for highway operating, highway vehicles and road maintenance equipment, highway buildings and grounds, the highway planning and research program, the highway maintenance work program, and highway capital improvements are appropriated from estimated revenues, which include the following:
(1) Funds distributed to the state highway fund from the motor vehicle highway account under IC 8-14-1-3(4).
(2) Funds distributed to the state highway fund from the highway, road and street fund under IC 8-14-2-3.
(3) All fees and miscellaneous revenues deposited in or accruing to the state highway fund under IC 8-23-9-54.
(4) Any unencumbered funds carried forward in the state highway fund from any previous fiscal year.
(5) All other funds appropriated or made available to the department of transportation by the general assembly.

If funds from sources set out above for the department of transportation exceed appropriations from those sources to the department, the excess amount is hereby appropriated to be used for formal contracts with approval of the governor and the budget agency.

If there is a change in a statute reducing or increasing revenue for department use, the budget agency shall notify the auditor of state to adjust the above appropriations to reflect the estimated increase or decrease. Upon the request of the department, the budget agency, with the approval of the governor, may allot any increase in appropriations to the department for formal contracts.

If the department of transportation finds that an emergency exists or that an appropriation will be insufficient to cover expenses incurred in the normal operation of the department,the budget agency may, upon request of the department, and with the approval of the governor, transfer funds from revenue sources set out above from one (1) appropriation to the deficient appropriation. No appropriation from the state highway fund may be used to fund any toll road or toll bridge project except as specifically provided for under IC 8-15-2-20.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
HIGHWAY PLANNING AND RESEARCH PROGRAM			
State Highway Fund (IC 8-23-9-54)			
Total Operating Expense	3,500,000	3,500,000	
STATE HIGHWAY ROAD CONSTRUCTION AND IMPROVEMENT PROGRAM			
State Highway Road Construction Improvement Fund (IC 8-14-10-5)			
Lease Rental Payments			
Expense	65,875,392	66,534,146	
Augmentation allowed.			

The above appropriations for the state highway road construction and improvement program are appropriated from the state highway road construction and improvement fund provided in IC 8-14-10-5 and may include any unencumbered funds carried forward from any previous fiscal year. The funds may be used for:
(1) road and bridge construction, reconstruction, or replacement;
(2) construction, reconstruction, or replacement of travel lanes, intersections, grade separations;
(3) relocation and modernization of existing roads;
(4) right-of-way, relocation, and engineering and consulting expenses associated with any of the above types of projects; and
(5) payment of rentals and leases relating to projects under IC 8-14.5.

CROSSROADS 2000 PROGRAM			
Crossroads 2000 Fund (IC 8-14-10-9)			
Formal Contracts			
Expense	13,093,301	437,179	
Lease Rental Payment			
Expense	37,200,000	37,200,000	
Augmentation allowed.			

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.

The above appropriations for the crossroads 2000 program are appropriated from the crossroads 2000 fund provided in IC 8-14-10-9 and may include any unencumbered funds carried forward from any previous fiscal year. The funds may be used for:
(1) road and bridge construction, reconstruction, or replacement;
(2) construction, reconstruction, or replacement of travel lanes, intersections, grade separations;
(3) relocation and modernization of existing roads;
(4) right-of-way, relocation, and engineering and consulting expenses associated with any of the above types of projects; and
(5) payment of rentals and leases relating to projects under IC 8-14.5.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
FEDERAL APPORTIONMENT			
Right-of-Way Expense	42,500,000	42,500,000	
Formal Contracts Expense	324,500,000	354,740,000	
Consulting Engineers Expense	51,000,000	60,760,000	
Highway Planning and Research	13,000,000	13,000,000	
Local Government Revolving Acct.	140,000,000	140,000,000	
Formal Contracts - Crossroads	40,000,000	0	

The department may establish an account to be known as the "local government revolving account". The account is to be used to administer the federal-local highway construction program. All contracts issued and all funds received for federal-local projects under this program shall be entered into this account.

If the federal apportionments for the fiscal years covered by this act exceed the above estimated appropriations for the department or for local governments, the excess federal apportionment is hereby appropriated for use by the department with the approval of the governor and the budget agency.

The department shall bill, in a timely manner, the federal government for all department payments that are eligible for total or partial reimbursement.

The department may let contracts and enter into agreements for construction and preliminary engineering during each year of the 2005-2007 biennium that obligate not more than one-third (1/3) of the amount of state funds estimated by the department to be available for appropriation in the following year for formal contracts and consulting engineers for the capital improvements program.

Under IC 8-23-5-7(a), the department, with the approval of the governor, may construct and maintain roadside parks and highways where highways will connect any state highway now existing, or hereafter constructed, with any state park, state forest preserve, state game preserve, or the grounds of any state institution. There is appropriated to the department of transportation an amount sufficient to carry out the provisions of this paragraph. Under IC 8-23-5-7(d), such appropriations shall be made from the motor vehicle highway account before distribution to local units of government.

LOCAL TECHNICAL ASSISTANCE AND RESEARCH
Under IC 8-14-1-3(6), there is appropriated to the department of transportation an amount sufficient for:
(1) the program of technical assistance under IC 8-23-2-5(6); and
(2) the research and highway extension program conducted for local government under IC 8-17-7-4.

The department shall develop an annual program of work for research and extension in cooperation with those units being served, listing the types of research and educational programs to be undertaken. The commissioner of the department of transportation may make a grant under this appropriation to the institution or agency selected to conduct the annual work program. Under IC 8-14-1-3(6), appropriations for the program of technical assistance and for the program of research and extension shall be taken from the local share of the motor vehicle highway account.

Under IC 8-14-1-3(7) there is hereby appropriated such sums as are necessary to maintain a sufficient working balance in accounts established to match federal and local money for highway projects. These funds are appropriated from the following sources in the proportion specified:
(1) one-half (1/2) from the forty-seven percent (47%) set aside of the motor vehicle highway account under IC 8-14-1-3(7); and
(2) for counties and for those cities and towns with a population greater than five thousand (5,000), one-half (1/2) from the distressed road fund under IC 8-14-8-2.

SECTION 8. [EFFECTIVE JULY 1, 2005]

FAMILY AND SOCIAL SERVICES, HEALTH, AND VETERANS' AFFAIRS

A. FAMILY AND SOCIAL SERVICES

FOR THE BUDGET AGENCY

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
FSSA/DEPARTMENT OF HEALTH INSTITUTIONAL CONTINGENCY FUND			
Total Operating Expense	**2,000,000**		

The above institutional contingency fund shall be allotted upon the recommendation of the budget agency with approval of the governor. This appropriation may be used to supplement individual hospital, state developmental center, and special institutions budgets.

INDIANA PRESCRIPTION DRUG PROGRAM			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**8,000,000**	**8,000,139**	

With the approval of the governor and the budget agency, the above appropriations for the Indiana prescription drug program may be augmented by leveraging for each fiscal year federal Medicaid dollars.

FOR THE FAMILY AND SOCIAL SERVICES ADMINISTRATION			
CHILDREN'S HEALTH INSURANCE PROGRAM			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**29,935,718**	**33,835,718**	
FAMILY AND SOCIAL SERVICES ADMINISTRATION			
Total Operating Expense	**13,816,018**	**13,823,693**	
COMMISSION ON THE SOCIAL STATUS OF BLACK MALES			
Total Operating Expense	**131,628**	**131,711**	
OFFICE OF MEDICAID POLICY AND PLANNING - ADMINISTRATION			
Total Operating Expense	**5,458,790**	**5,462,653**	
MEDICAID ADMINISTRATION			
Total Operating Expense	**49,500,000**	**49,500,000**	
MEDICAID - CURRENT OBLIGATIONS			
General Fund			
Total Operating Expense	**1,397,100,000**	**1,467,000,000**	
Hospital Care for the Indigent Fund (IC 12-16-14-6)			
Total Operating Expense	**21,700,000**	**21,700,000**	
Augmentation allowed.			

The foregoing appropriations for Medicaid current obligations and for Medicaid administration are for the purpose of enabling the office of Medicaid policy and planning to carry out all services as provided in IC 12-8-6. In addition to the above appropriations, all money received from the federal government and paid into the state treasury as a grant or allowance is appropriated and shall be expended by the office of Medicaid policy and planning for the respective purposes for which the money was allocated and paid to the state.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.

Subject to the provisions of P.L.46-1995, if the sums herein appropriated for Medicaid current obligations and for Medicaid administration are insufficient to enable the office of Medicaid policy and planning to meet its obligations, then there is appropriated from the general fund such further sums as may be necessary for that purpose, subject to the approval of the governor and the budget agency.

Subject to the approval of the governor and the budget agency, the foregoing appropriations for Medicaid - Current Obligations may be augmented or reduced based on revenues accruing to the hospital care for the indigent fund.

MEDICAID DISABILITY ELIGIBILITY EXAMS		
Total Operating Expense	**3,195,000**	**3,195,000**
MENTAL HEALTH ADMINISTRATION		
Other Operating Expense	**2,365,294**	**2,365,294**
SERIOUSLY EMOTIONALLY DISTURBED		
Total Operating Expense	**16,469,493**	**16,469,493**
SERIOUSLY MENTALLY ILL		
General Fund		
Total Operating Expense	**93,862,579**	**93,862,579**
Mental Health Centers Fund (IC 6-7-1)		
Total Operating Expense	**4,445,000**	**4,445,000**
Augmentation allowed.		
COMMUNITY MENTAL HEALTH CENTERS		
Tobacco Master Settlement Fund (IC 4-12-1-14.3)		
Total Operating Expense	**2,000,000**	**2,000,000**

The above appropriation from the Tobacco Master Settlement Fund is in addition to other funds. The above appropriations for comprehensive community mental health services include the intragovernmental transfers necessary to provide the nonfederal share of reimbursement under the Medicaid rehabilitation option.

The comprehensive community mental health centers shall submit their proposed annual budgets (including income and operating statements) to the budget agency on or before August 1 of each year. All federal funds shall be applied in augmentation of the foregoing funds rather than in place of any part of the funds. The office of the secretary, with the approval of the budget agency, shall determine an equitable allocation of the appropriation among the mental health centers.

GAMBLERS' ASSISTANCE		
Gamblers' Assistance Fund (IC 4-33-12-6)		
Total Operating Expense	**4,250,000**	**4,250,000**
SUBSTANCE ABUSE TREATMENT		
Total Operating Expense	**5,006,000**	**5,006,000**
QUALITY ASSURANCE/RESEARCH		
Total Operating Expense	**884,304**	**884,304**

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
PREVENTION			
Gamblers' Assistance Fund (IC 4-33-12-6)			
Total Operating Expense	**2,946,936**	**2,946,936**	
Augmentation allowed.			
METHADONE DIVERSION CONTROL OVERSIGHT (MDCO) PROGRAM			
MDCO Fund (IC 12-23-18)			
Total Operating Expense	**26,269**	**26,269**	
Augmentation allowed.			
DMHA YOUTH TOBACCO REDUCTION SUPPORT PROGRAM			
Gamblers' Assistance Fund (IC 4-33-12-6)			
Total Operating Expense	**54,000**	**54,000**	
Augmentation allowed.			
EVANSVILLE STATE HOSPITAL			
General Fund			
	22,395,551	**22,407,654**	
Mental Health Fund (IC 12-24-14-4)			
	1,235,014	**1,235,682**	
Augmentation allowed.			
The amounts specified from the general fund and the mental health fund are for the following purposes:			
Personal Services	**18,516,201**	**18,528,972**	
Other Operating Expense	**5,114,364**	**5,114,364**	
LARUE CARTER MEMORIAL HOSPITAL			
General Fund			
	18,887,386	**18,895,892**	
Mental Health Fund (IC 12-24-14-4)			
	443,622	**443,822**	
Augmentation allowed.			
The amounts specified from the general fund and the mental health fund are for the following purposes:			
Personal Services	**12,562,778**	**12,571,484**	
Other Operating Expense	**6,768,230**	**6,768,230**	
LOGANSPORT STATE HOSPITAL			
General Fund			
	38,746,342	**38,765,733**	
Mental Health Fund (IC 12-24-14-4)			
	1,764,662	**1,765,546**	
Augmentation allowed.			
The amounts specified from the general fund and the mental health fund are for the following purposes:			
Personal Services	**29,854,331**	**29,874,606**	
Other Operating Expense	**10,656,673**	**10,656,673**	

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
FARM REVENUE			
Total Operating Expense	**53,857**	**53,857**	
MADISON STATE HOSPITAL			
General Fund			
	20,947,363	**20,959,654**	
Mental Health Fund (IC 12-24-14-4)			
	811,461	**811,937**	
Augmentation allowed.			
The amounts specified from the general fund and the mental health fund are for the following purposes:			
Personal Services	**18,439,326**	**18,452,093**	
Other Operating Expense	**3,319,498**	**3,319,498**	
RICHMOND STATE HOSPITAL			
General Fund			
	30,590,520	**30,605,663**	
Mental Health Fund (IC 12-24-14-4)			
	876,500	**876,934**	
Augmentation allowed.			
The amounts specified from the general fund and the mental health fund are for the following purposes:			
Personal Services	**25,548,982**	**25,564,559**	
Other Operating Expense	**5,918,038**	**5,918,038**	
PATIENT PAYROLL			
Total Operating Expense	**316,800**	**316,800**	

The federal share of revenue accruing to the state mental health institutions under IC 12-15, based on the applicable Federal Medical Assistance Percentage (FMAP), shall be deposited in the mental health fund established by IC 12-24-14-1, and the remainder shall be deposited in the general fund.

In addition to the above appropriations each institution may qualify for an additional appropriation, or allotment, subject to approval of the governor and the budget agency, from the mental health fund of up to twenty percent (20%), but not to exceed $50,000 in each fiscal year, of the amount by which actual net collections exceed an amount specified in writing by the division of mental health and addiction before July 1 of each year beginning July 1, 2005.

DIVISION OF FAMILY RESOURCES ADMINISTRATION			
Personal Services	**4,814,750**	**4,820,468**	
Other Operating Expense	**810,328**	**810,328**	
CENTRAL REIMBURSEMENT OFFICE PROGRAM ADMINISTRATION			
Total Operating Expense	**6,399,705**	**6,399,705**	

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
CHILD CARE LICENSING FUND			
Child Care Fund			
Total Operating Expense	**100,000**	**100,000**	
Augmentation allowed.			
ELECTRONIC BENEFIT TRANSFER PROGRAM			
Total Operating Expense	**1,800,766**	**1,800,766**	

The foregoing appropriations for the division of family resources Title IV-D of the federal Social Security Act are made under, and not in addition to, IC 12-17-2-31.

STATE WELFARE - COUNTY ADMINISTRATION			
Total Operating Expense	**49,501,684**	**49,501,684**	

The foregoing appropriation may be transferred from FSSA to the department of child services with the approval of the budget agency.

INDIANA CLIENT ELIGIBILITY SYSTEM (ICES)			
Total Operating Expense	**7,007,662**	**7,007,662**	
IMPACT PROGRAM			
Total Operating Expense	**2,449,580**	**2,449,683**	
TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)			
Total Operating Expense	**40,457,943**	**40,457,943**	
IMPACT - TANF			
Total Operating Expense	**5,768,527**	**5,768,672**	
CHILD CARE & DEVELOPMENT FUND			
Total Operating Expense	**35,056,200**	**35,056,200**	

The foregoing appropriations for information systems/technology, education and training, temporary assistance to needy families (TANF), and child care services are for the purpose of enabling the division of family resources to carry out all services as provided in IC 12-14. In addition to the above appropriations, all money received from the federal government and paid into the state treasury as a grant or allowance is appropriated and shall be expended by the division of family resources for the respective purposes for which such money was allocated and paid to the state.

DOMESTIC VIOLENCE PREVENTION AND TREATMENT			
General Fund			
Total Operating Expense	**1,000,000**	**1,000,000**	
Domestic Violence Prevention and Treatment Fund (IC 12-18-4)			
Total Operating Expense	**1,000,000**	**1,000,000**	
Augmentation allowed.			
STEP AHEAD			
Total Operating Expense	**1,789,082**	**1,789,312**	
FOOD ASSISTANCE PROGRAM			
Total Operating Expense	**145,506**	**145,506**	

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
SCHOOL AGE CHILD CARE PROJECT FUND			
Total Operating Expense	**550,000**	**550,000**	
DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES ADMINISTRATION			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**3,012,462**	**3,012,462**	

The above appropriations for the division of disability, aging, and rehabilitative services administration are for administrative expenses. Any federal fund reimbursements received for such purposes are to be deposited in the general fund.

ROOM AND BOARD ASSISTANCE (R-CAP)			
Total Operating Expense	**11,421,472**	**11,421,472**	
C.H.O.I.C.E. IN-HOME SERVICES			
Total Operating Expense	**48,765,643**	**48,765,897**	

The foregoing appropriations for C.H.O.I.C.E. In-Home Services include intragovernmental transfers to provide the nonfederal share of the Medicaid aged and disabled waiver. The intragovernmental transfers for use in the Medicaid aged and disabled waiver shall not exceed seven million nine hundred thousand dollars ($7,900,000) in the state fiscal year ending June 30, 2006, and the intragovernmental transfers shall not exceed seven million nine hundred thousand dollars ($7,900,000) in the state fiscal year ending June 30, 2007.

If the appropriations for C.H.O.I.C.E. In-Home Services are insufficient to provide services to all eligible persons, the division of disability, aging, and rehabilitative services may give priority for services to persons who are unable to perform three (3) or more activities of daily living (as defined in IC 12-10-10-1.5). The division of disability, aging, and rehabilitative services may discontinue conducting assessments for individuals applying for services under the C.H.O.I.C.E. In-Home Services program if a waiting list for such services exists.

The division of disability, aging, and rehabilitative services shall conduct an annual evaluation of the cost effectiveness of providing home care. Before January of each year, the division shall submit a report to the budget committee, the budget agency, and the legislative council that covers all aspects of the division's evaluation and such other information pertaining thereto as may be requested by the budget committee, the budget agency, or the legislative council, including the following:

(1) the number and demographic characteristics of the recipients of home care during the preceding fiscal year;

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.

(2) the total cost and per recipient cost of providing home care services during the preceding fiscal year;
(3) the number of recipients of home care services who would have been placed in long term care facilities had they not received home care services; and
(4) the total cost savings during the preceding fiscal year realized by the state due to recipients of home care services (including Medicaid) being diverted from long term care facilities.

The division shall obtain from providers of services data on their costs and expenditures regarding implementation of the program and report the findings to the budget committee, the budget agency, and the legislative council.

OLDER HOOSIERS ACT		
Total Operating Expense	1,842,109	1,842,109
ADULT PROTECTIVE SERVICES		
Total Operating Expense	2,021,540	2,021,540
ADULT GUARDIANSHIP SERVICES		
Total Operating Expense	491,863	491,892
TITLE V EMPLOYMENT GRANT (OLDER WORKERS)		
Total Operating Expense	6,436	6,436
TITLE III ADMINISTRATION GRANT		
Total Operating Expense	307,282	307,446
OMBUDSMAN		
Total Operating Expense	305,226	305,226
VOCATIONAL REHABILITATION SERVICES		
Personal Services	3,440,619	3,443,026
Other Operating Expense	14,133,156	14,133,156

From the above appropriations, at least $233,000 in each state fiscal year shall be used for the Attain Program.

AID TO INDEPENDENT LIVING		
Total Operating Expense	22,008	22,008
OFFICE OF DEAF AND HEARING IMPAIRED		
Personal Services	285,036	285,235
Other Operating Expense	211,396	211,396
BLIND VENDING OPERATIONS		
Total Operating Expense	129,879	129,905
DEVELOPMENTAL DISABILITY RESIDENTIAL FACILITIES COUNCIL		
Personal Services	2,970	2,970
Other Operating Expense	13,168	13,168
OFFICE OF SERVICES FOR THE BLIND AND VISUALLY IMPAIRED		
Personal Services	255,036	255,036
Other Operating Expense	73,907	73,907
EMPLOYEE TRAINING		
Total Operating Expense	6,112	6,112
MEDICAID WAIVER		
Total Operating Expense	316,333	316,390

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
OBRA/PASSARR			
Total Operating Expense	90,212	90,268	
BUREAU OF QUALITY IMPROVEMENT SERVICES - BQIS			
Total Operating Expense	1,919,027	1,919,027	
DAY SERVICES - DEVELOPMENTALLY DISABLED			
Other Operating Expense	22,976,381	22,976,381	
DIAGNOSIS AND EVALUATION			
Other Operating Expense	930,788	930,788	
SUPPORTED EMPLOYMENT			
Other Operating Expense	3,117,498	3,117,498	
EPILEPSY PROGRAM			
Other Operating Expense	460,954	460,954	
FAMILY SUBSIDY PROGRAM			
Other Operating Expense	1,004,700	1,004,700	
RESIDENTIAL SERVICES - CASE MANAGEMENT			
General Fund			
Total Operating Expense	4,436,985	4,436,985	
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	2,050,626	2,050,626	
Augmentation allowed.			
RESIDENTIAL SERVICES FOR DEVELOPMENTALLY DISABLED PERSONS			
General Fund			
Total Operating Expense	91,749,831	107,967,677	
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	22,300,000	22,300,000	

The above appropriations for client services include the intragovernmental transfers necessary to provide the nonfederal share of reimbursement under the Medicaid program for day services provided to residents of group homes and nursing facilities.

In the development of new community residential settings for persons with developmental disabilities, the division of disability, aging, and rehabilitative services must give priority to the appropriate placement of such persons who are eligible for Medicaid and currently residing in intermediate care or skilled nursing facilities and, to the extent permitted by law, such persons who reside with aged parents or guardians or families in crisis.

FORT WAYNE STATE DEVELOPMENTAL CENTER			
General Fund			
	359,900	359,900	
Mental Health Fund (IC 12-24-14-4)			
	1,838,145	1,839,050	
Augmentation allowed.			

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.

The amounts specified from the general fund and the mental health fund are for the following purposes:

Personal Services	1,625,184	1,626,089
Other Operating Expense	572,861	572,861

The federal share of revenue accruing to the state developmental centers under IC 12-15, based on the applicable Federal Medical Assistance Percentage (FMAP), shall be deposited in the mental health fund established under IC 12-24-14, and the remainder shall be deposited in the general fund.

In addition to the above appropriations, each institution may qualify for an additional appropriation, or allotment, subject to approval of the governor and the budget agency, from the mental health fund of up to twenty percent (20%) but not to exceed $50,000, of the amount in which actual net collections exceed an amount specified in writing by the division of disability, aging, and rehabilitative services before July 1 of each year beginning July 1, 2005.

FOR THE DEPARTMENT OF CHILD SERVICES

DEPARTMENT OF CHILD SERVICES - ADMINISTRATION		
Personal Services	53,706,520	61,626,520
Other Operating Expense	8,454,011	8,454,011

The foregoing appropriation may be transferred from the department of child services to FSSA with the approval of the budget agency.

DEPARTMENT OF CHILD SERVICES - STATE ADMINISTRATION		
Personal Services	861,254	861,254
Other Operating Expense	124,274	124,274
CHILD WELFARE SERVICES STATE GRANTS		
General Fund		
Total Operating Expense	10,698,884	10,698,884
Excise and Financial Institution Taxes		
Total Operating Expense	6,275,000	6,275,000
Augmentation allowed.		
TITLE IV-D OF THE FEDERAL SOCIAL SECURITY ACT (STATE MATCH)		
Total Operating Expense	3,969,158	3,971,838

The foregoing appropriations for the department of child services Title IV-D of the federal Social Security Act are made under, and not in addition to, IC 12-17-2-31.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.

INDEPENDENT LIVING TRANSITIONAL SERVICES		
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)		
Total Operating Expense	1,000,000	1,000,000
YOUTH SERVICE BUREAU		
Total Operating Expense	1,250,000	1,250,000

The department of child services shall establish standards for youth service bureaus. Any youth service bureau that is not an agency of a unit of local government or is not registered with the Indiana secretary of state as a nonprofit corporation shall not be funded. The department of child services shall fund all youth service bureaus that meet the standards as established June 30, 1983. However, a grant may not be made without approval by the budget agency after review by the budget committee.

PROJECT SAFEPLACE		
Total Operating Expense	125,000	125,000
HEALTHY FAMILIES INDIANA		
Total Operating Expense	6,223,086	6,223,086
TITLE IV-B CHILD WELFARE ADMINISTRATION		
Total Operating Expense	484,286	484,560
CHILD WELFARE TRAINING		
Total Operating Expense	1,106,281	1,106,281
SPECIAL NEEDS ADOPTION II		
Personal Services	231,108	231,271
Other Operating Expense	445,797	445,797
ADOPTION ASSISTANCE		
Total Operating Expense	7,954,083	7,954,083

The foregoing appropriations for Title IV-B child welfare and adoption assistance represent the maximum state match for Title IV-B and Title IV-E.

SOCIAL SERVICES BLOCK GRANT (SSBG)		
Total Operating Expense	20,863,880	20,864,042

The funds appropriated above to the social services block grant are allocated in the following manner during the biennium:

Division of Disability, Aging, and Rehabilitative Services	1,030,877	1,030,877
Division of Family Resources	12,725,150	12,725,150
Department of Child Services	5,515,999	5,516,161
Department of Health	296,504	296,504
Department of Correction	1,295,350	1,295,350

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
NON-RECURRING ADOPTION ASSISTANCE			
Total Operating Expense	**625,000**	**625,000**	
INDIANA SUPPORT ENFORCEMENT TRACKING (ISETS)			
Total Operating Expense	**4,067,520**	**4,067,718**	
CHILD PROTECTION AUTOMATION PROJECT (ICWIS)			
Total Operating Expense	**5,260,522**	**5,260,550**	

B. PUBLIC HEALTH

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
FOR THE STATE DEPARTMENT OF HEALTH			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Personal Services	**22,131,052**	**22,146,865**	
Other Operating Expense	**5,194,560**	**5,194,560**	

All receipts to the state department of health from licenses or permit fees shall be deposited in the state general fund. Augmentation allowed in amounts not to exceed additional revenue from penalties or fees enacted or implemented for collection by the state department of health after January 1, 2003.

CANCER REGISTRY			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**253,651**	**253,803**	
MINORITY HEALTH INITIATIVE			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**2,091,224**	**2,091,224**	

The foregoing appropriations shall be allocated to the Indiana Minority Health Coalition to work with the state department on the implementation of IC 16-46-11.

SICKLE CELL			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**232,500**	**232,500**	
AID TO COUNTY TUBERCULOSIS HOSPITALS			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Other Operating Expense	**107,397**	**107,397**	

These funds shall be used for eligible expenses according to IC 16-21-7-3 for tuberculosis patients for whom there are no other sources of reimbursement, including patient resources, health insurance, medical assistance payments, and hospital care for the indigent.

MEDICARE-MEDICAID CERTIFICATION			
Total Operating Expense	**6,132,535**	**6,136,279**	

Personal services augmentation allowed in amounts not to exceed additional revenue from health facilities license fee increases or from health care providers (as defined in IC 16-18-2-163) fee increases enacted after January 1, 2003, or adopted by the Executive Board of the Indiana State Department of Health pursuant to IC 16-19-3.

AIDS EDUCATION			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Personal Services	**421,851**	**422,146**	
Other Operating Expense	**277,953**	**277,953**	
HIV/AIDS SERVICES			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**2,325,004**	**2,325,004**	
TEST FOR DRUG AFFLICTED BABIES			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**62,496**	**62,496**	

The above appropriations for drug afflicted babies shall be used for the following purposes:

(1) All newborn infants shall be tested for the presence of a controlled substance in the infant's meconium if they meet the criteria established by the state department of health. These criteria will, at a minimum, include all newborns, if at birth:
(A) the infant's weight is less than two thousand five hundred (2,500) grams;
(B) the infant's head is smaller than the third percentile for the infant's gestational age; and
(C) there is no medical explanation for the conditions described in clauses (A) and (B).
(2) If a meconium test determines the presence of a controlled substance in the infant's meconium, the infant may be declared a child in need of services as provided in IC 31-34-1-10 through IC 31-34-1-13. However, the child's mother may not be prosecuted in connection with the results of the test.
(3) The state department of health shall provide forms on which the results of a meconium test performed on an infant under subdivision (1) must be reported to the state department of health by physicians and hospitals.
(4) The state department of health shall, at least semi-annually:
(A) ascertain the extent of testing under this chapter; and
(B) report its findings under subdivision (1) to:
(i) all hospitals;
(ii) physicians who specialize in obstetrics and gynecology or work with infants and young children; and

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.

(iii) any other group interested in child welfare that requests a copy of the report from the state department of health.

(5) The state department of health shall designate at least one (1) laboratory to perform the meconium test required under subdivisions (1) through (8). The designated laboratories shall perform a meconium test on each infant described in subdivision (1) to detect the presence of a controlled substance.

(6) Subdivisions (1) through (7) do not prevent other facilities from conducting tests on infants to detect the presence of a controlled substance.

(7) Each hospital and physician shall:

(A) take or cause to be taken a meconium sample from every infant born under the hospital's and physician's care who meets the description under subdivision (1); and

(B) transport or cause to be transported each meconium sample described in clause (A) to a laboratory designated under subdivision (5) to test for the presence of a controlled substance as required under subdivisions (1) through (7).

(8) The state department of health shall establish guidelines to carry out this program, including guidance to physicians, medical schools, and birthing centers as to the following:

(A) Proper and timely sample collection and transportation under subdivision (7) of this appropriation.

(B) Quality testing procedures at the laboratories designated under subdivision (5) of this appropriation.

(C) Uniform reporting procedures.

(D) Appropriate diagnosis and management of affected newborns and counseling and support programs for newborns' families.

(9) A medically appropriate discharge of an infant may not be delayed due to the results of the test described in subdivision (1) or due to the pendency of the results of the test described in subdivision (1).

STATE CHRONIC DISEASES		
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)		
Personal Services	100,449	100,519
Other Operating Expense	444,398	444,398

At least $82,560 of the above appropriations shall be for grants to community groups and organizations as provided in IC 16-46-7-8.

WOMEN, INFANTS, AND CHILDREN SUPPLEMENT		
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)		
Total Operating Expense	176,700	176,700
MATERNAL AND CHILD HEALTH SUPPLEMENT		
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)		
Total Operating Expense	176,700	176,700

Notwithstanding IC 6-7-1-30.2, the above appropriations for the women, infants, and children supplement and maternal and child health supplement are the total appropriations provided for this purpose.

CANCER EDUCATION AND DIAGNOSIS - BREAST CANCER		
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)		
Total Operating Expense	93,000	93,000
CANCER EDUCATION AND DIAGNOSIS - PROSTATE CANCER		
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)		
Total Operating Expense	93,000	93,000
ADOPTION HISTORY		
Adoption History Fund (IC 31-19-18-6)		
Total Operating Expense	187,354	187,472
Augmentation allowed.		
CHILDREN WITH SPECIAL HEALTH CARE NEEDS		
Total Operating Expense	5,808,756	5,809,042
NEWBORN SCREENING PROGRAM		
Newborn Screening Fund (IC 16-41-17-11)		
Personal Services	406,346	406,607
Other Operating Expense	817,780	817,780
Augmentation allowed.		
INDIANA HEALTH CARE PROFESSIONAL RECRUITMENT AND RETENTION		
Indiana Medical and Nursing Grant Fund (IC 16-46-5-8)		
Total Operating Expense	137,201	137,201
Augmentation allowed.		
RADON GAS TRUST FUND		
Radon Gas Trust Fund (IC 16-41-38-8)		
Total Operating Expense	14,701	14,701
Augmentation allowed.		
BIRTH PROBLEMS REGISTRY		
Birth Problems Registry Fund (IC 16-38-4-17)		
Personal Services	31,356	31,375
Other Operating Expense	12,070	12,070
Augmentation allowed.		
MOTOR FUEL INSPECTION PROGRAM		
Motor Fuel Inspection Fund (IC 16-44-3-10)		
Total Operating Expense	82,448	82,471
Augmentation allowed.		
PROJECT RESPECT		
Total Operating Expense	596,280	596,280
DONATED DENTAL SERVICES		
Total Operating Expense	46,500	46,500

The above appropriation shall be used by the Indiana foundation for dentistry for the handicapped.

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
OFFICE OF WOMEN'S HEALTH			
Total Operating Expense	**159,599**	**159,599**	
SILVERCREST CHILDREN'S DEVELOPMENT CENTER			
Personal Services	**7,769,136**	**7,774,637**	
Other Operating Expense	**627,805**	**627,805**	
SOLDIERS' AND SAILORS' CHILDREN'S HOME			
Personal Services	**9,556,682**	**9,563,296**	
Other Operating Expense	**1,377,441**	**1,377,441**	

Any revenue accruing to the Silvercrest Children's Development Center and Soldiers' and Sailors' Children's Home from the receipt of Medicaid reimbursement shall be deposited in the state general fund.

INDIANA VETERANS' HOME			
From the General Fund	**12,530,104**	**12,542,859**	
From the Comfort - Welfare Fund	**11,936,223**	**11,936,223**	

The amounts specified from the General Fund and the Comfort-Welfare Fund are for the following purposes:

Personal Services	**20,124,846**	**20,137,601**	
Other Operating Expense	**4,341,481**	**4,341,481**	
COMFORT AND WELFARE PROGRAM			
Comfort-Welfare Fund (IC 10-17-9-7(c))			
Total Operating Expense	**5,000,000**	**5,000,000**	
MINORITY EPIDEMIOLOGY			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**500,000**	**500,000**	
COMMUNITY HEALTH CENTERS			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**15,003,071**	**15,003,197**	
TOBACCO HEALTH PROGRAMS			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**2,461,400**	**2,461,400**	
PRENATAL SUBSTANCE USE & PREVENTION			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**150,000**	**150,000**	
LOCAL HEALTH MAINTENANCE FUND			
Local Maintenance Fund (IC 16-46-10-1)			
Total Operating Expense	**2,460,000**	**2,460,000**	
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**1,400,000**	**1,400,000**	

The above appropriation for the local health maintenance fund from the tobacco master settlement agreement fund is in lieu of the appropriation provided for this purpose in IC 6-7-1-30.5 or any other law. Of the above appropriations for the local health maintenance fund, $60,000 each year shall be used to provide additional funding to adjust funding through the formula in IC 16-46-10 to reflect population increases in various counties. Money appropriated to the local health maintenance fund must be allocated under the following schedule each year to each local board of health whose application for funding is approved by the state department of health:

COUNTY POPULATION	AMOUNT OF GRANT
over 499,999	94,112
100,000 - 499,999	72,672
50,000 - 99,999	48,859
under 50,000	33,139

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
LOCAL HEALTH DEPARTMENT ACCOUNT			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**3,000,000**	**3,000,000**	

The foregoing appropriations for the local health department account are statutory distributions pursuant to IC 4-12-7.

FOR THE TOBACCO USE PREVENTION AND CESSATION BOARD			
TOBACCO USE PREVENTION AND CESSATION PROGRAM			
Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)			
Total Operating Expense	**10,858,441**	**10,859,308**	

A minimum of 75% of the above appropriations shall be used for grants to local agencies and other entities with programs designed to reduce smoking.

FOR THE INDIANA SCHOOL FOR THE BLIND			
Personal Services	**10,285,542**	**10,288,991**	
Other Operating Expense	**828,069**	**828,069**	
FOR THE INDIANA SCHOOL FOR THE DEAF			
Personal Services	**16,774,951**	**16,781,064**	
Other Operating Expense	**2,106,845**	**2,106,845**	

C. VETERANS' AFFAIRS

FOR THE INDIANA DEPARTMENT OF VETERANS' AFFAIRS			
Personal Services	**659,214**	**659,679**	
Other Operating Expense	**204,667**	**204,667**	

The foregoing appropriations for the Indiana department of veterans' affairs include operating funds for the veterans' cemetery. Notwithstanding IC 10-17-1-6, staff employed for the operation and maintenance of the veterans' cemetery shall

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
be selected as are all other state employees.			
DISABLED AMERICAN VETERANS OF WORLD WARS			
Total Operating Expense	40,000	40,000	
AMERICAN VETERANS OF WORLD WAR II, KOREA, AND VIETNAM			
Total Operating Expense	30,000	30,000	
VETERANS OF FOREIGN WARS			
Total Operating Expense	30,000	30,000	
VIETNAM VETERANS OF AMERICA			
Total Operating Expense			20,000
SECTION 9. [EFFECTIVE JULY 1, 2005]			
EDUCATION			
A. HIGHER EDUCATION			
FOR INDIANA UNIVERSITY			
BLOOMINGTON CAMPUS			
Total Operating Expense	192,152,673	191,855,234	
Fee Replacement	18,297,029	24,575,676	
FOR INDIANA UNIVERSITY REGIONAL CAMPUSES			
EAST			
Total Operating Expense	7,570,790	7,725,382	
Fee Replacement	1,883,532	2,026,511	
KOKOMO			
Total Operating Expense	10,162,502	10,124,249	
Fee Replacement	2,254,333	2,425,461	
NORTHWEST			
Total Operating Expense	17,514,736	17,563,889	
Fee Replacement	3,979,214	4,281,276	
SOUTH BEND			
Total Operating Expense	22,660,743	22,395,713	
Fee Replacement	5,495,632	5,912,806	
SOUTHEAST			
Total Operating Expense	19,141,674	19,251,961	
Fee Replacement	4,835,198	5,202,237	
TOTAL APPROPRIATION - INDIANA UNIVERSITY REGIONAL CAMPUSES	95,498,354	96,909,485	
FOR INDIANA UNIVERSITY - PURDUE UNIVERSITY AT INDIANAPOLIS (IUPUI)			
HEALTH DIVISIONS			
Total Operating Expense	88,039,600	87,844,775	
Fee Replacement	3,047,105	3,243,817	
FOR INDIANA UNIVERSITY SCHOOL OF MEDICINE ON THE CAMPUS OF THE UNIVERSITY OF SOUTHERN INDIANA			
Total Operating Expense	1,486,577	1,483,288	
THE CAMPUS OF INDIANA UNIVERSITY-PURDUE UNIVERSITY FORT WAYNE			
Total Operating Expense	1,367,557	1,364,531	
THE CAMPUS OF INDIANA UNIVERSITY-NORTHWEST			
Total Operating Expense	1,942,802	1,938,503	
THE CAMPUS OF PURDUE UNIVERSITY			
Total Operating Expense	1,734,224	1,730,387	
THE CAMPUS OF BALL STATE UNIVERSITY			
Total Operating Expense	1,559,351	1,555,900	
THE CAMPUS OF THE UNIVERSITY OF NOTRE DAME			
Total Operating Expense	1,446,111	1,442,911	
THE CAMPUS OF INDIANA STATE UNIVERSISTY			
Total Operating Expense	1,724,077	1,720,262	

The Indiana University School of Medicine - Indianapolis shall submit to the Indiana commission for higher education before May 15 of each year an accountability report containing data on the number of medical school graduates who entered primary care physician residencies in Indiana from the school's most recent graduating class.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
FOR INDIANA UNIVERSITY - PURDUE UNIVERSITY AT INDIANAPOLIS (IUPUI)			
GENERAL ACADEMIC DIVISIONS			
Total Operating Expense	90,493,043	90,268,567	
Fee Replacement	15,409,015	16,403,766	
Total APPROPRIATIONS - IUPUI	208,249,462	208,996,707	

Transfers of allocations between campuses to correct for errors in allocation among the campuses of Indiana University can be made by the institution with the approval of the commission for higher education and the budget agency. Indiana University hall maintain current operations at all statewide medical education sites.

FOR INDIANA UNIVERSITY			
ABILENE NETWORK OPERATIONS CENTER			
Total Operating Expense	817,502	817,502	
SPINAL CORD AND HEAD INJURY RESEARCH CENTER			
Total Operating Expense	514,726	514,726	
OPTOMETRY BOARD EDUCATION FUND			
Total Operating Expense	29,000	1,500	
STATE DEPARTMENT OF TOXICOLOGY			
Total Operating Expense	644,058	644,058	
INSTITUTE FOR THE STUDY OF DEVELOPMENTAL DISABILITIES			
Total Operating Expense	2,432,526	2,432,526	
GEOLOGICAL SURVEY			
Total Operating Expense	3,046,002	3,046,002	

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
INDUSTRIAL RESEARCH LIAISON PROGRAM			
Total Operating Expense	**249,964**	**249,964**	
LOCAL GOVERNMENT ADVISORY COMMISSION			
Total Operating Expense	**55,518**	**55,518**	
ADULT STEM CELL RESEARCH CENTER			
Total Operating Expense	**50,000**	**0**	

Indiana University shall report to the budget committee on the feasibility of creating a center for research on adult stem cells.

FOR PURDUE UNIVERSITY			
WEST LAFAYETTE			
Total Operating Expense	**239,076,505**	**241,258,923**	
Fee Replacement	**17,606,980**	**20,920,977**	
FOR PURDUE UNIVERSITY - REGIONAL CAMPUSES			
CALUMET			
Total Operating Expense	**26,146,127**	**26,586,465**	
Fee Replacement	**1,930,940**	**1,941,138**	
NORTH CENTRAL			
Total Operating Expense	**10,298,659**	**10,579,693**	
TOTAL APPROPRIATION - PURDUE UNIVERSITY REGIONAL CAMPUSES	**38,375,726**	**39,107,296**	
FOR INDIANA UNIVERSITY - PURDUE UNIVERSITY AT FORT WAYNE (IPFW)			
Total Operating Expense	**34,961,547**	**36,043,187**	
Fee Replacement	**3,334,353**	**3,240,770**	

Transfers of allocations between campuses to correct for errors in allocation among the campuses of Purdue University can be made by the institution with the approval of the commission for higher education and the budget agency.

FOR PURDUE UNIVERSITY			
ANIMAL DISEASE DIAGNOSTIC LABORATORY SYSTEM			
Total Operating Expense	**3,387,166**	**3,387,166**	

The above appropriations shall be used to fund the animal disease diagnostic laboratory system (ADDL), which consists of the main ADDL at West Lafayette, the bangs disease testing service at West Lafayette, and the southern branch of ADDL Southern Indiana Purdue Agricultural Center (SIPAC) in Dubois County. The above appropriations are in addition to any user charges that may be established and collected under IC 15-2.1-5-6. Notwithstanding IC 15-2.1-5-5, the trustees of Purdue University may approve reasonable charges for testing for pseudorabies.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
STATEWIDE TECHNOLOGY			
Total Operating Expense	**5,468,960**	**5,468,960**	
COUNTY AGRICULTURAL EXTENSION EDUCATORS			
Total Operating Expense	**7,103,447**	**7,103,447**	
AGRICULTURAL RESEARCH AND EXTENSION - CROSSROADS			
Total Operating Expense	**7,107,724**	**7,107,724**	
CENTER FOR PARALYSIS RESEARCH			
Total Operating Expense	**513,085**	**513,085**	
UNIVERSITY-BASED BUSINESS ASSISTANCE			
Total Operating Expense	**1,100,715**	**1,100,715**	
NORTH CENTRAL - VALPO NURSING PARTNERSHIP			
Total Operating Expense	**98,662**	**0**	
FOR INDIANA STATE UNIVERSITY			
Total Operating Expense	**76,085,538**	**73,911,172**	
Fee Replacement	**6,663,721**	**7,282,616**	
FOR UNIVERSITY OF SOUTHERN INDIANA			
Total Operating Expense	**34,089,286**	**35,213,023**	
Fee Replacement	**5,855,701**	**5,901,601**	
HISTORIC NEW HARMONY			
Total Operating Expense	**356,216**	**356,216**	
YOUNG ABE LINCOLN			
Total Operating Expense	**270,000**	**1**	
FOR BALL STATE UNIVERSITY			
Total Operating Expense	**124,351,153**	**122,943,120**	
Fee Replacement	**7,824,168**	**10,808,931**	
ACADEMY FOR SCIENCE, MATHEMATICS, AND HUMANITIES			
Total Operating Expense	**4,196,355**	**4,196,355**	
FOR VINCENNES UNIVERSITY			
Total Operating Expense	**36,654,617**	**36,403,169**	
Fee Replacement	**3,226,033**	**3,861,825**	
FOR IVY TECH STATE COLLEGE			
Total Operating Expense	**138,587,242**	**144,061,470**	
Fee Replacement	**11,757,465**	**13,119,374**	

Of the above appropriations for IVY Tech total operating expense, $135,000 each year shall be used for the Community Learning Center in Portage.

VALPO NURSING PARTNERSHIP			
Total Operating Expense	**0**	**98,662**	
FOR THE INDIANA HIGHER EDUCATION TELECOMMUNICATIONS SYSTEM (IHETS)			
Total Operating Expense	**5,836,610**	**4,686,610**	

The above appropriations do not include funds for the course development grant program.

	FY 2005-06 Appro.	*FY 2006-07 Appro.*	*Biennial Appros.*		*FY 2005-06 Appropriation*	*FY 2006-07 Appropriation*	*Biennial Appros.*

The sums herein appropriated to Indiana University, Purdue University, Indiana State University, University of Southern Indiana, Ball State University, Vincennes University, Ivy Tech State College, and the Indiana Higher Education Telecommunications System (IHETS) are in addition to all income of said institutions and IHETS, respectively, from all permanent fees and endowments and from all land grants, fees, earnings, and receipts, including gifts, grants, bequests, and devises, and receipts from any miscellaneous sales from whatever source derived.

All such income and all such fees, earnings, and receipts on hand June 30, 2005, and all such income and fees, earnings, and receipts accruing thereafter are hereby appropriated to the boards of trustees or directors of the aforementioned institutions and IHETS and may be expended for any necessary expenses of the respective institutions and IHETS, including university hospitals, schools of medicine, nurses' training schools, schools of dentistry, and agricultural extension and experimental stations. However, such income, fees, earnings, and receipts may be used for land and structures only if approved by the governor and the budget agency.

The foregoing appropriations and allocations for fee replacement are for replacement of student fees deducted during the 2005-2007 biennium to cover bond or lease-purchase principal, interest, and other obligations of debt costs of facility construction and acquisition for those projects authorized by the general assembly. These fee replacement appropriations and allocations shall be allotted by the budget agency after receipt of verification of payment of such debt cost expense.

The foregoing appropriations to Indiana University, Purdue University, Indiana State University, University of Southern Indiana, Ball State University, Vincennes University, Ivy Tech State College, and IHETS include the employers' share of Social Security payments for university and IHETS employees under the public employees' retirement fund, or institutions covered by the Indiana state teachers' retirement fund. The funds appropriated also include funding for the employers' share of payments to the public employees' retirement fund and to the Indiana state teachers' retirement fund at a rate to be established by the retirement funds for both fiscal years for each institution and for IHETS employees covered by these retirement plans.

The treasurers of Indiana University, Purdue University, Indiana State University, University of Southern Indiana, Ball State University, Vincennes University, and Ivy Tech State College shall, at the end of each three (3) month period, prepare and file with the auditor of state a financial statement that shall show in total all revenues received from any source, together with a consolidated statement of disbursements for the same period. The budget director shall establish the requirements for the form and substance of the reports.

The reports of the treasurer also shall contain in such form and in such detail as the governor and the budget agency may specify, complete information concerning receipts from all sources, together with any contracts, agreements, or arrangements with any federal agency, private foundation, corporation, or other entity from which such receipts accrue.

All such treasurers' reports are matters of public record and shall include without limitation a record of the purposes of any and all gifts and trusts with the sole exception of the names of those donors who request to remain anonymous.

Notwithstanding IC 4-10-11, the auditor of state shall draw warrants to the treasurers of Indiana University, Purdue University, Indiana State University, University of Southern Indiana, Ball State University, Vincennes University, and Ivy Tech State College on the basis of vouchers stating the total amount claimed against each fund or account, or both, but not to exceed the legally made appropriations.

Notwithstanding IC 4-12-1-14, for universities and colleges supported in whole or in part by state funds, grant applications and lists of applications need only be submitted upon request to the budget agency for review and approval or disapproval and, unless disapproved by the budget agency, federal grant funds may be requested and spent without approval by the budget agency. Each institution shall retain the applications for a reasonable period of time and submit a list of all grant applications, at least monthly, to the commission for higher education for informational purposes.

For all university special appropriations, an itemized list of intended expenditures, in such form as the governor and the budget agency may specify, shall be submitted to support the allotment request. All budget requests for university special appropriations shall be furnished in a like manner and as a part of the operating budgets of the state universities.

The trustees of Indiana University, the trustees of Purdue University, the trustees of Indiana State University, the trustees of University of Southern Indiana, the trustees of Ball State University, the trustees of Vincennes University, the trustees of Ivy Tech State College, and the directors of IHETS are hereby authorized to accept federal grants, subject to IC 4-12-1.

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.

Fee replacement funds are to be distributed as requested by each institution, on payment due dates, subject to available appropriations.

If an early payment of an amount appropriated to any of the aforementioned institutions or IHETS is made in either state fiscal year of the biennium to eliminate an otherwise authorized payment delay to a later state fiscal year, the amount may be used only for the purposes approved by the budget agency after review by the budget committee.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
FOR THE MEDICAL EDUCATION BOARD			
FAMILY PRACTICE RESIDENCY FUND			
Total Operating Expense	**2,249,791**	**2,249,791**	

Of the foregoing appropriations for the medical education board-family practice residency fund, $1,000,000 each year shall be used for grants for the purpose of improving family practice residency programs serving medically underserved areas.

FOR THE COMMISSION FOR HIGHER EDUCATION			
Total Operating Expense	**1,478,533**	**1,478,533**	

Before October 31, 2005, the budget committee shall review the commission for higher education's research incentive funding formula.

INDIANA CAREER AND POSTSECONDARY ADVANCEMENT CENTER			
Total Operating Expense	**500,000**	**1**	
FOR THE DEPARTMENT OF ADMINISTRATION			
ANIMAL DISEASE DIAGNOSTIC LABORATORY LEASE RENTAL			
Total Operating Expense	**1,047,240**	**1,042,345**	
COLUMBUS LEARNING CENTER LEASE PAYMENT			
Total Operating Expense	**1,842,000**	**3,831,500**	
FOR THE STATE BUDGET AGENCY			
GIGAPOP PROJECT			
Total Operating Expense	**727,638**	**727,638**	
SOUTH CENTRAL EDUCATIONAL ALLIANCE BEDFORD SERVICE AREA			
Total Operating Expense	**280,710**	**280,710**	
SOUTHEAST INDIANA EDUCATION SERVICES			
Total Operating Expense	**642,468**	**642,468**	

The above appropriation for southeast Indiana education services may be expended with the approval of the budget agency after review by the commission for higher education.

DEGREE LINK			
Total Operating Expense	**500,375**	**500,375**	

The above appropriations shall be used for the delivery of Indiana State University baccalaureate degree programs at Ivy Tech State College and Vincennes University locations through Degree Link. Distributions shall be made upon the recommendation of the Indiana commission for higher education and with approval by the budget agency after review by the budget committee.

WORKFORCE CENTERS			
Total Operating Expense	**837,000**	**837,000**	
MIDWEST HIGHER EDUCATION COMMISSION			
Total Operating Expense	**255,000**	**90,000**	
FOR THE STATE STUDENT ASSISTANCE COMMISSION			
Total Operating Expense	**1,240,723**	**1,240,723**	
FREEDOM OF CHOICE GRANTS			
Total Operating Expense	**41,751,997**	**46,035,799**	
HIGHER EDUCATION AWARD PROGRAM			
Total Operating Expense	**106,959,572**	**120,674,940**	
NURSING SCHOLARSHIP PROGRAM			
Total Operating Expense	**402,142**	**402,142**	
HOOSIER SCHOLAR PROGRAM			
Total Operating Expense	**400,000**	**400,000**	

For the higher education awards and freedom of choice grants made for the 2005-2007 biennium, the following guidelines shall be used, notwithstanding current administrative rule or practice:

(1) Financial Need: For purposes of these awards, financial need shall be limited to actual undergraduate tuition and fees for the prior academic year as established by the commission.

(2) Maximum Base Award: The maximum award shall not exceed the lesser of:

(A) eighty percent (80%) of actual prior academic year undergraduate tuition and fees; or

(B) eighty percent (80%) of the sum of the highest prior academic year undergraduate tuition and fees at any public institution of higher education and the lowest appropriation per full-time equivalent (FTE) undergraduate student at any public institution of higher education.

(3) Minimum Award: No actual award shall be less than $200.

(4) Award Size: A student's maximum award shall be reduced one (1) time:

(A) for dependent students, by the expected contribution from parents based upon information submitted on the financial aid application form; and

(B) for independent students, by the expected contribution derived from information submitted on the financial aid application form.

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.

(5) Award Adjustment: The maximum base award may be adjusted by the commission, for any eligible recipient who fulfills college preparation requirements defined by the commission.

(6) Adjustment: If the dollar amounts of eligible awards exceed appropriations and program reserves, all awards may be adjusted by the commission by reducing the maximum award under subdivision (2)(A) or (2)(B).

For the Hoosier scholar program for the 2005-2007 biennium, each award shall not exceed five hundred dollars ($500) and shall be made available for one (1) year only. Receipt of this award shall not reduce any other award received under any state funded student assistance program.

STATUTORY FEE REMISSION		
Total Operating Expense	**15,982,349**	**18,148,108**

In determining the eligibility for statutory fee remission, the Indiana department of veterans' affairs shall only consider new applications from dependents of veterans with disabilities greater than zero (0) percentage.

PART-TIME GRANT PROGRAM		
Total Operating Expense	**5,250,000**	**5,250,000**

Priority for awards made from the above appropriation shall be given first to eligible students meeting TANF income eligibility guidelines as determined by the family and social services administration and second to eligible students who received awards from the part time grant fund during the school year associated with the biennial budget year. Funds remaining shall be distributed according to procedures established by the commission. The maximum grant that an applicant may receive for a particular academic term shall be established by the commission but shall in no case be greater than a grant for which an applicant would be eligible under IC 20-12-21 if the applicant were a full-time student. The commission shall collect and report to the family and social services administration (FSSA) all data required for FSSA to meet the data collection and reporting requirements in 45 CFR Part 265.

The family and social services administration, division of family resources shall apply all qualifying expenditures for the part time grant program toward Indiana's maintenance of effort under the federal Temporary Assistance to Needy Families (TANF) program (45 CFR 260 et seq.).

CONTRACT FOR INSTRUCTIONAL OPPORTUNITIES IN SOUTHEASTERN INDIANA		
Total Operating Expense	**603,407**	**603,407**

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
MINORITY TEACHER SCHOLARSHIP FUND			
Total Operating Expense	**399,768**	**399,768**	
COLLEGE WORK STUDY PROGRAM			
Total Operating Expense	**805,189**	**805,189**	
21ST CENTURY ADMINISTRATION			
Total Operating Expense	**2,000,000**	**2,000,000**	
21ST CENTURY SCHOLAR AWARDS			
Total Operating Expense	**18,402,449**	**19,171,429**	

Augmentation for 21st Century Scholar Awards allowed from the general fund.

The commission shall collect and report to the family and social services administration (FSSA) all data required for FSSA to meet the data collection and reporting requirements in 45 CFR 265.

Family and social services administration, division of family resources, shall apply all qualifying expenditures for the 21st century scholars program toward Indiana's maintenance of effort under the federal Temporary Assistance to Needy Families (TANF) program (45 CFR 260 et seq.)

NATIONAL GUARD SCHOLARSHIP		
Total Operating Expense	**3,033,730**	**3,299,821**

The above appropriations for national guard scholarship and any program reserves existing on June 30, 2005, shall be the total allowable state expenditure for the program in the 2005-2007 biennium. If the dollar amounts of eligible awards exceed appropriations and program reserves, the state student assistance commission shall develop a plan to ensure that the total dollar amount does not exceed the above appropriations and any program reserves.

B. ELEMENTARY AND SECONDARY EDUCATION FOR THE DEPARTMENT OF EDUCATION

STATE BOARD OF EDUCATION		
Total Operating Expense	**3,152,112**	**3,152,112**

The foregoing appropriations for the Indiana state board of education are for the education roundtable established by IC 20-1-20.5-3; for the academic standards project to distribute copies of the academic standards and provide teachers with curriculum frameworks; for special evaluation and research projects including national and international assessments; and for state board and roundtable administrative expenses.

SUPERINTENDENT'S OFFICE		
Personal Services	**686,467**	**686,877**
Other Operating Expense	**1,439,160**	**1,437,682**

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
PUBLIC TELEVISION DISTRIBUTION			
Total Operating Expense	**2,557,563**	**2,357,563**	

These appropriations are for grants for public television. The Indiana Public Broadcasting Stations, Inc. shall submit a distribution plan for the eight Indiana public education television stations that shall be approved by the budget agency after review by the budget committee. The above appropriation includes the costs of transmission for the "GED-on-TV" program. Of the above appropriations, $100,000 each year shall be distributed equally among the eight radio stations.

Of the above appropriation for FY 2006, $200,000 is included for the public television station at Ball State University to complete the digital upgrade.

RESEARCH AND DEVELOPMENT PROGRAMS		
Personal Services	**86,958**	**86,959**
Other Operating Expense	**300,390**	**300,390**

Of the foregoing appropriations for Research and Development Programs, up to $140,000 each year is dedicated for the Center for Evaluation and Education Policy. Funds are included for the purpose of having the Center for Evaluation and Education Policy facilitate a roundtable discussion of legislators who represent school corporations with enrollments of less than 1500 pupils and superintendents who serve in corporations with less than 1500 pupils. Discussion should focus on the value of central office consolidation and whether efficiencies could be achieved through that process. Other difficulties facing small corporations should be discussed with a goal of producing recommendations that would bring cost effectiveness and efficiency to those corporations.

DEPUTY SUPERINTENDENT'S OFFICE		
Personal Services	**457,320**	**457,562**
Other Operating Expense	**92,839**	**92,603**
RILEY HOSPITAL		
Total Operating Expense	**27,900**	**27,900**
ADMINISTRATION AND FINANCIAL MANAGEMENT		
Personal Services	**2,143,064**	**2,144,538**
Other Operating Expense	**298,207**	**296,808**
MOTORCYCLE OPERATOR SAFETY EDUCATION FUND		
Safety Education Fund (IC 20-10.1-7-14)		
Personal Services	**132,303**	**132,397**
Other Operating Expense	**892,177**	**892,087**

The foregoing appropriations for the motorcycle operator safety education fund are from the motorcycle operator safety education fund created by IC 20-10.1-7-14.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
SCHOOL TRAFFIC SAFETY			
Motor Vehicle Highway Account (IC 8-14-1)			
Personal Services	**242,813**	**242,989**	
Other Operating Expense	**30,405**	**30,236**	
Augmentation allowed.			
CENTER FOR SCHOOL ASSESSMENT			
Personal Services	**310,777**	**311,004**	
Other Operating Expense	**706,025**	**705,800**	
ACCREDITATION SYSTEM			
Personal Services	**471,390**	**471,732**	
Other Operating Expense	**489,547**	**489,210**	
SPECIAL EDUCATION (S-5)			
Total Operating Expense	**30,000,000**	**30,000,000**	

The foregoing appropriations for special education are made under IC 20-1-6-19.

CENTER FOR COMMUNITY RELATIONS AND SPECIAL POPULATIONS		
Personal Services	**234,467**	**234,580**
Other Operating Expense	**78,988**	**78,879**
SPECIAL EDUCATION EXCISE		
Alcoholic Beverage Excise Tax Funds (IC 20-1-6-10)		
Personal Services	**344,177**	**344,351**
Augmentation allowed.		
GED-ON-TV PROGRAM		
Other Operating Expense	**229,500**	**229,500**

The foregoing appropriation is for grants to provide GED-ON-TV programming. The GED-ON-TV Program shall submit for review by the budget committee an annual report on utilization of this appropriation.

VOCATIONAL EDUCATION		
Personal Services	**1,318,379**	**1,319,338**
Other Operating Expense	**40,532**	**39,599**
ADVANCED PLACEMENT PROGRAM		
Other Operating Expense	**894,400**	**894,400**

The above appropriations for the Advanced Placement program are to provide funding for students of accredited public and nonpublic schools.

PSAT PROGRAM		
Other Operating Expense	**717,449**	**717,449**

The above appropriations for the PSAT program are to provide funding for students of accredited public and nonpublic schools.

CENTER FOR SCHOOL IMPROVEMENT AND PERFORMANCE		
Personal Services	**1,701,420**	**1,701,447**

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
Other Operating Expense	978,089	978,089	
PRINCIPAL LEADERSHIP ACADEMY			
Personal Services	320,628	320,632	
Other Operating Expense	142,204	142,204	
EDUCATION SERVICE CENTERS			
Total Operating Expense	1,721,287	1,721,287	

No appropriation made for an education service center shall be distributed to the administering school corporation of the center unless each participating school corporation of the center contracts to pay to the center at least three dollars ($3) per student for fiscal year 2005-2006 based on the school corporation's ADM count as reported for school aid distribution in the fall of 2004, and at least three dollars ($3) per student for fiscal year 2006-2007, based on the school corporation's ADM count as reported for school aid distribution beginning in the fall of 2005. Before notification of education service centers of the formula and components of the formula for distributing funds for education service centers, review and approval of the formula and components must be made by the budget agency.

TRANSFER TUITION (STATE EMPLOYEES' CHILDREN AND ELIGIBLE CHILDREN IN MENTAL HEALTH FACILITIES)		
Total Operating Expense	50,000	50,000

The foregoing appropriations for transfer tuition (state employees' children and eligible children in mental health facilities) are made under IC 20-8.1-6.1-6 and IC 20-8.1-6.1-5.

TEACHERS' SOCIAL SECURITY AND RETIREMENT DISTRIBUTION		
Total Operating Expense	2,403,792	2,403,792

The foregoing appropriations shall be distributed by the department of education on a monthly basis and in approximately equal payments to special education cooperatives, area vocational schools, and other governmental entities that received state teachers' Social Security distributions for certified education personnel (excluding the certified education personnel funded through federal grants) during the fiscal year beginning July 1, 1992, and ending June 30, 1993, and for the units under the Indiana state teacher's retirement fund, the amount they received during the 2002-2003 state fiscal year for teachers' retirement. If the total amount to be distributed is greater than the total appropriation, the department of education shall reduce each entity's distribution proportionately.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
DISTRIBUTION FOR TUITION SUPPORT			
General Fund			
Total Operating Expense	2,102,629,408	2,099,725,241	
Property Tax Replacement Fund (IC 6-1.1-21)			
Total Operating Expense	1,654,753,925	1,651,849,759	

The foregoing appropriations for distribution for tuition support are to be distributed for tuition support, special education programs, vocational education programs, honors grants, and the primetime program in accordance with a statute enacted for this purpose during the 2005 session of the general assembly.

If the above appropriations for distribution for tuition support are more than are required under this SECTION, one-half (1/2) of any excess shall revert to the general fund and one-half (1/2) of any excess shall revert to the property tax replacement fund.

The above appropriations for tuition support shall be made each calendar year under a schedule set by the budget agency and approved by the governor. However, the schedule shall provide for at least twelve (12) payments, that one (1) payment shall be made at least every forty (40) days, and the aggregate of the payments in each calendar year shall equal the amount required under the statute enacted for the purpose referred to above.

DISTRIBUTION FOR SUMMER SCHOOL		
Other Operating Expense	18,360,000	18,360,000

It is the intent of the 2005 general assembly that the above appropriations for summer school shall be the total allowable state expenditure for such program. Therefore, if the expected disbursements are anticipated to exceed the total appropriation for that state fiscal year, then the department of education shall reduce the distributions proportionately.

EARLY INTERVENTION PROGRAM		
Personal Services	13,000	13,000
Other Operating Expense	3,707,000	3,707,000

The above appropriations for the early intervention program are for grants to local school corporations for grant proposals for early intervention programs, including reading recovery and the Waterford method.

READING DIAGNOSTIC ASSESSMENT		
Total Operating Expense	1,000,000	1,000,000

The foregoing appropriations shall be used by the department for the reading diagnostic assessment and subsequent remedial programs or activities. The reading diagnostic assessment program, as approved by the board, is to be made available on a voluntary basis to all Indiana public and non-public school

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.

first and second grade students upon the approval of the governing body of school corporations. The board shall determine how the funds will be distributed for the assessment and related remediation. The department or its representative shall provide progress reports on the assessment as requested by the board and the education roundtable.

ADULT EDUCATION DISTRIBUTION		
Total Operating Expense	14,000,000	14,000,000

It is the intent of the 2005 general assembly that the above appropriations for adult education shall be the total allowable state expenditure for such program. Therefore, if the expected disbursements are anticipated to exceed the total appropriation for a state fiscal year, the department of education shall reduce the distributions proportionately.

NATIONAL SCHOOL LUNCH PROGRAM		
Total Operating Expense	5,400,000	5,400,000
MARION COUNTY DESEGREGATION COURT ORDER		
Total Operating Expense	18,200,000	18,200,000

The foregoing appropriations for court ordered desegregation costs are made pursuant to order No. IP 68-C-225-S of the United States District Court for the Southern District of Indiana. If the sums herein appropriated are insufficient to enable the state to meet its obligations, then there are hereby appropriated from the state general fund such further sums as may be necessary for such purpose.

TEXTBOOK REIMBURSEMENT		
Total Operating Expense	19,902,559	19,902,644

Before a school corporation or an accredited non-public school may receive a distribution under the textbook reimbursement program, the school corporation or accredited non-public school shall provide to the department the requirements established in IC 20-8.1-9-2. The department shall provide to the family and social services administration (FSSA) all data required for FSSA to meet the data collection reporting requirement in 45 CFR 265. Family and social services administration, division of family resources, shall apply all qualifying expenditures for the textbook reimbursement program toward Indiana's maintenance of effort under the federal Temporary Assistance to Needy Families (TANF) program (45 CFR 260 et seq.).

The foregoing appropriations for textbook reimbursement include the appropriation of the common school fund interest balance. The remainder of the above appropriations are provided from the state general fund.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.

FULL DAY KINDERGARTEN		
Total Operating Expense	8,500,000	8,500,000

The above appropriations for full-day kindergarten are available to a school corporation that applies to the department of education for funding of full-day kindergarten. The amount available to a school corporation equals the amount appropriated divided by the total full-day kindergarten enrollment of all participating school corporations (as defined in IC 21-3-1.6-1.1) for the current year, and then multiplied by the school corporation's full-day kindergarten enrollment (as defined in IC 21-3-1.6-1.1) for the current year. A school corporation that is awarded a grant must provide to the department of education a financial report stating how the funds were spent. Any unspent funds at the end of the biennium must be returned to the state by the school corporation.

TESTING/REMEDIATION		
Other Operating Expense	31,410,450	31,410,450

Prior to notification of local school corporations of the formula and components of the formula for distributing funds for remediation, review and approval of the formula and components shall be made by the budget agency. With the approval of the governor and the budget agency, the above appropriations for school assessment testing/remediation may be augmented from revenues accruing to the secondary market sale fund established by IC 20-12-21.2-10.

The above appropriation for Testing/Remediation shall be used by school corporations to provide remediation programs for students who attend public and nonpublic schools. For purposes of tuition support, these students are not to be counted in the average daily membership.

GRADUATION EXAM REMEDIATION		
Other Operating Expense	4,958,910	4,958,910

Prior to notification of local school corporations of the formula and components of the formula for distributing funds for graduation exam remediation, review and approval of the formula and components shall be made by the budget agency. With the approval of the governor and the budget agency, the above appropriations for school assessment testing/remediation may be augmented from revenues accruing to the secondary market sale fund established by IC 20-12-21.2-10.

SPECIAL EDUCATION PRESCHOOL		
Total Operating Expense	27,173,300	27,173,300

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.

The above appropriations shall be distributed to guarantee a minimum of $2,750 per child enrolled in special education preschool programs from state and local sources in school corporations that levy the maximum special education tax rate for this purpose. It is the intent of the 2005 general assembly that the above appropriations for special education preschool shall be the total allowable expenditure for such program. Therefore, if the expected disbursements are anticipated to exceed the total appropriation for that state fiscal year, then the department of education shall reduce the distributions proportionately.

NON-ENGLISH SPEAKING PROGRAM		
Other Operating Expense	700,000	700,000

The above appropriations for the non-English speaking program are for pupils who have a primary language other than English and limited English proficiency, as determined by using a standard proficiency examination that has been approved by the department of education.

The grant amount is seventy-five dollars ($75) per pupil. It is the intent of the 2005 general assembly that the above appropriations for the non-English speaking program shall be the total allowable state expenditure for the program. If the expected distributions are anticipated to exceed the total appropriations for the state fiscal year, the department of education shall reduce each school corporation's distribution proportionately.

GIFTED AND TALENTED EDUCATION PROGRAM		
Personal Services	211,199	211,348
Other Operating Expense	5,625,138	5,624,992
DISTRIBUTION FOR ADULT VOCATIONAL EDUCATION		
Total Operating Expense	250,000	250,000

The distribution for adult vocational education programs shall be made in accordance with the state plan for vocational education.

PRIMETIME		
Personal Services	172,564	172,566
Other Operating Expense	34,467	34,467
DRUG FREE SCHOOLS		
Personal Services	52,360	52,361
Other Operating Expense	20,093	20,093
PROFESSIONAL DEVELOPMENT DISTRIBUTION		
Other Operating Expense	13,812,500	13,812,500

The foregoing appropriations for professional development distributions include schools defined under IC 20-10.2-2-11.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.

ALTERNATIVE SCHOOLS		
Total Operating Expense	6,380,059	6,380,319
EDUCATIONAL TECHNOLOGY PROGRAM AND FUND (INCLUDING 4R'S TECHNOLOGY GRANT PROGRAM)		
Total Operating Expense	2,109,031	2,109,036

Of the foregoing appropriations, $825,000 shall be allocated to the buddy system each state fiscal year during the biennium. The remaining amounts shall be allocated for technology programs and resources for kindergarten through twelfth grade, and the operation of the office of the special assistant to the superintendent of public instruction for technology.

TECHNOLOGY PLAN GRANT PROGRAM (IC 20-10.1-25.3)	
Total Operating Expense	5,000,000

Notwithstanding IC 20-10.1-25.3-9, the department of education may adjust the grant amount to reflect available funding.

PROFESSIONAL STANDARDS DIVISION		
General Fund		
Personal Services	1,053,602	1,054,199
Other Operating Expense	262,900	1,762,303
Professional Standards Board Licensing Fund		
Total Operating Expense	2,400,000	900,000
Augmentation allowed.		

The above appropriations for the Professional Standards Division do not include funds to pay stipends for mentor teachers.

FOR THE INDIANA STATE TEACHERS' RETIREMENT FUND		
POSTRETIREMENT PENSION INCREASES		
Other Operating Expense	50,427,438	49,797,084

The appropriations for postretirement pension increases are made for those benefits and adjustments provided in IC 21-6.1-6 and IC 5-10.2-5.

TEACHERS' RETIREMENT FUND DISTRIBUTION		
Other Operating Expense	502,400,000	536,200,000
Augmentation allowed.		

If the amount actually required under the pre-1996 account of the teachers' retirement fund for actual benefits for the Post Retirement Pension Increases that are funded on a "pay as you go" basis plus the base benefits under the pre-1996 account of the teachers' retirement fund is:

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.

(1) greater than the above appropriations for a year, after notice to the governor and the budget agency of the deficiency, the above appropriation for the year shall be augmented from the general fund. Any augmentation shall be included in the required pension stabilization calculation under IC 21-6.1-2; or
(2) less than the above appropriations for a year, the excess shall be retained in the general fund. The portion of the benefit funded by the annuity account and the actuarially funded Post Retirement Pension Increases shall not be part of this calculation.

C. OTHER EDUCATION

FOR THE EDUCATION EMPLOYMENT RELATIONS BOARD		
Personal Services	**637,399**	**637,806**
Other Operating Expense	**45,354**	**45,354**
PUBLIC EMPLOYEE RELATIONS BOARD		
Total Operating Expense	**32,550**	**32,550**
FOR THE STATE LIBRARY		
Personal Services	**2,867,740**	**2,869,750**
Other Operating Expense	**729,954**	**729,954**
DISTRIBUTION TO PUBLIC LIBRARIES		
Other Operating Expense	**607,936**	**607,936**

The foregoing appropriations for distribution to public libraries shall be distributed among the public libraries of the state of Indiana under IC 4-23-7.1. However, a public library district that does not provide for the issuance of library cards free of charge or for a fee to all individuals who reside in the county in which that public library district is located shall not be considered an eligible public library district in determining the amounts to be distributed under IC 4-23-7.1 and is not entitled to a distribution under IC 4-23-7.1.

INDIANA COOPERATIVE LIBRARY SERVICES AUTHORITY		
Total Operating Expense	**2,408,848**	**2,408,848**
ACADEMY OF SCIENCE		
Total Operating Expense	**8,811**	**8,811**
FOR THE ARTS COMMISSION		
Personal Services	**329,919**	**330,168**
Other Operating Expense	**3,302,296**	**3,302,056**
FOR THE HISTORICAL BUREAU		
Personal Services	**403,124**	**403,408**
Other Operating Expense	**9,554**	**9,554**
HISTORICAL MARKER PROGRAM		
Total Operating Expense		**34,300**
FOR THE COMMISSION ON PROPRIETARY EDUCATION		
Personal Services	**447,806**	**448,129**

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
Other Operating Expense	**6,865**	**6,865**	

SECTION 10. [EFFECTIVE JULY 1, 2005]

DISTRIBUTIONS

FOR THE PROPERTY TAX REPLACEMENT FUND BOARD

Property Tax Replacement Fund (IC 6-1.1-21)		
Total Operating Expense	**2,028,509,197**	**2,028,509,197**

Notwithstanding IC 6-1.1-21, the foregoing appropriations are the maximum amount that may be distributed. If the amount determined under IC 6-1.1-21 exceeds the amount appropriated, the board shall reduce the credit percentages proportionately so that the distributions equal the appropriation.

SECTION 11. [EFFECTIVE JULY 1, 2005]

The following allocations of federal funds are available for vocational and technical education under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301, et seq. for Vocational and Technical Education) (20 U.S.C. 2371 for Tech Prep Education). These funds shall be received by the department of workforce development, commission on vocational and technical education, and shall be allocated by the budget agency after consultation with the commission on vocational and technical education, the department of education, the commission for higher education, and the department of correction. Funds shall be allocated to these agencies in accordance with the allocations specified below:

STATE PROGRAMS AND LEADERSHIP	**2,655,188**	**2,655,188**
SECONDARY VOCATIONAL PROGRAMS	**14,878,845**	**14,878,845**
POSTSECONDARY VOCATIONAL PROGRAMS	**8,522,925**	**8,522,925**
TECHNOLOGY - PREPARATION EDUCATION	**2,465,494**	**2,465,494**

SECTION 12. [EFFECTIVE JULY 1, 2005]

In accordance with IC 20-1-18.3, the budget agency, with the advice of the commission on vocational and technical education and the budget committee, may augment or reduce an allocation of federal funds made under SECTION 11 of this act.

	FY 2005-06 Appro.	*FY 2006-07 Appro.*	*Biennial Appros.*		*FY 2005-06 Appropriation*	*FY 2006-07 Appropriation*	*Biennial Appros.*

SECTION 13. [EFFECTIVE JULY 1, 2005]

Utility bills for the month of June, travel claims covering the period June 16 to June 30, payroll for the period of the last half of June, any interdepartmental bills for supplies or services for the month of June, and any other miscellaneous expenses incurred during the period June 16 to June 30 shall be charged to the appropriation for the succeeding year. No interdepartmental bill shall be recorded as a refund of expenditure to any current year allotment account for supplies or services rendered or delivered at any time during the preceding June period.

SECTION 14. [EFFECTIVE JULY 1, 2005]

The budget agency, under IC 4-10-11, IC 4-12-1-13, and IC 4-13-1, in cooperation with the Indiana department of administration, may fix the amount of reimbursement for traveling expenses (other than transportation) for travel within the limits of Indiana. This amount may not exceed actual lodging and miscellaneous expenses incurred. A person in travel status, as defined by the state travel policies and procedures established by the Indiana department of administration and the budget agency, is entitled to a meal allowance not to exceed during any twenty-four (24) hour period the standard meal allowances established by the federal Internal Revenue Service.

All appropriations provided by this act or any other statute, for traveling and hotel expenses for any department, officer, agent, employee, person, trustee, or commissioner, are to be used only for travel within the state of Indiana, unless those expenses are incurred in traveling outside the state of Indiana on trips that previously have received approval as required by the state travel policies and procedures established by the Indiana department of administration and the budget agency. With the required approval, a reimbursement for out-of-state travel expenses may be granted in an amount not to exceed actual lodging and miscellaneous expenses incurred. A person in travel status is entitled to a meal allowance not to exceed during any twenty-four (24) hour period the standard meal allowances established by the federal Internal Revenue Service for properly approved travel within the continental United States and a minimum of $50 during any twenty-four (24) hour period for properly approved travel outside the continental United States. However, while traveling in Japan, the minimum meal allowance shall not be less than $90 for any twenty-four (24) hour period. While traveling in Korea and Taiwan, the minimum meal allowance shall not be less than $85 for any twenty-four (24) hour period; while traveling in Singapore, China, Great Britain, Germany, the Netherlands, and France, the minimum meal allowance shall not be less than $65 for any twenty-four (24) hour period.

In the case of the state supported institutions of postsecondary education, approval for out-of-state travel may be given by the chief executive officer of the institution, or the chief executive officer's authorized designee, for the chief executive officer's respective personnel.

Before reimbursing overnight travel expenses, the auditor of state shall require documentation as prescribed in the state travel policies and procedures established by the Indiana department of administration and the budget agency. No appropriation from any fund may be construed as authorizing the payment of any sum in excess of the standard mileage rates for personally owned transportation equipment established by the federal Internal Revenue Service when used in the discharge of state business. The Indiana department of administration and the budget agency may adopt policies and procedures relative to the reimbursement of travel and moving expenses of new state employees and the reimbursement of travel expenses of prospective employees who are invited to interview with the state.

SECTION 15. [EFFECTIVE JULY 1, 2005]

Notwithstanding IC 4-10-11-2.1, the salary per diem of members of boards, commissions, and councils who are entitled to a salary per diem is $50 per day. However, members of boards, commissions, or councils who receive an annual or a monthly salary paid by the state are not entitled to the salary per diem provided in IC 4-10-11-2.1.

SECTION 16. [EFFECTIVE JULY 1, 2005]

No payment for personal services shall be made by the auditor of state unless the payment has been approved by the budget agency or the designee of the budget agency.

SECTION 17. [EFFECTIVE JULY 1, 2005]

No warrant for operating expenses, capital outlay, or fixed charges shall be issued to any department or an institution unless the receipts of the department or institution have been deposited into the state treasury for the month. However, if a department or an institution has more than $10,000 in daily receipts, the receipts shall be deposited into the state treasury daily.

SECTION 18. [EFFECTIVE JULY 1, 2005]

In case of loss by fire or any other cause involving any state institution or department, the proceeds derived from the

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.

settlement of any claim for the loss shall be deposited in the state treasury, and the amount deposited is hereby reappropriated to the institution or department for the purpose of replacing the loss. If it is determined that the loss shall not be replaced, any funds received from the settlement of a claim shall be deposited into the general fund.

SECTION 19. [EFFECTIVE JULY 1, 2005]

If an agency has computer equipment in excess of the needs of that agency, then the excess computer equipment may be sold under the provisions of surplus property sales, and the proceeds of the sale or sales shall be deposited in the state treasury. The amount so deposited is hereby reappropriated to that agency for other operating expenses of the then current year, if approved by the director of the budget agency.

SECTION 20. [EFFECTIVE JULY 1, 2005]

If any state penal or benevolent institution other than the Indiana state prison, Pendleton correctional facility, or Putnamville correctional facility shall, in the operation of its farms, produce products, or commodities in excess of the needs of the institution, the surplus may be sold through the division of industries and farms, the director of the supply division of the Indiana department of administration, or both. The proceeds of any such sale or sales shall be deposited in the state treasury. The amount deposited is hereby reappropriated to the institution for expenses of the then current year if approved by the director of the budget agency. The exchange between state penal and benevolent institutions of livestock for breeding purposes only is hereby authorized at valuations agreed upon between the superintendents or wardens of the institutions. Capital outlay expenditures may be made from the institutional industries and farms revolving fund if approved by the budget agency and the governor.

SECTION 21. [EFFECTIVE JULY 1, 2005]

This act does not authorize any rehabilitation and repairs to any state buildings, nor does it allow that any obligations be incurred for lands and structures, without the prior approval of the budget director or the director's designee. This SECTION does not apply to contracts for the state universities supported in whole or in part by state funds.

SECTION 22. [EFFECTIVE JULY 1, 2005]

If an agency has an annual appropriation fixed by law, and if the agency also receives an appropriation in this act for the same function or program, the appropriation in this act supersedes any other appropriations and is the total appropriation for the agency for that program or function.

SECTION 23. [EFFECTIVE JULY 1, 2005]

The balance of any appropriation or funds heretofore placed or remaining to the credit of any division of the state of Indiana, and any appropriation or funds provided in this act placed to the credit of any division of the state of Indiana, the powers, duties, and functions whereof are assigned and transferred to any department for salaries, maintenance, operation, construction, or other expenses in the exercise of such powers, duties, and functions, shall be transferred to the credit of the department to which such assignment and transfer is made, and the same shall be available for the objects and purposes for which appropriated originally.

SECTION 24. [EFFECTIVE JULY 1, 2005]

The director of the division of procurement of the Indiana department of administration, or any other person or agency authorized to make purchases of equipment, shall not honor any requisition for the purchase of an automobile that is to be paid for from any appropriation made by this act or any other act, unless the following facts are shown to the satisfaction of the commissioner of the Indiana department of administration or the commissioner's designee:
(1) In the case of an elected state officer, it shall be shown that the duties of the office require driving about the state of Indiana in the performance of official duty.
(2) In the case of department or commission heads, it shall be shown that the statutory duties imposed in the discharge of the office require traveling a greater distance than one thousand (1,000) miles each month or that they are subject to official duty call at all times.
(3) In the case of employees, it shall be shown that the major portion of the duties assigned to the employee require travel on state business in excess of one thousand (1,000) miles each month, or that the vehicle is identified by the agency as an integral part of the job assignment. In computing the number of miles required to be driven by a department head or an employee, the distance between the individual's home and office or designated official station is not to be considered as a part of the total. Department heads shall annually submit justification for the continued assignment of each vehicle in their department, which shall be reviewed by the commissioner of the Indiana department of administration, or the commissioner's designee. There shall be an insignia permanently affixed on each side of all state owned cars, designating the cars as being state owned. However, this requirement does not apply to state owned cars driven by elected state officials or to cases where the commissioner of the Indiana department of administration or the commissioner's

	FY 2005-06 Appro.	*FY 2006-07 Appro.*	*Biennial Appros.*
	FY 2005-06 Appropriation	*FY 2006-07 Appropriation*	*Biennial Appros.*

designee determines that affixing insignia on state owned cars would hinder or handicap the persons driving the cars in the performance of their official duties.

SECTION 25. [EFFECTIVE JULY 1, 2005]

When budget agency approval or review is required under this act, the budget agency may refer to the budget committee any budgetary or fiscal matter for an advisory recommendation. The budget committee may hold hearings and take any actions authorized by IC 4-12-1-11, and may make an advisory recommendation to the budget agency.

SECTION 26. [EFFECTIVE JULY 1, 2005]

The governor of the state of Indiana is solely authorized to accept on behalf of the state any and all federal funds available to the state of Indiana. Federal funds received under this SECTION are appropriated for purposes specified by the federal government, subject to allotment by the budget agency. The provisions of this SECTION and all other SECTIONS concerning the acceptance, disbursement, review, and approval of any grant, loan, or gift made by the federal government or any other source to the state or its agencies and political subdivisions shall apply, notwithstanding any other law.

SECTION 27. [EFFECTIVE JULY 1, 2005]

Federal funds received as revenue by a state agency or department are not available to the agency or department for expenditure until allotment has been made by the budget agency under IC 4-12-1-12(d).

SECTION 28. [EFFECTIVE JULY 1, 2005]

A contract or an agreement for personal services or other services may not be entered into by any agency or department of state government without the approval of the budget agency or the designee of the budget director.

SECTION 29. [EFFECTIVE JULY 1, 2005]

Except in those cases where a specific appropriation has been made to cover the payments for any of the following, the auditor of state shall transfer, from the personal services appropriations for each of the various agencies and departments, necessary payments for Social Security, public employees' retirement, health insurance, life insurance, and any other similar payments directed by the budget agency.

SECTION 30. [EFFECTIVE JULY 1, 2005]

Subject to SECTION 25 of this act as it relates to the budget committee, the budget agency with the approval of the governor may withhold allotments of any or all appropriations contained in this act for the 2005-2007 biennium, if it is considered necessary to do so in order to prevent a deficit financial situation.

SECTION 31. [EFFECTIVE JULY 1, 2004 (RETROACTIVE)]

The following deficiency appropriation for the state fiscal year beginning July 1, 2004, and ending June 30, 2005, is made in addition to the appropriations in P.L.224-2003, SECTION 9:

FOR THE DEPARTMENT OF EDUCATION
DISTRIBUTION FOR TUITION SUPPORT
General Fund
Total Operating Expense 20,000,000

The budget agency shall transfer twenty million dollars ($20,000,000) from the balance that existed as of January 31, 2005, in Account 6000/168900 to the state general fund to fund the deficiency appropriation made by this SECTION. The deficiency appropriation made by this SECTION is not subject to transfer to any other fund or subject to transfer, assignment, or reassignment for any other use or purpose by the state board of finance, notwithstanding IC 4-9.1-1-7 and IC 4-13-2-23, or by the budget agency, notwithstanding IC 4-12-1-12, or any other law.

SECTION 32. [EFFECTIVE JULY 1, 2005]

CONSTRUCTION

For the 2005-2007 biennium, the following amounts, from the funds listed as follows, are hereby appropriated to provide for the construction, reconstruction, rehabilitation, repair, purchase, rental, and sale of state properties, capital lease rentals and the purchase and sale of land, including equipment for such properties.

State General Fund - Lease Rentals
243,893,130
State General Fund - Construction
206,437,414
State Police Building Commission Fund (IC 9-29-1-4)
10,500,000
Law Enforcement Academy Building Fund (IC 5-2-1-13)
1,300,000
Cigarette Tax Fund (IC 6-7-1-29.1)
3,276,500
Vocational Construction Projects Fund (IC 16-33-4-10)
375,000

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
Veterans' Home Building Fund (IC 10-17-9-7)		4,527,332	
Post War Construction Fund (IC 7.1-4-8-1)		28,873,488	
Industry and Farm Products Revolving Fund (IC 11-10-6-6)		110,292	
Regional Health Care Construction Account (IC 4-12-8.5)		18,738,093	
TOTAL		518,031,249	

The allocations provided under this SECTION are made from the state general fund, unless specifically authorized from other designated funds by this act. The budget agency, with the approval of the governor, in approving the allocation of funds pursuant to this SECTION, shall consider, as funds are available, allocations for the following specific uses, purposes, and projects:

A. GENERAL GOVERNMENT

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
FOR THE HOUSE OF REPRESENTATIVES			
House Renovations		150,000	
FOR THE STATE BUDGET AGENCY			
Health and Safety Contingency Fund		5,900,000	
Aviation Technology Center		2,708,109	
Airport Facilities Lease		41,917,375	
Qualitech Capital Lease		5,888,000	
Heartland Steel Capital Lease		2,554,000	
DEPARTMENT OF ADMINISTRATION - PROJECTS			
Preventive Maintenance		4,811,020	
Repair and Rehabilitation		19,300,000	
DEPARTMENT OF ADMINISTRATION - LEASES			
General Fund			
Lease - Government Center North		34,691,616	
Lease - Government Center South		30,909,841	
Lease - State Museum		15,293,975	
Lease - McCarty Street		1,415,653	
Lease - Parking Garages		12,576,651	
Lease - Wabash Valley Correctional		24,324,343	
Lease - Rockville Correctional		7,144,675	
Lease - Miami Correctional		31,631,607	
Lease - Pendleton Juvenile Correctional		9,334,000	
Lease - New Castle Correctional		23,503,285	
Regional Health Care Construction Account (IC 4-12-8.5)			
Lease - Evansville State Hospital		6,541,168	
Lease - Southeast Regional Treatment		6,951,700	
Lease - Logansport State Hospital		5,245,225	

B. PUBLIC SAFETY

(1) LAW ENFORCEMENT

INDIANA STATE POLICE

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
State Police Building Commission Fund (IC 9-29-1-4)			
Preventive Maintenance		1,014,000	
Automobiles		7,046,895	
Repair and Rehabilitation		2,439,105	
LAW ENFORCEMENT TRAINING BOARD			
Law Enforcement Academy Building Fund (IC 5-2-1-13)			
Preventive Maintenance		1,170,000	
Repair and Rehabilitation		130,000	
ADJUTANT GENERAL			
Preventive Maintenance		113,400	
Repair and Rehabilitation		1,151,700	
Gary Army Aviation Support		2,600,000	

(2) CORRECTIONS

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
DEPARTMENT OF CORRECTION - PROJECTS			
Post War Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation		2,323,988	
CORRECTIONAL UNITS			
Preventive Maintenance		420,000	
Repair and Rehabilitation		119,000	
Post War Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation		4,759,500	
STATE PRISON			
Preventive Maintenance		1,161,322	
Post War Construction Fund (IC 7.1-4-8-1)			
A&E Fees: Repl.Cellhouse Locking Systems		250,000	
Master Plan: New Visitation Building		2,500,000	
Master Plan: New Checkpoint/Fencing		1,500,000	
Repair and Rehabilitation		6,625,000	
PENDLETON CORRECTIONAL FACILITY			
Preventive Maintenance		996,396	
Post War Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation		75,000	
WOMEN'S PRISON			
Preventive Maintenance		273,000	
Repair and Rehabilitation		1,000,000	
Post War Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation		550,000	
NEW CASTLE CORRECTIONAL FACILITY			
Preventive Maintenance		660,660	
PUTNAMVILLE CORRECTIONAL FACILITY			
Preventive Maintenance		843,022	
Post War Construction Fund (IC 7.1-4-8-1)			
A&E Visitation/Admin Bldg		287,000	
Repair and Rehabilitation		885,000	
PLAINFIELD JUVENILE CORRECTIONAL FACILITY			
Preventive Maintenance		543,947	
Post War Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation		540,000	

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.
INDIANAPOLIS JUVENILE CORRECTIONAL FACILITY			
Preventive Maintenance	325,146		
Post War Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation	780,000		
BRANCHVILLE CORRECTIONAL FACILITY			
Preventive Maintenance	344,870		
Post War Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation	734,000		
WESTVILLE CORRECTIONAL FACILITY			
Preventive Maintenance	1,191,891		
Post War Construction Fund (IC 7.1-4-8-1)			
Master Plan - Vehicle Repair Building	500,000		
Repair and Rehabilitation	1,700,000		
ROCKVILLE CORRECTIONAL FACILITY			
Preventive Maintenance	344,870		
PLAINFIELD CORRECTIONAL FACILITY			
Preventive Maintenance	575,751		
Post War Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation	3,215,000		
RECEPTION-DIAGNOSTIC CENTER			
Preventive Maintenance	216,472		
Post War Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation	1,100,000		
PEN PRODUCTS			
Industry and Farm Products Revolving Fund (IC 11-10-6-6)			
Preventive Maintenance	110,292		
CORRECTIONAL INDUSTRIAL FACILITY			
Preventive Maintenance	520,023		
Post War Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation	250,000		
WORK RELEASE CENTERS			
Preventive Maintenance	100,732		
WABASH VALLEY CORRECTIONAL FACILITY			
Preventive Maintenance	833,560		
Post War Construction Fund (IC 7.1-4-8-1)			
Repair and Rehabilitation	299,000		
MIAMI CORRECTIONAL FACILITY			
Preventive Maintenance	521,400		
PENDLETON JUVENILE CORRECTIONAL FACILITY			
Preventive Maintenance	364,000		
C. CONSERVATION AND ENVIRONMENT			
DEPARTMENT OF NATURAL RESOURCES - GENERAL ADMINISTRATION			
Preventive Maintenance	266,000		
General Admin. - ADA	1,000,000		
Repair and Rehabilitation	6,500,000		
FISH AND WILDLIFE			
Preventive Maintenance	1,810,863		
F&W - Public Access Land Acq.	817,000		
Repair and Rehabilitation	2,555,000		
FORESTRY			
Preventive Maintenance	1,756,800		
Repair and Rehabilitation	5,119,650		
MUSEUMS AND HISTORIC SITES			
Preventive Maintenance	331,586		
Repair and Rehabilitation	3,768,520		
NATURE PRESERVES			
Preventive Maintenance	134,200		
Repair and Rehabilitation	1,093,000		
OUTDOOR RECREATION			
Preventive Maintenance	33,306		
Repair and Rehabilitation	375,000		
STATE PARKS AND RESERVOIR MANAGEMENT			
Preventive Maintenance	2,945,654		
Parks/Res. - Charlestown	3,000,000		
Repair and Rehabilitation	17,200,000		
Drinking Water and Wastewater Projects	6,000,000		
Cigarette Tax Fund (IC 6-7-1-29.1)			
Preventive Maintenance	3,276,500		
DIVISION OF WATER			
Preventive Maintenance	250,000		
Repair and Rehabilitation	925,000		
Dam Repair and Rehabilitation	8,000,000		
Shafer-Freeman Lakes Dredging Enhancement Project	1,000,000		
ENFORCEMENT			
Preventive Maintenance	207,480		
Repair and Rehabilitation	700,000		
STATE MUSEUM			
Preventive Maintenance	650,000		
Repair and Rehabilitation	300,000		
OIL AND GAS			
Oil & Gas - Partnership Program	200,000		
ENTOMOLOGY			
Entomology - Exotic Species Control	700,000		
WAR MEMORIALS COMMISSION			
Preventive Maintenance	1,421,494		
Repair and Rehabilitation	1,750,000		
MAUMEE RIVER BASIN COMMISSION			
Repair and Rehabilitation	150,000		
LITTLE CALUMET RIVER BASIN COMMISSION			
Little Calumet River Basin Devlpmnt Comm	2,000,000		
D. TRANSPORTATION			
AIRPORT DEVELOPMENT			
Airport Development	1,200,000		

The foregoing allocation for the Indiana department of transportation is for airport development and shall be used for the purpose of assisting local airport authorities and local units of government in matching available federal funds under the airport improvement program and for matching federal grants for airport planning and for the other airport studies.

	FY 2005-06 Appro.	FY 2006-07 Appro.	Biennial Appros.

Matching grants of aid shall be made in accordance with the approved annual capital improvements program of the Indiana department of transportation and with the approval of the governor and the budget agency.

	FY 2005-06 Appropriation	FY 2006-07 Appropriation	Biennial Appros.
PORT COMMISSION			
Pier #3 Southwind Maritime Center	1,200,000		
E. FAMILY AND SOCIAL SERVICES, HEALTH, AND VETERANS' AFFAIRS			
(1) FAMILY AND SOCIAL SERVICES ADMINISTRATION			
FSSA CONSTRUCTION			
Repair and Rehabilitation	4,200,000		
EVANSVILLE PSYCHIATRIC CHILDREN'S CENTER			
Preventive Maintenance	45,000		
Repair and Rehabilitation	950,000		
EVANSVILLE STATE HOSPITAL			
Preventive Maintenance	756,756		
Repair and Rehabilitation	57,000		
MADISON STATE HOSPITAL			
Preventive Maintenance	971,409		
LOGANSPORT STATE HOSPITAL			
Preventive Maintenance	963,144		
Transitional Care Unit	1,300,000		
Boiler Lease Payment	244,180		
Repair and Rehabilitation	3,211,925		
RICHMOND STATE HOSPITAL			
Preventive Maintenance	1,210,724		
Repair and Rehabilitation	2,004,468		
LARUE CARTER MEMORIAL HOSPITAL			
Preventive Maintenance	1,484,134		
Repair and Rehabilitation	1,500,000		
FORT WAYNE STATE DEVELOPMENTAL CENTER			
Preventive Maintenance	1,424,803		
Repair and Rehabilitation	2,000,000		
(2) PUBLIC HEALTH			
DEPARTMENT OF HEALTH			
Repair and Rehabilitation	130,000		
SILVERCREST CHILDREN'S DEVELOPMENT CENTER			
Preventive Maintenance	161,140		
SCHOOL FOR THE BLIND			
Preventive Maintenance	565,714		
SCHOOL FOR THE DEAF			
Preventive Maintenance	553,120		
Repair and Rehabilitation	72,752		
SOLDIERS' AND SAILORS' CHILDREN'S HOME			
Preventive Maintenance	400,000		
Repair and Rehabilitation	645,536		
Vocational Construction Projects Fund (IC 16-33-4-10)			
Repair and Rehabilitation	375,000		
(3) VETERANS' AFFAIRS			
INDIANA VETERANS' HOME			
Veterans' Home Building Fund (IC 10-17-9-7)			
Preventive Maintenance	1,000,000		
Repair and Rehabilitation	3,527,332		
F. EDUCATION			
HIGHER EDUCATION			
INDIANA UNIVERSITY - TOTAL SYSTEM			
General Repair and Rehab	20,933,720		
PURDUE UNIVERSITY - TOTAL SYSTEM			
General Repair and Rehab	16,611,550		
IPFW Student Services Building and Library A&E	2,400,000		
INDIANA STATE UNIVERSITY			
General Repair and Rehab	4,122,676		
UNIVERSITY OF SOUTHERN INDIANA			
General Repair and Rehab	800,828		
BALL STATE UNIVERSITY			
General Repair and Rehab	5,242,038		
VINCENNES UNIVERSITY			
General Repair and Rehab	2,008,410		
Steamline Replacement	2,500,000		
Electrical Substation	1,000,000		
IVY TECH STATE COLLEGE			
General Repair and Rehab	1,473,652		
Planning - Greencastle Campus Expansion	250,000		
Ft. Wayne Technology Center A&E	2,500,000		
Ft. Wayne Public Safety Training Center Lease	1,000,000		

SECTION 33. [EFFECTIVE JULY 1, 2005]

The budget agency may employ one (1) or more architects or engineers to inspect construction, rehabilitation, and repair projects covered by the appropriations in this act or previous acts.

SECTION 34. [EFFECTIVE JULY 1, 2005]

If any part of a construction or rehabilitation and repair appropriation made by this act or any previous acts has not been allotted or encumbered before the expiration of two (2) biennia, the budget agency may determine that the balance of the appropriation is not available for allotment. The appropriation may be terminated, and the balance may revert to the fund from which the original appropriation was made.

SECTION 35. [EFFECTIVE UPON PASSAGE]

The budget agency may retain balances in the mental health fund at the end of any fiscal year to ensure there are sufficient funds to meet appropriations for state developmental centers in any subsequent year.

SECTION 36. [EFFECTIVE JULY 1, 2005]

(a) If the budget director determines at any time during the biennium that the executive branch of state government cannot meet its statutory obligations due to insufficient funds in the general fund, then notwithstanding IC 4-10-18, the budget agency, with the approval of the governor and after review by the budget committee, may transfer from the counter-cyclical revenue and economic stabilization fund to the general fund an amount necessary to maintain a positive balance in the general fund.

(b) The budget agency shall transfer one hundred million dollars ($100,000,000) into the counter-cyclical revenue and economic stabilization fund during the state fiscal year ending June 30, 2007, unless the budget agency determines there is an insufficient balance in the general fund to make the transfer.

(c) This SECTION expires July 2, 2007.

SECTION 37. IC 4-1-8-1, AS AMENDED BY HEA 1288-2005, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) No individual may be compelled by any state agency, board, commission, department, bureau, or other entity of state government (referred to as "state agency" in this chapter) to provide the individual's Social Security number to the state agency against the individual's will, absent federal requirements to the contrary. However, the provisions of this chapter do not apply to the following:

(1) Department of state revenue.

(2) Department of workforce development.

(3) The programs administered by:

(A) the division of family and children;

(B) the division of mental health and addiction;

(C) the division of disability, aging, and rehabilitative services; and

(D) the office of Medicaid policy and planning;

of the office of the secretary of family and social services.

(4) Auditor of state.

(5) State personnel department.

(6) Secretary of state, with respect to the registration of broker-dealers, agents, and investment advisors.

(7) The legislative ethics commission, with respect to the registration of lobbyists.

(8) Indiana department of administration, with respect to bidders on contracts.

(9) Indiana department of transportation, with respect to bidders on contracts.

(10) Health professions bureau.

(11) Indiana professional licensing agency.

(12) ~~Indiana~~ Department of insurance, with respect to licensing of insurance producers.

(13) A pension fund administered by the board of trustees of the public employees' retirement fund.

(14) The Indiana state teachers' retirement fund.

(15) The state police benefit system.

(16) The alcohol and tobacco commission.

(b) The bureau of motor vehicles may, notwithstanding this chapter, require the following:

(1) That an individual include the individual's Social Security number in an application for an official certificate of title for any vehicle required to be titled under IC 9-17.

(2) That an individual include the individual's Social Security number on an application for registration.

(3) That a corporation, limited liability company, firm, partnership, or other business entity include its federal tax identification number on an application for registration.

(c) The Indiana department of administration, the Indiana department of transportation, the health professions bureau, and the Indiana professional licensing agency may require an employer to provide its federal employer identification number.

(d) The department of correction may require a committed offender to provide the offender's Social Security number for purposes of matching data with the Social Security Administration to determine benefit eligibility.

(e) The Indiana gaming commission may, notwithstanding this chapter, require the following:

(1) That an individual include the individual's Social Security number in any application for a riverboat owner's license, supplier's license, or occupational license.

(2) That a sole proprietorship, a partnership, an association, a fiduciary, a corporation, a limited liability company, or any other business entity include its federal tax identification number on an application for a riverboat owner's license or supplier's license.

(f) Notwithstanding this chapter, the ~~professional standards board~~ **department of education** established by ~~IC 20-28-2-1~~ **IC 20-19-3-1** may require an individual who applies to the ~~board~~ **department** for a license or an endorsement to provide the individual's Social Security number. The Social Security number may be used by the ~~board~~ **department** only for conducting a background investigation, if the ~~board~~ **department** is authorized by statute to conduct a background investigation of an individual for issuance of the license or endorsement.

SECTION 38. IC 4-3-22 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 22. Office of Management and Budget

Sec. 1. The state will benefit from devoting adequate resources to do the following:

(1) Gather and coordinate data in a timely manner.

(2) Perform comprehensive and detailed budgeting analysis.

(3) Put in place comprehensive and effective budgeting practices.

(4) Coordinate all functions related to budgeting and controlling spending in state government.

(5) Perform comprehensive and detailed financial analysis.

(6) Perform comprehensive financial oversight.

(7) Ensure that effective financial management policies are implemented throughout state government.

(8) Perform comprehensive and detailed performance analysis.

(9) Ascertain whether the burdens imposed by laws and rules are justified by their benefits using a rigorous cost benefit analysis.

(10) Measure the performance of government activities.

Sec. 2. As used in this chapter, "director" means the director of the office of management and budget established by this chapter.

Sec. 3. (a) To address the needs set forth in section 1 of this chapter, there is established the office of management and budget, which is referred to in this chapter as the "OMB".

(b) The OMB shall have a director who is the chief financial officer of the state. The director shall report directly to the governor.

Sec. 4. The director is responsible and accountable for and has authority over the following:

(1) All functions performed by the following:

(A) The budget agency.

(B) The department of state revenue.

(C) The department of local government finance.

(D) The Indiana finance authority.

The directors of these agencies, departments, and offices shall report to the director and administer their offices and agencies in compliance with the policies and procedures related to fiscal management that are established by the OMB and approved by the governor.

(2) All budgeting, accounting, and spending functions within the various agencies, departments, and programs of state government.

Sec. 5. The director may serve as the budget director of the budget agency under IC 4-12-1-3 unless the governor appoints another individual to serve as the budget director. If the director also serves as the budget director, the director is not entitled to receive any salary or other compensation as budget director.

Sec. 6. (a) The division of government efficiency and financial planning is established within the OMB. The director shall appoint, subject to the approval of the governor, a director of the division, who serves at the pleasure of the director of OMB.

(b) The division shall conduct operational and procedural audits of state government, perform financial planning, design and implement efficiency projects, and carry out such other responsibilities as may be designated by the director.

Sec. 7. The OMB shall assist the governor in the articulation, development, and execution of the governor's policies and programs on fiscal management.

Sec. 8. The OMB shall assist and represent the governor in the development and review of all policy, legislative, and rulemaking proposals affecting capital budgeting, procurement, e-government, and other matters related to fiscal management.

Sec. 9. The OMB shall harmonize agency views on legislation and facilitate the negotiation of policy positions for the governor.

Sec. 10. The OMB shall provide expertise to the governor for budget decision making and negotiations.

Sec. 11. The OMB shall analyze trends in and the consequences of aggregate budget policy.

Sec. 12. The OMB shall establish metrics for measuring state government performance and efficiency.

Sec. 13. (a) The OMB shall perform a cost benefit analysis upon each proposed rule and provide to:

(1) the governor; and

(2) the administrative rules oversight committee established under IC 2-5-18;

an assessment of the rule's effect on Indiana business.

(b) After June 30, 2005, the cost benefit analysis performed by the OMB under this section with respect to any proposed rule that has an impact of at least five hundred thousand dollars ($500,000) shall replace and be used for all purposes under IC 4-22-2 in lieu of the fiscal analysis previously performed by the legislative services agency under IC 4-22-2.

Sec. 14. All instrumentalities, agencies, authorities, boards, commissions, and officers of the executive, including the administrative, department of state government, and all bodies corporate and politic established as instrumentalities of the state shall:

(1) comply with the policies and procedures related to fiscal management that are established by the OMB and approved by the governor; and

(2) cooperate with and provide assistance to the OMB.

Sec. 15. All state agencies (as defined in IC 4-12-1-2) shall, in addition to complying with all statutory duties applicable to state purchasing, be accountable to the OMB for adherence to policies, procedures, and spending controls established by the OMB and approved by the governor.

SECTION 39. IC 4-9.1-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The board may transfer money between state funds, and the board may transfer money between appropriations for any board, department, commission, office, or benevolent or penal institution of the state. After the transfer is made the money of the fund or appropriation transferred is not available to the fund or the board, department, commission, office, or benevolent or penal institution from which it was transferred.

(b) In addition to a transfer under subsection (a), the board may transfer money from an appropriation for any board, department, commission, office, or benevolent or penal

institution of the state to the Indiana economic development corporation.

~~(b)~~ **(c)** An order by the board to make a transfer under this section is sufficient authority for the making of appropriate entries showing the transfer on the books of the auditor of state and treasurer of state.

~~(c)~~ **(d)** The authority given the board under this section to make transfers does not apply to trust funds. For the purposes of this section, "trust fund" means a fund which by the constitution or by statute has been designated as a trust fund or a fund which has been determined by the board to be a trust fund.

SECTION 40. IC 4-12-1-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 18. Federal funds received by an instrumentality are appropriated for purposes specified by the federal government, subject to allotment by the budget agency. The provisions of this chapter and other laws concerning the acceptance, disbursement, review, and approval of grants, loans, and gifts made by the federal government or any other source to the state or its agencies apply to instrumentalities.**

SECTION 41. IC 4-20.5-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The agency head of a transferring agency must do the following:

(1) Find that the property is surplus to the needs of the agency.

(2) Notify the department that the agency wants to transfer the property.

(3) Provide the details of the proposed transfer as required by the department.

(4) **Submit a** request **to the budget agency,** in writing, ~~approval of~~ **that** the governor ~~to~~ **approve the** transfer **of** the property.

Subdivisions (1) and (4) do not apply to a lease of state property.

SECTION 42. IC 4-20.5-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) ~~If the commissioner finds that another agency or a state educational institution can use the property, the~~ **Surplus** property may, **under the policies prescribed by the budget agency,** be transferred to ~~the other~~ **another** agency or ~~the~~ **a** state educational institution.

(b) The **policies of the budget agency must include a requirement that the** agency head of the accepting agency or the state educational institution ~~must~~ do the following:

(1) Find that the property is necessary or convenient to the accepting agency's or state educational institution's use or purpose.

(2) Request, in writing, approval of the governor to transfer possession of the property from the transferring agency.

(c) With the approval of the budget agency, the accepting agency or state educational institution may transfer funds to the transferring agency in consideration of the transfer.

(d) The offer to the transferring agency must remain open for thirty (30) days after the offer was made. If an offer has not been rejected or accepted by the agency within thirty (30) days, the department may dispose of the property as otherwise permitted under this chapter.

SECTION 43. IC 4-24-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. For all claims that the ~~Plainfield Juvenile Correctional Facility or the Indianapolis Juvenile Correctional Facility~~ **department of correction** may have against any county for the payment of the county's portion of the cost of the maintenance of any inmate ~~of such~~ **at a juvenile** institution ~~which inmate~~ **who** was admitted to ~~such~~ **the** institution from ~~such~~ **that** county, the superintendent of ~~such~~ **the** institution shall make out an account ~~therefor~~ against ~~such~~ **the** county, in a manner ~~as hereinafter~~ provided **in this chapter.**

SECTION 44. IC 4-24-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. **(a)** ~~From and after January 1, 1953, such~~ Accounts of state institutions ~~as are~~ described in sections 1 ~~2,~~ and 3 of this chapter shall be paid as follows:

(1) All such accounts shall be signed by the superintendent of such institution, attested to by the seal of the institution, and forwarded to the auditor of the county for payment from which county the inmate or patient was admitted.

(2) All accounts accruing between January 1 and June 30 of each year shall be forwarded to the county auditor on or before October 1 of such year.

(3) All accounts accruing between July 1 and December 31 of each year shall be forwarded to the county auditor on or before April 1 of the following year.

(4) Upon receipt of any such account, the county auditor shall draw a warrant on the treasurer of the county for the payment of the account, and the same shall be paid out of the funds of the county appropriated therefor.

(5) The county council of each county of the state shall annually appropriate sufficient funds to pay such accounts.

(b) All accounts of state institutions described in section 2 of this chapter shall be paid as follows:

(1) All such accounts shall be signed by the superintendent of the institution, attested to by the seal of the institution, and forwarded to the auditor of the county for payment from the county from which the inmate was admitted.

(2) All accounts accruing after December 31 and before April 1 of each year shall be forwarded to the county auditor on or before May 15 of that year.

(3) All accounts accruing after March 31 and before July 1 of each year shall be forwarded to the county auditor on or before August 15 of that year.

(4) All accounts accruing after June 30 and before October 1 of each year shall be forwarded to the county auditor on or before November 15 of that year.

(5) All accounts accruing after September 30 and before January 1 of each year, and any reconciliations for previous periods, shall be forwarded to the county auditor on or before March 15 of the following year.

(6) Upon receipt of an account, the county auditor shall draw a warrant on the treasurer of the county for the payment of the account, which shall be paid from the

funds of the county that were appropriated for the payment.

(7) The county council of each county shall annually appropriate sufficient funds to pay these accounts.

If a county has not paid an account within six (6) months after the account is forwarded under this subsection, the auditor of state shall, notwithstanding anything to the contrary in IC 6-1.1-21, reduce the next distribution of property tax replacement credits under IC 6-1.1-21 to the county and withhold the amount owed on the account. The auditor of state shall credit the withheld amount to the state general fund for the purpose of curing the default. The account is then considered paid. A county that has the county's distribution reduced under this subsection shall apply the withheld amount only to the county unit's share of the distribution and may not reduce a distribution to any other civil taxing unit or school corporation within the county.

SECTION 45. IC 4-30-16-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The commission shall transfer the surplus revenue in the administrative trust fund as follows:

(1) Before the last business day of January, April, July, and October, the commission shall transfer to the treasurer of state, for deposit in the Indiana state teachers' retirement fund (IC 21-6.1-2), ~~before July 1, 2005,~~ seven million five hundred thousand dollars ($7,500,000). ~~and after June 30, 2005, an amount equal to the lesser of:~~

~~(A) seven million five hundred thousand dollars ($7,500,000); or~~

~~(B) the additional quarterly contribution needed so that the ratio of the unfunded liability of the Indiana state teachers' retirement fund compared to total active teacher payroll is as close as possible to but not greater than the ratio that existed on the preceding July 1.~~

~~After June 30, 2003, and before July 1, 2005, the amount deposited in a state fiscal year under this subdivision in the Indiana state teachers' retirement fund (IC 21-6.1-2) shall only be used by the board to reduce the employer contribution rate that school corporations would otherwise pay after June 30, 2003, and before July 1, 2005, to the Indiana state teachers' retirement fund (IC 21-6.1-2), as computed under IC 5-10.2-2 and certified under IC 21-6.1-7-12, for teachers covered by the 1996 account, including a proportionate share of administration expenses for the 1996 account. On or before June 15, 2005, and June 15 of each year thereafter, the board of trustees of the Indiana state teachers' retirement fund shall submit to the treasurer of state, each member of the pension management oversight commission, and the auditor of state its estimate of the quarterly amount needed to freeze the unfunded accrued liability of the pre-1996 account (as defined in IC 21-6.1-1-6.9) as a percent of payroll. The estimate shall be based on the most recent actuarial valuation of the fund.~~ Notwithstanding any other law, including any appropriations law resulting from a budget bill (as defined in IC 4-12-1-2), ~~after June 30, 2005,~~ the money transferred under this subdivision shall be set aside in ~~a special account~~ **the pension stabilization fund (IC 21-6.1-2-8)** to be used as a credit against the unfunded accrued liability of the pre-1996 account (as defined in IC 21-6.1-1-6.9) of the Indiana state teachers' retirement fund. The money transferred is in addition to the appropriation needed to pay benefits for the state fiscal year.

(2) Before the last business day of January, April, July, and October, the commission shall transfer:

(A) two million five hundred thousand dollars ($2,500,000) of the surplus revenue to the treasurer of state for deposit in the "k" portion of the pension relief fund (IC 5-10.3-11); and

(B) five million dollars ($5,000,000) of the surplus revenue to the treasurer of state for deposit in the "m" portion of the pension relief fund (IC 5-10.3-11).

(3) The surplus revenue remaining in the fund on the last day of January, April, July, and October after the transfers under subdivisions (1) and (2) shall be transferred by the commission to the treasurer of state for deposit on that day in the build Indiana fund.

(b) The commission may make transfers to the treasurer of state more frequently than required by subsection (a). However, the number of transfers does not affect the amount that is required to be transferred for the purposes listed in subsection (a)(1) and (a)(2). Any amount transferred during the month in excess of the amount required to be transferred for the purposes listed in subsection (a)(1) and (a)(2) shall be transferred to the build Indiana fund.

SECTION 46. IC 4-33-13-5, AS AMENDED BY HEA 1398-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) This subsection does not apply to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter to the following:

(1) The first thirty-three million dollars ($33,000,000) of tax revenues collected under this chapter shall be set aside for revenue sharing under subsection (e).

(2) Subject to subsection (c), twenty-five percent (25%) of the remaining tax revenue remitted by each licensed owner shall be paid:

(A) to the city that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of:

(i) a city described in IC 4-33-12-6(b)(1)(A); or

(ii) a city located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(B) to the county that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of a riverboat whose home dock is not in a city described in clause (A).

(3) Subject to subsection (d), the remainder of the tax revenue remitted by each licensed owner shall be paid to the property tax replacement fund. In each state fiscal year, ~~beginning after June 30, 2003,~~ the treasurer of state shall make the transfer required by this subdivision not later than the last business day of the month in which the tax revenue is remitted to the state for deposit in the state gaming fund. However, if tax revenue is received by the state on the last business day in a month, the treasurer of state may transfer the tax revenue to the property tax replacement fund in the immediately following month.

(b) This subsection applies only to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter as follows:

(1) Thirty-seven and one half percent (37.5%) shall be paid to the property tax replacement fund established under IC 6-1.1-21.

(2) Thirty-seven and one-half percent (37.5%) shall be paid to the West Baden Springs historic hotel preservation and maintenance fund established by IC 36-7-11.5-11(b). However, at any time the balance in that fund exceeds twenty million dollars ($20,000,000), the amount described in this subdivision shall be paid to the property tax replacement fund established under IC 6-1.1-21.

(3) Five percent (5%) shall be paid to the historic hotel preservation commission established under IC 36-7-11.5.

(4) Ten percent (10%) shall be paid in equal amounts to each town that:

(A) is located in the county in which the riverboat docks; and

(B) contains a historic hotel.

The town council shall appropriate a part of the money received by the town under this subdivision to the budget of the town's tourism commission.

(5) Ten percent (10%) shall be paid to the county treasurer of the county in which the riverboat is docked. The county treasurer shall distribute the money received under this subdivision as follows:

(A) Twenty percent (20%) shall be quarterly distributed to the county treasurer of a county having a population of more than thirty-nine thousand six hundred (39,600) but less than forty thousand (40,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(B) Twenty percent (20%) shall be quarterly distributed to the county treasurer of a county having a population of more than ten thousand seven hundred (10,700) but less than twelve thousand (12,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(C) Sixty percent (60%) shall be retained by the county where the riverboat is docked for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body shall provide for the distribution of part or all of the money received under this clause to the following under a formula established by the county fiscal body:

(i) A town having a population of more than two thousand two hundred (2,200) but less than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

(ii) A town having a population of more than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

(c) For each city and county receiving money under subsection (a)(2), the treasurer of state shall determine the total amount of money paid by the treasurer of state to the city or county during the state fiscal year 2002. The amount determined is the base year revenue for the city or county. The treasurer of state shall certify the base year revenue determined under this subsection to the city or county. The total amount of money distributed to a city or county under this section during a state fiscal year may not exceed the entity's base year revenue. For each state fiscal year, ~~beginning after June 30, 2002,~~ the treasurer of state shall pay that part of the riverboat wagering taxes that:

(1) exceeds a particular ~~city~~ **city's** or county's base year revenue; and

(2) would otherwise be due to the city or county under this section;

to the property tax replacement fund instead of to the city or county.

(d) Each state fiscal year the treasurer of state shall transfer from the tax revenue remitted to the property tax replacement fund under subsection (a)(3) to the build Indiana fund an amount that when added to the following may not exceed two hundred fifty million dollars ($250,000,000):

(1) Surplus lottery revenues under IC 4-30-17-3.

(2) Surplus revenue from the charity gaming enforcement fund under IC 4-32-10-6.

(3) Tax revenue from pari-mutuel wagering under IC 4-31-9-3.

The treasurer of state shall make transfers on a monthly basis as needed to meet the obligations of the build Indiana fund. If in any state fiscal year insufficient money is transferred to the property tax

replacement fund under subsection (a)(3) to comply with this subsection, the treasurer of state shall reduce the amount transferred to the build Indiana fund to the amount available in the property tax replacement fund from the transfers under subsection (a)(3) for the state fiscal year.

(e) Before August 15 of ~~2003 and~~ each year, ~~thereafter,~~ the treasurer of state shall distribute the wagering taxes set aside for revenue sharing under subsection (a)(1) to the county treasurer of each county that does not have a riverboat according to the ratio that the county's population bears to the total population of the counties that do not have a riverboat. Except as provided in subsection (h), the county auditor shall distribute the money received by the county under this subsection as follows:

(1) To each city located in the county according to the ratio the city's population bears to the total population of the county.

(2) To each town located in the county according to the ratio the town's population bears to the total population of the county.

(3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be retained by the county.

(f) Money received by a city, town, or county under subsection (e) or (h) may be used for any of the following purposes:

(1) To reduce the property tax levy of the city, town, or county for a particular year (a property tax reduction under this subdivision does not reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5).

(2) For deposit in a special fund or allocation fund created under IC 8-22-3.5, IC 36-7-14, IC 36-7-14.5, IC 36-7-15.1, and IC 36-7-30 to provide funding for additional credits for property tax replacement in property tax increment allocation areas or debt repayment.

(3) To fund sewer and water projects, including storm water management projects.

(4) For police and fire pensions.

(5) To carry out any governmental purpose for which the money is appropriated by the fiscal body of the city, town, or county. Money used under this subdivision does not reduce the property tax levy of the city, town, or county for a particular year or reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5.

(g) This subsection does not apply to an entity receiving money under IC 4-33-12-6(c). Before September 15 of ~~2003 and~~ each year, ~~thereafter,~~ the treasurer of state shall determine the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year. If the treasurer of state determines that the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year was less than the entity's base year revenue (as determined under IC 4-33-12-6), the treasurer of state shall make a supplemental distribution to the entity from taxes collected under this chapter and deposited into the property tax replacement fund. The amount of the supplemental distribution is equal to: ~~the difference between~~

(1) the entity's base year revenue (as determined under IC 4-33-12-6); ~~and~~ **minus**

(2) the **sum of:**

(A) the total amount of money distributed to the entity during the preceding state fiscal year under IC 4-33-12-6; **plus**

(B) any amounts deducted under IC 6-3.1-20-7.

(h) This subsection applies only to a county containing a consolidated city. The county auditor shall distribute the money received by the county under subsection (e) as follows:

(1) To each city, other than a consolidated city, located in the county according to the ratio that the city's population bears to the total population of the county.

(2) To each town located in the county according to the ratio that the town's population bears to the total population of the county.

(3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be paid in equal amounts to the consolidated city and the county.

SECTION 47. IC 5-10-8-7.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.3. (a) As used in this section, "covered individual" means an individual who is:

(1) covered under a self-insurance program established under section 7(b) of this chapter to provide group health coverage; or

(2) entitled to services under a contract with a prepaid health care delivery plan that is entered into or renewed under section 7(c) of this chapter.

(b) As used in this section, "early intervention services" means services provided to a first steps child under IC 12-17-15-3 and 20 U.S.C. 1432(4).

(c) As used in this section, "first steps child" means an infant or toddler from birth through two (2) years of age who is enrolled in the Indiana first steps program and is a covered individual.

(d) As used in this section, "first steps program" refers to the program established under IC 12-17-15 and 20 U.S.C. 1431 et seq. to meet the needs of:

(1) children who are eligible for early intervention services; and

(2) their families.

The term includes the coordination of all available federal, state, local, and private resources available to provide early intervention services within Indiana.

(e) As used in this section, "health benefits plan" means a:

(1) self-insurance program established under section 7(b) of this chapter to provide group health coverage; or

(2) contract with a prepaid health care delivery plan that is entered into or renewed under section 7(c) of this chapter.

(f) A health benefits plan that provides coverage for early intervention services shall reimburse the first steps program for payments made by the program for early intervention services that are covered under the health benefits plan.

~~(g) The reimbursement required under subsection (f) is limited to an annual maximum benefit of three thousand five hundred~~

~~dollars ($3,500) per first steps child.~~

~~(h)~~ **(g)** The reimbursement required under subsection (f) may not be applied to any annual or aggregate lifetime limit on the first steps child's coverage under the health benefits plan.

~~(i)~~ **(h)** The first steps program may pay required deductibles, copayments, or other out-of-pocket expenses for a first steps child directly to a provider. A health benefits plan shall apply any payments made by the first steps program to the health benefits plan's deductibles, copayments, or other out-of-pocket expenses according to the terms and conditions of the health benefits plan.

SECTION 48. IC 5-10.2-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The funds may employ a common actuary or actuarial service.

(b) At least once in every five (5) years and in every year in which this article is amended so that benefits are changed, the actuary shall make a separate actuarial investigation for each fund and for the 1996 account of the mortality, service, and compensation experience of the members and their beneficiaries and shall make a valuation of the assets and liabilities of the fund or account, using the "entry-age normal cost" method.

(c) The actuarial investigation must include in the determination of the liability and the rates of contribution the amount necessary to fully fund past and estimated future cost of living increases for members of the public employees' retirement fund amortized over thirty (30) years. The actuary shall consult with the budget agency in making this determination.

SECTION 49. IC 5-10.2-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) Based on the actuarial investigation and valuation in section 9 of this chapter, each board shall determine:

(1) the normal contribution for the employer, which is the amount necessary to fund the pension portion of the retirement benefit;

(2) the rate of normal contribution;

(3) the unfunded accrued liability of the public employees' retirement fund, the pre-1996 account, and the 1996 account, which is the excess of total accrued liability over the fund's or account's total assets, respectively; and

(4) the rates of contribution for the state expressed as a proportion of compensation of members, which would be necessary to:

(A) amortize the unfunded accrued liability of the state for thirty (30) years or for ~~the~~ **a shorter** time period requested by the budget agency or the governor; and

(B) prevent the state's unfunded accrued liability from increasing.

(b) Based on the information in subsection (a), each board may determine, in its sole discretion, contributions and contribution rates for individual employers or for a group of employers.

(c) The board's determinations under subsection (a) are subject to section 1.5 of this chapter.

SECTION 50. IC 5-10.2-5-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 34. (a) This section does not apply to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund) whose creditable service was earned only as an elected official.

(b) In addition to any other cost of living increase provided under this chapter, the pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, ~~2003,~~ **2005,** to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund) who was a retired member of the fund with at least ten (10) years of creditable service and was entitled to receive a monthly benefit on December 1, ~~2003,~~ **2004,** may not be less than one hundred eighty dollars ($180).

(c) The increases specified in this section:

(1) are based upon the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

SECTION 51. IC 5-10.2-5-38 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 38. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2005, to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund) who retired or was disabled:**

(1) before July 2, 1990, shall be increased by two percent (2%); and

(2) after July 1, 1990, and before January 1, 2005, shall be increased by one and one-half percent (1.5%).

(b) The increases specified in this section:

(1) are based on the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

SECTION 52. IC 5-10.2-5-39 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 39. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2005, to a member of the Indiana state teachers' retirement fund (or to a survivor or beneficiary of a member of the Indiana state teachers' retirement fund) who retired or was disabled:**

(1) before July 2, 1990, shall be increased by two percent (2%); and

(2) after July 1, 1990, and before July 2, 2003, shall be increased by one percent (1%).

(b) The increases specified in this section:

(1) are based on the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

SECTION 53. IC 5-11-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. There is established a state board of accounts. The board consists of the state examiner and two (2) deputy examiners as provided in this section. The principal officer of the board is the state examiner, who shall be appointed by the governor and who shall hold office for a term of four (4) years from the date of appointment. The state examiner must be a certified public accountant with at least ~~seven (7)~~ **three (3)** consecutive years of active experience as a field examiner with the state board of accounts that immediately precedes the appointment as state examiner. The governor shall also appoint two (2) deputy examiners, who must have the same qualifications as the state examiner, be of different political parties, and be subordinate to the state examiner. The deputy examiners shall be appointed for terms of four (4) years. The state examiner and the deputy examiners are subject to removal by the governor for incompetency or for misconduct of the office, after a hearing upon due notice and upon stated charges in writing. An appeal may be taken by the officer removed to the circuit or a superior court of Marion County.

SECTION 54. IC 5-22-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) An offeror that is a foreign corporation must be registered with the secretary of state to do business in Indiana in order to be considered responsible.

(b) This subsection applies to a purchase of supplies or services for a state agency under a contract entered into or purchase order sent to an offeror (in the absence of a contract) after June 30, 2003, including a purchase described in IC 5-22-8-2 or IC 5-22-8-3. A state agency may not purchase property or services from a person that is delinquent in the payment of amounts due from the person under IC 6-2.5 (gross retail and use tax) unless the person provides a statement from the department of state revenue that the person's delinquent tax liability:

(1) has been satisfied; or

(2) has been released under IC 6-8.1-8-2.

(c) ~~Except as provided in subsection (d),~~ The purchasing agent may award a contract to an offeror pending the offeror's registration with the secretary of state. If, in the judgment of the purchasing agent, the offeror has not registered within a reasonable period, the purchasing agent shall cancel the contract. An offeror has no cause of action based on the cancellation of a contract under this subsection.

~~(d) This subsection applies only to a contract awarded by a state agency. In order to be considered responsible, an offeror that is a business required to register with the secretary of state must have registered with the secretary of state at least forty-five (45) days before the solicitation for the purchase was issued.~~

SECTION 55. IC 5-22-21-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. ~~(a)~~ Except as provided in section 7.5 of this chapter, surplus property available for sale ~~shall first~~ **may, under the policies prescribed by the budget agency,** be offered for sale to ~~all~~ political subdivisions. **The policies of the budget agency must require that** if the property is in the possession of the Indiana department of transportation **and is to be offered to political subdivisions,** the commissioner shall notify each supervisor of county highways appointed under IC 8-17-3-1 of the sale.

~~(b) Notice of the sale shall be mailed or provided by another means at least fifteen (15) days before the date of the sale to each county auditor and to each political subdivision that has previously requested notice of the sale from the commissioner. Information regarding the sale shall also be made available at any time before the sale to political subdivisions upon request.~~

~~(c) A political subdivision that wants to purchase the property must deliver a sealed bid to the commissioner before the date of the sale to political subdivisions.~~

~~(d) The department shall sell the surplus property to the highest responsible governmental bidder. The commissioner shall determine a market price for the surplus property that is stated in the notice of the sale. The department shall sell the surplus property to the highest governmental bidder whose bid equals or exceeds the market price determined by the commissioner.~~

~~(e) The department shall deliver possession of the surplus property to the governmental bidder after the bidder approves a claim for payment submitted by the department.~~

SECTION 56. IC 5-22-21-7.5, AS AMENDED BY HEA 1288-2005, SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.5. (a) This section applies to surplus computer hardware that:

(1) is not usable by a state agency as determined under section 6 of this chapter; and

(2) has market value.

(b) As used in this section, "educational entity" refers to the following:

(1) A school corporation as defined in IC 36-1-2-17 or nonpublic schools as defined in **IC 20-10.1-1-3 before July 1, 2005, or** IC 20-18-2-12.

(2) The corporation for educational technology described in **IC 20-10.1-25.1 before July 1, 2005, or** IC 20-20-15.

(c) As used in this section, "market value" means the value of the property is more than the estimated costs of sale and transportation of the property.

(d) Surplus computer hardware available for sale ~~must~~ **may, under the policies prescribed by the budget agency,** be offered ~~first~~ to an educational entity. ~~Notice of the sale must be given to the corporation for educational technology and to each school corporation through publication in a publication of the department of education or other appropriate association or department.~~

~~(e) Sealed bids shall be delivered by educational entities to the office of the commissioner before the date of the sale to educational entities. Surplus personal property shall be sold to the highest responsible bidder as determined by the commissioner. The department shall deliver possession of the surplus property to the successful bidder after the bidder submits an executed purchase order to the department.~~

~~(f) If the surplus computer hardware:~~

~~(1) is not sold to an educational entity under this section; and~~

~~(2) had an original purchase price of more than two thousand five hundred dollars ($2,500);~~

~~the property shall be offered for sale to political subdivisions as described in section 7 of this chapter.~~

SECTION 57. IC 5-22-21-7.5, AS AMENDED BY HEA 1288-2005, SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.5. (a) This section applies to surplus computer hardware that:

(1) is not usable by a state agency as determined under section 6 of this chapter; and

(2) has market value.

(b) As used in this section, "educational entity" refers to the following:

(1) A school corporation as defined in IC 36-1-2-17 or nonpublic schools as defined in IC 20-18-2-12.

(2) The corporation for educational technology described in IC 20-20-15.

(c) As used in this section, "market value" means the value of the property is more than the estimated costs of sale and transportation of the property.

(d) Surplus computer hardware available for sale ~~must~~ **may, under the policies prescribed by the budget agency,** be offered ~~first~~ to an educational entity. ~~Notice of the sale must be given to the corporation for educational technology and to each school corporation through publication in a publication of the department of education or other appropriate association or department.~~

~~(e) Sealed bids shall be delivered by educational entities to the office of the commissioner before the date of the sale to educational entities. Surplus personal property shall be sold to the highest responsible bidder as determined by the commissioner. The department shall deliver possession of the surplus property to the successful bidder after the bidder submits an executed purchase order to the department.~~

~~(f) If the surplus computer hardware:~~

~~(1) is not sold to an educational entity under this section; and~~

~~(2) had an original purchase price of more than two thousand five hundred dollars ($2,500);~~

~~the property shall be offered for sale to political subdivisions as described in section 7 of this chapter.~~

SECTION 58. IC 5-30-1-11, AS ADDED BY SEA 244-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) "Public agency" means:

(1) a state agency (as defined in IC 4-13-1-1);

(2) a state educational institution (as defined in IC 20-12-0.5-1);

(3) a unit (as defined in IC 36-1-2-23); ~~or~~

(4) a body corporate and politic created by state statute; **or**

(5) a school corporation (as defined in IC 20-26-2-4).

(b) The term does not include the Indiana department of transportation.

SECTION 59. IC 6-1.1-3-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 23. (a) For purposes of this section:

(1) "adjusted cost" refers to the adjusted cost established in 50 IAC 4.2-4-4 (as in effect on January 1, 2003);

(2) "depreciable personal property" has the meaning set forth in 50 IAC 4.2-4-1 (as in effect on January 1, 2003);

(3) "integrated steel mill" means a person, **including a subsidiary of a corporation,** that produces steel by processing iron ore and other raw materials in a blast furnace **in Indiana;**

(4) "oil refinery/petrochemical company" means a person that produces a variety of petroleum products by processing an annual average of at least one hundred thousand (100,000) barrels of crude oil per day;

(5) "permanently retired depreciable personal property" has the meaning set forth in 50 IAC 4.2-4-3 (as in effect on January 1, 2003);

(6) "pool" refers to a pool established in 50 IAC 4.2-4-5(a) (as in effect on January 1, 2003);

(7) "special integrated steel mill or oil refinery/petrochemical equipment" means depreciable personal property, other than special tools and permanently retired depreciable personal property:

(A) that:

(i) is owned, leased, or used by an integrated steel mill or an entity that is at least fifty percent (50%) owned by an affiliate of an integrated steel mill; and

(ii) falls within Asset Class 33.4 as set forth in IRS Rev. Proc. 87-56, 1987-2, C.B. 647; or

(B) that:

(i) is owned, leased, or used as an integrated part of an oil refinery/petrochemical company or its affiliate; and

(ii) falls within Asset Class 13.3 or 28.0 as set forth in IRS Rev. Proc. 87-56, 1987-2, C.B. 647;

(8) "special tools" has the meaning set forth in 50 IAC 4.2-6-2 (as in effect on January 1, 2003); and

(9) "year of acquisition" refers to the year of acquisition determined under 50 IAC 4.2-4-6 (as in effect on January 1, 2003).

(b) Notwithstanding 50 IAC 4.2-4-4, 50 IAC 4.2-4-6, and 50 IAC 4.2-4-7, a taxpayer may elect to calculate the true tax value of the taxpayer's special integrated steel mill or oil refinery/petrochemical equipment by multiplying the adjusted cost of that equipment by the percentage set forth in the following table:

Year of Acquisition	Percentage
1	40%
2	56%
3	42%
4	32%
5	24%
6	18%
7	15%
8 and older	10%

(c) The department of local government finance shall designate the table under subsection (b) as "Pool No. 5" on the business personal property tax return.

(d) The percentage factors in the table under subsection (b) automatically reflect all adjustments for depreciation and obsolescence, including abnormal obsolescence, for special integrated steel mill or oil refinery/petrochemical equipment. The equipment is entitled to all exemptions, credits, and deductions for which it qualifies.

(e) The minimum valuation limitations under 50 IAC 4.2-4-9 do not apply to special integrated steel mill or oil refinery/petrochemical equipment valued under this section. The value of the equipment is not included in the calculation of that minimum valuation limitation for the taxpayer's other assessable depreciable personal property in the taxing district.

(f) An election to value special integrated steel mill or oil refinery/petrochemical equipment under this section:

(1) must be made by reporting the equipment under this section on a business personal property tax return;

(2) applies to all of the taxpayer's special integrated steel mill or oil refinery/petrochemical equipment located in the state (whether owned or leased, or used as an integrated part of the equipment); and

(3) is binding on the taxpayer for the assessment date for which the election is made.

The department of local government finance shall prescribe the forms to make the election beginning with the March 1, 2003, assessment date. Any special integrated steel mill or oil refinery/petrochemical equipment acquired by a taxpayer that has made an election under this section is valued under this section.

(g) If fifty percent (50%) or more of the adjusted cost of a taxpayer's property that would, notwithstanding this section, be reported in a pool other than Pool No. 5 is attributable to special integrated steel mill or oil refinery/petrochemical equipment, the taxpayer may elect to calculate the true tax value of all of that property as special integrated steel mill or oil refinery/petrochemical equipment. The true tax value of property for which an election is made under this subsection is calculated under subsections (b) through (f).

SECTION 60. IC 6-1.1-19-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1.5. (a) The following definitions apply throughout this section and IC 21-3-1.7:

(1) "Adjustment factor" means the adjustment factor determined by the department of local government finance for a school corporation under IC 6-1.1-34.

(2) "Adjusted target property tax rate" means:

(A) the school corporation's target general fund property tax rate determined under IC 21-3-1.7-6.8; multiplied by

(B) the school corporation's adjustment factor.

(3) "Previous year property tax rate" means the **part of the** school corporation's previous year general fund property tax rate ~~after the reductions cited in IC 21-3-1.7-5(1), IC 21-3-1.7-5(2), and IC 21-3-1.7-5(3).~~ **imposed for the school corporation's tuition support levy (as defined in IC 21-3-1.7-5), but before the reductions in IC 21-3-1.7-5.**

(b) Except as otherwise provided in this chapter, a school corporation may not ~~for a calendar year beginning after December 31, 2004,~~ impose a general fund ad valorem property tax levy which exceeds the following:

STEP ONE: Determine the result of:

(A) the school corporation's adjusted target property tax rate; minus

(B) the school corporation's previous year property tax rate.

STEP TWO: If the school corporation's adjusted target property tax rate:

(A) exceeds the school corporation's previous year property tax rate, ~~perform~~ the ~~calculation under STEP THREE and not under STEP FOUR;~~ **result under this STEP for the school corporation is the school corporation's previous year property tax rate after increasing the rate by the lesser of:**

(i) the STEP ONE result; or

(ii) three cents ($0.03); or

(B) is less than the school corporation's previous year property tax rate, ~~perform~~ the ~~calculation under STEP FOUR and not under STEP THREE;~~ **result under this STEP is the school corporation's previous year property tax rate after reducing the rate by the lesser of:**

(i) the absolute value of the STEP ONE result; or

(ii) eight cents ($0.08); or

(C) equals the school corporation's previous year property tax rate, ~~determine~~ the ~~levy resulting from using~~ **result under this STEP is** the school corporation's adjusted target property tax rate. ~~and do not perform the calculation under STEP THREE or STEP FOUR.~~

~~STEP THREE: Determine the levy resulting from using the school corporation's previous year property tax rate after increasing the rate by the lesser of:~~

~~(A) the STEP ONE result; or~~

~~(B) five cents ($0.05).~~

~~STEP FOUR: Determine the levy resulting from using the school corporation's previous year property tax rate after reducing the rate by the lesser of:~~

~~(A) the absolute value of the STEP ONE result; or~~

~~(B) five cents ($0.05).~~

STEP THREE: Divide the school corporation's total assessed value by one hundred dollars ($100).

STEP FOUR: Multiply the STEP TWO result by the STEP THREE result.

STEP FIVE: Determine the ~~result~~ **sum** of **the following:**

(A) The ~~STEP TWO (C), STEP THREE, or~~ STEP FOUR result. ~~whichever applies; plus~~

(B) An amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

(C) The **part of the** maximum **general fund** levy ~~is to include~~ **for** the ~~portion of any excessive levy and~~ **year that equals the original amount of** the levy ~~for~~ **by the school corporation to cover the costs of opening a** new ~~facilities~~ **school facility or reopening an existing facility during the**

preceding year.

(D) The amount determined under item (iv) of the following formula:

(i) Determine the target revenue per ADM under IC 21-3-1.7-6.7 for each charter school that included at least one (1) student who has legal settlement in the school corporation in the charter school's current ADM.

(ii) For each charter school, multiply the item (i) amount by the number of students who have legal settlement in the school corporation and who are included in the charter school's current ADM.

(iii) Determine the sum of the item (ii) amounts.

(iv) Multiply the item (iii) amount by

~~STEP SIX: Determine the result of:~~

~~(A) the STEP FIVE result; plus~~

~~(B) the product of:~~

~~(i) the weighted average of the amounts determined under IC 21-3-1.7-6.7(e) STEP NINE for all charter schools attended by students who have legal settlement in the school corporation; multiplied by~~

~~(ii)~~ thirty-five hundredths (0.35).

In determining the number of students for purposes of this ~~STEP;~~ **clause,** each kindergarten pupil shall be counted as one-half (1/2) pupil.

~~The result determined under this STEP may not be included in the school corporation's adjusted base levy for the year following the year in which the result applies or in the school corporation's determination of tuition support.~~

(c) For purposes of this section, "total assessed value" with respect to a school corporation means the total assessed value of all taxable property for ad valorem property taxes first due and payable during that year.

(d) The department of local government finance shall annually establish an assessment ratio and adjustment factor for each school corporation to be used upon the review and recommendation of the budget committee. The information compiled, including background documentation, may not be used in a:

(1) review of an assessment under IC 6-1.1-8, IC 6-1.1-13, IC 6-1.1-14, or IC 6-1.1-15;

(2) petition for a correction of error under IC 6-1.1-15-12; or

(3) petition for refund under IC 6-1.1-26.

(e) All tax rates ~~shall be computed by rounding the rate to the nearest one-hundredth of a cent ($0.0001). All~~ **and** tax levies **computed under this section** shall be computed by rounding ~~the levy to the nearest dollar amount.~~ **in conformity with IC 21-3-1.7-7.**

~~(f) For the calendar year beginning January 1, 2004, and ending December 31, 2004, a school corporation may impose a general fund ad valorem property tax levy in the amount determined under STEP EIGHT of the following formula:~~

~~STEP ONE: Determine the quotient of:~~

~~(A) the school corporation's 2003 assessed valuation; divided by~~

~~(B) the school corporation's 2002 assessed valuation.~~

~~STEP TWO: Determine the greater of zero (0) or the difference between:~~

~~(A) the STEP ONE amount; minus~~

~~(B) one (1).~~

~~STEP THREE: Determine the lesser of eleven-hundredths (0.11) or the product of:~~

~~(A) the STEP TWO amount; multiplied by~~

~~(B) eleven-hundredths (0.11).~~

~~STEP FOUR: Determine the sum of:~~

~~(A) the STEP THREE amount; plus~~

~~(B) one (1).~~

~~STEP FIVE: Determine the product of:~~

~~(A) the STEP FOUR amount; multiplied by~~

~~(B) the school corporation's general fund ad valorem property tax levy for calendar year 2003.~~

~~STEP SIX: Determine the lesser of:~~

~~(A) the STEP FIVE amount; or~~

~~(B) the levy resulting from using the school corporation's previous year property tax rate after increasing the rate by five cents ($0.05).~~

~~STEP SEVEN: Determine the result of:~~

~~(A) the STEP SIX amount; plus~~

~~(B) an amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.~~

~~The maximum levy is to include the part of any excessive levy and the levy for new facilities.~~

~~STEP EIGHT: Determine the result of:~~

~~(A) the STEP SEVEN result; plus~~

~~(B) the product of:~~

~~(i) the weighted average of the amounts determined under IC 21-3-1.7-6.7(e) STEP NINE for all charter schools attended by students who have legal settlement in the school corporation; multiplied by~~

~~(ii) thirty-five hundredths (0.35).~~

~~In determining the number of students for purposes of this STEP, each kindergarten pupil shall be counted as one-half (1/2) pupil.~~

~~The result determined under this STEP may not be included in the school corporation's adjusted base levy for the year following the year in which the result applies or in the school corporation's determination of tuition support.~~

SECTION 61. IC 6-1.1-20.4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 20.4. Local Homestead Credits

Sec. 1. As used in this chapter, "homestead" has the meaning set forth in IC 6-1.1-20.9-1.

Sec. 2. As used in this chapter, "property tax liability" means liability for the tax imposed on property under this article determined after application of all credits and deductions under this article, except the credit under this chapter, but does not

include any interest or penalty imposed under this article.

Sec. 3. As used in this chapter, "revenue" includes revenue received by a political subdivision under any law or from any person.

Sec. 4. (a) A political subdivision may adopt an ordinance or resolution each year to provide for the use of revenue for the purpose of providing a homestead credit the following year to homesteads. An ordinance must be adopted under this section before December 31 for credits to be provided in the following year. The ordinance applies only to the immediately following year.

(b) A homestead credit under this chapter is to be applied to the net property tax liability due on the homestead.

(c) A homestead credit under this chapter does not reduce the basis for determining the state property tax replacement credit under IC 6-1.1-21 or the state homestead credit under IC 6-1.1-20.9.

Sec. 5. An ordinance or resolution adopted under this chapter must provide for a homestead credit that is either a uniform:

(1) percentage of the net property taxes due on the homestead after the application of all other deductions and credits; or

(2) dollar amount applicable to each homestead.

The ordinance or resolution must specify the percentage or the dollar amount.

Sec. 6. If the credit under this chapter is authorized for property taxes first due and payable in a calendar year, a person is entitled to a credit against the person's property tax liability for property taxes first due and payable in that calendar year attributable to the person's homestead located in the county.

Sec. 7. A person is not required to file an application for the credit under this chapter. The county auditor shall:

(1) identify qualified homesteads in the political subdivision that are eligible for the credit under this chapter; and

(2) apply the credit under this chapter to property tax liability on the identified homestead.

Sec. 8. If an ordinance or resolution is adopted under this chapter, the county auditor shall, for the calendar year in which a homestead credit is authorized under this chapter, account for the revenue used to provide the homestead credit in a manner so that no other political subdivision in the county suffers a revenue loss because of the allowance of the homestead credit.

Sec. 9. The application of the credit under this chapter results in a reduction of the property tax collections of the political subdivision which provided the credit. A political subdivision may not increase its property tax levy to make up for that reduction.

SECTION 62. IC 6-1.1-20.6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]:

Chapter 20.6. Credit for Excessive Residential Property Taxes

Sec. 1. As used in this chapter, "apartment complex" means real property consisting of at least five (5) units that are regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more.

Sec. 2. As used in this chapter, "homestead" has the meaning set forth in IC 6-1.1-20.9-1.

Sec. 3. As used in this chapter, "property tax liability" means liability for the tax imposed on property under this article determined after application of all credits and deductions under this article, except the credit under this chapter, but does not include any interest or penalty imposed under this article.

Sec. 4. As used in this chapter, "qualified residential property" refers to any of the following that a county fiscal body specifically makes eligible for a credit under this chapter in an ordinance adopted under section 6 of this chapter:

(1) An apartment complex.

(2) A homestead.

(3) Residential rental property.

Sec. 5. As used in this chapter, "residential rental property" means real property consisting of not more than (4) units that are regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more.

Sec. 6. (a) A county fiscal body:

(1) may adopt an ordinance to authorize the application of the credit under this chapter for one (1) or more calendar years to qualified residential property in the county; and

(2) must adopt an ordinance under subdivision (1) before July 1 of a calendar year to authorize the credit under this chapter for property taxes first due and payable in the immediately succeeding calendar year.

(b) An ordinance adopted under this section must specify the categories of residential property listed in section 4 of this chapter that are eligible for the credit provided under this chapter.

Sec. 7. If the credit under this chapter is authorized under section 2 of this chapter for property taxes first due and payable in a calendar year:

(1) a person is entitled to a credit against the person's property tax liability for property taxes first due and payable in that calendar year attributable to the person's qualified residential property located in the county; and

(2) the amount of the credit is the amount by which the person's property tax liability attributable to the person's qualified residential property for property taxes first due and payable in that calendar year exceeds two percent (2%) of the gross assessed value that is the basis for determination of property taxes on the qualified residential property for property taxes first due and payable in that calendar year.

Sec. 8. A person is not required to file an application for the credit under this chapter. The county auditor shall:

(1) identify qualified residential property in the county eligible for the credit under this chapter; and

(2) apply the credit under this chapter to property tax liability on the identified qualified residential property.

Sec. 9. (a) The fiscal body of a county may adopt an ordinance to authorize the county fiscal officer to borrow money repayable over a term not to exceed five (5) years in an amount sufficient to compensate the political subdivisions located wholly or in part in the county for the reduction of property tax collections in a calendar year that results from the application of the credit under this chapter for that calendar year.

(b) The county fiscal officer shall distribute in a calendar year to each political subdivision located wholly or in part in the county loan proceeds under subsection (a) for that calendar year in the amount by which the property tax collections of the political subdivision in that calendar year are reduced as a result of the application of the credit under this chapter for that calendar year.

(c) If the county fiscal officer distributes money to political subdivisions under subsection (b), the political subdivisions that receive the distributions shall repay the loan under subsection (a) over the term of the loan. Each political subdivision that receives a distribution under subsection (b):

(1) shall:

(A) appropriate for each year in which the loan is to be repaid an amount sufficient to pay the part of the principal and interest on the loan attributable to the distribution received by the political subdivision under subsection (b); and

(B) raise property tax revenue in each year in which the loan is to be repaid in the amount necessary to meet the appropriation under clause (A); and

(2) other than the county, shall transfer to the county fiscal officer money dedicated under this section to repayment of the loan in time to allow the county to meet the loan repayment schedule.

(d) Property taxes imposed under subsection (c)(1)(B) are subject to levy limitations under IC 6-1.1-18.5 or IC 6-1.1-19.

(e) The obligation to:

(1) repay; or

(2) contribute to the repayment of;

the loan under subsection (a) is not a basis for a political subdivision to obtain an excessive tax levy under IC 6-1.1-18.5 or IC 6-1.1-19.

(f) The application of the credit under this chapter results in a reduction of the property tax collections of each political subdivision in which the credit is applied. A political subdivision may not increase its property tax levy to make up for that reduction.

SECTION 63. IC 6-1.1-20.9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. (a) Except as otherwise provided in section 5 of this chapter, an individual who on March 1 of a particular year either owns or is buying a homestead under a contract that provides the individual is to pay the property taxes on the homestead is entitled each calendar year to a credit against the property taxes which the individual pays on the individual's homestead. However, only one (1) individual may receive a credit under this chapter for a particular homestead in a particular year.

(b) The amount of the credit to which the individual is entitled equals the product of:

(1) the percentage prescribed in subsection (d); multiplied by

(2) the amount of the individual's property tax liability, as that term is defined in IC 6-1.1-21-5, which is:

(A) attributable to the homestead during the particular calendar year; and

(B) determined after the application of the property tax replacement credit under IC 6-1.1-21.

(c) For purposes of determining that part of an individual's property tax liability that is attributable to the individual's homestead, all deductions from assessed valuation which the individual claims under IC 6-1.1-12 or IC 6-1.1-12.1 for property on which the individual's homestead is located must be applied first against the assessed value of the individual's homestead before those deductions are applied against any other property.

(d) The percentage of the credit referred to in subsection (b)(1) is as follows:

YEAR	PERCENTAGE OF THE CREDIT
1996	8%
1997	6%
1998 through 2002	10%
2003 and thereafter	20%

However, the property tax replacement fund board established under IC 6-1.1-21-10 ~~in its sole discretion, may~~ **shall** increase the percentage of the credit provided in the schedule for any year if the ~~board feels that the property tax replacement fund contains enough money for the resulting increased distribution.~~ **budget agency determines that an increase is necessary to provide the minimum tax relief authorized under IC 6-1.1-21-2.5.** If the board increases the percentage of the credit provided in the schedule for any year, the percentage of the credit for the immediately following year is the percentage provided in the schedule for that particular year, unless as provided in this subsection the board ~~in its discretion increases~~ **must increase** the percentage of the credit provided in the schedule for that particular year.

However, the percentage credit allowed in a particular county for a particular year shall be increased if on January 1 of a year an ordinance adopted by a county income tax council was in effect in the county which increased the homestead credit. The amount of the increase equals the amount designated in the ordinance.

(e) Before October 1 of each year, the assessor shall furnish to the county auditor the amount of the assessed valuation of each homestead for which a homestead credit has been properly filed under this chapter.

(f) The county auditor shall apply the credit equally to each installment of taxes that the individual pays for the property.

(g) Notwithstanding the provisions of this chapter, a taxpayer other than an individual is entitled to the credit provided by this chapter if:

(1) an individual uses the residence as the individual's principal place of residence;

(2) the residence is located in Indiana;

(3) the individual has a beneficial interest in the taxpayer;

(4) the taxpayer either owns the residence or is buying it under a contract, recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence; and

(5) the residence consists of a single-family dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

SECTION 64. IC 6-1.1-21-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. As used in this chapter:

(a) "Taxpayer" means a person who is liable for taxes on property assessed under this article.

(b) "Taxes" means property taxes payable in respect to property assessed under this article. The term does not include special assessments, penalties, or interest, but does include any special charges which a county treasurer combines with all other taxes in the preparation and delivery of the tax statements required under IC 6-1.1-22-8(a).

(c) "Department" means the department of state revenue.

(d) "Auditor's abstract" means the annual report prepared by each county auditor which under IC 6-1.1-22-5, is to be filed on or before March 1 of each year with the auditor of state.

(e) "Mobile home assessments" means the assessments of mobile homes made under IC 6-1.1-7.

(f) "Postabstract adjustments" means adjustments in taxes made subsequent to the filing of an auditor's abstract which change assessments therein or add assessments of omitted property affecting taxes for such assessment year.

(g) "Total county tax levy" means the sum of:

(1) the remainder of:

(A) the aggregate levy of all taxes for all taxing units in a county which are to be paid in the county for a stated assessment year as reflected by the auditor's abstract for the assessment year, adjusted, however, for any postabstract adjustments which change the amount of the aggregate levy; minus

(B) the sum of any increases in property tax levies of taxing units of the county that result from appeals described in:

(i) IC 6-1.1-18.5-13(4) and IC 6-1.1-18.5-13(5) filed after December 31, 1982; plus

(ii) the sum of any increases in property tax levies of taxing units of the county that result from any other appeals described in IC 6-1.1-18.5-13 filed after December 31, 1983; plus

(iii) IC 6-1.1-18.6-3 (children in need of services and delinquent children who are wards of the county); minus

(C) the total amount of property taxes imposed for the stated assessment year by the taxing units of the county under the authority of IC 12-1-11.5 (repealed), IC 12-2-4.5 (repealed), IC 12-19-5, or IC 12-20-24; minus

(D) the total amount of property taxes to be paid during the stated assessment year that will be used to pay for interest or principal due on debt that:

(i) is entered into after December 31, 1983;

(ii) is not debt that is issued under IC 5-1-5 to refund debt incurred before January 1, 1984; and

(iii) does not constitute debt entered into for the purpose of building, repairing, or altering school buildings for which the requirements of IC 20-5-52 were satisfied prior to January 1, 1984; minus

(E) the amount of property taxes imposed in the county for the stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(F) the remainder of:

(i) the total property taxes imposed in the county for the stated assessment year under authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(ii) the total property taxes imposed in the county for the 1984 stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(G) the amount of property taxes imposed in the county for the stated assessment year under:

(i) IC 21-2-15 for a capital projects fund; plus

(ii) IC 6-1.1-19-10 for a racial balance fund; plus

(iii) IC 20-14-13 for a library capital projects fund; plus

(iv) IC 20-5-17.5-3 for an art association fund; plus

(v) IC 21-2-17 for a special education preschool fund; plus

(vi) IC 21-2-11.6 for a referendum tax levy fund; plus

(vii) an appeal filed under IC 6-1.1-19-5.1 for an increase in a school corporation's maximum permissible general fund levy for certain transfer tuition costs; plus

(viii) an appeal filed under IC 6-1.1-19-5.4 for an increase in a school corporation's maximum permissible general fund levy for transportation operating costs; minus

(H) the amount of property taxes imposed by a school corporation that is attributable to the passage, after 1983,

of a referendum for an excessive tax levy under IC 6-1.1-19, including any increases in these property taxes that are attributable to the adjustment set forth in IC 6-1.1-19-1.5 or any other law; minus

(I) for each township in the county, the lesser of:

(i) the sum of the amount determined in IC 6-1.1-18.5-19(a) STEP THREE or IC 6-1.1-18.5-19(b) STEP THREE, whichever is applicable, plus the part, if any, of the township's ad valorem property tax levy for calendar year 1989 that represents increases in that levy that resulted from an appeal described in IC 6-1.1-18.5-13(4) filed after December 31, 1982; or

(ii) the amount of property taxes imposed in the township for the stated assessment year under the authority of IC 36-8-13-4; minus

(J) for each participating unit in a fire protection territory established under IC 36-8-19-1, the amount of property taxes levied by each participating unit under IC 36-8-19-8 and IC 36-8-19-8.5 less the maximum levy limit for each of the participating units that would have otherwise been available for fire protection services under IC 6-1.1-18.5-3 and IC 6-1.1-18.5-19 for that same year; minus

(K) for each county, the sum of:

(i) the amount of property taxes imposed in the county for the repayment of loans under IC 12-19-5-6 (repealed) that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN for property taxes payable in 1995, or for property taxes payable in each year after 1995, the amount determined under IC 12-19-7-4(b); and

(ii) the amount of property taxes imposed in the county attributable to appeals granted under IC 6-1.1-18.6-3 that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN for property taxes payable in 1995, or the amount determined under IC 12-19-7-4(b) for property taxes payable in each year after 1995; plus

(2) all taxes to be paid in the county in respect to mobile home assessments currently assessed for the year in which the taxes stated in the abstract are to be paid; plus

(3) the amounts, if any, of county adjusted gross income taxes that were applied by the taxing units in the county as property tax replacement credits to reduce the individual levies of the taxing units for the assessment year, as provided in IC 6-3.5-1.1; plus

(4) the amounts, if any, by which the maximum permissible ad valorem property tax levies of the taxing units of the county were reduced under IC 6-1.1-18.5-3(b) STEP EIGHT for the stated assessment year; plus

(5) the difference between:

(A) the amount determined in IC 6-1.1-18.5-3(e) STEP FOUR; minus

(B) the amount the civil taxing units' levies were increased because of the reduction in the civil taxing units' base year certified shares under IC 6-1.1-18.5-3(e).

(h) "December settlement sheet" means the certificate of settlement filed by the county auditor with the auditor of state, as required under IC 6-1.1-27-3.

(i) "Tax duplicate" means the roll of property taxes which each county auditor is required to prepare on or before March 1 of each year under IC 6-1.1-22-3.

(j) "Eligible property tax replacement amount" is, **except as otherwise provided by law,** equal to the sum of the following:

(1) Sixty percent (60%) of the total county tax levy imposed by each school corporation in a county for its general fund for a stated assessment year.

(2) Twenty percent (20%) of the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) imposed in a county on real property for a stated assessment year.

(3) Twenty percent (20%) of the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) imposed in a county on tangible personal property, excluding business personal property, for an assessment year.

(k) "Business personal property" means tangible personal property (other than real property) that is being:

(1) held for sale in the ordinary course of a trade or business; or

(2) held, used, or consumed in connection with the production of income.

(l) "Taxpayer's property tax replacement credit amount" means, **except as otherwise provided by law,** the sum of the following:

(1) Sixty percent (60%) of a taxpayer's tax liability in a calendar year for taxes imposed by a school corporation for its general fund for a stated assessment year.

(2) Twenty percent (20%) of a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) on real property.

(3) Twenty percent (20%) of a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) on tangible personal property other than business personal property.

(m) "Tax liability" means tax liability as described in section 5 of this chapter.

(n) "General school operating levy" means the ad valorem property tax levy of a school corporation in a county for the school corporation's general fund.

(o) "Board" refers to the property tax replacement fund board established under section 10 of this chapter.

SECTION 65. IC 6-1.1-21-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JANUARY 1, 2006]: **Sec. 2.5. (a) Annually, before the department determines the eligible property tax replacement amount for a year under section 3 of this chapter and the department of local government finance makes its certification under section 3(b) of this chapter, the budget agency shall determine the sum of the following:**

(1) One billion one hundred twenty-one million seven hundred thousand dollars ($1,121,700,000).

(2) An amount equal to the net amount of revenue, after deducting collection allowances and refunds, that the budget agency estimates will be collected in a particular calendar year from the part of the gross retail and use tax rate imposed under IC 6-2.5 equal to one percent (1%).

The estimate made under this subsection must be consistent with the latest technical forecast of state revenues that is prepared for distribution to the general assembly and the general public and available to the budget agency at the time that the estimate is made.

(b) The department may not distribute eligible property tax replacement amounts and eligible homestead credit replacement amounts for a year under this chapter that, in the aggregate, is less than the amount computed under subsection (a).

(c) Annually, before the department determines the eligible property tax replacement amount for a year under section 3 of this chapter and the department of local government finance makes its certification under section 3(b) of this chapter, the budget agency shall determine whether the total amount of property tax replacement credits granted in Indiana under section 5 of this chapter and homestead credits granted in Indiana under IC 6-1.1-20.9-2 for a year, determined without applying subsection (b), will be less than the amount determined under subsection (b). The budget agency shall give notice of its determination to the members of the board and, in an electronic format under IC 5-14-6, the general assembly. If the budget agency determines that the amount determined under subsection (b) will not be exceeded in a particular year, the board shall increase for that year the percentages used to determine a taxpayer's property tax replacement credit amount and the homestead credit percentage applicable under IC 6-1.1-20.9-2 so that the total amount of property tax replacement credits granted in Indiana under section 5 of this chapter and homestead credits granted in Indiana under IC 6-1.1-20.9-2 at least equals the amount determined under subsection (b). In making adjustments under this subsection, the board shall increase percentages in the following order until the total of property tax replacement credits granted under section 5 of this chapter and homestead credits granted under IC 6-1.1-20.9-2 for the year at least equals the amount determined under subsection (b):

(1) The homestead credit percentage specified in IC 6-1.1-20.9-2 until the homestead percentage reaches the lesser of:

(A) thirty percent (30%); or

(B) the percentage at which the total of property tax replacement credits granted under section 5 of this chapter and homestead credits granted under IC 6-1.1-20.9-2 for the year at least equals the amount determined under subsection (b).

(2) If the amount determined under subsection (b) is not exceeded after increasing the homestead percentage under subdivision (1), the board shall increase the property tax replacement credit percentage specified in section 2(j)(1) and 2(l)(1) of this chapter until the property tax replacement percentage reaches the lesser of:

(A) seventy percent (70%); or

(B) the percentage at which the total of property tax replacement credits granted under section 5 of this chapter and homestead credits granted under IC 6-1.1-20.9-2 for the year, as adjusted under this subsection, at least equals the amount determined under subsection (b).

(3) If the amount determined under subsection (b) is not exceeded after making all possible increases in credit percentages under subdivisions (1) and (2), the board shall increase the property tax replacement credit percentages specified in section 2(j)(2), 2(j)(3), 2(l)(2), and 2(l)(3) of this chapter to the percentage at the total of property tax replacement credits granted under section 5 of this chapter and homestead credits granted under IC 6-1.1-20.9-2 for the year, as adjusted under this subsection, at least equals the amount determined under subsection (b).

(d) The adjusted percentages set under subsection (c):

(1) are the percentages that apply under:

(A) section 5 of this chapter to determine a taxpayer's property tax replacement credit amount; and

(B) IC 6-1.1-20.9-2 to determine a taxpayer's homestead credit; and

(2) must be used by the:

(A) department in estimating the eligible property tax replacement amount under section 3 of this chapter; and

(B) department of local government finance in making its certification under section 3(b) of this chapter;

and for all other purposes under this chapter and IC 6-1.1-20.9 related to distributions under this chapter; for the particular year covered by a budget agency's determination under subsection (c).

SECTION 66. IC 6-1.1-21.8-4, AS AMENDED BY HEA 1288-2005, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The board shall determine the terms of a loan made under this chapter. However, the interest charged on the loan may not exceed the percent of increase in the United States Department of Labor Consumer Price Index for Urban Wage Earners and Clerical Workers during the most recent twelve (12) month period for which

data is available as of the date that the unit applies for a loan under this chapter. In the case of a qualified taxing unit that is not a school corporation or a public library (as defined in IC 36-12-1-5), a loan must be repaid not later than ten (10) years after the date on which the loan was made. In the case of a qualified taxing unit that is a school corporation or a public library (as defined in IC 36-12-1-5), a loan must be repaid not later than eleven (11) years after the date on which the loan was made. A school corporation or a public library (as defined in IC 36-12-1-5) is not required to begin making payments to repay a loan until after June 30, 2004. The total amount of all the loans made under this chapter may not exceed twenty-eight million dollars ($28,000,000). The board may disburse the proceeds of a loan in installments. However, not more than one-third (1/3) of the total amount to be loaned under this chapter may be disbursed at any particular time without the review of the budget committee and the approval of the budget agency.

(b) A loan made under this chapter shall be repaid only from:

(1) property tax revenues of the qualified taxing unit that are subject to the levy limitations imposed by IC 6-1.1-18.5 or IC 6-1.1-19; ~~or~~

(2) in the case of a school corporation, the school corporation's debt service fund; or

~~(2)~~ **(3)** any other source of revenues (other than property taxes) that is legally available to the qualified taxing unit.

The payment of any installment of principal constitutes a first charge against the property tax revenues described in subdivision (1) that are collected by the qualified taxing unit during the calendar year the installment is due and payable.

(c) The obligation to repay a loan made under this chapter is not a basis for the qualified taxing unit to obtain an excessive tax levy under IC 6-1.1-18.5 or IC 6-1.1-19.

(d) Whenever the board receives a payment on a loan made under this chapter, the board shall deposit the amount paid in the counter-cyclical revenue and economic stabilization fund.

(e) This section does not prohibit a qualified taxing unit from repaying a loan made under this chapter before the date specified in subsection (a) if a taxpayer described in section 3 of this chapter resumes paying property taxes to the qualified taxing unit.

(f) Interest accrues on a loan made under this chapter until the date the board receives notice from the county auditor that the county has adopted at least one (1) of the following:

(1) The county adjusted gross income tax under IC 6-3.5-1.1.

(2) The county option income tax under IC 6-3.5-6.

(3) The county economic development income tax under IC 6-3.5-7.

Notwithstanding subsection (a), interest may not be charged on a loan made under this chapter if a tax described in this subsection is adopted before a qualified taxing unit applies for the loan.

SECTION 67. IC 6-1.1-30-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. The commissioner ~~shall~~ **may** appoint an individual to serve as deputy commissioner of the department of local government finance. However, the appointment must be approved by the governor. ~~The~~ **A** deputy commissioner shall subscribe to an oath to faithfully discharge the duties assigned to the deputy commissioner either by law or by the commissioner.

SECTION 68. IC 6-1.1-34-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. Each year in which a general assessment of real property becomes effective, the department of local government finance shall compute a new assessment ratio for each school corporation and a new state average assessment ratio. In all other years, the department ~~may~~ **shall** compute a new assessment ratio for a school corporation and a new state average assessment ratio if the department finds that there has been sufficient reassessment **or adjustment** of one (1) or more classes of property in the school district. When the department of local government finance computes a new assessment ratio for a school corporation, the department shall publish the new ratio.

SECTION 69. IC 6-3-1-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars ($1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars ($1,000).

(4) Subtract one thousand dollars ($1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) one thousand five hundred dollars ($1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; and

(B) five hundred dollars ($500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars ($40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for

that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars ($2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars ($2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(22) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or

in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars ($2,500).

STEP FIVE: Determine the sum of the STEP ~~THREE~~ **FOUR** amount and two thousand five hundred dollars ($2,500).

SECTION 70. IC 6-3-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 11. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States as amended and in effect on January 1, ~~2003.~~ **2005.**

(b) Whenever the Internal Revenue Code is mentioned in this article, the particular provisions that are referred to, together with all the other provisions of the Internal Revenue Code in effect on January 1, ~~2003,~~ **2005,** that pertain to the provisions specifically mentioned, shall be regarded as incorporated in this article by reference and have the same force and effect as though fully set forth in this article. To the extent the provisions apply to this article, regulations adopted under Section 7805(a) of the Internal Revenue Code and in effect on January 1, ~~2003,~~ **2005,** shall be regarded as rules adopted by the department under this article, unless the department adopts specific rules that supersede the regulation.

(c) An amendment to the Internal Revenue Code made by an act passed by Congress before January 1, ~~2003,~~ **2005,** that is effective for any taxable year that began before January 1, ~~2003,~~ **2005,** and that affects:

(1) individual adjusted gross income (as defined in Section 62 of the Internal Revenue Code);

(2) corporate taxable income (as defined in Section 63 of the Internal Revenue Code);

(3) trust and estate taxable income (as defined in Section 641(b) of the Internal Revenue Code);

(4) life insurance company taxable income (as defined in Section 801(b) of the Internal Revenue Code);

(5) mutual insurance company taxable income (as defined in Section 821(b) of the Internal Revenue Code); or

(6) taxable income (as defined in Section 832 of the Internal Revenue Code);

is also effective for that same taxable year for purposes of determining adjusted gross income under section 3.5 of this chapter.

SECTION 71. IC 6-3-1-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 33. As used in this article, "bonus depreciation" means an amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal adjusted gross income or federal taxable income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code, **including the special depreciation allowance for 50-percent bonus depreciation property.**

SECTION 72. IC 6-3.1-2-1, AS AMENDED BY HEA 1288-2005, SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter, the following terms have the following meanings:

(1) "Eligible teacher" means a teacher:

(A) certified in a shortage area by the ~~professional standards board~~ **department of education** established by ~~IC 20-28-2-1;~~ **IC 20-19-3-1;** and

(B) employed under contract during the regular school term by a school corporation in a shortage area.

(2) "Qualified position" means a position that:

(A) is relevant to the teacher's ~~academic training~~ **education** in a shortage area; and

(B) has been approved by the Indiana state board of education under section 6 of this chapter.

(3) "Regular school term" means the period, other than the school summer recess, during which a teacher is required to perform duties assigned to ~~him~~ **the teacher** under a teaching contract.

(4) "School corporation" means any corporation authorized by law to establish public schools and levy taxes for their maintenance.

(5) "Shortage area" means the subject areas of mathematics and science and any other subject area designated as a shortage area by the Indiana state board of education.

(6) "State income tax liability" means a taxpayer's total income tax liability incurred under IC 6-3 and IC 6-5.5, as computed after application of credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

SECTION 73. IC 6-3.1-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. For the purposes of this chapter:

"Agreement" means any agreement entered into with the commissioner of the department of correction under IC 11-10-7-2. ~~that has been approved by a majority of the members of the state board of correction.~~

"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.

"Qualified property" means any machinery, tools, equipment, building, structure, or other tangible property considered qualified property under Section 38 of the Internal Revenue Code that is used as an integral part of the operation contemplated by an agreement and that is installed, used, or operated exclusively on property managed by the department of correction.

"State income tax liability" means a taxpayer's total income tax liability incurred under IC 6-3, as computed after application of credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this chapter.

"Taxpayer" means any person, corporation, limited liability company, partnership, or other entity that has state tax liability. The term includes a pass through entity.

"Wages paid" includes all earnings surrendered to the department of correction under IC 11-10-7-5.

SECTION 74. IC 6-3.1-21-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. This chapter expires December 31, ~~2005.~~ **2011.**

SECTION 75. IC 6-5.5-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 2. (a) Except as provided in subsections (b) through (d), "adjusted gross income" means taxable income as defined in Section 63 of the Internal Revenue Code, adjusted as follows:

(1) Add the following amounts:

(A) An amount equal to a deduction allowed or allowable under Section 166, Section 585, or Section 593 of the Internal Revenue Code.

(B) An amount equal to a deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(C) An amount equal to a deduction or deductions allowed or allowable under Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by a state of the United States or levied at the local level by any subdivision of a state of the United States.

(D) The amount of interest excluded under Section 103 of the Internal Revenue Code or under any other federal law, minus the associated expenses disallowed in the computation of taxable income under Section 265 of the Internal Revenue Code.

(E) An amount equal to the deduction allowed under Section 172 or 1212 of the Internal Revenue Code for net operating losses or net capital losses.

(F) For a taxpayer that is not a large bank (as defined in Section 585(c)(2) of the Internal Revenue Code), an amount equal to the recovery of a debt, or part of a debt, that becomes worthless to the extent a deduction was allowed from gross income in a prior taxable year under Section 166(a) of the Internal Revenue Code.

(G) Add the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(H) Add the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(I) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(2) Subtract the following amounts:

(A) Income that the United States Constitution or any statute of the United States prohibits from being used to measure the tax imposed by this chapter.

(B) Income that is derived from sources outside the United States, as defined by the Internal Revenue Code.

(C) An amount equal to a debt or part of a debt that becomes worthless, as permitted under Section 166(a) of the Internal Revenue Code.

(D) An amount equal to any bad debt reserves that are included in federal income because of accounting method changes required by Section 585(c)(3)(A) or Section 593 of the Internal Revenue Code.

(E) ~~Subtract~~ The amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation.

(F) The amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(b) In the case of a credit union, "adjusted gross income" for a taxable year means the total transfers to undivided earnings minus dividends for that taxable year after statutory reserves are set aside under IC 28-7-1-24.

(c) In the case of an investment company, "adjusted gross income" means the company's federal taxable income multiplied by the quotient of:

(1) the aggregate of the gross payments collected by the company during the taxable year from old and new business upon investment contracts issued by the company and held by residents of Indiana; divided by

(2) the total amount of gross payments collected during the taxable year by the company from the business upon investment contracts issued by the company and held by persons residing within Indiana and elsewhere.

(d) As used in subsection (c), "investment company" means a person, copartnership, association, limited liability company, or corporation, whether domestic or foreign, that:

(1) is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.); and

(2) solicits or receives a payment to be made to itself and issues in exchange for the payment:

(A) a so-called bond;

(B) a share;

(C) a coupon;

(D) a certificate of membership;

(E) an agreement;

(F) a pretended agreement; or

(G) other evidences of obligation;

entitling the holder to anything of value at some future date, if the gross payments received by the company during the taxable year on outstanding investment contracts, plus interest and dividends earned on those contracts (by prorating the interest and dividends earned on investment contracts by the same proportion that certificate reserves (as defined by the Investment Company Act of 1940) is to the company's total assets) is at least fifty percent (50%) of the company's gross payments upon investment contracts plus gross income from all other sources except dividends from subsidiaries for the taxable year. The term "investment contract" means an instrument listed in clauses (A) through (G).

SECTION 76. IC 6-5.5-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 20. As used in this article, "bonus depreciation" means an amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal taxable income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code, **including the special depreciation allowance for 50-percent bonus depreciation property.**

SECTION 77. IC 8-14-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. The department may use the money in the fund only to pay the following costs:

(1) The cost of construction or reconstruction of a state highway.

(2) The cost of acquisition of all land, rights-of-way, property, rights, easements, and any other legal or equitable interests acquired by the department for the construction or reconstruction of a state highway, including the cost of any relocations incident to the acquisition.

(3) The cost of demolishing or removing any buildings, structures, or improvements on property acquired by the department for the construction or reconstruction of a state highway.

(4) Engineering and legal expenses, and the costs of plans, specifications, surveys, estimates, and any necessary feasibility studies.

(5) Payment of rentals and performance of other obligations under contracts or leases ~~relating to projects~~ **securing bonds issued** under ~~IC 8-14.5.~~ **IC 8-14.5-6.**

SECTION 78. IC 8-14-10-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The crossroads 2000 fund is established for the purpose of constructing or reconstructing state highways. The crossroads 2000 fund consists of distributions received under IC 9-29-1-2, IC 9-29-15-1, IC 9-29-15-3, and IC 9-29-15-4.

(b) The crossroads 2000 fund shall be administered by the department. The treasurer of state shall invest the money in the crossroads 2000 fund not currently needed to meet the obligations of the crossroads 2000 fund in the same manner as other public funds may be invested.

(c) Money in the crossroads 2000 fund at the end of a state fiscal year does not revert to the state general fund.

(d) The department may use the money in the crossroads 2000 fund only to pay the following costs:

(1) The cost of construction or reconstruction of a state highway.

(2) The cost of acquisition of all land, rights-of-way, property, rights, easements, and any other legal or equitable interests acquired by the department for the construction or reconstruction of a state highway, including the cost of any relocations incident to the acquisition.

(3) The cost of demolishing or removing any buildings, structures, or improvements on property acquired by the department for the construction or reconstruction of a state highway.

(4) Engineering and legal expenses and the costs of plans, specifications, surveys, estimates, and any necessary feasibility studies.

(5) Payment of rentals and performance of other obligations under contracts or leases ~~relating to projects~~ **securing bonds issued** under ~~IC 8-14.5.~~ **IC 8-14.5-6.**

SECTION 79. IC 8-14-10-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 10. (a) The grant anticipation fund is established to construct and reconstruct state highways. The grant anticipation fund consists of distributions of federal highway revenues (as defined in IC 8-14.5-7-2) made under IC 8-23-3-11.**

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

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

(d) The department may use the money in the grant anticipation fund only to pay the following costs:

(1) The cost of construction or reconstruction of a highway improvement project.

(2) The cost of acquisition of all land, rights-of-way, property, rights, easements, and any other legal or equitable interests acquired by the department for the construction or reconstruction of a highway improvement project, including the cost of any relocations incident to the acquisition.

(3) The cost of demolishing or removing any buildings, structures, or improvements on property acquired by the department for the construction or reconstruction of a highway improvement project.

(4) Engineering and legal expenses and the costs of plans, specifications, surveys, estimates, and any necessary feasibility studies.

(5) Payment of rentals and performance of other obligations under contracts or leases relating to highway improvement projects securing grant anticipation revenue bonds or notes issued under IC 8-14.5-7. However, amounts in the grant anticipation fund may not be pledged to such payments.

(e) A holder of grant anticipation revenue bonds or notes issued under IC 8-14.5-7 may not compel the payment of federal highway revenues to the department.

SECTION 80. IC 8-14.5-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. "Bonds" refers to bonds of the authority issued under IC 8-14.5-6 **or IC 8-14.5-7.**

SECTION 81. IC 8-14.5-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. "Notes" refers to notes of the authority issued under IC 8-14.5-6 **or IC 8-14.5-7** and includes any evidences of indebtedness of the authority except bonds.

SECTION 82. IC 8-14.5-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The department shall pay lease rentals for leases entered into under this chapter **and securing bonds issued under IC 8-14.5-6** from revenues transferred to the state highway road construction and improvement fund or the crossroads 2000 fund before making any other disbursements from those ~~revenues.~~ **funds. The department shall pay lease rentals for leases entered into under this chapter and for securing grant anticipation revenue bonds or notes issued under IC 8-14.5-7 from federal highway revenues (as defined in IC 8-14.5-7-2) transferred to the grant anticipation fund before making any other disbursements from the grant anticipation fund.**

SECTION 83. IC 8-14.5-7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 7. Grant Anticipation Revenue Bonds and Notes

Sec. 1. As used in this chapter, "authority" refers to the Indiana transportation finance authority or its successor.

Sec. 2. As used in this chapter, "federal highway revenues" means:

(1) money and obligation authority apportioned or allocated, or anticipated to be apportioned or allocated in the current federal fiscal year or a future federal fiscal year, to Indiana by the United States Department of Transportation under 23 U.S.C., as amended, for use on a highway improvement project; or

(2) other federal money that may be used for a highway improvement project and is available or anticipated to be available in the current federal fiscal year or a future federal fiscal year.

Sec. 3. As used in this chapter, "grant anticipation revenue bond" or "grant anticipation revenue note" means a bond or note, respectively, secured by lease rentals relating to highway improvement projects and anticipated to be paid from federal highway revenues deposited in the grant anticipation fund.

Sec. 4. As used in this chapter, "highway improvement project" means a highway project for which the department may use federal highway revenues.

Sec. 5. The authority may, by resolution, before July 1, 2009, issue grant anticipation revenue bonds or notes for any purpose that is authorized by IC 8-14.5-6 and for which the department may use federal highway revenues.

Sec. 6. (a) Before grant anticipation revenue bonds or notes may be issued under this chapter, the department shall prepare a revenue declaration that includes the department's determination that the amount of federal highway revenues received by the state in a particular state fiscal year will exceed the amount specified in subsection (c)(2) by at least eighteen percent (18%). Grant anticipation revenue bonds or notes may not be issued under this chapter unless the department makes the determination required under this subsection.

(b) The revenue declaration prepared under this section must provide a specified amount or percentage of federal highway revenues received by the state during a state fiscal year to be deposited in the grant anticipation fund and the number of years the deposits shall be made. A revenue declaration prepared under this section is subject to approval of the budget agency and the authority.

(c) The total amount of lease rentals securing grant anticipation revenue bonds or notes issued under this chapter and scheduled to be paid during any state fiscal year, determined as of the date of issuance of each series of grant anticipation revenue bonds or notes, may not exceed an amount equal to twenty-five percent (25%) of the remainder of:

(1) the total amount of federal highway revenues apportioned or allocated to the department during the federal fiscal year immediately preceding the state fiscal year in which the series of bonds or notes is issued; minus

(2) seven hundred thirty-four million eight hundred fifty thousand three hundred ninety dollars ($734,850,390), which is the total amount of federal highway revenues apportioned or allocated to the department during the federal fiscal year beginning October 1, 2003, and ending September 30, 2004.

Sec. 7. The term of grant anticipation revenue bonds or notes may not exceed twelve (12) years.

Sec. 8. All other provisions of IC 8-14.5-6 apply to the issuance of grant anticipation revenue bonds or notes under this chapter.

Sec. 9. Grant anticipation revenue bonds or notes:

(1) constitute the corporate obligations of the authority;

(2) do not constitute an indebtedness of the state within the meaning or application of any constitutional provision or limitation; and

(3) are payable solely as to both principal and interest from:

(A) the revenues from a lease to the department, if any;

(B) proceeds of bonds or notes, if any; or

(C) investment earnings on proceeds of bonds or notes, if any.

SECTION 84. IC 8-22-3.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) As used in this section, "base assessed value" means:

(1) the net assessed value of all the tangible property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the commission's resolution adopted under section 5 of this chapter, **notwithstanding the date of the final action taken under section 6 of this chapter;** plus

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

However, subdivision (2) applies only to an airport development zone established after June 30, 1997, and the portion of an airport development zone established before June 30, 1997, that is added to an existing airport development zone.

(b) Except in a county described in section 1(5) of this chapter, a resolution adopted under section 5 of this chapter and confirmed under section 6 of this chapter must include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section.

(c) The allocation provision must:

(1) apply to the entire airport development zone; and

(2) require that any property tax on taxable tangible property subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes in the airport development zone be allocated and distributed as provided in subsections (d) and (e).

(d) Except in a county described in section 1(5) of this chapter, and as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

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

(2) the base assessed value;

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

(e) Except in a county described in section 1(5) of this chapter, all of the property tax proceeds in excess of those described in subsection (d) shall be allocated to the eligible entity for the airport development zone and, when collected, paid into special funds as follows:

(1) The commission may determine that a portion of tax proceeds shall be allocated to a training grant fund to be expended by the commission without appropriation solely for the purpose of reimbursing training expenses incurred by public or private entities in the training of employees for the qualified airport development project.

(2) ~~Except as provided in subsection (f), all remaining~~ **The commission may determine that a portion of** tax proceeds shall be allocated to a debt service fund and dedicated to the payment of principal and interest on revenue bonds of the airport authority for a qualified airport development project, ~~or~~ to the payment of leases for a qualified airport development

project, **or to the payment of principal and interest on bonds issued by an eligible entity to pay for qualified airport development projects in the airport development zone or serving the airport development zone.**

(3) Except as provided in subsection (f), all remaining tax proceeds after allocations are made under subdivisions (1) and (2) shall be allocated to a project fund and dedicated to the reimbursement of expenditures made by the commission for a qualified airport development project that is in the airport development zone or is serving the airport development zone.

(f) Except in a county described in section 1(5) of this chapter, if the tax proceeds allocated to the ~~debt service~~ **project** fund **in subsection (e)(3)** exceed the amount necessary to

~~(1) pay principal and interest on airport authority revenue bonds;~~

~~(2) pay lease rentals on leases of a qualified airport development project; or~~

~~(3) create, maintain, or restore a reserve for airport authority revenue bonds or for lease rentals or leases of a qualified airport development project;~~

satisfy amounts required under subsection (e), the excess **in the project fund** over that amount shall be paid to the respective taxing units in the manner prescribed by subsection (d).

(g) Except in a county described in section 1(5) of this chapter, when money in the debt service fund **and in the project fund** is sufficient to pay all outstanding principal and interest (to the earliest date on which the obligations can be redeemed) on revenue bonds issued by the airport authority for the financing of qualified airport development projects, ~~and~~ all lease rentals payable on leases of qualified airport development projects, **and all costs and expenditures associated with all qualified airport development projects,** money in the debt service fund **and in the project fund** in excess of ~~that amount~~ **those amounts** shall be paid to the respective taxing units in the manner prescribed by subsection (d).

(h) Except in a county described in section 1(5) of this chapter, property tax proceeds allocable to the debt service fund under subsection (e)(2) must, subject to subsection (g), be irrevocably pledged by the eligible entity for the purpose set forth in subsection (e)(2).

(i) Except in a county described in section 1(5) of this chapter, and notwithstanding any other law, each assessor shall, upon petition of the commission, reassess the taxable tangible property situated upon or in, or added to, the airport development zone effective on the next assessment date after the petition.

(j) Except in a county described in section 1(5) of this chapter, and notwithstanding any other law, the assessed value of all taxable tangible property in the airport development zone, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

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

(2) the base assessed value.

SECTION 85. IC 8-23-3-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 11. Notwithstanding any other provision of this chapter, if grant anticipation revenue bonds or notes have been issued under IC 8-14.5-7, the department shall collect or cause to be collected federal highway revenues (as defined in IC 8-14.5-7-2) and shall, as provided by the department in the revenue declaration relating to the issuance of the grant anticipation revenue bonds or notes, deposit or cause to be deposited the specified part of the federal highway revenues in the grant anticipation fund.**

SECTION 86. IC 8-23-7-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. If the department determines that real property owned in fee simple by the department will not be needed for a purpose described in section 2 of this chapter, the commissioner may, **with the approval of the budget agency,** issue an order describing the surplus property and offering the surplus property for sale at or above its fair market value as determined by appraisers of the department. The department may combine or divide parcels of surplus property to facilitate the sale of the property.

SECTION 87. IC 9-22-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) A person not described in section 12 of this chapter who sells an abandoned motor vehicle under this chapter may retain from the proceeds of sale the cost of publication of notice and the cost of preserving the motor vehicle during the period of the vehicle's abandonment. The person shall pay the remaining balance of the proceeds of the sale to the circuit court clerk of the county in which the abandoned motor vehicle is located.

(b) At any time within ten (10) years after the money is paid to the clerk, the person who owns the abandoned motor vehicle sold under this chapter may make a claim with the clerk for the sale proceeds deposited with the clerk. If ownership of the proceeds is established to the satisfaction of the clerk, the clerk shall pay the proceeds to the person who owns the abandoned motor vehicle.

(c) If a claim for the proceeds of the sale of an abandoned motor vehicle under subsection (b) is not made within ten (10) years, claims for the proceeds are barred. The clerk shall notify the attorney general and upon demand pay the proceeds to the attorney general. The attorney general shall turn the proceeds over to the treasurer of state. The proceeds vest in and escheat to the state ~~common school~~ **general** fund. ~~and shall be distributed as a part of the common school fund.~~

SECTION 88. IC 9-27-4-5.5, AS AMENDED BY HEA 1288-2005, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.5. (a) To receive an instructor's license under subsection (d), an individual must complete at least sixty (60) semester hours at a college. The individual must complete at least twelve (12) semester hours in driver education courses, of which three (3) semester hours must consist of supervised student teaching experience under the direction of an individual who has:

(1) a driver and traffic safety education endorsement issued by the ~~professional standards board~~ **department of education** established by ~~IC 20-28-2-1;~~ **IC 20-19-3-1;** and

(2) at least five (5) years of teaching experience in driver education.

(b) The three (3) semester hours of supervised student teaching experience required under subsection (a) may only be undertaken by an individual who will be at least twenty-one (21) years of age upon completion and may only be performed at a high school, a commercial driving school, or the college providing the courses for the individual to become an instructor. The remaining nine (9) hours of driver education courses required under subsection (a) must include a combination of theoretical and behind-the-wheel instruction that is consistent with nationally accepted standards in traffic safety.

(c) The driver education semester hours required under subsection (a) do not satisfy the requirements of subsection (d) or (e) unless the driver education curriculum is approved by the commission for higher education.

(d) The bureau shall issue an instructor's license to an individual who satisfies all of the following:

(1) The individual meets the requirements of subsection (a).

(2) The individual 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.

(3) The individual has a good moral character, physical condition, knowledge of the rules of the road, and work history. The bureau shall adopt rules under IC 4-22-2 that specify the requirements, including requirements about criminal convictions, necessary to satisfy the conditions of this subdivision.

(e) The bureau shall issue an instructor's license to an individual who:

(1) during 1995, held an instructor's license;

(2) meets the requirements of subsection (d)(2) and (d)(3); and

(3) completes the twelve (12) semester hours of driver education courses required under subsection (a) not later than July 1, 1999.

However, an individual who has acted as an instructor for at least two (2) years before January 1, 1996, is not required to complete the requirements of subdivision (3) in order to receive an instructor's license under this subsection.

(f) The bureau shall issue an instructor's license to an individual who:

(1) holds a driver and traffic safety education endorsement issued by the ~~professional standards board~~ **department of education** established ~~under IC 20-28-2-1;~~ **by IC 20-19-3-1;** and

(2) meets the requirements of subsection (d)(2) and (d)(3).

(g) Only an individual who holds an instructor's license issued by the bureau under subsection (d), (e), or (f) may act as an instructor.

SECTION 89. IC 9-29-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 4. (a) The service charge for each of the first twelve thousand (12,000) vehicle registrations at a license branch each year is one dollar and seventy-five cents ($1.75).

(b) The service charge for each of the next thirty-eight thousand (38,000) vehicle registrations at that license branch each year is one dollar and fifty cents ($1.50).

(c) The service charge for each additional vehicle registration at that license branch each year is one dollar and twenty-five cents ($1.25).

(d) Fifty cents ($0.50) of each service charge collected under this section ~~during 2002 and 2003~~ shall be deposited in the state motor vehicle technology fund established by IC 9-29-16-1.

SECTION 90. IC 10-13-3-38.5, AS AMENDED BY HEA 1288-2005, SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 38.5. (a) Under federal P.L.92-544 (86 Stat. 1115), the department may use an individual's fingerprints submitted by the individual for the following purposes:

(1) Determining the individual's suitability for employment with the state, or as an employee of a contractor of the state, in a position:

(A) that has a job description that includes contact with, care of, or supervision over a person less than eighteen (18) years of age;

(B) that has a job description that includes contact with, care of, or supervision over an endangered adult (as defined in IC 12-10-3-2), except the individual is not required to meet the standard for harmed or threatened with harm set forth in IC 12-10-3-2(a)(3);

(C) at a state institution managed by the office of the secretary of family and social services or state department of health;

(D) at the Indiana School for the Deaf established by IC 20-22-2-1;

(E) at the Indiana School for the Blind established by IC 20-21-2-1;

(F) at a juvenile detention facility;

(G) with the **Indiana** gaming commission under IC 4-33-3-16;

(H) with the department of financial institutions under IC 28-11-2-3; or

(I) that has a job description that includes access to or supervision over state financial or personnel data, including state warrants, banking codes, or payroll information pertaining to state employees.

(2) Identification in a request related to an application for a teacher's license submitted to the ~~professional standards board~~ **department of education** established ~~under IC 20-28-2-1.~~ **by IC 20-19-3-1.**

An applicant shall submit the fingerprints in an appropriate format or on forms provided for the employment or license application. The department shall charge each applicant the fee established

under section 28 of this chapter and by federal authorities to defray the costs associated with a search for and classification of the applicant's fingerprints. The department may forward fingerprints submitted by an applicant to the Federal Bureau of Investigation or any other agency for processing. The state personnel department or the agency to which the applicant is applying for employment or a license may receive the results of all fingerprint investigations.

(b) An applicant who is an employee of the state may not be charged under subsection (a).

(c) Subsection (a)(1) does not apply to an employee of a contractor of the state if the contract involves the construction or repair of a capital project or other public works project of the state.

SECTION 91. IC 11-8-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The commissioner shall do the following:

(1) Organize the department ~~subject to approval by the board,~~ and employ personnel necessary to discharge the duties and powers of the department.

(2) Administer and supervise the department, including all state owned or operated correctional facilities.

(3) Except for employees of the parole board, be the appointing authority for all positions in the department within the scope of IC 4-15-2 and define the duties of those positions in accord with IC 4-15-2.

(4) Define the duties of a deputy commissioner and a superintendent.

(5) Accept committed persons for study, evaluation, classification, custody, care, training, and reintegration.

(6) Determine the capacity of all state owned or operated correctional facilities and programs and keep all Indiana courts having criminal or juvenile jurisdiction informed, on a quarterly basis, of the populations of those facilities and programs.

(7) Utilize state owned or operated correctional facilities and programs to accomplish the purposes of the department and acquire or establish, according to law, additional facilities and programs whenever necessary to accomplish those purposes.

(8) Develop policies, programs, and services for committed persons, for administration of facilities, and for conduct of employees of the department.

(9) Administer, according to law, the money or other property of the department and the money or other property retained by the department for committed persons.

(10) Keep an accurate and complete record of all department proceedings, which includes the responsibility for the custody and preservation of all papers and documents of the department.

(11) Make an annual report to the governor according to subsection (c).

(12) Develop, collect, and maintain information concerning offenders, sentencing practices, and correctional treatment as ~~he~~ **the commissioner** considers useful in penological research or in developing programs.

(13) Cooperate with and encourage public and private agencies and other persons in the development and improvement of correctional facilities, programs, and services.

(14) Explain correctional programs and services to the public.

(15) As required under 42 U.S.C. 15483, after January 1, 2006, provide information to the election division to coordinate the computerized list of voters maintained under IC 3-7-26.3 with department records concerning individuals disfranchised under IC 3-7-46.

(b) The commissioner may:

(1) when authorized by law, adopt departmental rules under IC 4-22-2; ~~subject to approval by the board,~~

(2) delegate powers and duties conferred on ~~him~~ **the commissioner** by law to a deputy commissioner or commissioners and other employees of the department;

(3) issue warrants for the return of escaped committed persons (an employee of the department or any person authorized to execute warrants may execute a warrant issued for the return of an escaped person); and

(4) exercise any other power reasonably necessary in discharging ~~his~~ **the commissioner's** duties and powers.

(c) The annual report of the department shall be transmitted to the governor by September 1 of each year and must contain:

(1) a description of the operation of the department for the fiscal year ending June 30;

(2) a description of the facilities and programs of the department;

(3) an evaluation of the adequacy and effectiveness of those facilities and programs considering the number and needs of committed persons or other persons receiving services; and

(4) any other information required by law.

Recommendations for alteration, expansion, or discontinuance of facilities or programs, for funding, or for statutory changes may be included in the annual report.

SECTION 92. IC 11-8-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The commissioner shall ~~with the approval of the board,~~ appoint one (1) or more deputy commissioners. A deputy commissioner must hold at least a bachelor's degree from an accredited college or university and must have held a management position in correctional or related work for a minimum of three (3) years. A deputy commissioner shall serve at the pleasure of the commissioner. A deputy commissioner is entitled to a salary to be determined by the ~~state~~ budget agency with the approval of the governor.

SECTION 93. IC 11-8-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The commissioner shall ~~with the approval of the board,~~ determine which state owned or operated correctional facilities are to be maintained for criminal offenders and which are to be maintained for delinquent offenders.

(b) The commissioner shall determine which state owned or operated correctional facilities need, for effective management, administration by a superintendent. The commissioner shall appoint ~~with the approval of the board,~~ a superintendent for each

correctional facility. However, the commissioner may appoint a person as superintendent of two (2) or more facilities if the commissioner finds that it would be economical to do so and would not adversely effect the management of the facilities.

(c) A superintendent must hold at least a bachelor's degree from an accredited college or university and must have held a management position in correctional or related work for a minimum of five (5) years. A superintendent is entitled to a salary to be determined by the ~~state~~ budget agency with the approval of the governor. A superintendent may be dismissed for cause by the commissioner. ~~with the approval of the board.~~

(d) If a superintendent position becomes vacant, the commissioner may appoint an acting superintendent to discharge the duties and powers of a superintendent on a temporary basis.

SECTION 94. IC 11-8-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) All officers and employees of the department, ~~with the exception of the members of the board,~~ members of the parole board, the commissioner, any deputy commissioner, and any superintendent, are within the scope of IC 4-15-2.

(b) IC 11-10-5 applies to teachers employed under that chapter, notwithstanding IC 4-15-2.

(c) The department shall cooperate with the state personnel department in establishing minimum qualification standards for employees of the department and in establishing a system of personnel recruitment, selection, employment, and distribution.

(d) The department shall conduct training programs designed to equip employees for duty in its facilities and programs and raise their level of performance. Training programs conducted by the department need not be limited to inservice training. They may include preemployment training, internship programs, and scholarship programs in cooperation with appropriate agencies. When funds are appropriated, the department may provide educational stipends or tuition reimbursement in such amounts and under such conditions as may be determined by the department and the personnel division.

(e) The department shall conduct a training program on cultural diversity awareness that must be a required course for each employee of the department who has contact with incarcerated persons.

(f) The department shall provide six (6) hours of training to employees who interact with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities concerning the interaction, to be taught by persons approved by the secretary of family and social services, using teaching methods approved by the secretary of family and social services and the commissioner. The commissioner or the commissioner's designee may credit hours of substantially similar training received by an employee toward the required six (6) hours of training.

(g) The department shall establish a correctional officer training program with a curriculum, and administration by agencies, to be determined by the commissioner. A certificate of completion shall be issued to any person satisfactorily completing the training program. A certificate may also be issued to any person who has received training in another jurisdiction if the commissioner determines that the training was at least equivalent to the training program maintained under this subsection.

SECTION 95. IC 11-10-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A county that commits an offender to the department shall pay to the state treasurer, under IC 4-24-7-4, ~~one-half (1/2) of the daily cost of~~ **sixty dollars ($60) for each day for** keeping the offender. ~~in the facility or program to which he is assigned. That cost is determined by dividing the average daily population of that facility or program into the previous fiscal year's operating expense of that facility or program and dividing the quotient by the number of days in the previous fiscal year.~~

(b) A county is not liable for services provided an offender under section 6 of this chapter or for the cost of keeping the offender while those services are being provided.

SECTION 96. IC 11-10-5-2, AS AMENDED BY HEA 1288-2005, SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The **advisory board of the division of** professional standards ~~board~~ **of the department of education** established by ~~IC 20-28-2-1~~ **IC 20-28-2-2** shall, in accord with IC 20-28-4 and IC 20-28-5, adopt rules under IC 4-22-2 for the licensing of teachers to be employed by the department.

SECTION 97. IC 11-10-5-3, AS AMENDED BY HEA 1288-2005, SECTION 123, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Limited certificates valid for one (1) year may be granted, upon the request of the commissioner, according to rules of the **advisory board of the division of** professional standards ~~board~~ **of the department of education** established by ~~IC 20-28-2-1.~~ **IC 20-28-2-2.** Modification of these rules may be made by the **advisory board of the division of** professional standards ~~board~~ **of the department of education established by IC 20-28-2-2** in a way reasonably calculated to make available an adequate supply of qualified teachers. A limited certificate may be issued in cases where special ~~training~~ **education** and qualifications warrant the waiver of part of the prerequisite professional ~~training~~ **education** required for certification to teach in the public schools. The limited certificate, however, may be issued only to applicants who have graduated from an accredited college or university. Teachers of vocational education need not be graduates of an accredited college or university but shall meet requirements for conditional vocational certificates as determined by the ~~professional standards board.~~ **department of education.**

SECTION 98. IC 12-7-2-40.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 40.2. "Community spouse", for purposes of IC 12-15-2, means an individual who:**

(1) is the spouse of an individual who resides in a nursing facility or another medical institution; and

(2) does not reside in a nursing facility or another medical institution.

SECTION 99. IC 12-10-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) As used in

this chapter, "eligible individual" means an individual who:

(1) is a resident of Indiana;

(2) is:

(A) at least sixty (60) years of age; or

(B) disabled; ~~and~~

(3) **has assets that do not exceed five hundred thousand dollars ($500,000), as determined by the division; and**

(4) qualifies under criteria developed by the board as having an impairment that places the individual at risk of losing the individual's independence, as described in subsection (b).

(b) For purposes of subsection (a), an individual is at risk of losing the individual's independence if the individual is unable to perform two (2) or more activities of daily living. The use by or on behalf of the individual of any of the following services or devices does not make the individual ineligible for services under this chapter:

(1) Skilled nursing assistance.

(2) Supervised community and home care services, including skilled nursing supervision.

(3) Adaptive medical equipment and devices.

(4) Adaptive nonmedical equipment and devices.

SECTION 100. IC 12-10-10-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 12. (a) The office of the secretary, in consultation with the local area agencies on aging, shall negotiate reimbursement rates for services provided under this chapter.**

(b) Payments for services under this chapter may not be counted in a Medicaid recipient's spend down requirement in IC 12-15.

SECTION 101. IC 12-11-1.1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) The office may assess providers of ~~supported living services and supports~~ **community based services** to individuals with a developmental disability **who otherwise qualify to receive ICF/MR (as defined in IC 16-29-4-2) based services** (~~described in 460 IAC 6~~) in an amount not to exceed ~~two and five tenths~~ **six** percent ~~(2.5%)~~ **(6%)** of all service revenue included on the annual plan of care excluding resident living allowances.

(b) The assessments shall be paid to the office not later than the tenth day of the month for each month that the individual is in service. The office or the office's designee may withhold Medicaid payments to a provider described in subsection (a) that fails to pay an assessment within thirty (30) days after the due date. The amount withheld may not exceed the amount of the assessments due.

(c) The community services quality assurance fund is created. The fund shall be administered by the office.

(d) Revenue from the assessments under this section shall be deposited into the fund. Money in the fund ~~may~~ **must** be used ~~only~~ for ~~the funding of licensing, certification, and quality assurance services.~~ **community services for persons with developmental disabilities.** ~~The aggregate amount of the fee may not exceed the state's estimated cost of operating the programs.~~

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

(f) If federal financial participation to match the assessments in subsection (a) becomes unavailable under federal law, the authority to impose the assessments terminates on the date that the federal statutory, regulatory, or interpretive change takes effect.

SECTION 102. IC 12-15-2-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 24. (a) This section applies to determining eligibility for an individual who:**

(1) resides in a nursing facility or another medical institution; and

(2) has a community spouse.

(b) In determining eligibility for an individual described in subsection (a), the office shall, beginning in calendar year 2006, use the greater of the following community spouse resource allowances:

(1) Nineteen thousand twenty dollars ($19,020), subject to an adjustment described in 42 U.S.C. 1396r-5(g).

(2) The lesser of:

(A) the spousal share computed under 42 U.S.C. 1396r-5(c)(1); or

(B) ninety-five thousand one hundred dollars ($95,100), subject to an adjustment described in 42 U.S.C. 1396r-5g.

(3) An amount established by a court order or an administrative hearing if the community spouse's income is less than the minimum monthly needs allowance established under 42 U.S.C. 1396r-5(d)(3) and an increased amount is necessary to increase the community spouse's income to the minimum monthly needs allowance.

(c) An institutionalized spouse shall not be ineligible for the program because of resources if:

(1) the institutionalized spouse:

(A) establishes that the individual has a right to receive support from the community spouse; and

(B) assigns to the office the right to receive support from the community spouse; or

(2) the office determines that the denial of eligibility would result in an undue hardship to the institutionalized spouse.

(d) The office shall adopt rules under IC 4-22-2 to calculate the amount of resources necessary to provide income to the community spouse under subsection (b).

SECTION 103. IC 12-15-2-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 25. (a) This section applies to an individual who:**

(1) is eligible for Medicaid;

(2) resides in a nursing facility or another medical institution; and

(3) has a community spouse.

(b) An individual described in subsection (a) is entitled to retain an income allowance for the purpose of supporting a community spouse if:

(1) the community spouse's income is less than the minimum monthly needs allowance established under 42 U.S.C. 1396r-5(d)(3); and

(2) an increased amount is necessary to increase the community spouse's income to the minimum monthly needs allowance.

(c) If either spouse establishes that a higher allowance is needed due to exceptional circumstances resulting in significant financial duress, the minimum monthly needs allowance may be increased after an administrative hearing or by a court order.

(d) The office shall adopt rules under IC 4-22-2 setting forth the manner in which the office will determine the existence of exceptional circumstances resulting in significant financial duress under subsection (c).

SECTION 104. IC 12-15-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Except as provided in ~~subsection~~ **subsections** (b) **and (c),** an applicant for or recipient of Medicaid is ineligible for assistance if the total cash value of money, stock, bonds, and life insurance owned by:

(1) the applicant or recipient is more than one thousand five hundred dollars ($1,500) for assistance to the aged, blind, or disabled; or

(2) the applicant or recipient and the applicant's or recipient's spouse is more than two thousand two hundred fifty dollars ($2,250) for medical assistance to the aged, blind, or disabled.

(b) In the case of an applicant who is an eligible individual, a Holocaust victim's settlement payment received by the applicant or the applicant's spouse may not be considered when calculating the total cash value of money, stock, bonds, and life insurance owned by the applicant or the applicant's spouse.

(c) In the case of an individual who:

(1) resides in a nursing facility or another medical institution; and

(2) has a spouse who does not reside in a nursing facility or another medical institution;

the total cash value of money, stock, bonds, and life insurance that may be owned by the couple to be eligible for the program is determined under IC 12-15-2-24.

SECTION 105. IC 12-15-5-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 8. (a) As used in this section, "maintenance drug" means a medication that is dispensed under a single prescription for a period of not less than one hundred eighty (180) days, excluding authorized refills, for the ongoing treatment of a chronic medical condition or disease or congenital condition or disorder.**

(b) The office may designate:

(1) a mail order pharmacy;

(2) an Internet based pharmacy (as defined in IC 25-26-18-1);

(3) a pharmacy that agrees to sell a maintenance drug at the same price as a mail order or an Internet based pharmacy; or

(4) all the pharmacies listed in subdivisions (1) through (3);

through which a recipient may obtain a maintenance drug.

(c) If the office makes a designation under subsection (b), a managed care organization that has a contract with the office under IC 12-15-12 is not required to use a pharmacy that is designated under subsection (b).

(d) If a Medicaid recipient's physician prescribes a maintenance prescription drug, the Medicaid recipient may purchase the maintenance prescription drug from a pharmacy that is designated under subsection (b).

(e) The office shall apply to amend the state Medicaid plan if the office determines that an amendment is necessary to carry out this section.

(f) The office may require a recipient to pay the maximum copayment allowable under federal law if the recipient obtains a maintenance drug from a pharmacy other than a pharmacy described in subsection (b).

SECTION 106. IC 12-15-8.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. **(a) This section applies:**

(1) after the death of a Medicaid recipient whose property; or

(2) upon the sale of property that;

is subject to a lien under this chapter.

~~(a)~~ **(b)** A lien under this chapter is void if both of the following occur:

(1) The owner of property subject to a lien under this chapter or any person or corporation having an interest in the property, including a mortgagee or a lienholder, provides written notice to the office to file an action to foreclose the lien.

(2) The office fails to file an action to foreclose the lien in the county where the property is located not later than ~~thirty (30)~~ **sixty (60)** days after receiving the notice.

However, this section does not prevent the claim from being collected as other claims are collected by law.

~~(b)~~ **(c)** A person who gives notice under subsection ~~(a)(1)~~ **(b)(1)** by registered or certified mail to the office at the address given in the recorded statement and notice of intention to hold a lien may file an affidavit of service of the notice to file an action to foreclose the lien with the recorder of the county in which the property is located. The affidavit must state the following:

(1) The facts of the notice.

(2) That more than ~~thirty (30)~~ **sixty (60)** days have passed since the notice was received by the office.

(3) That no action for foreclosure of the lien is pending.

(4) That no unsatisfied judgment has been rendered on the lien.

~~(c)~~ **(d)** The recorder shall:

(1) record the affidavit of service in the miscellaneous record book of the recorder's office; and

(2) certify on the face of the record any lien that is fully released.

When the recorder records the affidavit and certifies the record under this subsection, the real estate described in the lien is released from the lien.

SECTION 107. IC 12-15-9-0.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 0.5. (a) As used in this chapter, "estate" includes:

(1) all real and personal property and other assets included within an individual's probate estate;

(2) any interest in real property owned by the individual at the time of death that was conveyed to the individual's survivor through joint tenancy with right of survivorship, if the joint tenancy was created after June 30, 2002; ~~and~~

(3) any real or personal property conveyed through a nonprobate transfer; **and**

(4) any sum due after June 30, 2005, to a person after the death of a Medicaid recipient that is under the terms of an annuity contract purchased after May 1, 2005, with the assets of:

(A) the Medicaid recipient; or

(B) the Medicaid recipient's spouse.

(b) As used in this chapter, "nonprobate transfer" means a valid transfer, effective at death, by a transferor:

(1) whose last domicile was in Indiana; and

(2) who immediately before death had the power, acting alone, to prevent transfer of the property by revocation or withdrawal and:

(A) use the property for the benefit of the transferor; or

(B) apply the property to discharge claims against the transferor's probate estate.

The term does not include transfer of a survivorship interest in a tenancy by the entireties real estate or payment of the death proceeds of a life insurance policy.

SECTION 108. IC 12-15-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. **(a) Subject to subsection (b),** upon the death of a Medicaid recipient **or upon the death of a deceased Medicaid recipient's spouse,** the total amount of Medicaid paid on behalf of the recipient after the recipient became fifty-five (55) years of age must be allowed as a preferred claim against the estate of the recipient **or the recipient's spouse** in favor of the state. The affidavit of a person designated by the secretary to administer this section is evidence of the amount of the claim and is payable after the payment of the following in accordance with IC 29-1-14-9:

(1) Funeral expenses for the recipient and the recipient's spouse, not to exceed in each individual case three hundred fifty dollars ($350).

(2) The expenses of the last illness of the recipient and the recipient's spouse that are authorized or paid by the office.

(3) The expenses of administering the estate, including the attorney's fees approved by the court.

(b) If a recipient's spouse remarries, the part of the estate of the recipient's spouse that is attributable to the subsequent spouse is not subject to a claim for Medicaid paid on behalf of the recipient.

SECTION 109. IC 12-15-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The office may not recover on a claim filed against the estate of a surviving spouse while the individual is survived by a child who is:

(1) less than twenty-one (21) years of age; or

(2) permanently and totally disabled under criteria established by the federal Supplemental Security Income program.

(b) ~~A claim against the estate of a surviving spouse for medical assistance paid on behalf of the predeceased spouse is limited to the value of the assets included in the predeceased spouse's probate estate.~~ **The office may not recover on a claim filed against the estate of a surviving spouse from any part of the estate described in section 1(b) of this chapter.**

SECTION 110. IC 12-15-9-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. A person receiving beneficiary payments from an annuity contract of a deceased Medicaid recipient is liable to the state for reimbursement of Medicaid benefits:**

(1) paid to; or

(2) on behalf of;

the deceased Medicaid recipient to the extent of any payments that are received by the person under a annuity contract purchased after May 1, 2005.

SECTION 111. IC 12-16-14-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 3. (a) For purposes of this section, "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b)(1).

(b) For taxes first due and payable in 2003, each county shall impose a hospital care for the indigent property tax levy equal to the product of:

(1) the county's hospital care for the indigent property tax levy for taxes first due and payable in 2002; multiplied by

(2) the county's assessed value growth quotient determined under IC 6-1.1-18.5-2 for taxes first due and payable in 2003.

(c) For taxes first due and payable in 2004, 2005, ~~and~~ 2006, **2007, and 2008,** each county shall impose a hospital care for the indigent property tax levy equal to the product of:

(1) the county's hospital care for the indigent property tax levy for taxes first due and payable in the preceding year; multiplied by

(2) the assessed value growth quotient determined in the last STEP of the following STEPS:

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth) of the county's total assessed value of all taxable property in the particular calendar year, divided by the county's total assessed value of all taxable property in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

(d) Except as provided in subsection (e):

(1) for taxes first due and payable in ~~2007,~~ **2009,** each county shall impose a hospital care for the indigent property tax levy equal to the average **of the** annual amount of payable claims attributed to the county under IC 12-16-7.5-4.5 during the state fiscal years beginning:

~~(A) July 1, 2003;~~

~~(B) July 1, 2004; and~~

~~(C)~~ **(A)** July 1, 2005; ~~and~~

(B) July 1, 2006; and

(C) July 1, 2007; and

(2) for all subsequent annual levies under this section, the average annual amount of payable claims attributed to the county under IC 12-16-7.5-4.5 during the three (3) most recently completed state fiscal years.

(e) A county may not impose an annual levy under subsection (d) in an amount greater than the product of:

(1) The greater of:

(A) the county's hospital care for the indigent property tax levy for taxes first due and payable in ~~2006,~~ **2008;** or

(B) the amount of the county's maximum hospital care for the indigent property tax levy determined under this subsection for taxes first due and payable in the immediately preceding year; multiplied by

(2) the assessed value growth quotient determined in the last STEP of the following STEPS:

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth) of the county's total assessed value of all taxable property in the particular calendar year, divided by the county's total assessed value of all taxable property in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

SECTION 112. IC 12-17-2-34, AS AMENDED BY HEA 1288-2005, SECTION 132, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 34. (a) When the Title IV-D agency finds that an obligor is delinquent and can demonstrate that all previous enforcement actions have been unsuccessful, the Title IV-D agency shall send, to a verified address, a notice to the obligor that ~~includes~~ **does** the following:

(1) Specifies that the obligor is delinquent.

(2) Describes the amount of child support that the obligor is in arrears.

(3) States that unless the obligor:

(A) pays the obligor's child support arrearage in full;

(B) requests the activation of an income withholding order under IC 31-16-15-2 and establishes a payment plan with the Title IV-D agency to pay the arrearage; or

(C) requests a hearing under section 35 of this chapter;

within twenty (20) days after the date the notice is mailed, the Title IV-D agency shall issue an order to the bureau of motor vehicles stating that the obligor is delinquent and that the obligor's driving privileges shall be suspended.

(4) Explains that the obligor has twenty (20) days after the notice is mailed to do one (1) of the following:

(A) Pay the obligor's child support arrearage in full.

(B) Request the activation of an income withholding order under IC 31-16-15-2 and establish a payment plan with the Title IV-D agency to pay the arrearage.

(C) Request a hearing under section 35 of this chapter.

(5) Explains that if the obligor has not satisfied any of the requirements of subdivision (4) within twenty (20) days after the notice is mailed, that the Title IV-D agency shall issue a notice to:

(A) the board **or department** that regulates the obligor's profession or occupation, if any, that the obligor is delinquent and that the obligor may be subject to sanctions under IC 25-1-1.2, including suspension or revocation of the obligor's professional or occupational license;

(B) the supreme court disciplinary commission if the obligor is licensed to practice law;

(C) the ~~professional standards board as~~ **department of education** established by ~~IC 20-28-2-1~~ **IC 20-19-3-1** if the obligor is a licensed teacher;

(D) the Indiana horse racing commission if the obligor holds or applies for a license issued under IC 4-31-6;

(E) the Indiana gaming commission if the obligor holds or applies for a license issued under IC 4-33;

(F) the commissioner of the department of insurance if the obligor holds or is an applicant for a license issued under IC 27-1-15.6, IC 27-1-15.8, or IC 27-10-3; or

(G) the director of the department of natural resources if the obligor holds or is an applicant for a license issued by the department of natural resources under the following:

(i) IC 14-22-12 (fishing, hunting, and trapping licenses).

(ii) IC 14-22-14 (Lake Michigan commercial fishing license).

(iii) IC 14-22-16 (bait dealer's license).

(iv) IC 14-22-17 (mussel license).

(v) IC 14-22-19 (fur buyer's license).

(vi) IC 14-24-7 (nursery dealer's license).

(vii) IC 14-31-3 (ginseng dealer's license).

(6) Explains that the only basis for contesting the issuance of an order under subdivision (3) or (5) is a mistake of fact.

(7) Explains that an obligor may contest the Title IV-D agency's determination to issue an order under subdivision (3) or (5) by making written application to the Title IV-D agency within twenty (20) days after the date the notice is mailed.

(8) Explains the procedures to:

(A) pay the obligor's child support arrearage in full;

(B) establish a payment plan with the Title IV-D agency to pay the arrearage; and

(C) request the activation of an income withholding order under IC 31-16-15-2.

(b) Whenever the Title IV-D agency finds that an obligor is delinquent and has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage and request the activation of an income withholding order under IC 31-16-15-2; or

(3) request a hearing under section 35 of this chapter within twenty (20) days after the date the notice described in subsection (a) is mailed;

the Title IV-D agency shall issue an order to the bureau of motor vehicles stating that the obligor is delinquent.

(c) An order issued under subsection (b) must require the following:

(1) If the obligor who is the subject of the order holds a driving license or permit on the date the order is issued, that the driving privileges of the obligor be suspended until further order of the Title IV-D agency.

(2) If the obligor who is the subject of the order does not hold a driving license or permit on the date the order is issued, that the bureau of motor vehicles may not issue a driving license or permit to the obligor until the bureau of motor vehicles receives a further order from the Title IV-D agency.

(d) The Title IV-D agency shall provide the:

(1) full name;

(2) date of birth;

(3) verified address; and

(4) Social Security number or driving license number;

of the obligor to the bureau of motor vehicles.

(e) When the Title IV-D agency finds that an obligor who is an applicant (as defined in IC 25-1-1.2-1) or a practitioner (as defined in IC 25-1-1.2-6) is delinquent and the applicant or practitioner has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage or request the activation of an income withholding order under IC 31-16-15; or

(3) request a hearing under section 35 of this chapter;

the Title IV-D agency shall issue an order to the board regulating the practice of the obligor's profession or occupation stating that the obligor is delinquent.

(f) An order issued under subsection (e) must direct the board **or department** regulating the obligor's profession or occupation to impose the appropriate sanctions described under IC 25-1-1.2.

(g) When the Title IV-D agency finds that an obligor who is an attorney or a licensed teacher is delinquent and the attorney or licensed teacher has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage or request the activation of an income withholding order under IC 31-16-15-2; or

(3) request a hearing under section 35 of this chapter;

the Title IV-D agency shall notify the supreme court disciplinary commission if the obligor is an attorney, or the ~~professional standards board~~ **department of education** if the obligor is a licensed teacher, that the obligor is delinquent.

(h) When the Title IV-D agency finds that an obligor who holds a license issued under IC 4-31-6 or IC 4-33 has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage and request the activation of an income withholding order under IC 31-16-15-2; or

(3) request a hearing under section 35 of this chapter;

the Title IV-D agency shall issue an order to the Indiana horse racing commission if the obligor holds a license issued under IC 4-31-6, or to the Indiana gaming commission if the obligor holds a license issued under IC 4-33, stating that the obligor is delinquent and directing the commission to impose the appropriate sanctions described in IC 4-31-6-11 or IC 4-33-8.5-3.

(i) When the Title IV-D agency finds that an obligor who holds a license issued under IC 27-1-15.6, IC 27-1-15.8, or IC 27-10-3 has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage and request the activation of an income withholding order under IC 31-16-15-2; or

(3) request a hearing under section 35 of this chapter;

the Title IV-D agency shall issue an order to the commissioner of the department of insurance stating that the obligor is delinquent and directing the commissioner to impose the appropriate sanctions described in IC 27-1-15.6-29 or IC 27-10-3-20.

(j) When the Title IV-D agency finds that an obligor who holds a license issued by the department of natural resources under IC 14-22-12, IC 14-22-14, IC 14-22-16, IC 14-22-17, IC 14-22-19, IC 14-24-7, or IC 14-31-3 has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage and request the activation of an income withholding order under IC 31-16-15-2; or

(3) request a hearing under section 35 of this chapter;

the Title IV-D agency shall issue an order to the director of the department of natural resources stating that the obligor is delinquent and directing the director to suspend or revoke a license issued to the obligor by the department of natural resources as provided in IC 14-11-3.

SECTION 113. IC 12-17-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) As used in this chapter, "early intervention services" means developmental services that meet the following conditions:

(1) Are provided under public supervision.

~~(2) Are provided at no cost, except where federal or state law allows for a system of payments by families, which may include a sliding scale of fees.~~

(2) Have the state as the payor of last resort.

(3) Are designed to meet the developmental needs of infants and toddlers with disabilities in at least one (1) of the areas specified in section 4(a)(1) of this chapter.

(4) Meet all required state and federal standards.

(5) Are provided by qualified personnel, including the following:

(A) Early childhood special educators, early childhood educators, and special educators.

(B) Speech and language pathologists and audiologists.

(C) Occupational therapists.

(D) Physical therapists.

(E) Psychologists.

(F) Social workers.

(G) Nurses.

(H) Nutritionists.

(I) Family therapists.

(J) Orientation and mobility specialists.

(K) Pediatricians and other physicians.

(6) To the maximum extent appropriate, are provided in natural environments, including the home and community settings in which children without disabilities participate.

(7) Are provided in conformity with an individualized family service plan adopted in accordance with 20 U.S.C. 1435.

(b) The term includes the following services:

(1) Family training, counseling, and home visits.

(2) Special instruction.

(3) Speech and language pathology and audiology.

(4) Occupational therapy.

(5) Physical therapy.

(6) Psychological services.

(7) Service coordination services.

(8) Medical services only for diagnostic, evaluation, or consultation purposes.

(9) Early identification, screening, and assessment services.

(10) Other health services necessary for the infant or toddler to benefit from the services.

(11) Vision services.

(12) Supportive technology services.

(13) Transportation and related costs that are necessary to enable an infant or a toddler and the infant or toddler's family to receive early intervention services.

SECTION 114. IC 12-17-15-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) Upon the recommendations of the council, the division shall adopt rules under IC 4-22-2 providing for a statewide system of coordinated, comprehensive, multidisciplinary, interagency programs that provide appropriate early intervention services to all infants and toddlers with disabilities and their families to the extent required under 20 U.S.C. 1431 through 1445.

(b) Rules adopted under this section must, to the extent allowed by federal law, include a cost participation plan for charges and fees imposed for programs and services described in subsection (a).

(c) A cost participation plan adopted under this section must provide for cost participation **per family** according to the following schedule:

Percentage of Federal Income Poverty Level		Copayment Per Treatment	Maximum Monthly Cost Share
At Least	But Not More Than		
~~0%~~	~~350%~~	~~$ 0~~	~~$ 0~~
~~351%~~	~~450%~~	~~$ 5~~	~~$ 25~~
~~451%~~	~~550%~~	~~$ 10~~	~~$ 50~~
~~551%~~	~~650%~~	~~$ 15~~	~~$ 75~~
~~651%~~	~~750%~~	~~$ 20~~	~~$ 100~~
~~751%~~	~~850%~~	~~$ 25~~	~~$ 125~~
~~851%~~	~~1000%~~	~~$ 30~~	~~$ 150~~
~~1001%~~		~~$ 36~~	~~$ 180~~
0%	**250%**	**$ 0**	**$ 0**
251%	**350%**	**$ 3**	**$ 24**
351%	**450%**	**$ 6**	**$ 48**
451%	**550%**	**$ 15**	**$ 120**
551%	**650%**	**$ 25**	**$ 200**
651%	**750%**	**$ 50**	**$ 400**
751%	**850%**	**$ 75**	**$ 600**
851%	**1000%**	**$ 100**	**$ 800**
1001%		**$ 120**	**$ 960**

~~The schedule of cost participation required under this subsection expires July 1, 2005.~~

(d) In addition to the schedule of cost participation required under subsection (c), a cost participation plan adopted under this section:

(1) must:

(A) be based on income and ability to pay;

(B) provide for a review of a family's cost participation amount:

(i) annually; and

(ii) within thirty (30) days after the family reports a reduction in income; and

(C) allow the division to waive a required copayment if

~~(i)~~ other medical expenses or personal care needs expenses for any member of the family reduce the level of income the family has available to pay copayments under this section; ~~or~~

~~(ii) the program receives payment from the family's health care coverage;~~ **and**

(2) may allow a family to voluntarily contribute payments that exceed the family's required cost participation amount. ~~and~~

~~(3) must provide that the division may not receive more than three thousand five hundred dollars ($3,500) per eligible child per year from a family's health care coverage.~~

(e) Funds received under a cost participation plan adopted under this section must be used to fund programs described in subsection (a).

(f) The budget agency shall annually report to the health finance commission and the budget committee the following

information concerning the funding of the program under this chapter:

(1) The total amount billed to a federal or state program each state fiscal year for services provided under this chapter, including the following programs:

(A) Medicaid.

(B) The children's health insurance program.

(C) The federal Temporary Assistance to Needy Families (TANF) program (45 CFR 265).

(D) Any other state or federal program.

(2) The total amount billed each state fiscal year to an insurance company for services provided under this chapter and the total amount reimbursed by the insurance company.

(3) The total copayments collected under this chapter each state fiscal year.

(4) The total administrative expenditures.

The report must be submitted before September 1 for the preceding state fiscal year in an electronic format under IC 5-14-6.

SECTION 115. IC 14-10-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The commission may do the following:

(1) Take the action that is necessary to enable the state to participate in the programs set forth in 16 U.S.C. 470 et seq.

(2) Promulgate and maintain a state register of districts, sites, buildings, structures, and objects significant in American or Indiana history, architecture, archeology, and culture and expend money for the purpose of preparing comprehensive statewide historic surveys and plans, in accordance with criteria established by the commission, that comply with the standards and regulations promulgated by the United States Secretary of the Interior for the preservation, acquisition, and development of the properties.

(3) Establish in accordance with criteria established by the United States Secretary of the Interior a program of matching grants-in-aid to public agencies for projects having as their purpose the preservation for public benefit of properties that are significant in American or Indiana history, architecture, archeology, and culture.

(4) Accept grants from public and private sources, including those provided under 16 U.S.C. 470 et seq.

(5) Establish fees for the following:

(A) Programs of the department or the commission.

(B) Facilities owned or operated by the department or the commission or a lessee of the department or commission.

(C) Licenses issued by the commission, the department, or the director.

(D) Inspections or other similar services under this title performed by the department or an assistant or employee of the department.

(6) Adopt rules under IC 4-22-2 for the establishment of fees under subdivision (5).

SECTION 116. IC 14-11-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a)** The department may adopt rules under IC 4-22-2 for the conduct of the following:

(1) Department meetings.

(2) Upon the recommendation of the director, the work of the department and the divisions.

(b) The department may not adopt rules under IC 4-22-2 for the establishment of fees for the following:

(1) Programs of the department or the commission.

(2) Facilities owned or operated by the department or the commission or a lessee of the department or commission.

(3) Licenses issued by the commission, the department, or the director.

(4) Inspections or other similar services under this title performed by the department or an assistant or employee of the department.

SECTION 117. IC 14-16-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The owner of a vehicle required to be registered under this chapter shall notify the department within fifteen (15) days if any of the following conditions exist:

(1) The vehicle is destroyed or abandoned.

(2) The vehicle is sold or an interest in the vehicle is transferred wholly or in part to another person.

(3) The owner's address no longer conforms to the address appearing on the certificate of registration.

(b) The notice must consist of a surrender of the certificate of registration on which the proper information shall be noted on a place to be provided.

(c) If the surrender of the certificate is required because the vehicle is destroyed or abandoned, the department shall cancel the certificate and enter that fact in the records. The number then may be reassigned.

(d) If the surrender is required because of a change of address on the part of the owner, the department shall record the new address. Upon payment of a fee established by the ~~department,~~ **commission,** a certificate of registration bearing the new information shall be returned to the owner.

(e) The transferee of a vehicle registered under this chapter shall, within fifteen (15) days after acquiring the vehicle, make application to the department for transfer to the transferee of the certificate of registration issued to the vehicle. The transferee shall provide the transferee's name and address and the number of the vehicle and pay to the department a fee established by the department. Upon receipt of the application and fee, the department shall transfer the certificate of registration issued for the vehicle to the new owner. Unless the application is made and the fee paid within fifteen (15) days, the vehicle is considered to be without a certificate of registration and a person may not operate the vehicle until a certificate is issued.

SECTION 118. IC 14-16-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. If a certificate of registration is lost, mutilated, or illegible, the owner of

the vehicle may obtain a duplicate of the certificate upon application and payment of a fee established by the ~~department.~~ **commission.**

SECTION 119. IC 14-16-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) A dealer or manufacturer may obtain certificates of registration for use in the testing or demonstrating of vehicles upon the following:

(1) Application to the department upon forms provided by the department.

(2) Payment of a fee established by the department for each of the first two (2) registration certificates. Additional certificates that the dealer requires may be issued for a fee established by the ~~department.~~ **commission.**

(b) An applicant may use a certificate issued under this section only in the testing or demonstrating of vehicles by temporary placement of the numbers on the vehicle being tested or demonstrated. A certificate issued under this section may be used on only one (1) vehicle at any given time. The temporary placement of numbers must conform to the requirements of this chapter or rules adopted under this chapter.

(c) A certificate issued under this section is valid for three (3) years.

SECTION 120. IC 14-19-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The department may do the following:

(1) Make available to the public under rules adopted by the department public parks and other suitable places for recreation, conservation, and management of natural and cultural resources. The rules may include a procedure for the establishment of a schedule of admission fees and service charges **adopted by the commission** for the parks and other places of recreation.

(2) Construct, rent, lease, license, or operate public service privileges and facilities in a state park. An agreement may not be made to rent, lease, or license a public service privilege or facility in a state park for longer than four (4) years, except as provided in section 3 of this chapter.

(3) Acquire other suitable land or park property within Indiana that is entrusted, donated, or devised to Indiana by the United States or by a county, a city, a town, a private corporation, or an individual for the purpose of public recreation or for the preservation of natural beauty or natural features possessing historic value.

SECTION 121. IC 20-12-0.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. The commission shall have the following powers and duties:

(1) To develop, continually keep current, and implement a long range plan for postsecondary education. In developing this plan, the commission shall take into account the plans and interests of the state private institutions, anticipated enrollments in state postsecondary institutions, financial needs of students, and other factors pertinent to the quality of educational opportunity available to the citizens of Indiana. The plan shall define the educational missions and the projected enrollments of the various state educational institutions.

(2) To consult with and make recommendations to the commission on vocational and technical education within the department of workforce development on all postsecondary vocational education programs. The commission shall biennially prepare a plan for implementing postsecondary vocational education programming after considering the long range state plan developed under IC 20-1-18.3-10. The commission shall submit this plan to the commission on vocational and technical education within the department of workforce development for its review and recommendations, and shall specifically report on how the plan addresses preparation for employment.

(3) To make recommendations to the general assembly and the governor concerning the long range plan, and prepare to submit drafts and proposed legislation needed to implement the plan. The commission may also make recommendations to the general assembly concerning the plan for postsecondary vocational education under subdivision (2).

(4) To review the legislative request budgets of all state educational institutions preceding each session of the general assembly and to make recommendations concerning appropriations and bonding authorizations to state educational institutions including public funds for financial aid to students by any state agency. The commission may review all programs of any state educational institution, regardless of the source of funding, and may make recommendations to the governing board of the institution, the governor, and the general assembly concerning the funding and the disposition of the programs. In making this review, the commission may request and shall receive, in such form as may reasonably be required, from all state educational institutions, complete information concerning all receipts and all expenditures.

(5) To submit to the commission on vocational and technical education within the department of workforce development for its review under IC 20-1-18.3-15 the legislative budget requests prepared by state educational institutions for state and federal funds for vocational education. These budget requests shall be prepared upon request of the budget director, shall cover the period determined by the budget director, and shall be made available to the commission within the department of workforce development before review by the budget committee.

(6) To make, or cause to be made, studies of the needs for various types of postsecondary education and to make recommendations to the general assembly and the governor concerning the organization of these programs. The commission shall make or cause to be made studies of the needs for various types of postsecondary vocational education and shall submit to the commission on vocational and technical education within the department of workforce development the commission's findings in this regard.

(7) To approve or disapprove the establishment of any new branches, regional or other campuses, or extension centers or of any new college or school, or the offering on any campus of any additional associate, baccalaureate, or graduate degree, or of any additional program of two (2) semesters, or their equivalent in duration, leading to a certificate or other indication of accomplishment. After March 29, 1971, no state educational institution shall establish any new branch, regional campus, or extension center or any new or additional academic college, or school, or offer any new degree or certificate as defined in this subdivision without the approval of the commission or without specific authorization by the general assembly. Any state educational institution may enter into contractual agreements with governmental units or with business and industry for specific programs to be wholly supported by the governmental unit or business and industry without the approval of the commission.

(8) If so designated by the governor or the general assembly, to serve as the agency for the purposes of receiving or administering funds available for postsecondary education programs, projects, and facilities for any of the acts of the United States Congress where the acts of Congress require the state to designate such an agency or commission. However, this subdivision does not provide for the designation of the commission by the governor as the recipient of funds which may be provided by acts of the United States Congress, received by an agency, a board, or a commission designated by the general assembly.

(9) To designate and employ an executive officer and necessary employees, to designate the titles of the executive officer and necessary employees, and to fix the compensation in terms of the employment.

(10) To appoint appropriate advisory committees composed of representatives of state educational institutions, representatives of private colleges and universities, students, faculty, and other qualified persons.

(11) To employ all powers properly incident to or connected with any of the foregoing purposes, powers, or duties, including the power to adopt rules.

(12) To develop a definition for and report biennially to the:

(A) general assembly;

(B) governor; and

(C) commission on vocational and technical education within the department of workforce development;

on attrition and persistence rates by students enrolled in state vocational education. A report under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.

(13) To submit a report to the legislative council not later than August 30 of each year on the status of the transfer of courses and programs between state educational institutions. The report must include any changes made during the immediately preceding academic year.

(14) To direct the activities of the committee, including the activities set forth in subdivisions (15) and (16).

(15) To develop through the committee statewide transfer of credit agreements for courses that are most frequently taken by undergraduates.

(16) To develop through the committee statewide agreements under which associate of arts and associate of science programs articulate fully with related baccalaureate degree programs.

(17) To publicize by all appropriate means, including an Internet web site, a master list of course transfer of credit agreements and program articulation agreements.

(18) To establish, with the assistance of the committee, a statewide core transfer library of at least seventy (70) courses that are transferable on all campuses of the state educational institutions in accordance with the principles in section 13 of this chapter.

(19) To establish, with the assistance of the committee, articulation agreements for at least twelve (12) degree programs:

(A) for which articulation agreements apply to any campus in the Ivy Tech State College system and to Vincennes University; and

(B) that draw from liberal arts and the technical, professional, and occupational fields.

SECTION 122. IC 20-12-0.5-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13. (a) The commission shall exercise its powers and duties under section 8 of this chapter in a manner to facilitate the use of:**

(1) the core transfer library established under section 8(18) of this chapter at state educational institutions; and

(2) at least twelve (12) degree programs established under section 8(19) of this chapter at Ivy Tech State College and Vincennes University.

(b) The core transfer library developed under section 8(18) of this chapter shall be developed in accordance with the following principles:

(1) Each course in the core transfer library must transfer in and apply toward meeting degree requirements in the same way as the receiving state educational institution's equivalent course.

(2) Courses in the core transfer library must draw primarily from the liberal arts but must include introductory or foundational courses in technical, professional, and occupational fields.

(3) At least seventy (70) courses must be identified for inclusion in the core transfer library. The identified courses must emphasize the courses most frequently taken by undergraduates.

(4) With respect to core transfer library courses being transferred from a state educational institution to Indiana University or Purdue University, Indiana University and Purdue University must identify transfer equivalents so

that a course accepted by one (1) regional campus will be accepted by all other regional campuses that offer the same transfer equivalent course.

(5) Within the Indiana University system and Purdue University system, equivalent courses, including courses with the same course number and title, must count in the same way at all campuses within the system where the course is offered.

(c) The commission shall adopt rules under IC 4-22-2 and prescribe procedures to facilitate the use of the core transfer library established under section 8(18) of this chapter, including designating courses in the course transfer library in the materials that colleges and universities use to communicate widely with students, such as online catalogs and course schedules, and at least twelve (12) degree programs established under section 8(19) of this chapter.

SECTION 123. IC 20-12-1-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12. (a) This section applies notwithstanding IC 20-12-23-2, IC 20-12-36-4, IC 20-12-56-5, IC 20-12-57.5-11, and IC 20-12-64-5.**

(b) As used in this section, "academic year" has the meaning set forth in IC 20-12-76-1.

(c) As used in this section, "state educational institution" has the meaning set forth in IC 20-12-0.5-1.

(d) A state educational institution shall set tuition and fee rates for a two (2) year period. The rates shall be set according to the procedure set forth in subsection (e) and:

(1) on or before May 30 of the odd numbered year; or

(2) thirty (30) days after the state budget bill is enacted into law;

whichever is later.

(e) A state educational institution shall hold a public hearing before adopting any proposed tuition and fee rate increases. The state educational institution shall give public notice of the hearing at least ten (10) days before the hearing. The public notice shall include the specific proposal for tuition and fee rate increases and the expected uses of the revenue to be raised by the proposed increases. The hearing shall be held:

(1) on or before May 15 of each odd numbered year; or

(2) fifteen (15) days after the state budget bill is enacted into law;

whichever is later.

(f) After a state educational institution's tuition and fee rates are set under this section, the state educational institutions may adjust the tuition and fee rates only if appropriations to the state educational institution in the state budget act are reduced or withheld.

(g) If a state educational institution adjusts its tuition and fee rates under subsection (f), the total revenue generated by the tuition and fee rate adjustment must not exceed the amount by which appropriations to the state educational institution in the state budget act were reduced or withheld.

SECTION 124. IC 20-12-5.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) In addition to projects authorized by the general assembly, the trustees of each higher education institution may engage in any of the following projects so long as there are funds available for the project and the project meets any of the applicable conditions:

(1) Each project to construct buildings or facilities of a cost greater than ~~two~~ **five** hundred thousand dollars ~~($200,000),~~ **($500,000),** or to purchase or lease-purchase land, buildings, or facilities the principal value of which exceeds ~~one~~ **two** hundred **fifty** thousand dollars ~~($100,000),~~ **($250,000),** must be reviewed by the commission for higher education and approved by the governor upon recommendation of the budget agency. If any part of the cost of the project as specified in section 3 of this chapter is paid by state appropriated funds or by mandatory student fees assessed all students and if the project is to construct buildings or facilities of a cost greater than five hundred thousand dollars ($500,000), or to purchase or lease-purchase land, buildings, or facilities the principal value of which exceeds three hundred thousand dollars ($300,000), the project must also be approved by the general assembly. Nothing herein limits the trustees in supplementing projects approved by the general assembly from gifts or other available funds so long as approval for the expansion of projects is given by the governor on review by the commission for higher education and recommendation of the budget agency.

(2) Each repair and rehabilitation project must be reviewed by the commission for higher education and approved by the governor, on recommendation of the budget agency, if the cost of the project exceeds ~~five~~ **seven** hundred **fifty** thousand dollars ~~($500,000)~~ **($750,000)** and if any part of the cost of the project is paid by state appropriated funds or by mandatory student fees assessed all students. If no part of the cost of the repair and rehabilitation project is paid by state appropriated funds or by mandatory student fees assessed all students, the review and approval requirements of this subdivision apply only if the project exceeds one million dollars ($1,000,000).

(3) Each project to lease, other than a project to lease-purchase, a building or facility must be reviewed by the commission for higher education and approved by the governor, on recommendation of the budget agency, if the annual cost of the project exceeds **one hundred** fifty thousand dollars ~~($50,000).~~ **($150,000).**

(b) The review and approval requirements of subsection (a)(1) do not apply to a project to construct buildings or facilities or to purchase or lease-purchase land, buildings, or facilities if the project involves the expansion or improvement of housing for students undertaken entirely by a fraternity or sorority at the state educational institution.

SECTION 125. IC 20-12-30.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The Indiana Statewide Medical Education System shall include, but not be

limited to, centers for comprehensive medical education established in cooperation with existing medical and educational institutions in Gary, Fort Wayne, Lafayette, Evansville, South Bend, Terre Haute, and Muncie, Indiana. These centers shall be known separately and respectively as **Indiana University School of Medicine-**Northwest **(on the campus of Indiana University-Northwest)**, ~~Center for Medical Education at Gary,~~ **Indiana University School of Medicine-**Fort Wayne **(on the campus of Indiana University-Purdue University Fort Wayne),** ~~Center for Medical Education,~~ **Indiana University School of Medicine-**Lafayette **(on the campus of Purdue University),** ~~Center for Medical Education at Purdue University,~~ **Indiana University School of Medicine-**Evansville **(on the campus of the University of Southern Indiana)**, ~~Center for Medical Education,~~ **Indiana University School of Medicine-**South Bend **(on the campus of the University of Notre Dame)**, ~~Center for Medical Education,~~ **Indiana University School of Medicine-**Terre Haute **(on the campus of Indiana State University)**, ~~Center for Medical Education at Indiana State University,~~ **and Indiana University School of Medicine-**Muncie **(on the campus of Ball State University)**. ~~Center for Medical Education at Ball State University.~~

SECTION 126. IC 20-18-2-22, AS ADDED BY HEA 1288-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) "Teacher" means a professional person whose position in a school corporation requires certain ~~teacher training preparations~~ **educational preparation** and licensing.

(b) For purposes of IC 20-28, the term includes the following:

(1) A superintendent.

(2) A supervisor.

(3) A principal.

(4) An attendance officer.

(5) A teacher.

(6) A librarian.

SECTION 127. IC 20-20-13-18, AS ADDED BY HEA 1288-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. A school corporation must use a grant received under sections 13 through 24 of this chapter to implement all or part of the school corporation's technology plan by funding uses that **promote 1:1 computing infrastructure,** include the following:

~~(1) Support of the school corporation's remediation plans.~~

~~(2) Professional development related to technology.~~

~~(3)~~ **(1)** Computers in classrooms.

~~(4)~~ **(2)** Computers for teachers.

~~(5) Access to electronic gateways or telephone access to information providers.~~

~~(6) The buddy system project (as described in IC 20-20-15-4(1)(A)).~~

~~(7) Video distance learning.~~

(3) E-learning.

~~(8)~~ **(4)** Wiring infrastructure **to support 1:1 computing.**

~~(9) Salaries for management of the technology program.~~

~~(10)~~ **(5)** Technical support.

~~(11)~~ **(6)**Wide area networks and local area networks **necessary to support 1:1 computing.**

~~(12) Media distribution systems.~~

~~(13) Expansion of the 4R's technology program (as described in~~ program ~~(as described in section 6(a)(1) of this chapter).~~

~~(14) Software.~~

~~(15) Library automation.~~

~~(16) Indiana public broadcasting services.~~

(7) Infrastructure software.

~~(17)~~ **(8)** Assistive technology devices for students with disabilities **in 1:1 computing environment.**

(9) Other uses of technology approved by the department of education.

SECTION 128. IC 20-20-31-10, AS ADDED BY HEA 1288-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. The state board shall approve an evaluation system for professional development based on recommendations from the department and the **advisory board of the division of** professional standards ~~board~~ established by ~~IC 20-28-2-1.~~ **IC 20-28-2-2.** The department shall develop a means for measuring successful programs and activities in which schools participate. The measurements must include the following:

(1) A mechanism to identify and develop strategies to collect multiple forms of data that reflect the achievement of expectations for all students. The data may include the results of ISTEP program tests under IC 20-31-3, IC 20-32-4, IC 20-32-5, and IC 20-32-6, local tests, classroom work, and teacher and administrator observations.

(2) A procedure for using collected data to make decisions.

(3) A method of evaluation in terms of educator's practice and student learning, including standards for effective teaching and effective professional development.

SECTION 129. IC 20-24-7-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 11. (a) If the United States Department of Education approves a new competition for states to receive matching funds for charter school facilities, the department shall pursue this federal funding.**

(b) There is appropriated to the department of education ten million dollars ($10,000,000) from the common school fund interest balance in the state general fund to provide state matching funds for the federal funding described in subsection (a) for the benefit of charter schools, beginning July 1, 2005, and ending June 30, 2007.

(c) The department shall develop guidelines and the state board shall adopt rules under IC 4-22-2 necessary to implement this section.

SECTION 130. IC 20-24-8-4, AS ADDED BY HEA 1288-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. Except as specifically provided in this article and the statutes listed in section 5 of this chapter, the following do not apply to a charter school:

(1) An Indiana statute applicable to a governing body or school corporation.

(2) A rule or guideline adopted by the state board.

(3) A rule or guideline adopted by the **advisory board of the division of** professional standards ~~board~~ established by ~~IC 20-28-2-1(a),~~ **IC 20-28-2-2,** except for those rules that assist a teacher in gaining or renewing a standard or advanced license.

(4) A local regulation or policy adopted by a school corporation unless specifically incorporated in the charter.

SECTION 131. IC 20-26-11-11, AS ADDED BY HEA 1288-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) A school corporation may enter into an agreement with:

(1) a nonprofit corporation that operates a federally approved education program; or

(2) a nonprofit corporation that:

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

(B) for its classroom instruction, employs teachers who are certified by the ~~professional standards board;~~ **department;**

(C) employs other professionally and state licensed staff as appropriate; and

(D) educates children who:

(i) have been suspended, expelled, or excluded from a public school in that school corporation and have been found to be emotionally disturbed;

(ii) have been placed with the nonprofit corporation by court order;

(iii) have been referred by a local health department; or

(iv) have been placed in a state licensed private or public health care or child care facility as described in section 8(b) of this chapter;

in order to provide a student with an individualized education program that is the most suitable educational program available.

(b) If a school corporation that is a transferee corporation enters into an agreement as described in subsection (a), the school corporation shall pay to the nonprofit corporation an amount agreed upon from the transfer tuition of the student. The amount agreed upon may not exceed the transfer tuition costs that otherwise would be payable to the transferee corporation.

(c) If a school corporation that is a transferor corporation enters into an agreement as described in subsection (a), the school corporation shall pay to the nonprofit corporation an amount agreed upon, which may not exceed the transfer tuition costs that otherwise would be payable to a transferee school corporation.

SECTION 132. IC 20-28-1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1.5. "Advisory board" refers to the advisory board of the division of professional standards established by IC 20-28-2-2.**

SECTION 133. IC 20-28-1-2, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. "Applicant" refers to an applicant for:

(1) a new license;

(2) a renewal license; or

(3) a substitute teacher certificate;

issued by the ~~board.~~ **department.**

SECTION 134. IC 20-28-1-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5.5 "Division" refers to the division of professional standards of the department of education established by IC 20-28-2-1.5.**

SECTION 135. IC 20-28-1-7, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. "License" refers to a document issued by the ~~board~~ **department** that grants permission to serve as a particular kind of teacher. The term includes any certificate or permit issued by the ~~board.~~ **department.**

SECTION 136. IC 20-28-2-1, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. ~~(a)~~ **Except as provided in section 6 of this chapter,** the ~~professional standards board is established to govern teacher training and licensing programs. (b) Notwithstanding any other law, the board and the board's staff have~~ **department has** the sole authority and responsibility for ~~making recommendations concerning and~~ governing teacher ~~training~~ **education** and teacher licensing matters, **including professional development.**

SECTION 137. IC 20-28-2-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1.5. The division of professional standards is established within the department to administer the responsibilities of the department described in section 1 of this chapter.**

SECTION 138. IC 20-28-2-2, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) **The advisory board of the division of professional standards is established to advise the superintendent, the board, the department, and the division on matters concerning teacher education, licensing, and professional development.** The **advisory** board consists of nineteen (19) voting members.

(b) Except as otherwise provided, each voting member of the **advisory** board described in this subsection must be actively employed by a school corporation. Eighteen (18) members shall be appointed by the governor as follows:

(1) One (1) member must hold a license and be actively employed in a public school as an Indiana school superintendent.

(2) Two (2) members must:

(A) hold licenses as public school principals;

(B) be actively employed as public school principals; and

(C) be employed at schools having dissimilar grade level configurations.

(3) One (1) member must:

(A) hold a license as a special education director; and

(B) be actively employed as a special education director in:

(i) a school corporation; or

(ii) a public school special education cooperative.

(4) One (1) member must be a member of the governing body of a school corporation but is not required to be actively employed by a school corporation or to hold an Indiana teacher's license.

(5) Three (3) members must meet the following conditions:

(A) Represent Indiana teacher ~~training~~ **education** units within Indiana public and private institutions of higher education.

(B) Hold a teacher's license but not necessarily an Indiana teacher's license.

(C) Be actively employed by the respective teacher ~~training~~ **education** units.

The members described in this subdivision are not required to be employed by a school corporation.

(6) Nine (9) members must be licensed and actively employed as Indiana public school teachers in the following categories:

(A) At least one (1) member must hold an Indiana standard early childhood education license.

(B) At least one (1) member must hold an Indiana teacher's license in elementary education.

(C) At least one (1) member must hold an Indiana teacher's license for middle/junior high school education.

(D) At least one (1) member must hold an Indiana teacher's license in high school education.

(7) One (1) member must be a member of the business community in Indiana but is not required to be actively employed by a school corporation or to hold an Indiana teacher's license.

(c) Each member described in subsection (b)(6) must be licensed and actively employed as a practicing teacher in at least one (1) of the following areas to be appointed:

(1) At least one (1) member must be licensed in special education.

(2) At least one (1) member must be licensed in vocational education.

(3) At least one (1) member must be employed and licensed in student services, which may include school librarians or psychometric evaluators.

(4) At least one (1) member must be licensed in social science education.

(5) At least one (1) member must be licensed in fine arts education.

(6) At least one (1) member must be licensed in English or language arts education.

(7) At least one (1) member must be licensed in mathematics education.

(8) At least one (1) member must be licensed in science education.

(d) At least one (1) member described in subsection (b) must be a parent of a student enrolled in a public preschool or public school within a school corporation in either kindergarten or any of grades 1 through 12.

(e) The state superintendent shall serve as an ex officio voting member of the **advisory** board. The state superintendent may make recommendations to the governor as to the appointment of members on the **advisory** board.

SECTION 139. IC 20-28-2-3, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. The term of office for the appointed members of the **advisory** board is four (4) years.

SECTION 140. IC 20-28-2-4, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. **The superintendent shall appoint** the ~~chairperson~~ **director** of the **advisory** board, ~~shall be elected by a majority of the members of the board~~ **who shall be known as the secretary of professional standards,** from among the members of the **advisory** board for a term of one (1) year. A member may be ~~reelected~~ **reappointed** to serve as ~~a chairperson~~ **director** for subsequent terms.

SECTION 141. IC 20-28-2-5, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Each member of the **advisory** board who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, 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 Indiana department of administration and approved by the budget agency.

(b) Each member of the **advisory** board who is a state employee is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

SECTION 142. IC 20-28-2-6, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) **Subject to subsection (c) and** in addition to the powers and duties set forth in IC 20-20-22 or this article, the **advisory** board ~~shall~~ **may** adopt rules under IC 4-22-2 to do the following:

(1) Set standards for teacher licensing and ~~administer~~ **for the administration of** a professional licensing and certification process **by the department.**

(2) Approve or disapprove teacher preparation programs.

(3) Set fees to be charged in connection with teacher licensing.

(4) Suspend, revoke, or reinstate teacher licenses.

(5) Enter into agreements with other states to acquire reciprocal approval of teacher preparation programs.

(6) Set standards for teacher licensing concerning new subjects of study.

(7) Evaluate work experience and military service concerning higher education and experience equivalency.

(8) Perform any other action that:

(A) relates to the improvement of instruction in the public schools through teacher education and professional development through continuing education; and

(B) attracts qualified candidates for teacher ~~training~~ **education** from among the high school graduates of Indiana.

(9) Set standards for endorsement of school psychologists as independent practice school psychologists under IC 20-28-12.

(b) Notwithstanding subsection (a)(1), an individual is entitled to one (1) year of occupational experience for purposes of obtaining an occupational specialist certificate under this article for each year the individual holds a license under IC 25-8-6.

(c) Before publishing notice of the intent to adopt a rule under IC 4-22-2, the advisory board must submit the proposed rule to the state superintendent for approval. If the state superintendent approves the rule, the advisory board may publish notice of the intent to adopt the rule. If the state superintendent does not approve the rule, the advisory board may not publish notice of the intent to adopt the rule.

SECTION 143. IC 20-28-2-7, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The ~~board~~ **department** may recommend to the general assembly for consideration measures relating to the ~~board's~~ **department's** powers and duties that improve the quality of teacher preparation or teacher licensing standards.

(b) The ~~board~~ **department** shall submit to the general assembly before November 1 of each year a report:

(1) detailing the findings and activities of the **department, the division, and the advisory** board; and

(2) including any recommendations developed ~~by the board.~~ **under this chapter.**

A report under this subsection must in an electronic format under IC 5-14-6.

SECTION 144. IC 20-28-2-8, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The ~~board~~ **department** may, subject to approval by the budget agency, do the following **to administer the responsibilities of the department described in section 2 of this chapter:**

(1) Establish advisory committees the ~~board~~ **department** determines necessary.

(2) Expend funds made available to the ~~board~~ **department** according to policies established by the budget agency.

(b) The ~~board~~ **department** shall comply with the requirements for submitting a budget request to the budget agency as set forth in IC 4-12-1, **for funds to administer the responsibilities of the department described in section 1 of this chapter.**

SECTION 145. IC 20-28-2-9, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. IC 4-21.5 applies to orders issued by the ~~board.~~ **department under this chapter.**

SECTION 146. IC 20-28-2-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 10. There is established the professional standards fund to be administered by the department. The fund consists of fees collected under this chapter. Money in the fund does not revert to the state general fund at the end of a state fiscal year.**

SECTION 147. IC 20-28-3-1, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. **(a)** The ~~board~~ **department** shall:

(1) arrange a statewide system of professional instruction for teacher ~~training;~~ **education;**

(2) accredit and inspect teacher ~~training~~ **education** schools and departments that comply with the rules of the ~~board;~~ **department;**

(3) recommend and approve courses for the ~~training~~ **education** of particular kinds of teachers in accredited schools and departments; and

(4) specify the types of licenses for graduates of approved courses.

(b) The department shall work with teacher education schools and departments to develop a system of teacher education that ensures individuals who graduate from the schools and departments are able to meet the highest professional standards.

SECTION 148. IC 20-28-3-2, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) An accredited school or department may use the word "accredited" in advertising approved courses and the types of teachers the school or department is accredited to prepare. An accredited school or department may enter into the student teaching agreements specified in IC 20-26-5.

(b) The ~~board~~ **department** shall revoke the right to use the word "accredited" when an accredited school or department refuses to abide by the **advisory** board's rules.

SECTION 149. IC 20-28-3-3, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The ~~board, in consultation with the~~ department, shall develop guidelines for use by accredited teacher ~~training~~ **education** institutions and departments in preparing individuals to teach in various environments.

(b) The guidelines developed under subsection (a) must include courses and methods that assist individuals in developing cultural competency (as defined in IC 20-31-2-5).

SECTION 150. IC 20-28-4-3, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Subject to the requirements of this chapter, the ~~board~~ **department** shall develop and administer the program. The ~~board~~ **department** shall determine the details of the program that are not included in this chapter.

SECTION 151. IC 20-28-4-4, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. Each accredited teacher ~~training~~ **education** school and department in Indiana shall establish a course of study that constitutes the higher education component of the program. The higher education component required under this section must comply with the following requirements:

(1) Include the following study requirements:

(A) For a program participant who seeks to obtain a license to teach in grades 6 through 12, up to eighteen (18) credit hours of study or the equivalent that prepare a program participant to meet Indiana standards for teaching in the subject areas corresponding to the area in which the program participant has met the education requirements under section 5 of this chapter, unless the program participant demonstrates that the program participant requires fewer credit hours of study to meet Indiana standards for teaching.

(B) For a program participant who seeks to obtain a license to teach in kindergarten through grade 5, twenty-four (24) credit hours of study or the equivalent, which must include at least six (6) credit hours in teaching reading, that prepare a program participant to meet Indiana standards for teaching, unless the program participant demonstrates that the program participant requires fewer credit hours of study to meet Indiana standards for teaching.

(2) Focus on the communication of knowledge to students.

(3) Include suitable field or classroom experiences if the program participant does not have teaching experience.

SECTION 152. IC 20-28-4-6, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The ~~board~~ **department** shall grant an initial standard license to a program participant who does the following:

(1) Successfully completes the higher education component of the program.

(2) Demonstrates proficiency through a written examination in:

(A) basic reading, writing, and mathematics;

(B) pedagogy; and

(C) knowledge of the areas in which the program participant is required to have a license to teach;

under IC 20-28-5-12(b).

(3) Participates successfully in a beginning teacher internship program under IC 20-6.1-8 (repealed) that includes implementation in a classroom of the teaching skills learned in the higher education component of the program.

(4) Receives a successful assessment of teaching skills upon completion of the beginning teacher internship program under subdivision (3) from the administrator of the school where the beginning teacher internship program takes place, or, if the program participant does not receive a successful assessment, ~~participates~~ **continues participating** in the beginning teacher internship program. ~~for a second year as provided under IC 20-6.1-8-13 (repealed). The appeals provisions of IC 20-6.1-8-14 (repealed) apply to an assessment under this subdivision.~~

SECTION 153. IC 20-28-4-7, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. This section applies to a program participant who has a degree described in section 5 of this chapter that does not include all the content areas of a standard license issued by the ~~board.~~ **department.** The ~~board~~ **department** shall issue an initial standard license that is restricted to only the content areas in which the program participant has a degree unless the program participant demonstrates sufficient knowledge in other content areas of the license.

SECTION 154. IC 20-28-4-10, AS ADDED BY HEA 1288-2005, SECTION12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) The **advisory** board may adopt rules under IC 4-22-2 to administer this chapter.

(b) Rules adopted under this section must include a requirement that accredited teacher ~~training~~ **education** schools and departments in Indiana submit an annual report to the ~~board~~ **department** of the number of individuals who:

(1) enroll in; and

(2) complete;

the program.

SECTION 155. IC 20-28-5-1, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The ~~board~~ **department** is responsible for the licensing of teachers.

SECTION 156. IC 20-28-5-2, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The **advisory** board may adopt rules for:

(1) the issuance of a substitute teacher's license; and

(2) the employment of substitute teacher licensees.

An individual may not serve as a substitute teacher without a license issued by the ~~board.~~ **department.**

SECTION 157. IC 20-28-5-3, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The ~~board~~ **department** shall designate:

(1) the grade point average required for each type of license; and

(2) the types of licenses to which the teachers' minimum salary laws apply, including nonrenewable one (1) year limited licenses.

(b) The ~~board~~ **department** shall determine details of licensing not provided in this chapter, including requirements regarding the following:

(1) The conversion of one (1) type of license into another.

(2) The accreditation of teacher ~~training~~ **education** schools and departments.

(3) The exchange and renewal of licenses.

(4) The endorsement of another state's license.

(5) The acceptance of credentials from teacher ~~training~~ **education** institutions of another state.

(6) The academic and professional preparation for each type of license.

(7) The granting of permission to teach a high school subject area related to the subject area for which the teacher holds a license.

(8) The issuance of licenses on credentials.

(9) The type of license required for each school position.

(10) The size requirements for an elementary school requiring a licensed principal.

(11) Any other related matters.

The ~~board~~ **department** shall establish at least one (1) system for renewing a teaching license that does not require a graduate degree.

(c) The ~~board~~ **department** shall periodically publish bulletins regarding:

(1) the details described in subsection (b);

(2) information on the types of licenses issued;

(3) the rules governing the issuance of each type of license; and

(4) other similar matters.

SECTION 158. IC 20-28-5-7, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. On the written recommendation of the state superintendent, the ~~board~~ **department** may suspend or revoke a license for:

(1) immorality;

(2) misconduct in office;

(3) incompetency; or

(4) willful neglect of duty.

For each suspension or revocation, the ~~board~~ **department** shall comply with IC 4-21.5-3.

SECTION 159. IC 20-28-5-8, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) This section applies when a prosecuting attorney knows that a licensed employee of a public school or a nonpublic school has been convicted of an offense listed in subsection (c). The prosecuting attorney shall immediately give written notice of the conviction to the following:

(1) The state superintendent.

(2) Except as provided in subdivision (3), the superintendent of the school corporation that employs the licensed employee or the equivalent authority if a nonpublic school employs the licensed employee.

(3) The presiding officer of the governing body of the school corporation that employs the licensed employee, if the convicted licensed employee is the superintendent of the school corporation.

(b) The superintendent of a school corporation, presiding officer of the governing body, or equivalent authority for a nonpublic school shall immediately notify the state superintendent when the individual knows that a current or former licensed employee of the public school or nonpublic school has been convicted of an offense listed in subsection (c).

(c) The ~~board,~~ **department,** after holding a hearing on the matter, shall permanently revoke the license of a person who is known by the ~~board~~ **department** to have been convicted of any of the following felonies:

(1) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.

(2) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.

(3) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

(4) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.

(5) Child molesting (IC 35-42-4-3).

(6) Child exploitation (IC 35-42-4-4(b)).

(7) Vicarious sexual gratification (IC 35-42-4-5).

(8) Child solicitation (IC 35-42-4-6).

(9) Child seduction (IC 35-42-4-7).

(10) Sexual misconduct with a minor (IC 35-42-4-9).

(11) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

(12) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1).

(13) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(14) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(15) Dealing in a schedule V controlled substance (IC 35-48-4-4).

(16) Dealing in a counterfeit substance (IC 35-48-4-5).

(17) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10(b)).(d) A license may be suspended by the state superintendent as specified in IC 20-28-7-7.

SECTION 160. IC 20-28-5-9, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) An applicant must do the following:

(1) Submit a request to the Indiana central repository for limited criminal history information under IC 10-13-3.

(2) Obtain a copy of the limited criminal history for the applicant from the repository's records.

(3) Submit to the ~~board~~ **department** the limited criminal history for the applicant.

(4) Submit to the ~~board~~ **department** a document verifying a disposition that does not appear on the limited criminal history for the applicant.

(b) The ~~board~~ **department** may deny the issuance of a license or certificate to an applicant who is convicted of an offense for which the individual's license may be revoked or suspended under this chapter.

(c) The ~~board~~ **department** must use the information obtained under this section in accordance with IC 10-13-3-29.

(d) An applicant is responsible for all costs associated with meeting the requirements of this section.

SECTION 161. IC 20-28-5-10, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) The ~~board~~ **department** shall keep a record of:

(1) all licenses issued;

(2) all licenses in force; and

(3) the academic preparation, professional preparation, and teaching experience of each applicant for a license or a license renewal.

(b) A superintendent of a school corporation shall register and keep a record of the following for each licensed teacher employed by the school corporation:

(1) The type of license held by the teacher.

(2) The teacher's date of first employment.

(3) The teacher's annual or monthly salary.

SECTION 162. IC 20-28-5-11, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) This section does not apply to an individual who, on September 1, 1985, has earned more than the equivalent of twelve (12) semester hours of graduate credit.

(b) The ~~board~~ **department** may not renew the junior high/middle school or secondary education license of a teacher on the basis of the teacher obtaining a graduate degree unless the teacher completes at least the equivalent of eighteen (18) semester hours beyond the teacher's undergraduate degree in any combination of courses in the teacher's major, minor, primary, supporting, or endorsement areas. The semester hours may include graduate hours or undergraduate hours, or both, as determined by the ~~board.~~ **department.**

(c) The **advisory** board may:

(1) adopt rules under IC 4-22-2 to create exceptions to the requirements under subsection (b); and

(2) waive the requirements under subsection (b) on an individual basis.

SECTION 163. IC 20-28-5-12, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) Subsection (b) does not apply to an individual who held an Indiana limited, reciprocal, or standard teaching license on June 30, 1985.

(b) The ~~board~~ **department** may not grant an initial standard license to an individual unless the individual has demonstrated proficiency in the following areas on a written examination or through other procedures prescribed by the ~~board.~~ **department:**

(1) Basic reading, writing, and mathematics.

(2) Pedagogy.

(3) Knowledge of the areas in which the individual is required to have a license to teach.

(4) If the individual is seeking to be licensed as an elementary school teacher, comprehensive reading instruction skills, including:

(A) phonemic awareness; and

(B) phonics instruction.

(c) An individual's license examination score may not be disclosed by the ~~board~~ **department** without the individual's consent unless specifically required by state or federal statute or court order.

(d) The **advisory** board shall adopt rules under IC 4-22-2 to do the following:

(1) Adopt, validate, and implement the examination or other procedures required by subsection (b).

(2) Establish examination scores indicating proficiency.

(3) Otherwise carry out the purposes of this section.

(e) The board shall adopt rules under IC 4-22-2 establishing the conditions under which the requirements of this section may be waived for ~~individuals~~ **an individual** holding **a** valid ~~teachers' licenses~~ **teacher's license** issued by another state.

SECTION 164. IC 20-28-5-14, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. If the ~~board~~ **department** is notified by the department of state revenue that an individual is on the most recent tax warrant list, the ~~board~~ **department** may not grant an initial standard license to the individual until:

(1) the individual provides the ~~board~~ **department** with a statement from the department of state revenue indicating that the individual's delinquent tax liability has been satisfied; or

(2) the ~~board~~ **department** receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

SECTION 165. IC 20-28-9-1, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A teacher's minimum salary each school year must be computed based on the teacher's ~~training,~~ **education,** experience, and degree completed as of the teacher's first day of service.

(b) If a teacher is licensed by the ~~board~~ **department** on:

(1) the first day of service in the current school year; or

(2) another date as agreed by the school employer and the exclusive representative under IC 20-29;

the teacher's minimum salary is computed under section 2 of this chapter.

SECTION 166. IC 20-28-9-2, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. A teacher's minimum salary for service during a nine (9) month school term is computed as follows:

(1) For a teacher who has completed four (4) years or one hundred forty-four (144) weeks of professional ~~training,~~ **education,** five thousand two hundred dollars ($5,200), plus:

(A) an additional increment of one hundred fifty dollars ($150) after each of the first ten (10) years of experience; and

(B) an additional increment of two hundred fifty dollars ($250) after each of the following years of experience:

(i) The fifteenth.

(ii) The twentieth.

(2) For a teacher who has completed five (5) years or one hundred eighty (180) weeks of professional ~~training,~~ **education,** five thousand five hundred dollars ($5,500), plus:

(A) an additional increment of one hundred fifty dollars ($150) after each of the first eighteen (18) years of experience; and

(B) an additional increment of three hundred dollars ($300) after each of the following years of experience:

(i) The nineteenth.

(ii) The twentieth.

(iii) The twenty-second.

(iv) The twenty-fourth.

(v) The twenty-sixth.

(vi) The thirtieth.

(3) For a teacher who has completed less than four (4) years of professional ~~training,~~ **education,** four thousand seven hundred dollars ($4,700), plus an additional increment of one hundred twenty dollars ($120) after each of the first ten (10) years of experience.

SECTION 167. IC 20-28-9-4, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The ~~board~~ **department** shall require each teacher to hold:

(1) a bachelor's degree from an accredited teacher ~~training~~ **education** institution to qualify for the first time for classification under section 2(1) of this chapter; and

(2) a master's degree to qualify for the first time for classification under section 2(2) of this chapter.

(b) A teacher may not receive credit for five (5) years of ~~training~~ **education** under section 2(2) of this chapter unless the teacher has completed at least a bachelor's degree.

SECTION 168. IC 20-28-9-7, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) An individual who:

(1) holds:

(A) a professional license;

(B) a provisional license;

(C) a limited license; or

(D) an equivalent license issued by the ~~board;~~ **department;** and

(2) serves as an occasional substitute teacher;

shall be compensated on the pay schedule for substitutes of the school corporation the individual serves.

(b) An individual who:

(1) holds a:

(A) professional license; or

(B) provisional license; and

(2) serves as a substitute teacher in the same teaching position for more than fifteen (15) consecutive school days;

shall be compensated on the regular pay schedule for teachers of the school corporation the individual serves.

SECTION 169. IC 20-28-12-3, AS ADDED BY HEA 1288-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. An individual who applies for an endorsement as an independent practice school psychologist must meet the following requirements:

(1) Be licensed as a school psychologist by the ~~board.~~ **department.**

(2) Be employed by a:

(A) developmental center;

(B) state hospital;

(C) public or private hospital;

(D) mental health center;

(E) rehabilitation center;

(F) private school; or

(G) public school;

at least thirty (30) hours per week during the contract period unless the individual is retired from full-time or part-time employment as a school psychologist or the individual has a medical condition or physical disability that restricts the mobility required for employment in a school setting.

(3) Furnish satisfactory evidence to the ~~board~~ **department** that the applicant has received at least a sixty (60) semester hour master's or specialist degree in school psychology from:

(A) a recognized institution of higher learning; or

(B) an educational institution not located in the United States that has a program of study that meets the standards of the ~~board.~~ **department.**

(4) Furnish satisfactory evidence to the ~~board~~ **department** that the applicant has demonstrated graduate level competency through the successful completion of course work and a practicum in the areas of assessment and counseling.

(5) Furnish satisfactory evidence to the ~~board~~ **department** that the applicant has at least one thousand two hundred (1,200) hours of school psychology experience beyond the master's degree level. At least six hundred (600) hours must be in a school setting under the supervision of any of the following:

(A) A physician licensed under IC 25-22.5.

(B) A psychologist licensed under IC 25-33.

(C) A school psychologist endorsed under this chapter.

(6) Furnish satisfactory evidence to the ~~board~~ **department** that the applicant has completed, in addition to the requirements in subdivision (5), at least four hundred (400) hours of supervised experience in identification and referral of mental and behavioral disorders, including at least one (1) hour each week of direct personal supervision by a:

(A) physician licensed under IC 25-22.5;

(B) psychologist licensed under IC 25-33; or

(C) school psychologist endorsed under this chapter;

with at least ten (10) hours of direct personal supervision.

(7) Furnish satisfactory evidence to the ~~board~~ **department** that the applicant has completed, in addition to the requirements of subdivisions (5) and (6), fifty-two (52) hours of supervision with a physician licensed under IC 25-22.5, a psychologist licensed under IC 25-33, or a school psychologist endorsed under this chapter that meets the

following requirements:

(A) The fifty-two (52) hours must be completed within at least twenty-four (24) consecutive months but not less than twelve (12) months.

(B) Not more than one (1) hour of supervision may be included in the total for each week.

(C) At least nine hundred (900) hours of direct client contact must take place during the total period under clause (A).

(8) Furnish satisfactory evidence to the ~~board~~ **department** that the applicant does not have a conviction for a crime that has a direct bearing on the applicant's ability to practice competently.

(9) Furnish satisfactory evidence to the ~~board~~ **department** that the applicant has not been the subject of a disciplinary action by a licensing or certification agency of any jurisdiction on the grounds that the applicant was not able to practice as a school psychologist without endangering the public.

(10) Pass the examination provided by the ~~board.~~ **department.**

SECTION 170. IC 20-30-5-6, AS ADDED BY HEA 1288-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) This section applies only to public schools.

(b) As used in this section, "good citizenship instruction" means integrating instruction into the current curriculum that stresses the nature and importance of the following:

(1) Being honest and truthful.

(2) Respecting authority.

(3) Respecting the property of others.

(4) Always doing the student's personal best.

(5) Not stealing.

(6) Possessing the skills (including methods of conflict resolution) necessary to live peaceably in society and not resorting to violence to settle disputes.

(7) Taking personal responsibility for obligations to family and community.

(8) Taking personal responsibility for earning a livelihood.

(9) Treating others the way the student would want to be treated.

(10) Respecting the national flag, the Constitution of the United States, and the Constitution of the State of Indiana.

(11) Respecting the student's parents and home.

(12) Respecting the student's self.

(13) Respecting the rights of others to have their own views and religious beliefs.

(c) The department shall:

(1) identify; and

(2) make available;

models of conflict resolution instruction to school corporations. The instruction may consist of a teacher ~~training~~ **education** program that applies the techniques to the students in the classroom to assist school corporations in complying with this section.

SECTION 171. IC 20-30-5-14, AS ADDED BY HEA 1288-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) To:

(1) educate students on the importance of their future career choices;

(2) prepare students for the realities inherent in the work environment; and

(3) instill in students work values that will enable them to succeed in their respective careers;

each school within a school corporation shall include in the school's curriculum for all students in grades 1 through 12 instruction concerning employment matters and work values.

(b) Each school shall:

(1) integrate within the curriculum instruction that is; or

(2) conduct activities or special events periodically that are;

designed to foster overall career awareness and career development as described in subsection (a).

(c) The department shall develop career awareness and career development models as described in subsection (d) to assist schools in complying with this section.

(d) The models described in this subsection must be developed in accordance with the following:

(1) For grades 1 through 5, career awareness models to introduce students to work values and basic employment concepts.

(2) For grades 6 through 8, initial career information models that focus on career choices as they relate to student interest and skills.

(3) For grades 9 through 10, career exploration models that offer students insight into future employment options.

(4) For grades 11 through 12, career preparation models that provide job or further education counseling, including the following:

(A) Initial job counseling, including the use of job service officers to provide school based assessment, information, and guidance on employment options and the rights of students as employees.

(B) Workplace orientation visits.

(C) On-the-job experience exercises.

(e) The department, with assistance from the department of labor and the department of workforce development, shall:

(1) develop and make available teacher guides; and

(2) conduct seminars or other teacher ~~training~~ **education** activities;

to assist teachers in providing the instruction described in this section.

(f) The department shall, with assistance from the department of workforce development, design and implement innovative career preparation demonstration projects for students in at least grade 9.

SECTION 172. IC 20-30-7-8, AS ADDED BY HEA 1288-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. Except as provided in section 9 of this chapter, an instructor for an educational program described in section 7 of this chapter must be:

(1) licensed under IC 20-28; or

(2) granted a substitute teacher's license by the ~~professional standards board.~~ **department.**

SECTION 173. IC 20-30-7-9, AS ADDED BY HEA 1288-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. If the superintendent of the school corporation that is the local education agency determines that:

(1) a qualified licensed teacher is not available from the entities entering into an agreement under section 5 of this chapter; and

(2) a qualified postsecondary instructor is available;

to instruct in an educational program described in section 7 of this chapter, the superintendent may request the ~~professional standards board~~ **department** to issue a substitute teacher's license to the instructor of an educational program described in section 7 of this chapter.

SECTION 174. IC 20-30-7-10, AS ADDED BY HEA 1288-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. If the ~~professional standards board~~ **department** finds that a qualified licensed teacher is not available from the entities entering into an agreement under section 5 of this chapter to instruct in an educational program described in section 7 of this chapter, the ~~professional standards board~~ **department** may issue a substitute teacher's license to the instructor of an educational program described in section 7 of this chapter.

SECTION 175. IC 20-31-6-1, AS ADDED BY HEA 1288-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The department ~~in consultation with the professional standards board,~~ shall develop and make available to school corporations and nonpublic schools materials that assist teachers, administrators, and staff in a school in developing cultural competency for use in providing professional and staff development programs.

SECTION 176. IC 20-32-5-1, AS ADDED BY HEA 1288-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The purposes of the ISTEP program developed under this chapter are as follows:

(1) To assess the strengths and weaknesses of school performance.

(2) To assess the effects of state and local educational programs.

(3) To compare achievement of Indiana students to achievement of students on a national basis.

(4) To provide a source of information for state and local decision makers with regard to educational matters, including the following:

(A) The overall academic progress of students.

(B) The need for new or revised educational programs.

(C) The need to terminate existing educational programs.

(D) Student readiness for postsecondary school experiences.

(E) Overall curriculum development and revision activities.

(F) Identifying students who may need remediation under IC 20-32-8.

(G) Diagnosing individual student needs.

(H) Teacher ~~training~~ **education** and staff development activities.

SECTION 177. IC 20-33-2-7, AS ADDED BY HEA 1288-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) In addition to the requirements of sections 4 through 6 of this chapter, a student must be at least five (5) years of age on:

(1) July 1 of ~~a~~ **the 2005-2006** school year; **or**

(2) August 1 of the 2006-2007 school year or any subsequent school year;

to officially enroll in a kindergarten program offered by a school corporation. However, subject to subsection (c), the governing body of the school corporation shall adopt a procedure affording a parent of a student who does not meet the minimum age requirement set forth in this subsection the right to appeal to the superintendent for enrollment of the student in kindergarten at an age earlier than the age set forth in this subsection.

(b) In addition to the requirements of sections 4 through 6 of this chapter and subsection (a), and subject to subsection (c), if a student enrolls in school as allowed under section 6 of this chapter and has not attended kindergarten, the superintendent shall make a determination as to whether the student shall enroll in kindergarten or grade 1 based on the particular model assessment adopted by the governing body under subsection (c).

(c) To assist the principal and governing bodies, the department shall do the following:

(1) Establish guidelines to assist each governing body in establishing a procedure for making appeals to the superintendent under subsection (a).

(2) Establish criteria by which a governing body may adopt a model assessment that may be used in making the determination under subsection (b).

SECTION 178. IC 20-33-2-41, AS ADDED BY HEA 1288-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 41. With the exception of ex officio attendance officers, an individual may not hold the position of attendance officer unless the individual has complied with all standards of the ~~professional standards board~~ **department** and has been properly licensed by ~~that body.~~ **the department.**

SECTION 179. IC 21-1-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 3. (a) The Indiana state board of education is authorized to advance money to school corporations and school townships from the common school fund to be used for school building construction and educational technology programs as provided in this chapter.

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

or school township:

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

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

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

However, as used in this chapter, the term does not include facilities used or to be used primarily for interscholastic or extracurricular activities.

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

SECTION 180. IC 21-1-30-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 2. For purposes of computation under this chapter, the following shall be used:

(1) Kindergarten pupils shall be counted as five-tenths (0.5). All other pupils shall be counted as one (1).

(2) The number of pupils shall be the number of pupils used in determining ADM, as defined by IC 21-3-1.6, for the current year.

(3) The staff cost amount for a school corporation is sixty-nine thousand eight hundred eleven dollars ($69,811).

(4) The guaranteed amount for a school corporation is the primetime allocation, before any penalty is assessed under this chapter, that the school corporation would have received under this chapter for the 1999 calendar year **or the first year of participation in the program, whichever is later.**

~~(5) The at-risk index is the index determined under IC 21-3-1.6-1.1.~~

~~(6)~~ **(5)** The following apply to determine whether amounts received under this chapter have been devoted to reducing class size in kindergarten through grade 3 as required by section 3(b) of this chapter:

(A) Except as permitted under section 5.5 of this chapter, only a licensed teacher who is an actual classroom teacher in a regular instructional program is counted as a teacher.

(B) If a school corporation is granted approval under section 5.5 of this chapter, the school corporation may include as one-third (1/3) of a teacher each classroom instructional aide who meets qualifications and performs duties prescribed by the Indiana state board of education.

~~(7)~~ **(6)** The complexity index is the index determined under IC 21-3-1.7-6.7.

SECTION 181. IC 21-1-30-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 3. (a) The amount to be distributed to a school corporation under this chapter is the amount determined by the following formula:

~~STEP ONE: For a calendar year ending before January 1, 2004, determine the applicable target pupil teacher ratio for the school corporation as follows:~~

~~(A) If the school corporation's at-risk index is less than seventeen hundredths (0.17), the school corporation's target pupil teacher ratio is eighteen to one (18:1).~~

~~(B) If the school corporation's at-risk index is at least seventeen hundredths (0.17) but less than twenty-seven hundredths (0.27), the school corporation's target pupil teacher ratio is fifteen (15) plus the result determined in item (iii):~~

~~(i) Determine the result of twenty-seven hundredths (0.27) minus the school corporation's at-risk index.~~

~~(ii) Determine the item (i) result divided by one-tenth (0.1).~~

~~(iii) Determine the item (ii) result multiplied by three (3).~~

~~(C) If the school corporation's at-risk index is at least twenty-seven hundredths (0.27), the school corporation's target pupil teacher ratio is fifteen to one (15:1).~~

STEP ~~TWO:~~ **ONE:** For a calendar year beginning after December 31, ~~2003,~~ **2004,** determine the applicable target pupil teacher ratio for the school corporation as follows:

(A) If the school corporation's complexity index is less than **one and** one-tenth ~~(0.1),~~ **(1.1),** the school corporation's target pupil teacher ratio is eighteen to one (18:1).

(B) If the school corporation's complexity index is at least **one and** one-tenth ~~(0.1)~~ **(1.1)** but less than **one and** two-tenths ~~(0.2),~~ **(1.2),** the school corporation's target pupil teacher ratio is fifteen (15) plus the result determined in item (iii):

(i) Determine the result of **one and** two-tenths ~~(0.2)~~ **(1.2)** minus the school corporation's complexity index.

(ii) Determine the item (i) result divided by one-tenth (0.1).

(iii) Determine the item (ii) result multiplied by three (3).

(C) If the school corporation's complexity index is at least **one and** two-tenths ~~(0.2),~~ **(1.2),** the school corporation's target pupil teacher ratio is fifteen to one (15:1).

STEP ~~THREE:~~ **TWO:** Determine the result of:

(A) the ADM of the school corporation, as determined under section 2(2) of this chapter, in kindergarten through grade 3 for the current school year; divided by

(B) the school corporation's applicable target pupil teacher ratio, as determined in STEP ONE. ~~or STEP TWO:~~

STEP ~~FOUR:~~ **THREE:** Determine the result of:

(A) the total regular general fund revenue (the amount determined in ~~IC 21-3-1.7-8.2(b) STEP ONE or IC 21-3-1.7-8.2(c) STEP ONE)~~ **STEP ONE of IC 21-3-1.7-8.2(c) for 2005 and STEP ONE of**

IC 21-3-1.7-8.2(a) for 2006 and 2007) multiplied by seventy-five hundredths (0.75); divided by

(B) the school corporation's total ADM.

STEP ~~FIVE.~~ **FOUR:** Determine the result of:

(A) the STEP ~~FOUR~~ **THREE** result; multiplied by

(B) the ADM of the school corporation, as determined under section 2(2) of this chapter in kindergarten through grade 3 for the current school year.

STEP ~~SIX.~~ **FIVE:** Determine the result of:

(A) the STEP ~~FIVE~~ **FOUR** result; divided by

(B) the staff cost amount.

STEP ~~SEVEN.~~ **SIX:** Determine the greater of zero (0) or the result of:

(A) the STEP ~~THREE~~ **TWO** amount; minus

(B) the STEP ~~SIX~~ **FIVE** amount.

STEP ~~EIGHT.~~ **SEVEN:** Determine the result of:

(A) the STEP ~~SEVEN~~ **SIX** amount; multiplied by

(B) the staff cost amount.

STEP ~~NINE.~~ **EIGHT:** Determine the greater of the STEP ~~EIGHT~~ **SEVEN** amount or the school corporation's guaranteed amount.

STEP ~~TEN.~~ **NINE: A school corporation's amount under this STEP is the following:**

(A) If the amount the school corporation received under this chapter in the previous calendar year is greater than zero (0), ~~determine~~ **the amount under this STEP is** the lesser of:

~~(A)~~ **(i)** the STEP ~~NINE~~ **EIGHT** amount; or

~~(B)~~ **(ii)** the amount the school corporation received under this chapter for the previous calendar year multiplied by one hundred seven and one-half percent (107.5%).

(B) If the amount the school corporation received under this chapter in the previous calendar year is not greater than zero (0), the amount under this STEP is the STEP EIGHT amount.

(b) The amount received under this chapter shall be devoted to reducing class size in kindergarten through grade 3. A school corporation shall compile class size data for kindergarten through grade 3 and report the data to the department of education for purposes of maintaining compliance with this chapter.

SECTION 182. IC 21-1-30-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. This chapter expires January 1, ~~2006.~~ **2008.**

SECTION 183. IC 21-2-4-2, AS AMENDED BY HEA 1288-2005, SECTION 159, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The governing body of each school corporation in Indiana shall establish a debt service fund for the payment of:

(1) all debt and other obligations arising out of funds borrowed or advanced for school buildings when purchased from the proceeds of a bond issue for capital construction;

(2) a lease to provide capital construction;

(3) interest on emergency and temporary loans;

(4) all debt and other obligations arising out of funds borrowed or advanced for the purchase or lease of school buses when purchased or leased from the proceeds of a bond issue, or from money obtained from a loan made under IC 20-27-4-5, for that purpose;

(5) all debt and other obligations arising out of funds borrowed to pay judgments against the school corporation; ~~or~~

(6) all debt and other obligations arising out of funds borrowed to purchase equipment; **or**

(7) all unreimbursed costs of textbooks for the school corporation's students who were eligible for free or reduced lunches in the previous school year.

The term "debt service" shall include but not be limited to lease rental obligations, school bonds and coupons and civil bond obligations assumed by school corporations reorganized pursuant to IC 20-23-4, and any interest cost on emergency and temporary loans but shall not include the repayment of the principal of the emergency and temporary loans obtained for benefit of any other fund. All receipts and disbursements authorized by law for school funds and tax levies for the lease rental fund, bond fund, sinking fund, civil bond obligation fund, and payment of interest on emergency and temporary loans shall be received in and disbursed from the debt service fund. **The governing body may transfer the amount levied to cover unreimbursed costs of textbooks under subdivision (7) to the textbook rental fund or extracurricular account.**

SECTION 184. IC 21-2-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. A tax levy shall be established by the governing body of each school corporation for the 1968 calendar year and all succeeding calendar years sufficient to pay all debt service obligations **and for textbooks covered by section 2(7) of this chapter.** If the advertised levy is insufficient to produce revenue to meet all debt service obligations for any calendar year, the department of local government finance is hereby authorized to establish a levy greater than advertised, if necessary, to meet such obligations.

SECTION 185. IC 21-2-5.6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. This section applies to self-insurance funds permitted to be established under section 1(1) of this chapter and self-insurance funds required to be established under section 1(2) of this chapter. Subject to the approval of the commissioner of the department of insurance, the governing body of the school corporation is authorized to:

(1) transfer to the self-insurance fund an amount of money in:

(A) the general fund budget; and

(B) the general fund tax levy and rate;

(2) transfer monies from the general fund to the self-insurance fund; ~~or~~

(3) appropriate monies from the general fund for the self-insurance fund; **or**

(4) transfer money from the capital projects fund to the self-insurance fund, to the extent that money in the capital projects fund may be used for property or casualty insurance.

SECTION 186. IC 21-2-11-4, AS AMENDED BY HEA 1288-2005, SECTION 161, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Any lawful school expenses payable from any other fund of the school corporation, including without limitation debt service and capital outlay, but excluding costs attributable to transportation (as defined in IC 21-2-11.5-2), may be budgeted in and paid from the general fund. However, after June 30, ~~2003,~~ **2005,** and before July 1, ~~2005,~~ **2007,** a school corporation may budget for and pay costs attributable to transportation (as defined in IC 21-2-11.5-2) from the general fund.

(b) In addition, remuneration for athletic coaches (whether or not they are otherwise employed by the school corporation and whether or not they are licensed under IC 20-28-4 or IC 20-28-5) may be budgeted in and paid from the school corporation's general fund.

(c) **This subsection applies only to the extent that the school corporation's transportation fund has not been increased under IC 21-2-11.5-3(b)(2) or another adjustment made by the department of local government finance to reflect the termination of state distributions for the school corporation's transportation fund.** During the period beginning July 1, ~~2003,~~ **2005,** and ending June 30, ~~2005,~~ **2007,** the school corporation may transfer money in a fund maintained by the school corporation (other than the special education preschool fund (IC 21-2-17-1) or the school bus replacement fund (IC 21-2-11.5-2)) that is obtained from:

(1) a source other than a state distribution or local property taxation; or

(2) a state distribution or a property tax levy that is required to be deposited in the fund;

to any other fund. A transfer under subdivision (2) may not be the sole basis for reducing the property tax levy for the fund from which the money is transferred or the fund to which money is transferred. Money transferred under this subsection may be used only to pay costs, including debt service, attributable to reductions in funding for transportation distributions under IC 21-3-3.1, including reimbursements associated with transportation costs for special education and vocational programs under IC 21-3-3.1-4, and ADA flat grants under IC 21-3-4.5 **(repealed).** The property tax levy for a fund from which money was transferred may not be increased to replace the money transferred to another fund.

(d) The total amount transferred under subsection (c) may not exceed the following:

(1) For the period beginning July 1, ~~2003,~~ **2005,** and ending June 30, ~~2004,~~ **2006,** the ~~total amount of state funding received for transportation distributions under IC 21-3-3.1, including reimbursements associated with transportation costs for special education and vocational programs under IC 21-3-3.1-4, and ADA flat grants under IC 21-3-4.5 (repealed), for the same period.~~ **last state transportation distribution (as defined in IC 21-2-11.5-3).**

(2) For the period beginning July 1, ~~2004,~~ **2006,** and ending June 30, ~~2005,~~ **2007, an amount equal to** the ~~product of:~~

~~(A) the amount determined under~~ subdivision (1) ~~multiplied by~~

~~(B) two (2).~~ **amount.**

SECTION 187. IC 21-2-11.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. (a) Subject to subsection (b), each school corporation may levy for the calendar year a property tax for the school transportation fund sufficient to pay all operating costs attributable to transportation that:

(1) are not paid from other revenues available to the fund as specified in section 4 of this chapter; and

(2) are listed in section 2(a)(1) through 2(a)(7) of this chapter.

(b) For each year after 2003, the levy for the fund may not exceed:

(1) the **amount determined by multiplying:**

(A) the school corporation's levy **for the school transportation fund** for the previous year, as that levy was determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17 and after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to the levy for the calendar year; ~~multiplied~~ by

(B) the assessed value growth quotient determined under **subsection (c)** STEP FOUR; **plus**

(2) in 2006 and 2007, the amount determined under subsection (d).

(c) For purposes of subsection (b), the assessed value growth quotient is the amount determined under STEP FOUR of the following formula:

STEP ONE: For each of the six (6) calendar years immediately preceding the year in which a budget is adopted under IC 6-1.1-17-5 or IC 6-1.1-17-5.6 for part or all of the ensuing calendar year, divide the Indiana nonfarm personal income for the calendar year by the Indiana nonfarm personal income for the calendar year immediately preceding that calendar year, rounding to the nearest one-thousandth (0.001).

STEP TWO: Determine the sum of the STEP ONE results.

STEP THREE: Divide the STEP TWO result by six (6), rounding to the nearest one-thousandth (0.001).

STEP FOUR: Determine the lesser of the following:

(A) The STEP THREE quotient.

(B) One and six-hundredths (1.06).

If the amount levied in a particular year exceeds the amount necessary to cover the costs payable from the fund, the levy in the following year shall be reduced by the amount of surplus money.

(d) As used in this subsection, "last state transportation distribution" means the total amount of state funding received by a school corporation for transportation costs:

(1) under IC 21-3-3.1-1 through IC 21-3-3.1-3; and

(2) for special education and vocational programs under IC 21-3-3.1-4;

after June 30, 2003, and before July 1, 2004;

multiplied by two (2). To the extent that the amount determined under subsection (b)(1) has not been adjusted to reflect the termination of state distributions for the school corporation's

transportation fund, as determined by the department of local government finance, a school corporation may increase its school transportation fund levy for 2006 above the amount determined under subsection (b)(1) by fifty percent (50%) of the school corporation's last state transportation distribution, and the school corporation may increase its school transportation fund levy for 2007 above the amount determined under subsection (b)(1) by the remaining fifty percent (50%) of the school corporation's last state transportation distribution. The amount of the additional levy imposed in a year under this subsection shall be treated, for purposes of applying subsection (b)(1) in the following year, as part of the school corporation's levy for the school transportation fund for the previous year.

~~(c)~~ **(e)** Each school corporation may levy for the calendar year a tax for the school bus replacement fund in accordance with the school bus acquisition plan adopted under section 3.1 of this chapter.

~~(d)~~ **(f)** The tax rate and levy for each fund shall be established as a part of the annual budget for the calendar year in accord with IC 6-1.1-17.

SECTION 188. IC 21-2-11.6-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4. (a) This section applies to a school corporation that added an amount to the school corporation's base tax levy before 2002 as the result of the approval of an excessive tax levy by the majority of individuals voting in a referendum held in the area served by the school corporation under IC 6-1.1-19.**

(b) The following definitions apply throughout this section:

(1) "Base tax levy" has the meaning set forth in IC 6-1.1-19-1.

(2) "Excessive tax levy" has the meaning set forth in IC 6-1.1-19-1.

(c) A school corporation may adopt a resolution before September 21, 2005, to transfer the power of the school corporation to levy the amount described in subsection (a) from the school corporation's general fund to the school corporation's referendum tax levy fund. A school corporation that adopts a resolution under this section shall, as soon as practicable after adopting the resolution, send a certified copy of the resolution to the department of local government finance and the county. A school corporation that adopts a resolution under this subsection may, for property taxes first due and payable after 2005, levy an additional amount for the referendum tax levy fund that does not exceed the amount of the excess tax levy added to the school corporation's base tax levy before 2002.

(d) The power of the school corporation to impose the levy transferred to the referendum tax levy fund under this section expires on December 31, 2012, unless:

(1) the school corporation adopts a resolution to reimpose or extend the referendum tax levy; and

(2) the referendum tax levy is approved, before January 1, 2013, by a majority of the individuals who vote in a referendum that is conducted in accordance with the requirements in IC 6-1.1-19-4.5(c).

As soon as practicable after adopting the resolution under subdivision (1), the school corporation shall send a certified copy of the resolution to the county auditor and the department of local government finance. Upon receipt of the certified resolution, the tax control board shall proceed in the same manner as the tax control board would for any other referendum tax levy being reimposed or extended under IC 6-1.1-19-4.5(c). However, if requested by the school corporation in the resolution adopted under subdivision (1), the question of reimposing or extending a referendum tax levy transferred to the referendum tax levy fund under this section may be combined with a question presented to the voters to reimpose or extend a referendum tax levy initially imposed after 2001. A referendum tax levy reimposed or extended under this subsection shall be treated for all purposes as a referendum tax levy reimposed or extended under IC 6-1.1-19-4.5(c).

(e) The school corporation's referendum tax levy under subsection (c) may not be considered in the determination of the school corporation's state tuition support under IC 21-3-1.7 or the determination of the school corporation's maximum general fund tax levy under IC 6-1.1-19 and IC 21-3-1.7.

SECTION 189. IC 21-2-15-4, AS AMENDED BY HEA 1288-2005, SECTION 167, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. (a) As used in this subsection, "calendar year distribution" means the sum of:

(1) all distributions to a school corporation under:

(A) IC 6-1.1-19-1.5;

(B) IC 21-1-30;

(C) IC 21-3-1.7;

(D) IC 21-3-2.1; and

(E) IC 21-3-12;

for the calendar year; plus

(2) the school corporation's excise tax revenue (as defined in IC 21-3-1.7-2) for the immediately preceding calendar year.

(b) A school corporation may establish a capital projects fund.

(c) With respect to any facility used or to be used by the school corporation (other than a facility used or to be used primarily for interscholastic or extracurricular activities, except as provided in subsection (j)), the fund may be used to pay for the following:

(1) Planned construction, repair, replacement, or remodeling.

(2) Site acquisition.

(3) Site development.

(4) Repair, replacement, or site acquisition that is necessitated by an emergency.

(d) The fund may be used to pay for the purchase, lease, repair, or maintenance of equipment to be used by the school corporation (other than vehicles to be used for any purpose and equipment to be used primarily for interscholastic or extracurricular activities, except as provided in subsection (j)).

(e) The fund may be used for any of the following purposes:

(1) To purchase, lease, upgrade, maintain, or repair one (1) or more of the following:

(A) Computer hardware.

(B) Computer software.

(C) Wiring and computer networks.

(D) Communication access systems used to connect with computer networks or electronic gateways.

(2) To pay for the services of full-time or part-time computer maintenance employees.

(3) To conduct nonrecurring inservice technology training of school employees.

(4) To fund the payment of advances, together with interest on the advances, from the common school fund for educational technology programs under IC 21-1-5.

(5) To fund the acquisition of any equipment or services necessary:

(A) to implement the technology preparation curriculum under IC 20-30-12;

(B) to participate in a program to provide educational technologies, including computers, in the homes of students (commonly referred to as "the buddy system project") under IC 20-20-13-6, the 4R's technology program under IC 20-20-15-4, or any other program under the educational technology program described in IC 20-20-13; or

(C) to obtain any combination of equipment or services described in clauses (A) and (B).

(f) The fund may be used to purchase:

(1) building sites;

(2) buildings in need of renovation;

(3) building materials; and

(4) equipment;

for the use of vocational building trades classes to construct new buildings and to remodel existing buildings.

(g) The fund may be used for leasing or renting of existing real estate, excluding payments authorized under IC 21-5-11 and IC 21-5-12.

(h) The fund may be used to pay for services of the school corporation employees that are bricklayers, stone masons, cement masons, tile setters, glaziers, insulation workers, asbestos removers, painters, paperhangers, drywall applicators and tapers, plasterers, pipe fitters, roofers, structural and steel workers, metal building assemblers, heating and air conditioning installers, welders, carpenters, electricians, or plumbers, as these occupations are defined in the United States Department of Labor, Employment and Training Administration, Dictionary of Occupational Titles, Fourth Edition, Revised 1991, if:

(1) the employees perform construction of, renovation of, remodeling of, repair of, or maintenance on the facilities and equipment specified in subsections (b) and (c);

(2) the school corporation's total annual salary and benefits paid by the school corporation to employees described in this subsection are at least six hundred thousand dollars ($600,000); and

(3) the payment of the employees described in this subsection is included as part of the proposed capital projects fund plan described in section 5(a) of this chapter.

However, the number of employees that are covered by this subsection is limited to the number of employee positions described in this subsection that existed on January 1, 1993. For purposes of this subsection, maintenance does not include janitorial or comparable routine services normally provided in the daily operation of the facilities or equipment.

(i) The fund may be used to pay for energy saving contracts entered into by a school corporation under IC 36-1-12.5.

(j) Money from the fund may be used to pay for the construction, repair, replacement, remodeling, or maintenance of a school sports facility. However, a school corporation's expenditures in a calendar year under this subsection may not exceed five percent (5%) of the property tax revenues levied for the fund in the calendar year.

(k) Money from the fund may be used to carry out a plan developed under IC 16-41-37.5.

(l) This subsection applies during the period beginning January 1, ~~2004,~~ **2006,** and ending December 31, ~~2005.~~ **2007.** Money from the fund may be used to pay for up to one hundred percent (100%) of the following costs of a school corporation:

(1) Utility services.

(2) Property or casualty insurance.

(3) Both utility services and property or casualty insurance.

~~In the 2004 calendar year, a school corporation's expenditures under this subsection may not exceed one percent (1%) of the school corporation's 2003 calendar year distribution. In the 2005 calendar year,~~ A school corporation's expenditures under this subsection may not exceed **in 2006** two **and seventy-five hundredths** percent ~~(2%)~~ **(2.75%) and in 2007 three and five-tenths percent (3.5%)** of the school corporation's ~~2003~~ **2005** calendar year distribution.

~~(m) Notwithstanding subsection (l), a school corporation's expenditures under subsection (l) in the 2004 calendar year may exceed one percent (1%) of the school corporation's 2003 calendar year distribution if the school corporation's 2004 calendar year distribution is less than the school corporation's 2003 calendar year distribution. The amount by which a school corporation's expenditures under subsection (l) in the 2004 calendar year may exceed one percent (1%) of the school corporation's 2003 calendar year distribution is the least of the following:~~

~~(1) One percent (1%) of the school corporation's 2003 calendar year distribution.~~

~~(2) The greater of zero (0) or the difference between:~~

~~(A) the sum of:~~

~~(i) the school corporation's calendar year distribution;~~

~~(ii) the amount determined for the school corporation under subsection (l); plus~~

~~(iii) the amount determined for the school corporation under this subsection, if any;~~

~~for the immediately preceding calendar year; minus~~

~~(B) the school corporation's calendar year distribution for the calendar year.~~

~~(3) The difference between:~~

~~(A) one hundred percent (100%) of the school corporation's costs for utility services and property or~~

casualty insurance; minus

(B) the amount determined for the school corporation under subsection (l) for the calendar year.

(n) Notwithstanding subsection (l), a school corporation's expenditures under subsection (l) in the 2005 calendar year may exceed two percent (2%) of the school corporation's 2003 calendar year distribution if the school corporation's 2005 calendar year distribution is less than the school corporation's 2003 calendar year distribution. The amount by which a school corporation's expenditures under subsection (l) in the 2005 calendar year may exceed two percent (2%) of the school corporation's 2003 calendar year distribution is the least of the following:

(1) Two percent (2%) of the school corporation's 2003 calendar year distribution.

(2) The greater of zero (0) or the difference between:

(A) the sum of:

(i) the school corporation's calendar year distribution;

(ii) the amount determined for the school corporation under subsection (l); plus

(iii) the amount determined for the school corporation under this subsection, if any;

for the immediately preceding calendar year; minus

(B) the school corporation's calendar year distribution for the calendar year.

(3) The difference between:

(A) one hundred percent (100%) of the school corporation's costs for utility services and property or casualty insurance; minus

(B) the amount determined for the school corporation under subsection (l) for the calendar year.

SECTION 190. IC 21-2-15-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) Except as provided in subsection (e), to provide for the capital projects fund, the governing body may, for each year in which a plan adopted under section 5 of this chapter is in effect, impose a property tax rate that does not exceed forty-one and sixty-seven hundredths cents ($0.4167) on each one hundred dollars ($100) of assessed valuation of the school corporation. This actual rate must be advertised in the same manner as other property tax rates.

(b) The maximum property tax rate levied by each school corporation must be adjusted each time a general reassessment of property takes effect. The adjusted property tax rate becomes the new maximum property tax rate for the levy for property taxes first due and payable in each year:

(1) after the general reassessment for which the adjustment was made takes effect; and

(2) before the next general reassessment takes effect.

(c) The new maximum rate under this section is the tax rate determined under STEP SEVEN of the following formula:

STEP ONE: Determine the maximum rate for the school corporation for the year preceding the year in which the general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value of the taxable property from the year preceding the year the general reassessment takes effect to the year that the general reassessment is effective.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0).

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of the STEP ONE tax rate divided by the sum of one (1) plus the STEP SIX percentage increase.

(d) The department of local government finance shall compute the maximum rate allowed under subsection (c) and provide the rate to each school corporation.

(e) For a year in which a school corporation uses money from the school corporation's capital projects fund to pay for costs described in section 4(l) of this chapter, the school corporation may impose a property tax rate that exceeds the rate described in subsection (a). The amount by which the property tax rate may exceed the rate described in subsection (a) equals the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the sum of:

(A) the school corporation's expenditures under section 4(l) of this chapter for the calendar year. plus

(B) either:

(i) the school corporation's expenditures under section 4(m) of this chapter for the 2004 calendar year; or

(ii) the school corporation's expenditures under section 4(n) of this chapter for the 2005 calendar year.

STEP TWO: Determine the quotient of:

(A) the STEP ONE amount; divided by

(B) the school corporation's assessed valuation for the year.

STEP THREE: Determine the product of:

(A) the STEP TWO amount; multiplied by

(B) one hundred (100).

SECTION 191. IC 21-3-1.6-1.1, AS AMENDED BY HEA 1288-2005, SECTION 176, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 1.1. As used in this chapter:

(a) "School corporation" means any local public school corporation established under Indiana law. Except as otherwise indicated, the term includes a charter school.

(b) "School year" means a year beginning July 1 and ending the next succeeding June 30.

(c) "State distribution" due a school corporation means the amount of state funds to be distributed to a school corporation in any calendar year under this chapter.

(d) "Average daily membership" or "ADM" of a school corporation means the number of eligible pupils enrolled in the school corporation or in a transferee corporation on a day to be fixed annually by the Indiana state board of education and ~~beginning in the school year that ends in the 2005 calendar year,~~ as subsequently adjusted not later than January 30 under the rules adopted by the state board of education. The initial day of the count shall fall within the first thirty (30) days of the school term. If, however, extreme patterns of student in-migration, illness, natural disaster, or other unusual conditions in a particular school corporation's enrollment on either the day fixed by the Indiana state board of education or on the subsequent adjustment date, cause the enrollment to be unrepresentative of the school corporation's enrollment throughout a school year, the Indiana state board of education may designate another day for determining the school corporation's enrollment. The Indiana state board of education shall monitor changes that occur after the fall count, in the number of students enrolled in programs for children with disabilities and shall, before December 2 of that same year and, beginning in the 2004 calendar year, before April 2 of the following calendar year, make an adjusted count of students enrolled in programs for children with disabilities. The superintendent of public instruction shall certify the December adjusted count to the budget committee before February 5 of the following year and the April adjusted count not later than May 31 immediately after the date of the April adjusted count. In determining the ADM, each kindergarten pupil shall be counted as one-half (1/2) pupil. Where a school corporation commences kindergarten in a school year, the ADM of the current and prior calendar years shall be adjusted to reflect the enrollment of the kindergarten pupils. In determining the ADM, each pupil enrolled in a public school and a nonpublic school is to be counted on a full-time equivalency basis as provided in section 1.2 of this chapter.

(e) "Additional count" of a school corporation, or comparable language, means the aggregate of the additional counts of the school corporation for certain pupils as set out in section 3 of this chapter (repealed) and as determined at the times for calculating ADM. "Current additional count" means the initial computed additional count of the school corporation for the school year ending in the calendar year. "Prior year additional count" of a school corporation used in computing its state distribution in a calendar year means the initial computed additional count of the school corporation for the school year ending in the preceding calendar year.

(f) For purposes of this subsection, "school corporation" does not include a charter school. "Adjusted assessed valuation" of any school corporation used in computing state distribution for a calendar year means the assessed valuation in the school corporation, adjusted as provided in IC 6-1.1-34. The amount of the valuation shall also be adjusted downward by the department of local government finance to the extent it consists of real or personal property owned by a railroad or other corporation under the jurisdiction of a federal court under the federal bankruptcy laws (11 U.S.C. 101 et seq.) if as a result of the corporation being involved in a bankruptcy proceeding the corporation is delinquent in payment of its Indiana real and personal property taxes for the year to which the valuation applies. If the railroad or other corporation in some subsequent calendar year makes payment of the delinquent taxes, then the state superintendent of public instruction shall prescribe adjustments in the distributions of state funds pursuant to this chapter as are thereafter to become due to a school corporation affected by the delinquency as will ensure that the school corporation will not have been unjustly enriched under the provisions of P.L.382-1987(ss). The amount of the valuation shall also be adjusted downward by the department of local government finance to the extent it consists of real or personal property described in IC 6-1.1-17-0.5(b).

(g) "General fund" means a fund established under IC 21-2-11-2.

(h)"Teacher" means every person who is required as a condition of employment by a school corporation to hold a teacher's license issued or recognized by the state, except substitutes and any person paid entirely from federal funds.

(i) For purposes of this subsection, "school corporation" does not include a charter school. "Teacher ratio" of a school corporation used in computing state distribution in any calendar year means the ratio assigned to the school corporation pursuant to section 2 of this chapter.

(j) "Eligible pupil" means a pupil enrolled in a school corporation if:

(1) the school corporation has the responsibility to educate the pupil in its public schools without the payment of tuition;

(2) subject to subdivision (5), the school corporation has the responsibility to pay transfer tuition under **IC 20-8.1-6.1 (before its repeal) or** IC 20-26-11, because the pupil is transferred for education to another school corporation (the "transferee corporation");

(3) the pupil is enrolled in a school corporation as a transfer student under **IC 20-8.1-6.1-3 (before its repeal) or** IC 20-26-11-6 or entitled to be counted for ADM or additional count purposes as a resident of the school corporation when attending its schools under any other applicable law or regulation;

(4) the state is responsible for the payment of transfer tuition to the school corporation for the pupil under **IC 20-8.1-6.1 (before its repeal) or** IC 20-26-11; or

(5) all of the following apply:

(A) The school corporation is a transferee corporation.

(B) The pupil does not qualify as a qualified pupil in the transferee corporation under subdivision (3) or (4).

(C) The transferee corporation's attendance area includes a state licensed private or public health care facility, child care facility, or foster family home where the pupil was placed:

(i) by or with the consent of the division of family and children;

(ii) by a court order;

(iii) by a child placing agency licensed by the division of family and children; or

(iv) by a parent or guardian under **IC 20-8.1-6.1-5 (before its repeal) or** IC 20-26-11-8.

For purposes of IC 21-3-12, the term includes a student enrolled in a charter school.

(k) "General fund budget" of a school corporation means the amount of the budget approved for a given year by the department of local government finance and used by the department of local government finance in certifying a school corporation's general fund tax levy and tax rate for the school corporation's general fund as provided for in IC 21-2-11. The term does not apply to a charter school.

~~(l) "At risk index" means the following:~~

~~(1) For a school corporation that is a not a charter school, the sum of:~~

~~(A) the product of sixteen-hundredths (0.16) multiplied by the percentage of families in the school corporation with children who are less than eighteen (18) years of age and who have a family income below the federal income poverty level (as defined in IC 12-15-2-1);~~

~~(B) the product of four-tenths (0.4) multiplied by the percentage of families in the school corporation with a single parent; and~~

~~(C) the product of forty-four hundredths (0.44) multiplied by the percentage of the population in the school corporation who are at least twenty (20) years of age with less than a twelfth grade education.~~

~~The data to be used in making the calculations under this subdivision must be the data from the 2000 federal decennial census.~~

~~(2) For a charter school, the index determined under subdivision (1) for the school corporation in which the charter school is located.~~

~~(m)~~ **(l)** "ADM of the previous year" or "ADM of the prior year" used in computing a state distribution in a calendar year means the initial computed ADM for the school year ending in the preceding calendar year.

~~(n)~~ **(m)** "Current ADM" used in computing a state distribution in a calendar year means the initial computed ADM for the school year ending in the calendar year.

SECTION 192. IC 21-3-1.7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 2. **(a)** As used in this chapter, "excise tax revenue" means the ~~amount~~ **sum** of:

(1) financial institution excise tax revenue (IC 6-5.5); ~~plus~~

(2) ~~the~~ motor vehicle excise taxes (IC 6-6-5); ~~and the~~

(3) commercial vehicle excise taxes (IC 6-6-5.5);

(4) boat excise tax (IC 6-6-11); and

(5) aircraft excise tax (IC 6-6-6.5);

the school corporation received for deposit in the school corporation's general fund in a year **or would have received for deposit in the school corporation's general fund in a year if the settlement of property taxes first due and payable in the year had been made on the schedule required under IC 6-1.1-27-1.** The excise tax revenue for a charter school is zero (0).

(b) Not later than January 15 each year, the department of local government finance shall certify to the department of education the amount of each school corporation's excise tax revenue for the immediately preceding year. In 2006, the department of local government finance shall certify to the department of education the amount of each school corporation's excise tax revenue for both 2004 and 2005. The department of education may rely on the excise tax revenue amounts certified by the department of local government finance under this subsection in making calculations under this chapter.

SECTION 193. IC 21-3-1.7-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3.1. (a) As used in this chapter, "previous year revenue" for calculations with respect to a school corporation equals:

(1) the school corporation's tuition support for regular programs, including basic tuition support, and excluding:

(A) special education grants;

(B) vocational education grants;

~~(C) at-risk programs;~~

~~(D) the enrollment adjustment grant;~~

~~(E)~~ **(C)** the academic honors diploma award; **and**

~~(F)~~ **(D)** the primetime distribution; ~~and~~

~~(G) for 2005 and thereafter, the supplemental remediation grant;~~

for the year that precedes the current year; plus

(2) the school corporation's tuition support levy for the year that precedes the current year before the reductions required under section 5(1) and 5(2) of this chapter; plus

~~(3) distributions received by the school corporation under IC 6-1.1-21.6 for the year that precedes the current year; plus~~

~~(4)~~ **(3)** the school corporation's excise tax revenue for the year that precedes the current year by two (2) years; minus

~~(5)~~ **(4)** an amount equal to the reduction in the school corporation's tuition support under **any combination of** subsection (b), **subsection (c),** ~~or~~ IC 20-10.1-2-1 ~~or both; plus~~

~~(6) in calendar year 2003, the amount determined for calendar year 2002 under section 8.2 of this chapter, STEP TWO (C), plus~~

~~(7) in calendar year 2004, the amount determined for calendar year 2002 under section 8.2 of this chapter, STEP TWO (D), plus~~

~~(8) notwithstanding subdivision (1), in calendar year 2004, the school corporation's distribution under section 9.7 of this chapter for calendar year 2003.~~ **(before its repeal), or IC 20-30-2-4; minus**

(5) in 2006, the amount of the school corporation's general fund levy attributable to the levy transferred from the school corporation's general fund to the school

corporation's referendum tax levy fund under IC 21-2-11.6-4.

(b) A school corporation's previous year revenue shall be reduced if:

(1) the school corporation's state tuition support for special or vocational education was reduced as a result of a complaint being filed with the department of education after December 31, 1988, because the school program overstated the number of children enrolled in special or vocational education programs; and

(2) the school corporation's previous year revenue has not been reduced under this subsection more than one (1) time because of a given overstatement.

The amount of the reduction equals the amount the school corporation would have received in tuition support for special and vocational education because of the overstatement.

(c) A school corporation's previous year revenue shall be reduced if an existing elementary or secondary school located in the school corporation converts to a charter school under IC 20-5.5-11 **before July 1, 2005, or IC 20-24-11 after June 30, 2005.** The amount of the reduction equals the product of:

(1) the sum of the amounts distributed to the conversion charter school under IC 20-5.5-7-3.5(c) and IC 20-5.5-7-3.5(d) **before July 1, 2005, and IC 20-24-7-3(c) and IC 20-24-7-3(d) after June 30, 2005;** multiplied by

(2) two (2).

SECTION 194. IC 21-3-1.7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) As used in this section, "school corporation" does not include a charter school.

(b) As used in this chapter, "tuition support levy" means with respect to a school corporation for a year the **result determined using the following formula:**

STEP ONE: Determine the maximum general fund ad valorem property tax levy for the school corporation determined under IC 6-1.1-19-1.5. ~~reduced by the following:~~

STEP TWO: Determine the sum of the following:

~~(1)~~ **(A)** An amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

~~(2)~~ **(B)** The ~~portion~~ **part** of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility during the preceding year.

(C) The part of the maximum general fund levy for the year that is added to the maximum general fund levy in the year under IC 6-1.1-19-1.5 to provide revenue for one (1) or more charter schools attended by students with legal settlement in the school corporation.

STEP THREE: Determine the difference of:

(A) the STEP ONE amount; minus

(B) the STEP TWO amount.

SECTION 195. IC 21-3-1.7-6.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 6.6. (a) **This subsection does not apply to a charter school. When calculating adjusted ADM for 2006 distributions, this subsection, as effective after December 31, 2005, shall be used to calculate the adjusted ADM for the previous year rather than the calculation used to calculate adjusted ADM for 2005 distributions.** For purposes of this chapter, a school corporation's "adjusted ADM" for the current year is the result determined under the following formula:

STEP ONE: Determine the ~~greatest~~ **sum** of the following:

(A) The school corporation's ADM for the year preceding the current year by four (4) years multiplied by two-tenths (0.2).

~~(A)~~ **(B)** The school corporation's ADM for the year preceding the current year by three (3) years **multiplied by two-tenths (0.2).**

~~(B)~~ **(C)** The school corporation's ADM for the year preceding the current year by two (2) years **multiplied by two-tenths (0.2).**

~~(C)~~ **(D)** The school corporation's ADM for the year preceding the current year by one (1) year **multiplied by two-tenths (0.2).**

~~(D)~~ **(E)** The school corporation's ADM for the current year **multiplied by two-tenths (0.2).**

Round the result to the nearest five-tenths (0.5).

~~STEP TWO: Determine the greater of zero (0) or the result of:~~

~~(A) the school corporation's ADM for the year preceding the current year by four (4) years; minus~~

~~(B) the STEP ONE amount.~~

~~STEP THREE: Determine the greatest of the following:~~

~~(A) The school corporation's ADM for the year preceding the current year by two (2) years.~~

~~(B) the school corporation's ADM for the year preceding the current year; by one (1) year.~~

~~(C) the school corporation's ADM for the current year.~~

~~STEP FOUR: Determine the greater of zero (0) or the result of:~~

~~(A) the school corporation's ADM for the year preceding the current year by three (3) years; minus~~

~~(B) the STEP THREE amount.~~

~~STEP FIVE: Determine the greater of the following:~~

~~(A) The school corporation's ADM for the year preceding the current year by one (1) year.~~

~~(B) The school corporation's ADM for the current year.~~

~~STEP SIX: Determine the greater of zero (0) or the result of:~~

~~(A) the school corporation's ADM for the year preceding the current year by two (2) years; minus~~

~~(B) the STEP FIVE amount.~~

~~STEP SEVEN: Determine the greater of zero (0) or the result of:~~

~~(A) the school corporation's ADM for the year preceding the current year by one (1) year; minus~~

~~(B) the school corporation's ADM for the current year.~~

STEP EIGHT: Determine the sum of the following:

(A) The STEP TWO result multiplied by two-tenths (0.2).

(B) The STEP FOUR result multiplied by four-tenths (0.4).

(C) The STEP SIX result multiplied by six-tenths (0.6).

(D) The STEP SEVEN result multiplied by eight-tenths (0.8).

STEP NINE: Determine the result of:

(A) the school corporation's ADM for the current year; plus

(B) the STEP EIGHT result.

STEP TEN: This STEP applies to a school corporation for which the amount determined under STEP EIGHT is zero (0). Determine the sum of:

(A) the school corporation's ADM for the 2003 school year; plus

(B) the subsection (b) or (c) result, whichever is applicable.

Round the result to the nearest five-tenths (0.5).

(b) This subsection applies during the 2004 calendar year to a school corporation described in subsection (a) STEP TEN. Determine the result under the following formula:

STEP ONE: Determine the difference between:

(A) the school corporation's ADM for the 2004 school year; minus

(B) the school corporation's ADM for the 2003 school year.

STEP TWO: Determine the greater of zero (0) or the STEP ONE amount.

STEP THREE: Determine the product of:

(A) the STEP TWO amount; multiplied by

(B) two-thousandths (0.002).

STEP FOUR: Determine the lesser of the following:

(A) The STEP THREE amount.

(B) Seventy-five hundredths (0.75).

STEP FIVE: Determine the product of:

(A) the STEP ONE amount; multiplied by

(B) the STEP FOUR amount.

(c) This subsection applies during the 2005 calendar year to a school corporation described in subsection (a) STEP TEN. Determine the result under the following formula:

STEP ONE: Determine the difference between:

(A) the school corporation's ADM for the 2005 school year; minus

(B) the school corporation's ADM for the 2004 school year.

STEP TWO: Determine the greater of zero (0) or the STEP ONE amount.

STEP THREE: Determine the product of:

(A) the STEP TWO amount; multiplied by

(B) two-thousandths (0.002).

STEP FOUR: Determine the lesser of the following:

(A) The STEP THREE amount.

(B) Seventy-five hundredths (0.75).

STEP FIVE: Determine the product of:

(A) the STEP ONE amount; multiplied by

(B) the STEP FOUR amount.

STEP SIX: Determine the subsection (b) amount.

STEP SEVEN: Determine the sum of:

(A) the STEP FIVE result; plus

(B) the STEP SIX result.

STEP TWO: Determine the sum of:

(A) the school corporation's ADM for the year preceding the current year; plus

(B) the product of:

(i) the school corporation's ADM for the current year minus the clause (A) amount; multiplied by

(ii) seventy-five hundredths (0.75).

Round the result to the nearest five-tenths (0.5).

STEP THREE: Determine the greater of the following:

(A) The STEP ONE result.

(B) The STEP TWO result.

(d) For a charter school whose current ADM is at least fifteen percent (15%) greater than the charter school's ADM of the previous year, the

(b) A charter school's adjusted ADM for purposes of this section **chapter** is the charter school's current ADM.

SECTION 196. IC 21-3-1.7-6.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 6.7. (a) This subsection applies during the 2003 calendar year. For each school corporation that is not a charter school, the index used in subsection (d) is determined under the following STEPS:

STEP ONE: Determine the greater of zero (0) or the result of the following:

(1) Multiply the school corporation's at risk index by twenty-five hundredths (0.25).

(2) Divide the result under subdivision (1) by three thousand seven hundred thirty-six ten-thousandths (0.3736).

(3) Subtract three hundred ninety-five ten-thousandths (0.0395) from the result under subdivision (2).

STEP TWO: Determine the greater of zero (0) or the result of the following:

(1) Multiply the percentage of the school corporation's students who were eligible for free lunches in the school year ending in 2001 by twenty-five hundredths (0.25).

(2) Divide the result under subdivision (1) by seven hundred twenty-three thousandths (0.723).

STEP THREE: Determine the greater of zero (0) or the result of the following:

(1) Multiply the percentage of the school corporation's students who were classified as limited English proficient in the school year ending in 2000 by twenty-five hundredths (0.25).

(2) Divide the result under subdivision (1) by one thousand seven hundred fifteen ten-thousandths (0.1715).

STEP FOUR: Determine the result of:

(1) the sum of the results in STEPS ONE through THREE;

~~divided by~~

~~(2) three (3).~~

~~STEP FIVE: Determine the result of one (1) plus the STEP FOUR result.~~

~~(b) This subsection applies to calendar years beginning after December 31, 2003.~~

(a) For each school corporation, that is not a charter school, the index used in subsection ~~(c)~~ **(c)** is determined under the following STEPS:

STEP ONE: Determine the greater of zero (0) or the result of the following:

(1) Determine the percentage of the population in the school corporation who are at least ~~twenty (20)~~ **twenty-five (25)** years of age with less than a twelfth grade education.

(2) Determine the quotient of:

(A) ~~eight hundred seventy dollars ($870) in 2004 and nine hundred seventy~~ **one thousand nineteen** dollars ~~($970), in 2005;~~ **($1,019);** divided by

(B) ~~four thousand three hundred fifty dollars ($4,350) in 2004 and~~ four thousand ~~three~~ **five** hundred ~~sixty-eight~~ **seventeen** dollars ~~($4,368) in 2005.~~ **($4,517) in 2006 and four thousand five hundred sixty-three dollars ($4,563) in 2007.**

(3) Determine the product of:

(A) the subdivision (1) amount; multiplied by

(B) the subdivision (2) amount.

STEP TWO: Determine the greater of zero (0) or the result of the following:

(1) Determine the percentage of the school corporation's students who were eligible for free lunches in the school year ending in ~~2003.~~ **2005.**

(2) Determine the quotient of:

(A) ~~one thousand one hundred dollars ($1,100) in 2004 and~~ one thousand two hundred **sixty** dollars ~~($1,200), in 2005;~~ **($1,260);** divided by

(B) ~~four thousand three hundred fifty dollars ($4,350) in 2004 and~~ four thousand ~~three~~ **five** hundred ~~sixty-eight~~ **seventeen** dollars ~~($4,368) in 2005.~~ **($4,517) in 2006 and four thousand five hundred sixty-three dollars ($4,563) in 2007.**

(3) Determine the product of:

(A) the subdivision (1) amount; multiplied by

(B) the subdivision (2) amount.

STEP THREE: Determine the greater of zero (0) or the result of the following:

(1) Determine the percentage of the school corporation's students who were classified as limited English proficient in the school year ending in ~~2003.~~ **2005.**

(2) Determine the quotient of:

(A) ~~three hundred ten dollars ($310) in 2004 and~~ four hundred ~~thirty~~ **fifty-two** dollars ~~($430), in 2005;~~ **($452);** divided by

(B) ~~four thousand three hundred fifty dollars ($4,350) in 2004 and~~ four thousand ~~three~~ **five** hundred ~~sixty-eight~~ **seventeen** dollars ~~($4,368) in 2005.~~ **($4,517) in 2006 and four thousand five hundred sixty-three dollars ($4,563) in 2007.**

(3) Determine the product of:

(A) the subdivision (1) amount; multiplied by

(B) the subdivision (2) amount.

STEP FOUR: Determine the greater of zero (0) or the result of the following:

(1) Determine the percentage of families in the school corporation with a single parent.

(2) Determine the quotient of:

(A) ~~four hundred forty dollars ($440) in 2004 and~~ five hundred ~~thirty~~ **fifty-seven** dollars ~~($530), in 2005;~~ **($557);** divided by

(B) ~~four thousand three hundred fifty dollars ($4,350) in 2004 and~~ four thousand ~~three~~ **five** hundred ~~sixty-eight~~ **seventeen** dollars ~~($4,368) in 2005.~~ **($4,517) in 2006 and four thousand five hundred sixty-three dollars ($4,563) in 2007.**

(3) Determine the product of:

(A) the subdivision (1) amount; multiplied by

(B) the subdivision (2) amount.

STEP FIVE: Determine the greater of zero (0) or the result of the following:

(1) Determine the percentage of families in the school corporation with children who are less than eighteen (18) years of age and who have a family income level below the federal income poverty level (as defined in IC 12-15-2-1).

(2) Determine the quotient of:

(A) ~~two hundred twenty dollars ($220) in 2004 and~~ three hundred ~~thirty~~ **forty-seven** dollars ~~($330), in 2005;~~ **($347);** divided by

(B) ~~four thousand three hundred fifty dollars ($4,350) in 2004 and~~ four thousand ~~three~~ **five** hundred ~~sixty-eight~~ **seventeen** dollars ~~($4,368) in 2005.~~ **($4,517) in 2006 and four thousand five hundred sixty-three dollars ($4,563) in 2007.**

(3) Determine the product of:

(A) the subdivision (1) amount; multiplied by

(B) the subdivision (2) amount.

STEP SIX: Determine the sum of the results in STEPS ONE through FIVE.

STEP SEVEN: Determine the result of one (1) plus the STEP SIX result.

STEP EIGHT: This STEP applies if the STEP SEVEN result is equal to or greater than one and twenty-five hundredths (1.25). Determine the result of the following:

~~(1) Determine the STEP TWO (1) amount for the school corporation.~~

~~(2) Determine the quotient of:~~

~~(A) one hundred fifty dollars ($150), divided by~~

~~(B) four thousand three hundred fifty dollars ($4,350) in 2004 and four thousand three hundred sixty-eight~~

~~dollars ($4,368). in 2005.~~

~~(3) Determine the product of:~~

~~(A) the subdivision (1) amount; multiplied by~~

~~(B) the subdivision (2) amount.~~

~~(4) Determine the STEP FIVE (1) amount for the school corporation.~~

~~(5) Determine the product of:~~

~~(A) the subdivision (4) amount; multiplied by~~

~~(B) the subdivision (2) amount.~~

~~(6) Determine the result of:~~

~~(A) the subdivision (3) result; plus~~

~~(B) the subdivision (5) result.~~

(1) Subtract one and twenty-five hundredths (1.25) from the STEP SEVEN result.

(2) Multiply the subdivision (1) result by five-tenths (0.5).

~~(7)~~ **(3)** Determine the result of:

(A) the STEP SEVEN result; plus

(B) the subdivision ~~(6)~~ **(2)** result.

The data to be used in making the calculations under STEP ONE, STEP FOUR, and STEP FIVE of this subsection must be the data from the 2000 federal decennial census.

~~(c)~~ **(b)** For each charter school, the index used in ~~section (d) or (c)~~ **subsection (c)** is the index determined under subsection (a) ~~or (b)~~ for the school corporation in which the charter school is located. **However, the index used in subsection (c) for Campagna Academy Charter School is the index determined under subsection (a) for Gary Community School Corporation.**

~~(d) This subsection applies to calendar years ending before January 1, 2004. A school corporation's target revenue per ADM for a calendar year is the result determined under STEP SIX of the following formula:~~

~~STEP ONE: Determine the result under clause (B) of the following formula:~~

~~(A) Determine the result of:~~

~~(i) four thousand five hundred sixty dollars ($4,560); multiplied by~~

~~(ii) the index determined for the school corporation under subsection (a) or (c), as applicable.~~

~~(B) Multiply the clause (A) result by the school corporation's adjusted ADM for the current year.~~

~~STEP TWO: Divide the school corporation's previous year revenue by the school corporation's adjusted ADM for the previous year.~~

~~STEP THREE: Multiply the index determined under subsection (a) or (c), as applicable, by the following:~~

~~(A) If the STEP TWO result is not more than four thousand five hundred sixty dollars ($4,560), multiply by ninety dollars ($90).~~

~~(B) If the STEP TWO result is more than four thousand five hundred sixty dollars ($4,560) and not more than five thousand eight hundred twenty-five dollars ($5,825), multiply by the result under clause (C).~~

~~(C) Determine the result of the following:~~

~~(i) The STEP TWO result minus four thousand five hundred sixty dollars ($4,560).~~

~~(ii) Divide the item (i) result by one thousand two hundred sixty-five dollars ($1,265).~~

~~(iii) Multiply the item (ii) result by forty dollars ($40).~~

~~(iv) Subtract the item (iii) result from ninety dollars ($90).~~

~~(D) If the STEP TWO result is more than five thousand eight hundred twenty-five dollars ($5,825), multiply by fifty dollars ($50).~~

~~STEP FOUR: Add the STEP TWO result and the STEP THREE result.~~

~~STEP FIVE: Determine the greatest of the following:~~

~~(A) Multiply the STEP FOUR result by the school corporation's adjusted ADM for the current year.~~

~~(B) Multiply the school corporation's previous year revenue by one and two-hundredths (1.02).~~

~~(C) The STEP ONE amount.~~

~~STEP SIX: Divide the STEP FIVE amount by the school corporation's adjusted ADM for the current year.~~

~~(c) This subsection applies to calendar years beginning after December 31, 2003.~~

(c) A school corporation's target revenue per ADM for a calendar year is the result determined under ~~STEP NINE~~ of the following formula:

STEP ONE: ~~Determine the result under clause (B) of the following formula: (A) Determine the result of: (i) four thousand three hundred fifty dollars ($4,350) in 2004 and~~ **Determine the product of:**

(A) four thousand ~~three~~ **five** hundred ~~sixty-eight~~ **seventeen** dollars ~~($4,368) in 2005.~~ **($4,517) in 2006 and four thousand five hundred sixty-three dollars ($4,563) in 2007**; multiplied by

~~(ii)~~ **(B)** the index determined for the school corporation under subsection ~~(b)~~ **(a)** or ~~(c),~~ **(b),** as applicable.

~~(B) Multiply the clause (A) result by the school corporation's adjusted ADM for the current year.~~

~~STEP TWO: Determine the result under the following formula:~~

~~(A) Determine the quotient of:~~

~~(i) the school corporation's previous year revenue; divided by~~

~~(ii) the school corporation's ADM for the previous year.~~

~~(B) Determine the product of:~~

~~(i) the clause (A) amount; multiplied by~~

~~(ii) one and two-hundredths (1.02).~~

~~(C) Determine the product of:~~

~~(i) the clause (B) amount; multiplied by~~

~~(ii) the school corporation's current ADM.~~

~~STEP THREE: Determine the result under the following formula:~~

~~(A) Determine the product of:~~

~~(i) the STEP TWO clause (A) amount; multiplied by~~

~~(ii) ninety-eight hundredths (0.98).~~

~~(B) Determine the product of:~~

~~(i) the clause (A) amount; multiplied by~~

~~(ii) the school corporation's current ADM.~~

~~STEP FOUR: Determine the lesser of:~~

~~(A) the STEP ONE amount; or~~

~~(B) the STEP TWO amount.~~

~~STEP FIVE: Determine the greater of:~~

~~(A) the STEP THREE amount; or~~

~~(B) the STEP FOUR amount.~~

STEP ~~SIX:~~ **TWO:** Divide the school corporation's previous year revenue by the school corporation's adjusted ADM for the previous year.

~~STEP SEVEN: Determine the product of:~~

~~(A) the STEP SIX result; multiplied by~~

~~(B) the school corporation's current adjusted ADM.~~

~~STEP EIGHT: Determine the greatest of the following:~~

~~(A) The product of~~

~~(i) the school corporation's previous year revenue multiplied by~~

~~(ii) one and one-hundredth (1.01).~~

~~(B) The STEP FIVE amount.~~

~~(C) The STEP SEVEN amount.~~

STEP THREE: Determine the difference of:

(A) the STEP ONE amount; minus

(B) the STEP TWO amount.

STEP FOUR: Divide the STEP THREE result by:

(A) six (6) in 2006; and

(B) five (5) in 2007.

STEP FIVE: A school corporation's STEP FIVE amount is the following:

(A) For a charter school that has previous year revenue that is not greater than zero (0), the charter school's STEP FIVE amount is the quotient of:

(i) the STEP SEVEN amount for the school corporation where the charter school is located; divided by

(ii) the school corporation's current ADM.

(B) The STEP FIVE amount for a school corporation that is not a charter school described in clause (A) is the following:

(i) The school corporation's STEP ONE amount, if the absolute value of the STEP THREE amount is less than or equal to fifty dollars ($50).

(ii) For 2007, the school corporation's STEP ONE amount, if the STEP ONE amount in 2006 equaled the STEP EIGHT amount in 2006.

(iii) The sum of the school corporation's STEP TWO amount and the greater of the school corporation's STEP FOUR amount or fifty dollars ($50), if the school corporation's STEP THREE amount is greater than fifty dollars ($50).

(iv) The difference determined by subtracting the greater of the absolute value of the school corporation's STEP FOUR amount or fifty dollars ($50) from the school corporation's STEP TWO amount, if the school corporation's STEP THREE amount is less than negative fifty dollars (-$50).

STEP SIX: Determine the product of:

(A) the STEP FIVE amount; multiplied by

(B) the school corporation's current adjusted ADM.

STEP SEVEN: Determine the greater of the following:

(A) The school corporation's STEP SIX amount.

(B) The amount determined under item (iii) of the following formula:

(i) Divide the school corporation's previous year revenue by the school corporation's previous year ADM.

(ii) Multiply the item (i) result by ninety-nine hundredths (0.99).

(iii) Multiply the item (ii) amount by the school corporation's current ADM.

STEP ~~NINE:~~ **EIGHT:** Determine the quotient of:

(A) the STEP ~~EIGHT~~ **SEVEN** amount; divided by

(B) the school corporation's current adjusted ADM.

SECTION 197. IC 21-3-1.7-6.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 6.8. (a) This section does not apply to a charter school.

~~(b) This subsection does not apply after December 31, 2003. A school corporation's target general fund property tax rate for purposes of IC 6-1.1-19-1.5 is the result determined under STEP THREE of the following formula:~~

~~STEP ONE: This STEP applies only if the amount determined in STEP FIVE of the formula in section 6.7(d) of this chapter minus the result determined in STEP ONE of the formula in section 6.7(d) of this chapter is greater than zero (0). Determine the result under clause (E) of the following formula:~~

~~(A) Divide the school corporation's 2002 assessed valuation by the school corporation's current ADM.~~

~~(B) Divide the clause (A) result by ten thousand (10,000).~~

~~(C) Determine the greater of the following:~~

~~(i) The clause (B) result.~~

~~(ii) Thirty-nine dollars ($39) in 2002 and thirty-nine dollars and seventy-five cents ($39.75) in 2003.~~

~~(D) Determine the result determined under item (ii) of the following formula:~~

~~(i) Subtract the result determined in STEP ONE of the formula in section 6.7(d) of this chapter from the amount determined in STEP FIVE of the formula in section 6.7(d) of this chapter.~~

~~(ii) Divide the item (i) result by the school corporation's current ADM.~~

~~(E) Divide the clause (D) result by the clause (C) result.~~

~~(F) Divide the clause (E) result by one hundred (100).~~

~~STEP TWO: This STEP applies only if the amount determined in STEP FIVE of the formula in section 6.7(d) of this chapter is equal to STEP ONE of the formula in section 6.7(d) of this chapter and the result of clause (A) is greater than zero (0). Determine the result under clause (G) of the following formula:~~

~~(A) Add the following:~~

~~(i) An amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.~~

(ii) The portion of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility during the preceding year.

(B) Divide the clause (A) result by the school corporation's current ADM.

(C) Divide the school corporation's 2002 assessed valuation by the school corporation's current ADM.

(D) Divide the clause (C) result by ten thousand (10,000).

(E) Determine the greater of the following:

(i) The clause (D) result.

(ii) Thirty-nine dollars ($39) in 2002 and thirty-nine dollars and seventy-five cents ($39.75) in 2003.

(F) Divide the clause (B) result by the clause (E) amount.

(G) Divide the clause (F) result by one hundred (100).

STEP THREE: Determine the sum of:

(A) ninety-one and eight-tenths cents ($0.918) in 2002; and

(B) ninety-five and eight-tenths cents ($0.958) in 2003; and

if applicable, the STEP ONE or STEP TWO result.

(c) This subsection applies to calendar years beginning after December 31, 2004.

(b) A school corporation's target general fund property tax rate for purposes of IC 6-1.1-19-1.5 is the result determined under STEP FOUR of the following formula:

STEP ONE: Determine **the product of:**

(A) the amount determined for the school corporation in STEP ONE of the formula in section 6.7(c) **6.7(c)** of this chapter; **multiplied by**

(B) the school corporation's adjusted ADM for the current year.

STEP TWO: This STEP applies only if the amount determined in STEP EIGHT **SEVEN** of the formula in section 6.7(c) **6.7(c)** of this chapter minus **is not equal to** the STEP ONE result. is greater than zero (0). Determine the result under clause (E) **(F)** of the following formula:

(A) Divide the school corporation's assessed valuation by the school corporation's current ADM.

(B) Divide the clause (A) result by ten thousand (10,000).

(C) Determine the greater of the following:

(i) The clause (B) result.

(ii) Forty-three **Thirty-six** dollars and sixty-five **thirty** cents ($43.65). **($36.30).**

(D) Determine the result determined under item (ii) of the following formula:

(i) Subtract the STEP ONE result from the amount determined in STEP EIGHT **SEVEN** of the formula in section 6.7(c) **6.7(c)** of this chapter.

(ii) Divide the item (i) result by the school corporation's current ADM.

(E) Divide the clause (D) result by the clause (C) result.

(F) Divide the clause (E) result by one hundred (100).

STEP THREE: This STEP applies only if the amount determined in STEP EIGHT **SEVEN** of the formula in section 6.7(c) **6.7(c)** of this chapter is equal to the STEP ONE result and the result of clause (A) is greater than zero (0). Determine the result under clause (G) of the following formula:

(A) Add the following:

(i) An amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

(ii) The part of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility during the preceding year.

(B) Divide the clause (A) result by the school corporation's current ADM.

(C) Divide the school corporation's assessed valuation by the school corporation's current ADM.

(D) Divide the clause (C) result by ten thousand (10,000).

(E) Determine the greater of the following:

(i) The clause (D) result.

(ii) Forty-three **Thirty-six** dollars and sixty-five **thirty** cents ($43.65). **($36.30).**

(F) Divide the clause (B) result by the clause (E) amount.

(G) Divide the clause (F) result by one hundred (100).

STEP FOUR: **This STEP applies to all school corporations.** Determine the sum of:

(A) sixty-three **seventy-two** and seven-tenths cents ($0.637) **($0.72) in 2006 and seventy-two and ninety-two hundredths cents ($0.7292) in 2007;** and, **plus**

(B) if applicable, the STEP TWO or STEP THREE result.

(d) For the calendar year beginning January 1, 2004, and ending December 31, 2004, a school corporation's general fund ad valorem property tax levy is determined under IC 6-1.1-19-1.5(f).

SECTION 198. IC 21-3-1.7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. If a computation under this chapter results in a fraction and a rounding rule is not specified, the fraction shall be rounded as follows:

(1) If it is a **All** tax rate calculation, **rates shall be computed by rounding the rate** to the nearest one-hundredth of a cent ($0.0001).

(2) If it is a **All tax levies shall be computed by rounding the levy to the nearest dollar amount ($1).**

(3) All tuition support calculation **distributions shall be computed by rounding the tuition support distribution** to the nearest cent ($0.01).

(3) **(4)** If it is a calculation **is** not covered by subdivision (1), or (2), **or (3), the result of the calculation shall be rounded** to the nearest ten-thousandth (.0001).

SECTION 199. IC 21-3-1.7-8.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 8.2. (a) As used in this section, "transfer amount" means the product of:

(1) a school corporation's assessed valuation for calendar year 2002 divided by one hundred (100), multiplied by

(2) the lesser of:

(A) three hundred twenty-eight ten-thousandths (0.0328); or

(B) the school corporation's capital projects fund tax rate for calendar year 2002 multiplied by five-tenths (0.5).

(b) This subsection applies to calendar years ending before January 1, 2004. Notwithstanding IC 21-3-1.6 and subject to section 9 of this chapter, the state distribution for a calendar year for tuition support for basic programs for each school corporation equals the result determined using the following formula:

STEP ONE:

~~(A) For a school corporation not described in clause (B), determine the school corporation's result under STEP FIVE of section 6.7(d) of this chapter for the calendar year.~~

~~(B) For a school corporation that has target revenue per adjusted ADM for a calendar year that is equal to the amount under STEP ONE (A) of section 6.7(d) of this chapter, determine the sum of:~~

~~(i) the school corporation's result under STEP ONE of section 6.7(d) of this chapter for the calendar year; plus~~

~~(ii) the amount of the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years; plus~~

~~(iii) the part of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility during the preceding year.~~

~~STEP TWO. Determine the sum of:~~

~~(A) the school corporation's tuition support levy;~~

~~(B) the school corporation's excise tax revenue for the year that precedes the current year by one (1) year;~~

~~(C) for the last six (6) months of calendar year 2002, the school corporation's transfer amount; plus~~

~~(D) for the first six (6) months of calendar year 2003, the school corporation's transfer amount.~~

~~The amount determined under this STEP for a charter school is zero (0).~~

~~STEP THREE. Determine the difference between:~~

~~(A) the STEP ONE amount; minus~~

~~(B) the applicable STEP TWO or STEP THREE amount.~~

~~(c) This subsection applies to calendar years beginning after December 31, 2003.~~ **(a)** Notwithstanding IC 21-3-1.6 and subject to section 9 of this chapter, the state distribution for a calendar year for tuition support for basic programs for each school corporation equals the result determined using the following formula:

STEP ONE: **For a:**

(A) ~~For a~~ school corporation not described in clause (B), determine the school corporation's result under STEP ~~EIGHT~~ **SEVEN** of section ~~6.7(c)~~ **6.7(c)** of this chapter for the calendar year; **and**

(B) ~~For a~~ school corporation that has target revenue per adjusted ADM for a calendar year that is equal to the amount under ~~STEP ONE (A) of~~ section ~~6.7(c)~~ **6.7(c) STEP ONE** of this chapter, determine the sum of:

(i) the school corporation's result under ~~STEP ONE of~~ section ~~6.7(c)~~ **6.7(c) STEP ONE** of this chapter for the calendar year **multiplied by the school corporation's adjusted ADM for the current year;** plus

(ii) the amount of the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years; plus

(iii) the part of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility **or reopening an existing facility** during the preceding year.

STEP TWO: This STEP applies to a school corporation that is not a charter school. Determine the sum of:

(A) the school corporation's tuition support levy; plus

(B) the school corporation's excise tax revenue for the year that precedes the current year by one (1) year.

STEP THREE: This STEP applies to a charter school. Determine the product of:

(A) the amount determined under ~~STEP EIGHT of~~ section ~~6.7(c)~~ **6.7(c) STEP SEVEN** of this chapter for the charter school; multiplied by

(B) thirty-five hundredths (0.35).

STEP FOUR: Determine the difference between:

(A) the STEP ONE amount; minus

(B) the STEP TWO or STEP THREE amount, as applicable.

~~(d)~~ **(b)** If the state tuition support determined for a school corporation under this section is negative, the school corporation is not entitled to any state tuition support. In addition, the school corporation's maximum general fund levy under IC 6-1.1-19-1.5 shall be reduced by the amount of the negative result.

SECTION 200. IC 21-3-1.7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 9. (a) Subject to the amount appropriated by the general assembly for tuition support, the amount that a school corporation is entitled to receive in tuition support for a year is the amount determined in section 8.2 of this chapter.

(b) If the total amount to be distributed as tuition support under this chapter, **in 2005** for enrollment adjustment grants under section 9.5 of this chapter ~~for at-risk programs under section 9.7 of this chapter,~~ **(before its repeal),** for academic honors diploma awards under section 9.8 of this chapter, **in 2005** for supplemental remediation grants under section 9.9 of this chapter **(before its repeal),** for primetime distributions under IC 21-1-30, for special education grants under IC 21-3-2.1, and for vocational education grants under IC 21-3-12 for a particular year, exceeds:

~~(1) three billion five hundred eighty million dollars ($3,580,000,000) in 2003;~~

~~(2) three billion six hundred seventy-six million dollars ($3,676,000,000) in 2004; and~~

~~(3)~~ **(1)** three billion seven hundred ~~twenty-one~~ **fifty-nine** million **three hundred thousand** dollars ~~($3,721,000,000)~~ **($3,759,300,000)** in 2005;

(2) three billion seven hundred fifty-four million seven hundred thousand dollars ($3,754,700,000) in 2006; and

(3) three billion seven hundred forty-seven million two hundred thousand dollars ($3,747,200,000) in 2007;

the amount to be distributed for tuition support under this chapter to each school corporation during each of the last six (6) months of the year shall be **proportionately** reduced ~~by the same dollar amount per ADM (as adjusted by IC 21-3-1.6-1.1)~~ so that the total

reductions equal the amount of the excess. **The amount of the reduction for a particular school corporation is equal to the total amount of the excess multiplied by a fraction. The numerator of the fraction is the amount of the distribution for tuition support that the school corporation would have received if a reduction were not made under this section. The denominator of the fraction is the total amount that would be distributed for tuition support to all school corporations if a reduction were not made under this section.**

SECTION 201. IC 21-3-1.7-9.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 9.8. (a) In addition to the distributions under ~~sections~~ **section** 8.2 ~~9.5, 9.7, and 9.9~~ of this chapter, a school corporation is eligible for an honors diploma award in the amount determined under STEP TWO of the following formula:

STEP ONE: Determine the number of the school corporation's eligible pupils who successfully completed an academic honors diploma program in the school year ending in the previous calendar year.

STEP TWO: Multiply the STEP ONE amount by nine hundred ~~sixty-three~~ dollars ~~($963).~~ **($900).**

~~(b) Each year the governing body of a school corporation may use the money that the school corporation receives for an honors diploma award under this section to give nine hundred sixty-three dollars ($963) to each eligible pupil in the school corporation who successfully completes an academic honors diploma program in the school year ending in the previous calendar year.~~

(b) An amount received by a school corporation as an honors diploma award may be used only for:

(1) any:

(A) staff training;

(B) program development;

(C) equipment and supply expenditures; or

(D) other expenses;

directly related to the school corporation's academic honors diploma program; and

(2) the school corporation's program for high ability students.

(c) A governing body that does not comply with this section for a school year is not eligible to receive an award under this section for the following school year.

SECTION 202. IC 21-3-1.7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. This chapter expires January 1, ~~2006.~~ **2008.**

SECTION 203. IC 21-3-2.1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. This chapter expires January 1, ~~2006.~~ **2008.**

SECTION 204. IC 21-3-12-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. This chapter expires January 1, ~~2006.~~ **2008.**

SECTION 205. IC 21-6.1-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The board shall segregate the fund into the following accounts:

(1) The pre-1996 account.

(2) The 1996 account.

(b) The board shall segregate each of the accounts established under subsection (a) into the following subaccounts:

(1) The annuity savings account.

(2) The retirement allowance account.

(c) Except as provided in subsection (d), member contributions shall be credited to the annuity savings accounts within the pre-1996 account.

(d) Member contributions made after June 30, 1995, with respect to the following members shall be credited to the annuity savings account within the 1996 account:

(1) ~~A~~ **An individual who first became a** member ~~who was hired~~ **of the fund** after June 30, 1995. ~~by a school corporation or other institution covered by the fund.~~

(2) A member who:

(A) before July 1, 1995, served in a position covered by the fund; and

(B) after June 30, 1995, and before July 1, ~~2001,~~ **2005,** was hired by another school corporation or institution covered by the fund or rehired by a prior employer.

(3) A member described in subdivision (2) who, after June 30, ~~2001,~~ **2005,** is hired by another school corporation or institution covered by the fund or rehired by a prior employer.

(e) Member contributions made to the pre-1996 account with respect to a member covered by subsection (d) shall be transferred to the annuity savings account within the 1996 account.

(f) Employer contributions made after June 30, 1995, with respect to members described in subsection (d) shall be credited to the retirement allowance account within the 1996 account. Employer contributions made after June 30, 1995, with respect to all other members shall be credited to the retirement allowance account within the pre-1996 account.

~~(g) Employer contributions, if any (as determined by the board), made to the pre-1996 account with respect to a member covered by subsection (d) shall be transferred to the retirement allowance account within the 1996 account.~~

~~(h)~~ **(g)** The board shall administer these accounts and subaccounts as specified in IC 5-10.2-2.

SECTION 206. IC 21-6.1-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The general assembly shall appropriate from the state general fund an amount that is sufficient to cover the state's actuarial liability for each member covered by the pre-1996 account and for each state employee covered by the 1996 account. The board may reduce this liability by the amount of interest earned on the deposits in the fund. This liability is determined by the actuarial investigation prescribed in IC 5-10.2-2-9. **The actuarial investigation and the board shall include in the determination of the liability, contribution rate, and appropriation the amount necessary to fully fund any past and estimated future cost of living increases for members of the pre-1996 account and the 1996 account, amortized over thirty (30) years. The actuary shall consult with the budget agency in making this determination.** The board shall prepare its budget

based on this investigation and for other specified expenditures and shall submit it to the governor or to another officer or committee authorized by law to recommend the necessary appropriation.

(b) Each school corporation shall contribute to the 1996 account as specified in IC 21-6.1-7.

(c) If members receive compensation from federal funds, the board shall at the end of each fiscal year determine the employer's contribution, excluding administration expenses, to be paid from federal funds. The amount shall be determined by such method adopted by the board as results in an equitable sharing of the employer contribution by the federal government on account of members receiving compensation from federal funds.

SECTION 207. IC 21-6.1-4-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.1. (a) This subsection applies to members who retire before July 1, 1980. A member who had completed four (4) years of approved college teacher ~~training~~ **education** before voluntary or involuntary induction into the military services is entitled to credit for that service as if the member had begun teaching before the induction. A member who serves in military service is considered a teacher and is entitled to the benefits of the fund if for or during the leave of absence the member pays into the fund the member's contributions. Time served by a member in military service for the duration of the hostilities or for the length of active service in the hostilities and the necessary demobilization time after the hostilities is not subject to the one-seventh rule specified in section 5 of this chapter.

(b) This subsection applies to members who retire after June 30, 1980. A member who had completed four (4) years of approved college teacher ~~training~~ **education** before voluntary or involuntary induction into military service is entitled to credit for the member's active military service as if the member had begun teaching before the induction. A member who serves in military service is considered a teacher and is entitled to the benefits of the fund if:

(1) the member has an honorable discharge; and

(2) except as provided in subsection (f), the member returns to active teaching service within eighteen (18) months after the completion of active military service.

The time served by a member in military service for the duration of the hostilities or for the length of active service in the hostilities and the necessary demobilization time after the hostilities is not subject to the one-seventh rule specified in section 5 of this chapter. However, not more than six (6) years of military service credit may be granted under this subsection. In order to be eligible for any military service credit under this subsection, a member must have at least ten (10) years of in-state service credit.

(c) This subsection applies to members who retire after May 1, 1989. A member who had begun but had not completed four (4) years of approved college teacher ~~training~~ **education** before voluntary or involuntary induction into the military services is entitled to service credit in an amount equal to the duration of the member's active military service if the following conditions are met:

(1) The member has an honorable discharge.

(2) Except as provided in subsection (f), the member returns to a four (4) year approved college teacher training program within eighteen (18) months after the completion of active military service and subsequently completes that program.

(3) The member has at least ten (10) years of in-state service credit.

(d) This subsection applies to members who retire after May 1, 1991, and who are employed at state institutions of higher education. A member who had begun but had not completed baccalaureate or post-baccalaureate ~~training~~ **education** before voluntary or involuntary induction into military service is entitled to the member's active military service credit for the member's active military service in an amount equal to the duration of the member's military service if the following conditions are met:

(1) The member received an honorable discharge.

(2) Except as provided in subsection (f), the member returns to baccalaureate or post-baccalaureate ~~training~~ **education** within eighteen (18) months after completion of active military service and subsequently completes that ~~training.~~ **education.**

(3) The member has at least ten (10) years of in-state service credit.

(e) The maximum amount of service credit that may be granted to a member who meets the conditions of subsection (c), or (d) is six (6) years. However, for purposes of subsection (c), or (d), the time served by the member in active military service for the length of active service in hostilities and necessary demobilization is not subject to the one-seventh rule specified in section 5 of this chapter.

(f) The board shall extend the eighteen (18) month deadline contained in subsection (b)(2), (c)(2), or (d)(2) if the board determines that an illness, an injury, or a disability related to the member's military service prevented the member from returning to active teaching service or to a teacher ~~training~~ **education** program within eighteen (18) months 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.

(g) 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 (f), 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.

(h) Notwithstanding any provision of this section, a member is entitled to military 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.), including all later amendments.

(i) 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) 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.

(j) The following apply to the purchase of service credit under subsection (i):

(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 208. IC 23-13-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) Should for any cause any action of the board of directors or trustees of a corporation be invalid or ineffective in whole or in part as and for a cancellation or retirement of capital stock as provided in this chapter, then the entire act of cancellation or retirement as to all other stock shall be held null and void. If at any time after the transfer of any stock to the corporation or to the trustees or directors it becomes no longer possible for the corporation to operate the university, college, or institution of learning as a university, college, or institution of learning, and the fact is found to exist by the board of trustees or directors, the property and assets of the corporation vest in and belong absolutely to the local public school corporation within whose territorial limits the college, university, or institution of learning is situated unless the local public school corporation elects to refuse to accept the property and assets in writing served upon the board of trustees or an officer thereof within one hundred twenty (120) days. If the local public school corporation elects to refuse to accept the property and assets, then the property and assets of the corporation vest in and belong absolutely to the county within whose territorial limits the college, university, or institution of learning is situated unless the county, acting by its legislative body, elects to refuse to accept the property and assets in writing served upon the board of trustees or an officer within one hundred twenty (120) days. If the county refuses to accept the property and assets, the property and assets vest in and belong absolutely to the ~~common school~~ **state general** fund. ~~of the state of Indiana.~~ If the university, college, or institution of learning is situated in a school township, the election shall be made by the township executive with the approval of the township legislative body. If situated in a school city or town corporation, the election shall be made by the school board of the municipality.

(b) The local school corporation receiving the property or assets is responsible for the payment of the lawful debts and liabilities of the corporation. For the purpose of raising funds to pay the debts and liabilities, the township executive, with the concurrence and sanction of the township legislative body, or the city or town school board, as the case may be, is authorized and empowered to issue and sell bonds of the school township, school city, or school town. The debt created by the bonds, together with all other indebtedness of the school corporation, may not exceed two percent (2%) of the adjusted value of the taxable property within the school corporation as determined under IC 36-1-15. If the building or property of the corporation vested in the school corporation is suitable for instructing students of the township in the arts of agriculture, domestic science, or physical or practical mental culture, and in which to hold school or civic entertainments or be used for township, town, or city purposes, then the township executive, with the concurrence and sanction of the township, city, or town legislative body, as the case may be, is authorized and empowered to issue and sell bonds of the civil township, city, or town, as the case may be, and apply the proceeds to the payment of the debts and liabilities of the corporation. The proceeds of the bonds, together with all other indebtedness of the civil township, city, or town, may not exceed two percent (2%) of the adjusted value of the taxable property within the civil township, city, or town, as determined under IC 36-1-15. If the county receives the property, it is authorized to issue its general obligation bonds to pay the debts and liabilities as general obligation bonds of counties are issued under the general law. Unless the school and civil townships and school and civil cities and towns can liquidate the debts and liabilities

without violating Article 13, Section 1 of the Constitution of the State of Indiana and IC 36-1-15, they shall elect to refuse to accept the property. Unless the county can liquidate the debts and liabilities without violating the constitutional provision, it shall elect to refuse the property. If a civil township, city, or town uses its funds or the proceeds of the sale of its bonds to liquidate the debts and liabilities, it shall have an interest in the property in the proportion the funds expended by it bear to the funds expended by the school township, school city, or school town.

(c) Any bonds issued under this chapter shall be payable in not more than twenty (20) years after the date of their issuance. The municipal corporation issuing the bonds shall annually levy a tax on all of the taxable property within the municipal corporation in an amount sufficient to pay the interest on and the principal of such bonds as they mature. The bonds may mature and be payable either semiannually or annually. Notice of sale of the bonds shall be published once each week for two (2) weeks in a newspaper published in the municipal corporation issuing the bonds, or in a newspaper published in the county seat of the county in which the municipal corporation is located. Additional notices may be published.

(d) If the corporation ceases to exist or winds up its affairs without its board of trustees or directors finding that it is no longer possible for the corporation to operate the university, college, or institution of learning as a university, college, or institution of learning, this shall have the same effect as such a finding.

SECTION 209. IC 24-9-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. On or before June 30 and December 31 of each year the auditor of state shall distribute one dollar and twenty-five cents ($1.25) of the mortgage recording fee to the ~~home ownership education account established by IC 4-4-3-23~~ **state general fund** and one dollar and twenty-five cents ($1.25) of the mortgage recording fee to the homeowner protection unit account established by IC 4-6-12-9.

SECTION 210. IC 25-1-1.2-2, AS AMENDED BY HEA 1288-2005, SECTION 191, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this chapter, "board" means an entity that regulates occupations or professions under this title and the ~~professional standards board~~ **department of education** as established by ~~IC 20-28-2-1.~~ **IC 20-19-3-1.**

SECTION 211. IC 25-33-1-3, AS AMENDED BY HEA 1288-2005, SECTION 196, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) There is created a board to be known as the "state psychology board". The board shall consist of seven (7) members appointed by the governor. Six (6) of the board members shall be licensed under this article and shall have had at least five (5) years of experience as a professional psychologist prior to their appointment. The seventh member shall be appointed to represent the general public, must be a resident of this state, must never have been credentialed in a mental health profession, and must in no way be associated with the profession of psychology other than as a consumer. All members shall be appointed for a term of three (3) years. All members may serve until their successors are duly appointed and qualified. A vacancy occurring on the board shall be filled by the governor by appointment. The member so appointed shall serve for the unexpired term of the vacating member. Each member of the board 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 **Indiana** department of administration and approved by the state budget agency.

(b) The members of the board shall organize by the election of a chairman and a vice chairman from among its membership. Such officers shall serve for a term of one (1) year. The board shall meet at least once in each calendar year and on such other occasions as it considers necessary and advisable. A meeting of the board may be called by its chairman or by a majority of the members on the board. Four (4) members of the board constitute a quorum. A majority of the quorum may transact business.

(c) The board is empowered to do the following:

(1) Establish reasonable application, examination, and renewal procedures and set fees for licensure under this article. However, no fee collected under this article shall, under any circumstances, be refunded.

(2) Adopt and enforce rules concerning assessment of costs in disciplinary proceedings before the board.

(3) Establish examinations of applicants for licensure under this article and issue, deny, suspend, revoke, and renew licenses.

(4) Subject to IC 25-1-7, investigate and conduct hearings, upon complaint against individuals licensed or not licensed under this article, concerning alleged violation of this article, under procedures conducted in accordance with IC 4-21.5.

(5) Initiate the prosecution and enjoinder of any person violating this article.

(6) Adopt rules which are necessary for the proper performance of its duties, in accordance with IC 4-22-2.

(7) Establish a code of professional conduct.

(d) The board shall adopt rules establishing standards for the competent practice of psychology.

(e) All expenses incurred in the administration of this article shall be paid from the general fund upon appropriation being made in the manner provided by law for the making of such appropriations.

(f) The bureau shall do the following:

(1) Carry out the administrative functions of the board.

(2) Provide necessary personnel to carry out the duties of this article.

(3) Receive and account for all fees required under this article.

(4) Deposit fees collected with the treasurer of ~~the~~ state for deposit in the state general fund.

(g) The board shall adopt rules under IC 4-22-2 to establish, maintain, and update a list of restricted psychology tests and instruments (as defined in section 14(b) of this chapter) containing those psychology tests and instruments that, because of their design

or complexity, create a danger to the public by being improperly administered and interpreted by an individual other than:

(1) a psychologist licensed under IC 25-33-1-5.1;

(2) an appropriately trained mental health provider under the direct supervision of a health service provider endorsed under IC 25-33-1-5.1(c);

(3) a qualified physician licensed under IC 25-22.5;

(4) a school psychologist who holds a valid:

(A) license issued by the ~~professional standards board~~ **department of education** under IC 20-28-2; or

(B) endorsement under IC 20-20-28-12;

practicing within the scope of the school psychologist's license or endorsement; or

(5) a minister, priest, rabbi, or other member of the clergy providing pastoral counseling or other assistance.

(h) The board shall provide to:

(1) the social work certification and marriage and family therapists credentialing board; and

(2) any other interested party upon receiving the request of the interested party;

a list of the names of tests and instruments proposed for inclusion on the list of restricted psychological tests and instruments under subsection (g) at least sixty (60) days before publishing notice of intent under IC 4-22-2-23 to adopt a rule regarding restricted tests and instruments.

(i) The social work certification and marriage and family therapists credentialing board and any other interested party that receives the list under subsection (h) may offer written comments or objections regarding a test or instrument proposed for inclusion on the list of restricted tests and instruments within sixty (60) days after receiving the list. If:

(1) the comments or objections provide evidence indicating that a proposed test or instrument does not meet the criteria established for restricted tests and instruments, the board may delete that test from the list of restricted tests; and

(2) the board determines that a proposed test or instrument meets the criteria for restriction after reviewing objections to the test or instrument, the board shall respond in writing to justify its decision to include the proposed test or instrument on the list of restricted tests and instruments.

(j) This section may not be interpreted to prevent a licensed or certified health care professional from practicing within the scope of the health care professional's:

(1) license or certification; and

(2) training or credentials.

SECTION 212. IC 25-33-1-14, AS AMENDED BY HEA 1288-2005, SECTION 197, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) This section does not apply to an individual who is:

(1) a member of a teaching faculty, at a public or private institution of higher learning for the purpose of teaching, research, or the exchange or dissemination of information and ideas as an assigned duty of the institution;

(2) a commissioned psychology officer in the regular United States armed services;

(3) licensed by the ~~professional standards board~~ **department of education** (established by ~~IC 20-28-2)~~ **IC 20-19-3-1)** as a school psychologist and using the title "school psychologist" or "school psychometrist" as an employee of a school corporation; or

(4) endorsed as an independent practice school psychologist under IC 20-28-12.

(b) As used in this section, "restricted psychology test or instrument" means a measurement instrument or device used for treatment planning, diagnosing, or classifying intelligence, mental and emotional disorders and disabilities, disorders of personality, or neuropsychological, neurocognitive, or cognitive functioning. The term does not apply to an educational instrument used in a school setting to assess educational progress or an appraisal instrument.

(c) It is unlawful for an individual to:

(1) claim that the individual is a psychologist; or

(2) use any title which uses the word "psychologist", "clinical psychologist", "Indiana endorsed school psychologist", or "psychometrist", or any variant of these words, such as "psychology", or "psychological", or "psychologic";

unless that individual holds a valid license issued under this article or a valid endorsement issued under IC 20-28-12.

(d) It is unlawful for any individual, regardless of title, to render, or offer to render, psychological services to individuals, organizations, or to the public, unless the individual holds a valid license issued under this article or a valid endorsement issued under IC 20-28-12 or is exempted under section 1.1 of this chapter.

(e) It is unlawful for an individual, other than:

(1) a psychologist licensed under IC 25-33-1-5.1;

(2) an appropriately trained mental health provider under the direct supervision of a health service provider endorsed under IC 25-33-1-5.1(c);

(3) a qualified physician licensed under IC 25-22.5;

(4) a school psychologist who holds a valid:

(A) license issued by the ~~professional standards board~~ **department of education** under IC 20-28-2; or

(B) endorsement under IC 20-28-12;

who practices within the scope of the school psychologist's license or endorsement; or

(5) a minister, priest, rabbi, or other member of the clergy providing pastoral counseling or other assistance;

to administer or interpret a restricted psychology test or instrument as established by the board under ~~IC 25-33-1-3(g)~~ **section 3(g) of this chapter** in the course of rendering psychological services to individuals, organizations, or to the public.

(f) This section may not be interpreted to prevent a licensed or certified health care professional from practicing within the scope of the health care professional's:

(1) license or certification; and

(2) training or credentials.

SECTION 213. IC 29-1-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. **(a) Except as provided in subsection (b),** the right of election of the surviving

spouse is personal to the spouse. It is not transferable and cannot be exercised subsequent to the spouse's death. A person with a valid power of attorney for the surviving spouse may elect for the spouse if the power of attorney has general authority with respect to estates as provided in IC 30-5-5-15(a)(4). If the surviving spouse is a protected person, the court may order the guardian of the spouse's estate to elect for the spouse.

(b) The spousal election may be exercised subsequent to the spouse's death under the following circumstances:

(1) The surviving spouse died before the election could be made.

(2) The election is being made to recover Medicaid benefits that were paid on behalf of the deceased surviving spouse.

The office of Medicaid policy and planning may exercise the right of election under this subsection. The spousal election is only enforceable up to the amount of Medicaid benefits that were received and the amount may only be distributed to the office of Medicaid policy and planning.

SECTION 214. IC 31-33-1.5-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5.5. (a) This section applies after June 30, 2008.**

(b) A child protection caseworker or a child welfare caseworker may not be assigned work that exceeds the following maximum caseload levels at any time:

(1) For caseworkers assigned only initial assessments, including investigations of an allegation of child abuse or neglect, twelve (12) active cases per month per caseworker.

(2) For caseworkers assigned only ongoing cases, seventeen (17) active children per caseworker.

(3) For caseworkers assigned a combination of initial assessments, including investigations of an allegation of child abuse or neglect, and ongoing cases under subdivisions (1) and (2), four (4) investigations and ten (10) active ongoing cases per caseworker.

(c) The department of child services shall comply with the maximum caseload ratios described in subsection (b).

SECTION 215. IC 31-33-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. **(a)** The ~~local child protection service.~~ **department of child services:**

(1) must have sufficient qualified and trained staff to fulfill the purpose of this article;

(2) must be organized to maximize the continuity of responsibility, care, and service of individual caseworkers toward individual children and families;

(3) must provide training to representatives of the child protective services system regarding the legal duties of the representatives, which may consist of various methods of informing the representatives of their duties, in order to protect the legal rights and safety of children and families from the initial time of contact during the investigation through treatment; and

(4) must provide training to representatives of the child protective services system regarding the constitutional rights of the child's family, including a child's guardian or custodian, that is the subject of an investigation of child abuse or neglect consistent with the Fourth Amendment to the United States Constitution and Article I, Section 11 of the Constitution of the State of Indiana.

(b) This section expires June 30, 2008.

SECTION 216. IC 31-33-2-2.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2.1. (a) This section applies after June 30, 2008.**

(b) The department of child services:

(1) must have sufficient qualified and trained staff to:

(A) fulfill the purpose of this article; and

(B) comply with the maximum caseload ratios for:

(i) child protection caseworkers; and

(ii) child welfare caseworkers;

set forth in IC 31-33-1.5-5.5;

(2) must be organized to maximize the continuity of responsibility, care, and service of individual caseworkers toward individual children and families;

(3) must provide training to representatives of the child protective services system regarding the legal duties of the representatives, which may consist of various methods of informing the representatives of their duties, in order to protect the legal rights and safety of children and families from the initial time of contact during the investigation through treatment; and

(4) must provide training to representatives of the child protective services system regarding the constitutional rights of the child's family, including a child's guardian or custodian, that is the subject of an investigation of child abuse or neglect consistent with the Fourth Amendment to the United States Constitution and Article I, Section 11 of the Constitution of the State of Indiana.

SECTION 217. IC 32-34-1-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004 (RETROACTIVE)]: Sec. 34. (a) Except as provided in section 42(d) of this chapter, the treasurer of state shall, on order of the attorney general, pay the necessary costs of the following:

(1) Selling abandoned property.

(2) Mailing notices.

(3) Making publications required by this chapter.

(4) Paying other operating expenses and administrative expenses, including:

(A) salaries and wages reasonably incurred by the attorney general in the administration and enforcement of this chapter; and

(B) costs incurred in examining records of the holders of property and in collecting the property from the holders.

(b) If the balance of the principal of the abandoned property fund established by section 33 of this chapter exceeds five hundred thousand dollars ($500,000), the treasurer of state may, and at least

once each fiscal year shall, transfer to the ~~common school~~ **state general** fund ~~of the state~~ the balance of the principal of the abandoned property fund that exceeds five hundred thousand dollars ($500,000).

(c) If a claim is allowed or a refund is ordered under this chapter that is more than five hundred thousand dollars ($500,000), the treasurer of state shall transfer from the state general fund sufficient money to make prompt payment of the claim. There is annually appropriated to the treasurer of state from the state general fund the amount of money sufficient to implement this subsection.

(d) Before making a deposit into the abandoned property fund, the attorney general shall record the following:

(1) The name and last known address of each person appearing from the holder's reports to be entitled to the abandoned property.

(2) The name and last known address of each insured person or annuitant.

(3) The number, the name of the corporation, and the amount due concerning any policy or contract listed in the report of a life insurance company.

(e) Except as provided in subsection (f), earnings on the property custody fund and the abandoned property fund shall be credited to each fund.

(f) On July 1 of each year, the interest balance in the property custody fund established by section 32 of this chapter and the interest balance in the abandoned property fund shall be transferred to the state general fund.

SECTION 218. IC 32-34-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) If a sum of money remains in the abandoned property fund for at least five (5) years after the date the money is deposited in the fund under section 2(d) of this chapter without any order directing the return of the money:

(1) title to the sum vests in and escheats to the state; and

(2) the sum shall be ~~distributed as part of the common school~~ **deposited in the state general** fund.

(b) Any claimant who does not file an application with the court within five (5) years after the sum is deposited in the unclaimed funds account is barred from asserting a claim.

SECTION 219. IC 32-34-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A person who finds and secures any boats, fleets of timber, rafts, platforms, sawlogs, or other logs or trees prepared for the purpose of sale, or any cross or railroad ties, boards, planks, staves, heading, or other timber prepared for market that is the property of another and that is found adrift in the waters of Indiana without a boom or other arrangement provided by the owner to preserve the logs or timber below the point at which they are found, whether the logs or timber have a brand or not, is entitled to receive from the owner the following compensation:

(1) For each freight boat or other heavy boat, two dollars ($2) per ton for all cargo.

(2) For each jack-boat, skiff, or canoe, one dollar ($1).

(3) For each fleet of timber, fifty dollars ($50).

(4) For each raft of not less than forty (40) logs, fifteen dollars ($15).

(5) For each platform of at least ten (10) logs, four dollars ($4).

(6) For each sawlog or other log or tree prepared for sale, fifty cents ($0.50).

(7) For each cross or railroad tie, fifteen cents ($0.15).

(8) For boards or planks caught in rafts or a large body:

(A) one dollar ($1) per one thousand (1,000) board feet for a quantity twenty thousand (20,000) board feet or less; or

(B) fifty cents ($0.50) per one thousand (1,000) board feet for a quantity greater than twenty thousand (20,000) board feet.

(9) For loose and scattered boards or planks, five dollars and fifty cents ($5.50) per one thousand (1,000) board feet.

(10) For staves and heading, four dollars ($4) per one thousand (1,000) pieces that are merchantable.

(b) The compensation due under subsection (a) is payable by the owner, if required, upon the delivery to the owner of the logs or timber.

(c) The finder has a lien upon the property found for the charges provided in subsection (a).

(d) If the owner of the property fails to pay the compensation due under subsection (a) within sixty (60) days after the day the property is found, the property may be sold at the request of the person to whom the compensation is due by a constable, sheriff, or other officer of the county in which the property was found. The sale must be at the courthouse door at public auction to the highest bidder, upon thirty (30) days written or printed notice that gives the time and place of sale and a written or printed description of the property and any marks or brands on the property. The notice of the sale must be posted at the front door of the courthouse of the county in which the sale is to be made and at two (2) other public places in the county where the property is located. It is the duty of the constable or other officer making the sale to pay to the finder the finder's legal fees and charges after deducting the constable's or other officer's commission. The commission charged may be the same as if the constable or other officer had sold the same property under execution. If any sale money remains after payment of the charges and fees described in this section, the constable or other officer shall pay the remainder to the clerk of the circuit court in the county in which the sale occurred and obtain a receipt for the amount. If the constable or other officer fails to perform the constable's or other officer's duties under this chapter, the constable or other officer is liable on the constable's or other officer's official bond to the party aggrieved.

(e) If the owner, within one (1) year after the date of the sale, appears before the county judge of the county where the money is deposited with the clerk and establishes the owner's right to the satisfaction of the court to the money, the money must, upon the order of the county judge, be paid over to the owner by the clerk; otherwise, it shall be paid into the ~~common school~~ **state general** fund. ~~of Indiana.~~

(f) This chapter may not be construed to permit a person to recover under subsection (a) for any fleet of timber, raft or platform, sawlog, or other log or tree prepared for the purpose of sale, or any cross or railroad tie, board, plank, stave, heading, or other timber prepared for the market that is above any boom or other arrangement made by the owner to preserve the logs or timber.

SECTION 220. IC 33-23-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A senior judge is entitled to the following compensation:

(1) For each of the first thirty (30) days of service in a calendar year, a per diem of fifty dollars ($50).

(2) Except as provided in subsection (c), for each day the senior judge serves after serving the first thirty (30) days of service in a calendar year, a per diem of ~~one~~ **two** hundred dollars ~~($100).~~ **($200).**

(3) Reimbursement for:

(A) mileage; and

(B) reasonable expenses, including but not limited to meals and lodging, incurred in performing service as a senior judge;

for each day served as a senior judge.

(b) Subject to subsection (c), the per diem and reimbursement for mileage and reasonable expenses under subsection (a) shall be paid by the state.

(c) The compensation under subsection (a)(2) must be paid by the state from funds appropriated to the supreme court for judicial payroll. If the payroll fund is insufficient to pay the compensation under subsection (a)(2), the supreme court may issue an order adjusting the compensation rate.

(d) A senior judge appointed under this chapter may not be compensated as a senior judge for more than one hundred (100) total calendar days during a calendar year.

SECTION 221. IC 33-33-48-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7.5. (a) The judges of the Madison superior court may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the superior court.**

(b) The magistrate continues in office until removed by the judges of the superior court.

SECTION 222. IC 33-33-62-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Perry County constitutes the seventieth judicial circuit.

(b) The Perry circuit court has a standard small claims and misdemeanor division.

(c) The judge of the Perry circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judge.

SECTION 223. IC 33-33-84-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. There is established a court of record to be known as the Vigo superior court. The superior court has ~~four (4)~~ **five (5)** judges who shall hold their office for six (6) years and until their successors have been elected and qualified.

SECTION 224. IC 34-16-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. If, within the one hundred eighty (180) day period, the person fails to sue or to effectively prosecute the action, the prosecuting attorney of the county shall bring a civil action to recover the money or other property so lost and delivered, in the name of the state and for the benefit of:

(1) the person's dependent children who are less than eighteen (18) years of age and the person's spouse; or

(2) if there are no children or spouse, the ~~common school~~ **state general** fund.

SECTION 225. P.L.224-2003, SECTION 174 IS REPEALED [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]:.

SECTION 226. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 11-8-1-3; IC 11-8-2-2; IC 11-8-2-3.

SECTION 227. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2006]: IC 21-2-4-7; IC 21-2-11.5-5; IC 21-2-15-13.1; IC 21-3-1.7-6; IC 21-3-1.7-9.5; IC 21-3-1.7-9.7; IC 21-3-1.7-9.9; IC 21-3-4.5.

SECTION 228. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 20-28-1-4; IC 20-28-5-6.

SECTION 229. IC 14-11-2-3 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 230. IC 12-15-9-0.7 IS REPEALED [EFFECTIVE JULY 1, 2005].

SECTION 231. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 20-12-3.2-3; IC 27-8-27-7.

SECTION 232. P.L.224-2003, SECTION 173, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: SECTION 173. (a) Notwithstanding IC 21-3-1.6-1.2 ~~as added by this act,~~ and IC 21-3-1.7, the tuition support determined under IC 21-3-1.7-8 **(repealed) and IC 21-3-1.7-8.2** for a school corporation shall be reduced as follows:

(1) For 2001, the previous year's revenue determined without regard to IC 21-3-1.6-1.2 ~~as added by this act,~~ shall be reduced by an amount determined under the following STEPS:

STEP ONE: Determine the difference between:

(A) the school corporation's average daily membership count for 2000, without regard to IC 21-3-1.6-1.2; ~~as added by this act;~~ minus

(B) the school corporation's average daily membership count for 2000, as adjusted by the school corporation under this act after applying IC 21-3-1.6-1.2. ~~as added by this act.~~

STEP TWO: Determine the result of:

(A) the school corporation's previous year's revenue under IC 21-3-1.7-3.1, without regard to IC 21-3-1.6-1.2; ~~as added by this act;~~ divided by

(B) the school corporation's average daily membership for 2000, without regard to IC 21-3-1.6-1.2. ~~as added by this act.~~

STEP THREE: Multiply the STEP ONE result by the STEP TWO result.

STEP FOUR: Multiply the STEP THREE result by one-third (1/3).

(2) For 2002, the previous year revenue determined without regard to IC 21-3-1.6-1.2 ~~as added by this act,~~ shall be reduced by an amount equal to the result under the following:

(A) Determine the result of:

(i) the amount determined under STEP THREE of subdivision (1); minus

(ii) the amount determined under STEP FOUR of subdivision (1).

(B) Divide the clause (A) result by three (3).

(C) Multiply the clause (B) result by one and three-hundredths (1.03).

(3) For 2003, the previous year revenue determined without regard to IC 21-3-1.6-1.2 ~~as added by this act,~~ shall be reduced by an amount equal to the reduction amount under subdivision (2) multiplied by one and two-hundredths (1.02).

(4) For 2005, **the previous year revenue determined without regard to IC 21-3-1.6-1.2 shall be reduced by an amount equal to** the product of:

(A) the reduction amount under subdivision (3) divided by three (3); multiplied by

(B) one and three-hundredths (1.03).

(5) For 2006 and 2007, the ~~product of:~~

~~(A)~~ **previous year revenue determined without regard to IC 21-3-1.6-1.2 shall be reduced by an amount equal to** the reduction amount under subdivision (4). ~~divided by three (3), multiplied by~~

~~(B) one and one-hundredth (1.01).~~

(b) This SECTION expires January 1, 2008.

SECTION 233. [EFFECTIVE UPON PASSAGE] **(a) The department of education shall adjust distributions made to a school corporation, including a charter school, after the effective date of this SECTION to eliminate the difference between the state primetime distribution that the school corporation, including a charter school, received, as a result of IC 21-1-30-3, as amended by P.L.224-2003, SECTION 141, and the state primetime distribution to which the school corporation, including a charter school, is entitled to receive under IC 21-1-30-3, as amended by this act.**

(b) The adjustments required under this SECTION shall be made on the schedule determined by the department of education.

SECTION 234. [EFFECTIVE JULY 1, 2005] **(a) The professional standards board established by IC 20-28-2-1 is abolished.**

(b) The following are transferred on July 1, 2005, from the professional standards board to the department of education established by IC 20-19-3-1:

(1) All real and personal property of the professional standards board.

(2) All powers, duties, assets, and liabilities of the professional standards board.

(3) All appropriations to the professional standards board.

(c) Money in the professional standards board licensing fund established by P.L.224-2003, SECTION 9, is transferred on July 1, 2005, to the professional standards fund established by IC 20-28-2-10, as added by this act.

(d) Rules that were adopted by the professional standards board before July 1, 2005, shall be treated as though the rules were adopted by the advisory board of the division of professional standards of the department of education established by IC 20-28-2-2, as amended by this act.

(e) After June 30, 2005, a reference to the professional standards board in a statute or rule shall be treated as a reference to the division of professional standards established by IC 20-28-2-1.5, as added by this act.

(f) The members appointed before July 1, 2005, to the professional standards board:

(1) become members of the advisory board for the division of professional standards established by IC 20-28-2-2, as amended by this act; and

(2) may serve until the expiration of the term for which the members were appointed.

(g) A license or permit issued by the professional standards board before July 1, 2005, shall be treated after June 30, 2005, as a license or permit issued by the department of education established by IC 20-19-3-1.

(h) Proceedings pending before the professional standards board on July 1, 2005, shall be transferred from the professional standards board to the department of education and treated as if initiated by the department of education established by IC 20-19-3-1.

SECTION 235. [EFFECTIVE JULY 1, 2005] **The board shall allocate from the pension stabilization fund (IC 21-6.1-2-8) to the Indiana state teachers' retirement fund's 1996 account an amount equal to the unfunded liability for individuals who were members of the Indiana state teachers' retirement fund's pre-1996 account before July 1, 1995, (and survivors and beneficiaries of these members) who after June 30, 1995, became members of the Indiana state teachers' retirement fund's 1996 account.**

SECTION 236. [EFFECTIVE JULY 1, 2005] **(a) As used in this SECTION, "fund" refers to the public employees' retirement fund, with respect to members (and survivors and beneficiaries of members) of the fund.**

(b) The amount determined in this SECTION shall be paid from the fund on or before December 1, 2005, to any person who was a retired member of the fund (or to a survivor or beneficiary of a retired member of the fund) before January 1, 2005, and who was entitled to receive a monthly benefit on November 1, 2005. The amount shall be paid in a single check. The amount is not an increase in the pension portion of the monthly benefit.

(c) The amount determined under the following formula shall be paid from the fund to a retired member of the fund (or

to a survivor or beneficiary of a retired member of the fund) who meets the requirements of subsection (b):

STEP ONE: Multiply by twelve (12) the pension portion, plus postretirement increases to the pension portion, of the monthly benefit that was payable to the retired member of the fund (or to a survivor or beneficiary of the retired member of the fund) and provided by employer contributions during the month before the payment is made under this SECTION.

STEP TWO: Multiply the amount determined in STEP ONE by the applicable percentage from the following table:

Calendar Year of Last Retirement of Member	Applicable Percentage
Before 1990	2%
1990 through 2004	1%

(d) This SECTION expires July 1, 2006.

SECTION 237. [EFFECTIVE JULY 1, 2005] (a) IC 4-24-7-4(b), as amended by this act, applies only to accounts for claims at a juvenile institution that the department of correction may have against any county for the payment of the county's portion of the cost of the maintenance of any inmate of the institution for days served after June 30, 2005.

(b) If a county has an account with an outstanding balance on June 30, 2005, for claims that the department of correction may have against any county for the payment of the county's portion of the cost of the maintenance of any inmate of the juvenile institution for days served before July 1, 2005, the county and budget agency shall attempt to establish a repayment plan before August 15, 2005.

(c) A repayment plan under this SECTION may provide for repayment in:

(1) the number of installments specified in the plan from any revenue source available to the county and not otherwise restricted to a particular purpose by law; or

(2) full in one (1) payment from the proceeds of bonds issued in the manner provided in IC 36-2-6-18, 36-2-6-19, and 36-2-6-20.

The bonds under subdivision (2) must be entered into before the date specified in the repayment plan. The term of the bonds under subdivision (2) may not exceed ten (10) years. IC 6-1.1-18.5 and IC 6-1.1-20 do not apply to bonds issued under subdivision (2). The proper officers of a county shall fix a tax rate for a debt service or other similar fund that is sufficient to pay the principal and interest on the funding or refunding of bonds issued to repay a loan entered into under subdivision (2). The ad valorem property tax levy limits imposed by IC 6-1.1-18.5-3 do not apply to property taxes imposed by a county under this SECTION. For purposes of computing the ad valorem property tax levy limit imposed on a county under IC 6-1.1-18.5-3, the county's ad valorem property tax levy for a particular calendar year does not include that part of the levy imposed under this SECTION. The limit on outstanding loans established in IC 36-2-6-18(d) does not apply to bonds issued under subdivision (2). For purposes of computing the outstanding loan limit under bonds issued under IC 36-2-6-18(d), the county's outstanding loans for a particular calendar year does not include the outstanding amount of bonds issued under subdivision (2).

(d) If an agreement on a repayment plan is not signed before August 15, 2005, the auditor of state shall, notwithstanding anything to the contrary in IC 6-1.1-21, reduce the distributions of property tax replacement credits under IC 6-1.1-21 to the county and withhold the amount owed on the account by spreading the reductions equally over the distributions in those state fiscal years that end in 2006, 2007, 2008, and 2009. The auditor of state shall credit the contract payments or any withheld amount to the state general fund for the purpose of curing the default. The account is then considered paid to the extent of the withheld amount. A county that has the county's distribution reduced under this SECTION shall apply the withheld amount only to the county unit's share of the distribution and may not reduce a distribution to any other civil taxing unit or school corporation within the county.

(e) This SECTION expires July 2, 2009.

SECTION 238. [EFFECTIVE JULY 1, 2005] (a) The department of child services shall submit a report to the legislative council and the health finance commission established by IC 2-5-23-3 that contains statistics concerning the education levels and salaries of all:

(1) child protection caseworkers and child welfare caseworkers; and

(2) child protection caseworker and child welfare caseworker supervisors;

by September 1, 2005.

(b) The report required by subsection (a) must be in an electronic format under IC 5-14-6.

(c) This SECTION expires December 31, 2005.

SECTION 239. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(b) The office shall apply to the United States Department of Health and Human Services to amend the state Medicaid plan concerning limiting dental services to provide that a Medicaid recipient who is at least twenty-one (21) years of age is only eligible for the following dental services without prior authorization under the Medicaid program:

(1) Diagnostic and preventative care.

(2) Direct restorations.

(3) Treatment of lesions.

(4) Extractions.

(5)Periodontal treatment for the following immuno-compromised individuals:

(A) Transplant patients.

(B) Pregnant women.

(C) Diabetic patients.

(6) Emergency and trauma care.

The office may authorize other dental services not listed in this

subdivision for a Medicaid recipient if the recipient first obtains prior authorization from the office for the dental service.

(c) The office may not implement the amendment until the office files an affidavit with the governor attesting that the 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 an amendment is approved.

(d) If the office receives approval for an 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 amendment not more than thirty (30) 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, 2012.

SECTION 240. [EFFECTIVE JULY 1, 2005] **(a) This SECTION covers officer positions created for the 2005 legislative session that were not set forth in P.L.274-2003, SECTION 3.**

(b) The following officers of the senate are entitled to the following amounts to be paid after June 30, 2005, and before December 31, 2005. These amounts are in addition to the subsistence allowance: appropriations committee chair, $5,000; tax and fiscal policy committee chair, $5,000; appropriations committee ranking majority member, $1,500; tax and fiscal policy committee ranking majority member, $1,500; appropriations committee ranking minority member, $2,000; tax and fiscal policy committee ranking minority member, $2,000.

(c) The following officers of the house of representatives are entitled to the following amounts to be paid after June 30, 2005, and before December 31, 2005. These amounts are in addition to the subsistence allowance: chairman of the education subcommittee of ways and means, $1,500.

(d) This SECTION expires December 31, 2005.

SECTION 241. [EFFECTIVE UPON PASSAGE] **On the effective date of this SECTION, the powers of the department of natural resources to establish fees are transferred to the natural resources commission. After the effective date of this SECTION, the natural resources commission may exercise any power delegated to the department of natural resources to establish fees, and a rule of the department of natural resources that establishes a fee for any of the following shall be treated as a rule of the natural resources commission:**

(1) Programs of the department of natural resources or the natural resources commission.

(2) Facilities owned or operated by the department of natural resources or the natural resources commission or a lessee of the department of natural resources or the natural resources commission.

(3) Licenses issued by the natural resources commission, the department of natural resources, or the director of the department of natural resources.

(4) Inspections or other similar services under IC 14 performed by the department of natural resources or an assistant or employee of the department of natural resources.

SECTION 242. [EFFECTIVE UPON PASSAGE] **(a) The commission for higher education shall complete the establishment of the initial core transfer library under IC 20-12-0.5-8(18), as amended by this act, for at least seventy (70) courses and the initial articulation agreements for at least twelve (12) degree programs under IC 20-12-0.5-8(19), as amended by this act, before July 1, 2007. State educational institutions shall assist the commission for higher education as necessary to comply with this SECTION.**

(b) This SECTION expires June 30, 2008.

SECTION 243. [EFFECTIVE JULY 1, 2005] **(a) Effective July 1, 2005, the names of the Indiana University programs, centers, and schools related to medicine are changed to those set forth in IC 20-12-30.5-2, as amended by this act.**

(b) A reference to the former name described in IC 20-12-30.5-2, as amended by this act, in any law, rule, or document shall be treated after June 30, 2005, as a reference to the new name given to the program, center, or school.

(c) The legislative council shall provide for the preparation of legislation to change the references in all laws to the programs, centers, and schools described in IC 20-12-30.5-2, as amended by this act.

SECTION 244. [EFFECTIVE JULY 1, 2005] **(a) The trustees of the following institutions may issue and sell bonds under IC 20-12-6, subject to the approvals required by IC 20-12-5.5, for the following projects if the sum of principal costs of any bond issued, 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:**

Ivy Tech - Valparaiso New Campus - Phase II 20,000,000
Ivy Tech - Madison Main Campus Expansion 19,144,000
Ivy Tech - Marion New Campus 21,015,000
University of Southern Indiana - Education/Science Building Completion SOB/GCB A&E and Physical Plant Expansion 6,600,000
Indiana State University - University Hall Renovation for College of Education 26,880,000

The foregoing projects are eligible for fee replacement appropriations.

University of Southern Indiana - Recreation and Fitness Center Expansion Phase II 7,250,000
Purdue University-North Central Campus Parking Garage No. 1 5,000,000

The foregoing projects are not eligible for fee replacement appropriations.

(b) The trustees of the following institutions may issue and sell bonds under IC 20-12-6, subject to the approvals required by IC 20-12-5.5, for the following projects if the sum of principal costs of any bond issued, 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 - Bloomington Campus - Central Heating Plant Renovation Phase I 45,000,000

Purdue University - West Lafayette Campus - Infrastructure and Utilities Improvement 43,600,000

Ball State University - Boiler Plant Replacement and Chilled Water Plant Improvements 48,000,000

The budget agency shall, with the cooperation of the institutions, coordinate the planning, direct a process for developing detailed specifications, and develop a coordinated plan for contracting and implementing the construction and operation of the above projects. The projects may not be commenced by the institutions until alternatives for the projects such as privatization, joint ownership, phased construction, and joint operation of the improvements have been considered by the budget agency and the institutions. The coordinated plan may include alternatives required by the budget agency. The projects are eligible for fee replacement appropriations.

SECTION 245. [EFFECTIVE JULY 1, 2005] **(a) The budget agency shall make an early distribution of state tuition support to school corporations under IC 21-3-1.7 that may not exceed fifty percent (50%) of the most recent accrued tuition support payment delay balance, as determined by the budget agency. The distribution is to reduce accrued payment delay balances to school corporations that were created because of the distribution of eleven-twelfths (11/12) of the appropriated amount in the state fiscal year ending June 30, 2002. If the budget agency determines that insufficient combined balances exist to make an early distribution of fifty percent (50%), the budget agency may make an early distribution that is less than fifty percent (50%), so long as the percentage of the accrued payment delay is the same under this subsection as that used under subsection (b). An early distribution under this subsection is to be treated as a tuition support distribution under IC 21-3-1.7 for the calendar year in which the early distribution is made.**

(b) The budget agency shall make an early distribution of property tax replacement credits and homestead credits under IC 6-1.1-21 that may not exceed fifty percent (50%) of the most recent accrued property tax replacement credit and homestead credit payment delay balance, as determined by the budget agency. The distribution is to reduce accrued payment delay balances that were created because of the statutory change in IC 6-1.1-21-10 that was made by P.L.192-2002(ss), SECTION 43, to move the May distribution to July beginning with the May 2003 distribution. If the budget agency determines that insufficient combined balances exist to make an early distribution of fifty percent (50%), the budget agency may make an early distribution that is less than fifty percent (50%), so long as the percentage of the accrued payment delay is the same under this subsection as that used under subsection (a). An early distribution under this subsection is to be treated as a distribution under IC 6-1.1-21 for the calendar year in which the early distribution is made.

(c) The budget agency shall make an additional distribution to Indiana University, Purdue University, Indiana State University, Ball State University, the University of Southern Indiana, Vincennes University, Ivy Tech State College, and the Indiana Higher Education Telecommunications System (IHETS) that may not exceed fifty percent (50%) of the claim of each of the above state educational institutions resulting from the previous distribution of eleven-twelfths (11/12) of the budgeted amount in fiscal year 2001-2002, as determined by the budget agency. If the budget agency determines that insufficient balances exist in the state general fund, after making any early tuition distribution to school corporations under this act, to make an additional distribution under this SECTION of fifty percent (50%), the budget agency may make an additional distribution that is less than fifty percent (50%). An additional distribution under this subsection reduces the claim of a state educational institution receiving the distribution, and the institution shall reflect the reduction on its financial statements.

(d) Distributions under this SECTION:

(1) may be made in one (1) or more installments before July 1, 2007; and

(2) shall be separately allotted and the accrued payment delay balances for the state fiscal year shall be reduced accordingly.

(e) There is appropriated from the state general fund or property tax replacement fund to the budget agency the amount necessary to make early distributions under this SECTION.

(f) This SECTION expires July 2, 2007.

SECTION 246. [EFFECTIVE JULY 1, 2005] **For purposes of reconciling the amount the property tax replacement fund paid under IC 4-33-13-5(g) to entities covered by IC 6-3.1-20-7, with respect to taxable years ending in 2001, 2002, and 2003, the treasurer of state shall reduce the supplemental distributions under IC 4-33-13-5(g) to the entities covered by IC 6-3.1-20-7. The total reduction amount is what is necessary so that the property tax replacement fund realizes the difference between payments made compared to the payments that should have been made had the reimbursement under IC 6-3.1-20-7 been treated as provided in IC 4-33-13-5(g), as amended by this act. The reduction shall be allocated equally to the supplemental distributions made before September 2005, 2006, and 2007 for state fiscal years ending in 2006, 2007, and 2008.**

SECTION 247. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **IC 6-1.1-3-23, as amended by this act, applies only to property taxes first due and payable after December 31, 2004.**

SECTION 248. [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: **(a) As used in this SECTION, "taxable**

year" has the meaning set forth in IC 6-3-1-16.

(b) IC 6-3-1-11, as amended by this act, applies only to taxable years beginning after December 31, 2004.

SECTION 249. [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: **IC 6-3-1-3.5 and IC 6-5.5-1-2, both as amended by this act, apply only to taxable years beginning after December 31, 2004.**

SECTION 250. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **(a) Notwithstanding IC 6-3-1-11, as effective before the passage of this act, this SECTION applies to taxable years beginning after December 31, 2003, and before January 1, 2005.**

(b) As used in this SECTION, "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States as amended and in effect on January 1, 2004.

(c) Whenever the Internal Revenue Code is mentioned in IC 6-3, the particular provisions that are referred to, together with all the other provisions of the Internal Revenue Code in effect on January 1, 2004, that pertain to the provisions specifically mentioned, shall be regarded as incorporated in IC 6-3 by reference and have the same force and effect as though fully set forth in IC 6-3. To the extent the provisions apply to IC 6-3, regulations adopted under Section 7805(a) of the Internal Revenue Code and in effect on January 1, 2004, shall be regarded as rules adopted by the department under IC 6-3, unless the department of state revenue adopts specific rules that supersede the regulation.

(d) An amendment to the Internal Revenue Code made by an act passed by Congress before January 1, 2004, that is effective for any taxable year that began before January 1, 2004, and that affects:

(1) individual adjusted gross income (as defined in Section 62 of the Internal Revenue Code);

(2) corporate taxable income (as defined in Section 63 of the Internal Revenue Code);

(3) trust and estate taxable income (as defined in Section 641(b) of the Internal Revenue Code);

(4) life insurance company taxable income (as defined in Section 801(b) of the Internal Revenue Code);

(5) mutual insurance company taxable income (as defined in Section 821(b) of the Internal Revenue Code); or

(6) taxable income (as defined in Section 832 of the Internal Revenue Code);

is also effective for that same taxable year for purposes of determining adjusted gross income under IC 6-3-1-3.5.

(e) However, this act may not be construed to authorize a taxpayer to deduct, in computing the taxpayer's Indiana adjusted gross income, the amount of bonus depreciation (as defined in IC 6-3-12-33, as amended by this act, or IC 6-5.5-1-20, as amended by this act, as applicable) or a deduction under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000) in any taxable year beginning before January 1, 2005.

SECTION 251. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 12-17-15-17, as amended by this act, the budget agency shall submit a report to the health finance commission established by IC 2-5-23 and the budget committee containing the following information concerning the funding for the infants and toddlers with disabilities program under IC 12-17-15:**

(1) The total amount billed to a federal or state program in state fiscal year 2004 for services provided under the infants and toddlers with disabilities program, including amounts billed to the following programs:

(A) Medicaid.

(B) The children's health insurance program.

(C) The federal Temporary Assistance to Needy Families (TANF) program (45 CFR 265).

(D) Any other state or federal program.

(2) The total amount billed in state fiscal year 2004 to an insurance company for services provided under the infants and toddlers with disabilities program and the total amount reimbursed by the insurance company.

(3) The total copayments collected for the infants and toddlers with disabilities program in state fiscal year 2004.

(4) The total administrative expenditures for state fiscal year 2004.

The report required under this SECTION must be submitted in an electronic format under IC 5-14-6 before September 1, 2005.

(b) This SECTION expires January 1, 2006.

SECTION 252. [EFFECTIVE JULY 1, 2005] **(a) As used in this SECTION, "commission" refers to the health finance commission established by IC 2-5-23-3.**

(b) The office of the secretary of family and social services shall study and submit a report in electronic format under IC 5-14-6 to the commission not later than October 1, 2005, concerning the following:

(1) The agency's progress in implementing SEA 493-2003.

(2) Provider reimbursement rates for home and community based services under:

(A) the aged and disabled Medicaid waiver; and

(B) the community and home options to institutional care for the elderly and disabled program under IC 12-10-10.

(3) The eligibility standards and procedures for:

(A) the community and home options to institutional care for the elderly and disabled program under IC 12-10-10; and

(B) home and community based waivers;

including the use of presumptive eligibility, emergency care placements, and local eligibility determinations.

(c) This SECTION expires December 31, 2006.

SECTION 253. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "program" refers to the community and home options to institutional care for the elderly and disabled (CHOICE) program established by IC 12-10-10.**

(b) The office of the secretary of family and social services shall submit the following information in electronic format under IC 5-14-6 to the legislative services agency not later than July 15, 2005, concerning the program for fiscal year 2005:

(1) The total number of individuals participating in the program.

(2) The total expenditures for the program.

(3) Information concerning each individual participating in the program, including the following:

(A) The number of activities of daily living (ADL) that an individual is unable to perform.

(B) The individual's monthly income and any deductions by source.

(C) The amount of assets reported by the individual, as determined by the division.

(D) The services provided to the individual.

(E) The cost of each service provided to the individual.

(F) The copayment, if any, that the individual is required to pay and the amount paid by the individual.

(G) Whether the individual participates in a Medicaid waiver or is Medicaid eligible.

(H) The county and the area agency on aging region in which the individual resides.

(4) The reimbursement rate for services provided under the program for each area agency on aging region in the preceding fiscal year.

(5) The number of individuals on a waiting list for the program and any services being received by the individual from the state while the individual is on the waiting list.

(c) The legislative services agency shall review the information submitted under this SECTION and compile a report determining the compliance of the submitted information with the requirements of this SECTION. The report must be submitted to the health finance commission established by IC 2-5-23 and the budget committee not later than September 1, 2005.

(d) This SECTION expires December 31, 2005.

SECTION 254. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 6-1.1-20.6-2, as added by this act, a county may adopt an ordinance under this SECTION to apply the credit authorized by IC 6-1.1-20.6, as added by this act, to property taxes first due and payable in 2004 or 2005.**

(b) If a county has not issued property tax statements under IC 6-1.1-22-8 to the persons liable for property taxes in the county for property taxes first due and payable in 2004, the county fiscal body may adopt an ordinance to apply the credit under IC 6-1.1-20.6, as added by this act, to the property taxes first due and payable in 2004. A county fiscal body may not adopt an ordinance under this subsection after statements are issued under IC 6-1.1-22-8 for the property taxes first due and payable in 2004.

(c) If a county has not issued property tax statements under IC 6-1.1-22-8 to the persons liable for property taxes in the county for property taxes first due and payable in 2005, the county fiscal body may adopt an ordinance to apply the credit under IC 6-1.1-20.6, as added by this act, to the property taxes first due and payable in 2005. A county fiscal body may not adopt an ordinance under this subsection after statements are issued under IC 6-1.1-22-8 for the property taxes first due and payable in 2005.

(d) Notwithstanding any provision in IC 6-1.1-20.6, as added by this act, IC 6-1.1-20.6 applies to a credit authorized by an ordinance passed under this SECTION.

(e) Except as provided in subsections (b) and (c), IC 6-1.1-20.6, as added by this act, applies to property taxes first due and payable after December 31, 2005.

(f) This SECTION expires January 1, 2006.

SECTION 255. [EFFECTIVE UPON PASSAGE] **(a) All revenue that funds government comes from the people and it is the responsibility of every elected official to carefully guard against misuse of this revenue. Therefore, it is the intent of the general assembly that the state budget be reviewed comprehensively before the budgetary process for the next biennium begins in 2007.**

(b) The general assembly requests that the governor to direct the office of management and budget to thoroughly review the:

(1) budget of each executive department agency and instrumentality; and

(2) overall functions of the executive department of state government;

for the purpose of finding efficiencies that might yield significant cost savings. The general assembly requests that both the size and the scope of these agencies and functions be thoroughly reviewed.

(c) The general assembly requests that:

(1) an interim report on the progress of the review under this SECTION be submitted to the general assembly in an electronic format under IC 5-14-6 before January 3, 2006; and

(2) the results of the comprehensive review, including recommendations for budgetary reforms and spending reductions throughout state government through the appropriation and allotment process be shared with the speaker of the house of representatives and the president pro tempore of the senate before December 2, 2006.

SECTION 256. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "board or commission" includes any:**

(1) board;

(2) commission;

(3) committee;

(4) council;

(5) panel;

(6) task force;

(7) authority;

(8) foundation; or

(9) bureau;

that was created by an executive order or by statute and that is

in existence on July 1, 2005.

(b) The government efficiency commission is established.

(c) The government efficiency commission consists of the following members:

(1) One (1) cochairperson appointed not later than fifteen (15) days after the effective date of this SECTION by the president pro tempore of the senate.

(2) One (1) cochairperson appointed not later than fifteen (15) days after the effective date of this SECTION by the speaker of the house of representatives.

(3) Ten (10) members appointed by the president pro tempore of the senate not later than thirty (30) days after the appointment is made under subdivision (1), five (5) of whom must be appointed with the advice and consent of the minority leader of the senate.

(4) Ten (10) members appointed by the speaker of the house of representatives not later than thirty (30) days after the appointment is made under subdivision (2), five (5) of whom must be appointed with the advice and consent of the minority leader of the house of representatives.

(d) The following may not be members of the government efficiency commission:

(1) An elected or appointed state or local official.

(2) A lobbyist (as defined by IC 2-7-1-10).

(e) The cochairpersons may appoint nonvoting advisory members to serve on the government efficiency commission.

(f) A member of the government efficiency commission is not entitled to a salary per diem.

(g) A member of the government efficiency commission entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties,as provided in state travel rules or this act.

(h) The government efficiency commission shall meet upon the call of the cochairpersons.

(i) The cochairpersons may advise the president pro tempore of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives concerning the appointment of other members of the government efficiency commission.

(j) A quorum of the government efficiency commission must be present to conduct business. A quorum consists of a majority of the voting members appointed to the government efficiency commission.

(k) The government efficiency commission may not take an official action unless the official action has been approved by at least a majority of the voting members appointed to serve on the government efficiency commission.

(l) The cochairpersons may establish and appoint government efficiency commission members to subcommittees as the cochairpersons consider appropriate to carry out the government efficiency commission's duties under subsection (m). The cochairpersons shall name the chairperson of each subcommittee.

(m) The government efficiency commission shall do the following:

(1) Make recommendations to improve efficiency and reduce unnecessary costs associated with any board or commission.

(2) Review and make recommendations to the governor concerning each board or commission about the following:

(A) Whether the board or commission should be continued, reorganized, or combined with another board, commission, or state agency.

(B) Whether the board or commission should terminated or allowed to expire.

(3) Make recommendations to reform K-12 education funding and budgeting as it relates to non-classroom expenditures so that adequate dollars are available for teacher training and classroom instruction.

(n) The government efficiency commission may accept donations to carry out the purposes of this SECTION.

(o) The office of the governor shall provide staff support to the government efficiency commission.

(p) As it pertains to subsection (m)(1) and (m)(2),the government efficiency commission shall provide its final recommendations before October 1, 2006, to the governor.

(q) The governor shall:

(1) review the recommendations made by the government efficiency commission under subsections (m)(1) and (m)(2); and

(2) before November 1, 2006, submit a report to the legislative council in an electronic format under IC 5-14-6 recommending legislation necessary to carry out those recommendations that the governor determines will improve the efficiency and operations of state government.

(r) The legislative council shall:

(1) review; and

(2) determine what legislation should be prepared for introduction in the 2007 regular session of the general assembly with respect to;

recommendations made under subsection (m)(1) and (m)(2).

(s) Nothing in subsection (m)(1) and (m)(2) may be construed to authorize the termination or reorganization of a board or commission, except as otherwise provided by law.

(t) As it pertains to subsection (m)(3), the government efficiency commission shall provide its final recommendations before November 1, 2006, to the governor.

(u) The governor shall:

(1) review the recommendations made by the government efficiency commission under subsection (m)(3); and

(2) before December 1, 2006, submit a report in an electronic format under IC 5-14-6 with recommendations for reform to the speaker of the house of representatives and the president pro tempore of the senate.

(v) This SECTION expires December 31, 2006.

SECTION 257. [EFFECTIVE JANUARY 1, 2006] IC 6-1.1-20.9-2 and IC 6-1.1-21-2, both as amended by this act,

and IC 6-1.1-21-2.5, as added by this act, apply only to property taxes first due and payable after December 31, 2005.

SECTION 258. [EFFECTIVE JULY 1, 2005] **IC 21-2-11.5-3, as amended by this act, applies to property taxes imposed for an assessment date after February 28, 2005, and first due and payable after December 31, 2005.**

SECTION 259. [EFFECTIVE UPON PASSAGE] **The following rules are void:**

(1) An emergency rule adopted by the Indiana gaming commission on April 21, 2005 pursuant to Indiana gaming commission resolution 2005-17 concerning the imposition of a transfer fee for riverboat license transfers.

(2) Any other rule adopted after April 1, 2005, that establishes a transfer fee for riverboat licenses, including operating permits.

SECTION 260. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding IC 33-33-84-3, as amended by this act, the Vigo superior court is not expanded to five (5) judges until January 1, 2006.**

(b) The governor shall appoint a person under IC 3-13-6-1(c) to serve as the initial judge added to the Vigo superior court by IC 33-33-84-3, as amended by this act.

(c) The term of the initial judge appointed under subsection (b) begins January 1, 2006, and ends December 31, 2006.

(d) The initial election of the judge of the Vigo superior court added by IC 33-33-84-3, as amended by this act, is the general election in November 2006. The term of the initially elected judge begins January 1, 2007.

(e) This SECTION expires January 2, 2007.

SECTION 261. **An emergency is declared for this act.**

(Reference is to EHB 1001 as reprinted April 9, 2005.)

Espich, Chair	Meeks
Buell	Kenley
House Conferees	Senate Conferees

Roll Call 538: yeas 31, nays 19. Report adopted.

STATEMENT OF THE PRESIDENT PRO TEMPORE

Madam President: I hereby report that Senator Simpson has been excused from the remainder of this session day, April 29, 2005, due to personal family circumstances.

GARTON

3:31 p.m.

The Chair declared a recess until the fall of the gavel.

Recess

The Senate reconvened at 3:34 p.m., with Senator Harrison in the Chair.

SENATE MOTION

Madam President: I move that Conference Committee Report #1 to Engrossed House Bill 1073, filed April 28, 2005, be withdrawn from further consideration by the Senate.

RIEGSECKER

Motion prevailed.

Senator Harrison yielded the gavel to the President of the Senate.

PRESIDENT PRO TEMPORE'S REPORT OF CONFEREE CHANGES

Pursuant to Rule 81(c), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has made the following change in conferee (or advisor) appointments to Engrossed Senate Bill 307:

Lawson to replace Breaux as Conferee

GARTON
Date: 4/29/05
Time: 3:17 p.m.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed House Bill 1001 because it conflicts with Senate Enrolled Act 327-2005 without properly recognizing the existence of SEA 327-2005, has had EHB 1001 under consideration and begs leave to report back to the Senate with the recommendation that EHB 1001 be corrected as follows:

In the Conference Committee Report to EHB 1001, page 110, line 35, after "IC 6-1.1-3-23" insert ", AS AMENDED BY SEA 327-2005, SECTION 2,".

In the Conference Committee Report to EHB 1001, page 110, line 42, reset in roman "in Indiana;".

(Reference is to EHB 1001 as reprinted April 9, 2005, and as amended by the Conference Committee Report to EHB 1001 adopted April 29, 2005.)

GARTON, Chair
R. YOUNG, R.M.M.
MEEKS

Report adopted.

COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed Senate Bill 298 because it conflicts with House Enrolled Act 1822-2005 without properly recognizing the existence of

HEA 1822-2005, has had Engrossed Senate Bill 298 under consideration and begs leave to report back to the Senate with the recommendation that Engrossed Senate Bill 298 be corrected as follows:

In the conference committee report for ESB 298, delete page 1, lines 2 through 21.

In the conference committee report for ESB 298, delete page 2, lines 1 through 41, begin a new paragraph and insert:

"SECTION 1. IC 4-22-2-28, AS AMENDED BY HEA 1822-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. **(a) As used in this section, "total estimated economic impact" means the annual economic impact of a rule on all regulated persons after the rule is fully implemented under subsection (g).**

~~(a)~~ **(b)** The Indiana economic development corporation established by IC 5-28-3-1:

(1) shall review a proposed rule that:

(A) imposes requirements or costs on small businesses (as defined in IC 4-22-2.1-4); and

(B) is referred to the corporation by an agency under IC 4-22-2.1-5(c); and

(2) may review a proposed rule that imposes requirements or costs on businesses other than small businesses (as defined in IC 4-22-2.1-4).

After conducting a review under subdivision (1) or (2), the corporation may suggest alternatives to reduce any regulatory burden that the proposed rule imposes on small businesses or other businesses. The agency that intends to adopt the proposed rule shall respond in writing to the Indiana economic development corporation concerning the corporation's comments or suggested alternatives before adopting the proposed rule under section 29 of this chapter.

~~(b) The~~ **(c) Subject to subsection (f) and not later than fifty (50) days before the public hearing required by section 26 of this chapter, an** agency shall submit a proposed rule ~~with an~~ **to the legislative services agency for a review under subsection (d) if the agency proposing the rule determines that the rule will have a total** estimated economic impact greater than five hundred thousand dollars ($500,000) on ~~the~~ **all** regulated ~~entities.~~ **persons.** ~~to the legislative services agency after the preliminary adoption of the rule.~~ **In determining the total estimated economic impact under this subsection, the agency shall consider any applicable information submitted by the regulated persons affected by the rule. To assist the legislative services agency in preparing the fiscal impact statement required by subsection (d), the agency shall submit, along with the proposed rule, the data used and assumptions made by the agency in determining the total estimated economic impact of the rule.**

(d) Except as provided in subsection ~~(c),~~ **(e),** before the adoption of the rule, ~~the legislative services agency shall prepare,~~ **and** not more than forty-five (45) days after receiving a proposed rule **under subsection (c), the legislative services agency shall prepare, using the data and assumptions provided by the agency proposing the rule, along with any other data or information available to the legislative services agency,** a fiscal ~~analysis~~ **impact statement** concerning the effect that compliance with the proposed rule will have on: ~~the:~~

(1) **the** state; and

(2) **all** ~~entities~~ **persons** regulated by the proposed rule.

The fiscal ~~analysis~~ **impact statement** must contain ~~an estimate of~~ the **total estimated** economic impact of the proposed rule and a determination concerning the extent to which the proposed rule creates an unfunded mandate on a state agency or political subdivision. The fiscal ~~analysis~~ **impact statement** is a public document. The legislative services agency shall make the fiscal ~~analysis~~ **impact statement** available to interested parties upon request. The agency proposing the rule shall consider the fiscal ~~analysis~~ **impact statement** as part of the rulemaking process and shall provide the legislative services agency with the information necessary to prepare the fiscal ~~analysis,~~ **impact statement,** including any economic impact statement prepared by the agency under IC 4-22-2.1-5. The legislative services agency may also receive and consider applicable information from the regulated ~~entities~~ **persons** affected by the rule in preparation of the fiscal ~~analysis.~~ **impact statement.**

~~(c)~~ **(e)** With respect to a proposed rule subject to IC 13-14-9:

(1) the department of environmental management shall give written notice to the legislative services agency of the proposed date of preliminary adoption of the proposed rule not less than sixty-six (66) days before that date; and

(2) the legislative services agency shall prepare the fiscal ~~analysis~~ **impact statement** referred to in subsection ~~(b)~~ **(d)** not later than twenty-one (21) days before the proposed date of preliminary adoption of the proposed rule.".

In the conference committee report for ESB 298, delete page 3, line 19 through page 4, line 16, begin a new paragraph and insert:

"SECTION 3. IC 20-19-4-8, AS ADDED BY HEA 1288-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005] Sec. 8. **(a) As used in this section, "total estimated fiscal impact" means the annual fiscal impact of a recommendation on all affected entities after the recommendation is fully implemented under subsection (e).**

~~(a)~~ **(b) Subject to subsection (d),** before providing a recommendation under section 7 of this chapter, the roundtable shall prepare an analysis of the **total estimated** fiscal impact that the recommendation will have on the state, political subdivisions, and **and all** private schools affected by the recommendation. **In preparing an analysis under this subsection, the roundtable shall consider any applicable information submitted by entities affected by the recommendation.** The analysis **prepared under this subsection** must be submitted with the recommendation under section 7 of this chapter.

~~(b)~~ **(c)** If the roundtable provides a recommendation under section 7 of this chapter and the **total estimated** fiscal impact analysis prepared under subsection ~~(a)~~ **(b)** indicates that the impact of the recommendation will be at least five hundred thousand dollars ($500,000), the roundtable shall submit a copy of the recommendation and the fiscal ~~impact~~ analysis prepared under

subsection ~~(a)~~ **(b)** to the legislative services agency for review. This recommendation must be in an electronic format under IC 5-14-6. Not more than forty-five (45) days after receiving a copy of the recommendation and fiscal impact analysis, the legislative services agency shall prepare a fiscal ~~analysis~~ **impact statement** concerning the effect that compliance with the recommendation will have on:

(1) the state; **and**

(2) **all:**

(A) political subdivisions; and

~~(3)~~ **(B)** nonpublic schools;

affected by the proposed recommendation.

The fiscal ~~analysis~~ **impact statement** must contain ~~an estimate of~~ the direct **total estimated** fiscal impact of the recommendation and a determination concerning the extent to which the recommendation creates an unfunded mandate on the state, a political subdivision, or a nonpublic school affected by the proposed recommendation. The fiscal ~~analysis~~ **impact statement** is a public document. The legislative services agency shall make the fiscal ~~analysis~~ **impact statement** available to interested parties upon request. The roundtable shall provide the legislative services agency with the information necessary to prepare the fiscal ~~analysis.~~ **impact statement.** The legislative services agency may also receive and consider applicable information from the entities affected by the recommendation in preparation of the fiscal ~~analysis.~~ **impact statement.** The legislative services agency shall provide copies of its fiscal ~~analysis~~ **impact statement** to each of the persons described in section 7 of this chapter.".

In the conference committee report for ESB 298, page 4, line 17, delete "(e) and insert "**(d)**".

In the conference committee report for ESB 298, page 4, line 23, delete "(f) and insert "**(e)**".

In the conference committee report for ESB 298, page 4, line 46, delete "IC 20-1-20.5-8," and insert "**IC 20-19-4-8,**".

(Reference is to ESB 298 as printed March 22, 2005, and as amended by the conference committee report adopted April 28, 2005.)

GARTON, Chair
R. YOUNG, R.M.M.
M. YOUNG

Report adopted.

MESSAGE FROM THE PRESIDENT PRO TEMPORE OF THE INDIANA STATE SENATE

Madam President and Members of the Senate: I have on April 29, 2005, signed the following Senate Enrolled Acts: 8, 30, 49, 66, 79, 196, and 202.

ROBERT D. GARTON
President Pro Tempore

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT

ESB 218–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 218 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 9-19-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. ~~(a) Failure to comply with section 1, 2 3, or 4 of this chapter does not constitute fault under IC 34-51-2 and does not limit the liability of an insurer.~~

~~(b) Except as provided in subsection (c),~~ **(a)** Evidence of: ~~the~~

(1) failure to comply with section ~~1,~~ 2 ~~3, or 4~~ of this chapter may ~~not~~ be admitted in a civil action to ~~mitigate~~ **reduce** damages **for injury to a person who is at least fifteen (15) years of age at the time of the accident; and**

(2) ~~(c) Evidence of a~~ failure to comply with this chapter may be admitted in a civil action as to mitigation of damages in a product liability action involving a motor vehicle restraint or supplemental restraint system.

(b) The defendant in ~~such~~ an action **described in subsection (a)(1)** has the burden of proving:

(1) noncompliance with **section 2 of** this chapter; ~~and~~

(2) that compliance with **section 2 of** this chapter would have reduced injuries; and

(3) the extent of the reduction.

(c) The defendant in an action described in subsection (a)(2) has the burden of proving:

(1) noncompliance with this chapter;

(2) that compliance with this chapter would have reduced injuries; and

(3) the extent of the reduction.

(d) In order to meet the burden of proof described in subsection (b), the defendant shall introduce expert testimony to:

(1) prove that compliance would have reduced injuries; and

(2) prove the extent of the reduction in damages.

(e) A defendant may establish a plaintiff's noncompliance with section 2 of this chapter with:

(1) evidence from:

(A) an eyewitness;

(B) an expert witness; or

(2) an admission from the plaintiff.

(f) If a defendant asserts that a plaintiff failed to comply with section 2 of this chapter, the defendant must plead as an affirmative defense that the plaintiff failed to comply with section 2 of this chapter in a responsive pleading in the manner required by the Indiana Rules of Trial Procedure.

(g) If a court admits evidence that a plaintiff failed to comply with section 2 of this chapter and evidence had been submitted to the court that a driver who is a defendant was intoxicated (as

defined in IC 9-13-2-86) at the time the accident occurred, the court shall admit evidence of the driver's intoxication.

(h) If a court admits evidence that a plaintiff failed to comply with section 2 of this chapter and evidence has been submitted to the court that a defendant caused or contributed to the accident in violation of an Indiana law, the court shall admit evidence of the defendant's violation of Indiana law.

(i) Damages described in subsection (a)(1) may not be reduced more than four percent (4%) for failing to comply with section 2 of this chapter. This subsection does not apply to damages described in subsection (a)(2).

(j) Neither the failure to comply with section 2 of this chapter nor a reduction of damages under this section for the failure to comply with section 2 of this chapter constitutes fault under IC 34-51-2.

(k) If a court admits evidence of a plaintiff's failure to comply with section 2 of this chapter:

(1) the court shall instruct the jury that the maximum amount that damages may be reduced is four percent (4%);

(2) the court shall require the jury to determine the percentage that the plaintiff's damages are reduced separate from the determination of fault, if any, that the jury attributes to the plaintiff under IC 34-51-2; and

(3) the court shall instruct the jury to determine its verdict in accordance with IC 34-51-2-7 and IC 34-51-2-8.

SECTION 2. IC 34-51-2-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1.5. In an action to determine liability in which a court admits evidence of a plaintiff's failure to comply with IC 9-19-10-2, the court shall instruct the jury to determine its verdict in accordance with sections 7 and 8 of this chapter.**

SECTION 3. IC 34-51-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. The court shall furnish to the jury forms of verdicts that require only the disclosure of:

(1) the percentage of fault charged against each party and nonparty; ~~and~~

(2) the amount of the verdict against each defendant; **and**

(3) the percentage that a plaintiff's damages are reduced if evidence was submitted to a jury to prove that the plaintiff failed to comply with IC 9-19-10-2.

If the evidence in the action is sufficient to support the charging of fault to a nonparty, the form of verdict also shall require a disclosure of the name of the nonparty and the percentage of fault charged to the nonparty.

SECTION 4. [EFFECTIVE JULY 1, 2005] **IC 9-19-10-7, as amended by this act, applies only to causes of action arising after June 30, 2005**

(Reference is to ESB 218 as reprinted March 29, 2005.)

Nugent, Chair	Whetstone
Howard	Kuzman
Senate Conferees	House Conferees

Roll Call 539: yeas 36, nays 13. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 360–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 360 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-10-8-7.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.7. **(a) As used in this section, "covered individual" means an individual who is covered under a health care plan.**

~~(a)~~ **(b)** As used in this section, "health care plan" means:

(1) a self-insurance program established under section 7(b) of this chapter to provide group health coverage; or

(2) a contract entered into under section 7(c) of this chapter to provide health services through a prepaid health care delivery plan.

~~(b)~~ **(c)** As used in this section, "health care provider" means a:

(1) physician licensed under IC 25-22.5; or

(2) hospital licensed under IC 16-21;

that provides health care services for surgical treatment of morbid obesity.

~~(c)~~ **(d)** As used in this section, "morbid obesity" means:

~~(1) a weight of at least two (2) times the ideal weight for frame, age, height, and gender, as specified in the 1983 Metropolitan Life Insurance tables,~~

~~(2)~~ **(1)** a body mass index of at least thirty-five (35) kilograms per meter squared, with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes; or

~~(3)~~ **(2)** a body mass index of at least forty (40) kilograms per meter squared without comorbidity.

For purposes of this subsection, body mass index is equal to weight in kilograms divided by height in meters squared.

~~(d)~~ **(e) Except as provided in subsection (f),** the state shall provide coverage for nonexperimental, surgical treatment by a health care provider of morbid obesity:

(1) that has persisted for at least five (5) years; and

(2) for which nonsurgical treatment that is supervised by a physician has been unsuccessful for at least eighteen (18) consecutive months.

(f) The state may not provide coverage for surgical treatment of morbid obesity for a covered individual who is less than twenty-one (21) years of age unless two (2) physicians licensed under IC 25-22.5 determine that the surgery is necessary to:

(1) save the life of the covered individual; or

(2) restore the covered individual's ability to maintain a major life activity (as defined in IC 4-23-29-6);

and each physician documents in the covered individual's medical record the reason for the physician's determination.

SECTION 2. IC 16-18-2-240.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 240.5. "Morbid obesity", for purposes of IC 16-40-3, has the meaning set forth in IC 16-40-3-1.**

SECTION 3. IC 16-40-3 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 3. Reporting of Deaths or Complications From Morbid Obesity Surgeries

Sec. 1. As used in this chapter, "morbid obesity" means:

(1) a body mass index of at least thirty-five (35) kilograms per meter squared, with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes; or

(2) a body mass index of at least forty (40) kilograms per meter squared without comorbidity.

For purposes of this section, body mass index is equal to weight in kilograms divided by height in meters squared.

Sec. 2. (a) A physician who is licensed under IC 25-22.5 and who performs a surgical treatment for the treatment of morbid obesity shall:

(1) monitor the patient for five (5) years following the patient's surgery; and

(2) report:

(A) to; and

(B) in a manner prescribed by;

the state department any death or serious complication of the patient.

(b) The report required in subsection (a) must include the following information:

(1) The gender of the patient.

(2) The name of the physician who performed the surgery.

(3) The location where the surgery was performed.

(4) Information concerning the death or complication and the circumstances in which the death or complication occurred.

Sec. 3. (a) The state department shall collect and maintain the information reported to the state department under section 2 of this chapter.

(b) The reports made under section 2(a)(2) of this chapter are public records and are subject to public inspection. However, the state department may not release any information contained in the reports that the state department determines may reveal the patient's identity.

Sec. 4. A physician who knowingly violates this chapter may be subject to disciplinary sanctions under IC 25-1-9 as if the physician had knowingly violated a rule adopted by the medical licensing board under IC 25-22.5-2-7.

Sec. 5. The state department shall adopt rules under IC 4-22-2 necessary to implement this chapter.

Sec. 6. This chapter expires June 30, 2010.

SECTION 4. IC 27-8-14.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. As used in this chapter, "morbid obesity" means:

~~(1) a weight of at least two (2) times the ideal weight for frame, age, height, and gender, as specified in the 1983 Metropolitan Life Insurance tables,~~

~~(2)~~ **(1)** a body mass index of at least thirty-five (35) kilograms per meter squared, with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes; or

~~(3)~~ **(2)** a body mass index of at least forty (40) kilograms per meter squared without comorbidity.

For purposes of this section, body mass index is equal to weight in kilograms divided by height in meters squared.

SECTION 5. IC 27-8-14.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. **(a) Except as provided in subsection (b),** an insurer that issues an accident and sickness insurance policy shall offer coverage for nonexperimental, surgical treatment by a health care provider of morbid obesity:

(1) that has persisted for at least five (5) years; and

(2) for which nonsurgical treatment that is supervised by a physician has been unsuccessful for at least eighteen (18) consecutive months.

(b) An insurer that issues an accident and sickness insurance policy may not provide coverage for a surgical treatment of morbid obesity for an insured who is less than twenty-one (21) years of age unless two (2) physicians licensed under IC 25-22.5 determine that the surgery is necessary to:

(1) save the life of the insured; or

(2) restore the insured's ability to maintain a major life activity (as defined in IC 4-23-29-6);

and each physician documents in the insured's medical record the reason for the physician's determination.

SECTION 6. IC 27-13-7-14.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14.5. (a) As used in this section, "health care provider" means a:

(1) physician licensed under IC 25-22.5; or

(2) hospital licensed under IC 16-21;

that provides health care services for surgical treatment of morbid obesity.

(b) As used in this section, "morbid obesity" means:

~~(1) a weight of at least two (2) times the ideal weight for frame, age, height, and gender as specified in the 1983 Metropolitan Life Insurance tables,~~

~~(2)~~ **(1)** a body mass index of at least thirty-five (35) kilograms per meter squared with comorbidity or coexisting medical

conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes; or

~~(3)~~ **(2)** a body mass index of at least forty (40) kilograms per meter squared without comorbidity.

For purposes of this subsection, body mass index equals weight in kilograms divided by height in meters squared.

(c) **Except as provided in subsection (d),** a health maintenance organization that provides coverage for basic health care services under a group contract shall offer coverage for nonexperimental, surgical treatment by a health care provider of morbid obesity:

(1) that has persisted for at least five (5) years; and

(2) for which nonsurgical treatment that is supervised by a physician has been unsuccessful for at least eighteen (18) consecutive months.

(d) A health maintenance organization that provides coverage for basic health care services may not provide coverage for surgical treatment of morbid obesity for an enrollee who is less than twenty-one (21) years of age unless two (2) physicians licensed under IC 25-22.5 determine that the surgery is necessary to:

(1) save the life of the enrollee; or

(2) restore the enrollee's ability to maintain a major life activity (as defined in IC 4-23-29-6);

and each physician documents in the enrollee's medical record the reason for the physician's determination.

SECTION 7. [EFFECTIVE JULY 1, 2005] **(a) IC 5-10-8-7.7, as amended by this act, applies to a self-insurance program or a contract with a prepaid health care delivery plan that is established, entered into, delivered, amended, or renewed after June 30, 2005.**

(b) IC 27-8-14.1-4, as amended by this act, applies to an accident and sickness insurance policy that is issued, delivered, amended, or renewed after June 30, 2005.

(c) IC 27-13-7-14.5, as amended by this act, applies to a health maintenance organization contract that is entered into, delivered, amended, or renewed after June 30, 2005.

(Reference is to SB 360 as printed March 25, 2005.)

Miller, Chair	Becker
Lewis	C. Brown
Senate Conferees	House Conferees

Roll Call 540: yeas 47, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 609–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 609 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-3.5-1.1-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 1.1. (a) For purposes of allocating the certified distribution made to a county under this chapter among the civil taxing units and school corporations in the county, the allocation amount for a civil taxing unit or school corporation is the amount determined using the following formula:**

STEP ONE: Determine the sum of the total property taxes being collected by the civil taxing unit or school corporation during the calendar year of the distribution.

STEP TWO: Determine the sum of the following:

(A) Amounts appropriated from property taxes to pay the principal of or interest on any debenture or other debt obligation issued after June 30, 2005, other than an obligation described in subsection (b).

(B) Amounts appropriated from property taxes to make payments on any lease entered into after June 30, 2005, other than a lease described in subsection (c).

(C) The proceeds of any property that are:

(i) received as the result of the issuance of a debt obligation described in clause (A) or a lease described in clause (B); and

(ii) appropriated from property taxes for any purpose other than to refund or otherwise refinance a debt obligation or lease described in subsection (b) or (c).

STEP THREE: Subtract the STEP TWO amount from the STEP ONE amount.

STEP FOUR: Determine the sum of:

(A) the STEP THREE amount; plus

(B) the civil taxing unit's or school corporation's certified distribution for the previous calendar year.

(b) Except as provided in this subsection, an appropriation from property taxes to repay interest and principal of a debt obligation is not deducted from the allocation amount for a civil taxing unit or school corporation if:

(1) the debt obligation was issued; and

(2) the proceeds appropriated from property taxes;

to refund or otherwise refinance a debt obligation or a lease issued before July 1, 2005. However, an appropriation from property taxes related to a debt obligation issued after June 30, 2005, is deducted if the debt extends payments on a debt or lease beyond the time in which the debt or lease would have been payable if the debt or lease had not been refinanced or increases the total amount that must be paid on a debt or lease in excess of the amount that would have been paid if the debt or lease had not been refinanced. The amount of the deduction is the annual amount for each year of the extension period or the annual amount of the increase over the amount that would have been paid.

(c) Except as provided in this subsection, an appropriation from property taxes to make payments on a lease is not

deducted from the allocation amount for a civil taxing unit or school corporation if:

(1) the lease was issued; and

(2) the proceeds were appropriated from property taxes; to refinance a debt obligation or lease issued before July 1, 2005. However, an appropriation from property taxes related to a lease entered into after June 30, 2005, is deducted if the lease extends payments on a debt or lease beyond the time in which the debt or lease would have been payable if the debt or lease had not been refinanced or increases the total amount that must be paid on a debt or lease in excess of the amount that would have been paid if the debt or lease had not been refinanced. The amount of the deduction is the annual amount for each year of the extension period or the annual amount of the increase over the amount that would have been paid.

SECTION 2. IC 6-3.5-1.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: 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), and (g). The department shall provide with the certification an informative summary of the calculations used to determine the certified distribution.

(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 ~~a~~ **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.

SECTION 3. IC 6-3.5-1.1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 12. (a) The part of a county's certified distribution for a calendar year that is to be used as property tax replacement credits shall be allocated by the county auditor among the civil taxing units and school corporations of the county.

(b) Except as provided in section 13 of this chapter, the amount of property tax replacement credits that each civil taxing unit and school corporation in a county is entitled to receive during a calendar year equals the product of:

(1) that part of the county's certified distribution that is dedicated to providing property tax replacement credits for that same calendar year; multiplied by

(2) a fraction:

(A) The numerator of the fraction equals the ~~sum of the total property taxes being collected by the civil taxing unit or school corporation during that calendar year, plus with respect to a civil taxing unit, the amount of federal revenue sharing funds and certified shares received by it during that calendar year to the extent that they are used to reduce its property tax levy below the limit imposed by IC 6-1.1-18.5 for that same calendar year.~~ **allocation amount for the civil taxing unit or school corporation during that calendar year.**

(B) The denominator of the fraction equals the sum of the ~~total property taxes being collected by all civil taxing units and school corporations, plus the amount of federal revenue sharing funds and certified shares received by all civil taxing units in the county to the extent that they are used to reduce the civil taxing units' property tax levies below the limits imposed by IC 6-1.1-18.5 for that same calendar year.~~ **allocation amounts for all the civil taxing units and school corporations of the county for that calendar year.**

(c) The department of local government finance shall provide each county auditor with the amount of property tax replacement credits that each civil taxing unit and school corporation in the auditor's county is entitled to receive **under this section.** The county auditor shall then certify to each civil taxing unit and school corporation the amount of property tax replacement credits it is entitled to receive (after adjustment made under section 13 of this chapter) **under this section** during that calendar year. The county auditor shall also certify these distributions to the county treasurer.

SECTION 4. IC 6-3.5-1.1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 14. (a) In determining the amount of property tax replacement credits civil taxing units and school corporations of a county are entitled to receive during a calendar year, the department of local government finance shall consider only property taxes imposed on tangible property that was assessed in that county.

(b) If a civil taxing unit or a school corporation is located in more than one (1) county and receives property tax replacement credits from one (1) or more of the counties, then the property tax replacement credits received from each county shall be used only to reduce the property tax rates that are imposed within the county that distributed the property tax replacement credits.

(c) A civil taxing unit shall treat any property tax replacement credits that it receives or is to receive during a particular calendar year as a part of its property tax levy for that same calendar year for purposes of fixing its budget and for purposes of the property tax levy limits imposed by IC 6-1.1-18.5.

(d) Subject to subsection (e), if a civil taxing unit or school corporation of an adopting county does not impose a property tax levy that is first due and payable in a calendar year in which property tax replacement credits are being distributed, the civil taxing unit or school corporation is entitled to use the property tax replacement credits distributed to the civil taxing unit or school corporation for any purpose for which a property tax levy could be used.

~~(d)~~ **(e)** A school corporation shall treat any property tax replacement credits that the school corporation receives or is to receive during a particular calendar year as a part of its property tax levy for its general fund, debt service fund, capital projects fund, transportation fund, **school bus replacement fund,** and special education preschool fund in proportion to the levy for each of these funds for that same calendar year for purposes of fixing its budget and for purposes of the property tax levy limits imposed by IC 6-1.1-19. A school corporation shall allocate the property tax replacement credits described in this subsection to all ~~five (5)~~ **six (6)** funds in proportion to the levy for each fund.

SECTION 5. IC 6-3.5-1.1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 15. (a) As used in this section, ~~"attributed levy"~~ **"attributed allocation amount"** of a civil taxing unit **for a calendar year** means the sum of:

(1) the ~~ad valorem property tax levy of the civil taxing unit that is currently being collected at the time the allocation is made;~~ **plus allocation amount of the civil taxing unit for that calendar year; plus**

(2) the current ad valorem property tax levy of any special taxing district, authority, board, or other entity formed to discharge governmental services or functions on behalf of or ordinarily attributable to the civil taxing unit; plus

~~(3) the amount of federal revenue sharing funds and certified shares that were used by the civil taxing unit (or any special taxing district, authority, board, or other entity formed to discharge governmental services or functions on behalf of or ordinarily attributable to the civil taxing unit) to reduce its ad valorem property tax levies below the limits imposed by IC 6-1.1-18.5; plus~~

~~(4)~~ **(3)** in the case of a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

(b) The part of a county's certified distribution that is to be used as certified shares shall be allocated only among the county's civil taxing units. Each civil taxing unit of a county is entitled to receive a ~~percentage of the certified shares to be distributed in the county equal to the ratio of its attributed levy to the total attributed levies of all civil taxing units of the county.~~ **certified share during a calendar year in an amount determined in STEP TWO of the following formula:**

STEP ONE: Divide:

(A) the attributed allocation amount of the civil taxing unit during that calendar year; by

(B) the sum of the attributed allocation amounts of all the civil taxing units of the county during that calendar year.

STEP TWO: Multiply the part of the county's certified distribution that is to be used as certified shares by the STEP ONE amount.

(c) The local government tax control board established by IC 6-1.1-18.5-11 shall determine the attributed levies of civil taxing units that are entitled to receive certified shares during a calendar year. If the ad valorem property tax levy of any special taxing district, authority, board, or other entity is attributed to another civil taxing unit under subsection ~~(b)(2),~~ **(a)(2),** then the special taxing district, authority, board, or other entity shall not be treated as having an attributed ~~levy~~ **allocation amount** of its own. The local government tax control board shall certify the attributed ~~levy~~ **allocation** amounts to the appropriate county auditor. The county auditor shall then allocate the certified shares among the civil taxing units of the auditor's county.

(d) Certified shares received by a civil taxing unit shall be treated as additional revenue for the purpose of fixing its budget for the calendar year during which the certified shares will be received. The certified shares may be allocated to or appropriated for any purpose, including property tax relief or a transfer of funds to another civil taxing unit whose levy was attributed to the civil taxing unit in the determination of its attributed ~~levy.~~ **allocation amount.**

SECTION 6. IC 6-3.5-6-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 1.1. (a) For purposes of allocating the certified distribution made to a county under this chapter among the civil taxing units in the county, the allocation amount for a civil taxing unit is the amount determined using the following formula:**

STEP ONE: Determine the total property taxes that are first due and payable to the civil taxing unit during the calendar year of the distribution plus, for a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

STEP TWO: Determine the sum of the following:

(A) Amounts appropriated from property taxes to pay the principal of or interest on any debenture or other debt obligation issued after June 30, 2005, other than an obligation described in subsection (b).

(B) Amounts appropriated from property taxes to make payments on any lease entered into after June 30, 2005, other than a lease described in subsection (c).

(C) The proceeds of any property that are:

(i) received as the result of the issuance of a debt obligation described in clause (A) or a lease described in clause (B); and

(ii) appropriated from property taxes for any purpose other than to refund or otherwise refinance a debt obligation or lease described in subsection (b) or (c).

STEP THREE: Subtract the STEP TWO amount from the STEP ONE amount.

STEP FOUR: Determine the sum of:

(A) the STEP THREE amount; plus

(B) the civil taxing unit or school corporation's certified distribution for the previous calendar year.

(b) Except as provided in this subsection, an appropriation from property taxes to repay interest and principal of a debt obligation is not deducted from the allocation amount for a civil taxing unit if:

(1) the debt obligation was issued; and

(2) the proceeds appropriated from property taxes;

to refund or otherwise refinance a debt obligation or a lease issued before July 1, 2005. However, an appropriation from property taxes related to a debt obligation issued after June 30, 2005, is deducted if the debt extends payments on a debt or lease beyond the time in which the debt or lease would have been payable if the debt or lease had not been refinanced or increases the total amount that must be paid on a debt or lease in excess of the amount that would have been paid if the debt or lease had not been refinanced. The amount of the deduction is the annual amount for each year of the extension period or the annual amount of the increase over the amount that would have been paid.

(c) Except as provided in this subsection, an appropriation from property taxes to make payments on a lease is not deducted from the allocation amount for a civil taxing unit if:

(1) the lease was issued; and

(2) the proceeds were appropriated from property taxes;

to refinance a debt obligation or lease issued before July 1, 2005. However, an appropriation from property taxes related to a lease entered into after June 30, 2005, is deducted if the lease extends payments on a debt or lease beyond the time in which the debt or lease would have been payable if it had not been refinanced or increases the total amount that must be paid on a debt or lease in excess of the amount that would have been paid if the debt or lease had not been refinanced. The amount of the deduction is the annual amount for each year of the extension period or the annual amount of the increase over the amount that would have been paid.

SECTION 7. IC 6-3.5-6-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: 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), and (e). The department shall provide with the certification an informative summary of the calculations used to determine the certified distribution.

(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 ~~a~~ **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) 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.

(g) 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.

(h) 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 8. IC 6-3.5-6-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: 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;

(4) make payments permitted under IC 36-7-15.1-17.5;

(5) make payments permitted under subsection (i); and

(6) make distributions of distributive shares to the civil taxing units of a county.

(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 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. 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 ~~total property taxes that are first due and payable to the civil taxing unit during the calendar year in which the month falls, plus, for a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.~~ **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 ~~total property taxes that are first due and payable to all civil taxing units of the county during the calendar year in which the month falls, plus an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.~~ **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 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.

SECTION 9. IC 6-3.5-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: 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 shall provide with the certification an informative summary of the calculations used to determine the certified distribution.

(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 ~~a~~ **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).

SECTION 10. [EFFECTIVE JANUARY 1, 2006] **(a) The definitions in IC 6-3.5 apply throughout this SECTION.**

(b) IC 6-3.5-1.1-12, IC 6-3.5-1.1-14, and IC 6-3.5-1.1-15, all as amended by this act, and IC 6-3.5-1.1-1.1, as added by this act, apply to the allocation among the civil taxing units and school corporations of the certified distribution of county adjusted gross income tax revenue made to a county for a year beginning after December 31, 2005.

(c) IC 6-3.5-6-18, as amended by this act, and IC 6-3.5-6-1.1, as added by this act, apply to the allocation among the civil taxing units of the certified distribution of county option income tax revenue made to a county for a year beginning after December 31, 2005.

SECTION 11. [EFFECTIVE UPON PASSAGE] **Notwithstanding IC 6-3.5-6-17(b) and IC 6-3.5-7-11(b), the department of state revenue shall, before August 2, 2005, adjust the certified distribution of a county made on or before August 2, 2004, in accordance with IC 6-3.5-6-17(e) and IC 6-3.5-7-11(g), both as amended by this act.**

SECTION 12. **An emergency is declared for this act.**

(Reference is to ESB 609 as reprinted March 29, 2005.)

Kenley, Chair	Espich
Hume	Crawford
Senate Conferees	House Conferees

Roll Call 541: yeas 47, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT
EHB 1142–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill 1142 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete the title and insert the following:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 12-14-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) This section applies upon the death of either of the following:

(1) A recipient who is receiving supplemental assistance.

(2) An aged, blind, or disabled person who at the time of death was certified as eligible to receive medical assistance under Medicaid.

(b) ~~Unless otherwise determined by the director,~~ **Except as provided in subsection (c),** the division shall pay six hundred dollars ($600) for the funeral director's expenses of the decedent if the following conditions exist:

(1) The estate of the deceased is insufficient to pay the funeral director's expenses.

(2) The individual legally responsible for the burial of the deceased is unable to pay the funeral director's expenses.

(c) If the division determines that the estate of the deceased is sufficient to pay all or part of the funeral director's expenses, the division:

(1) shall pay six hundred dollars ($600) for expenses that the funeral director has incurred; and

(2) may recover the amount paid by the division under this section as a preferred claim from the estate of the deceased.

SECTION 2. IC 12-14-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~Unless otherwise determined by the director,~~ **(a) Except as provided in subsection (b),** in addition to money paid by the division under section 2 of this chapter and even if the deceased or person legally responsible for the deceased possesses a burial lot, the division shall pay four hundred dollars ($400) for the cemetery's expenses for the deceased to cover the following:

(1) The provision of burial rights if necessary.

(2) The opening and closing of a burial plot and provision of an outer container.

(3) The service required by the cemetery authorities.

(b) If the division determines that the estate of the deceased is sufficient to pay all or part of the cemetery's expenses, the division:

(1) shall pay four hundred dollars ($400) for expenses that the cemetery has incurred; and

(2) may recover the amount paid by the division under this section as a preferred claim from the estate of the deceased.

SECTION 3. IC 12-14-17-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.5. Except for a claim for the costs and expenses of administration, a claim filed under sections 2(c) and 3(b) of this chapter is a superior claim.**

SECTION 4. IC 12-14-17-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. ~~An amount not exceeding~~ **The division:**

(1) may not consider a combined total of **one thousand** seven hundred fifty dollars ~~($750)~~ **($1,750)** that is contributed by:

~~(1)~~ **(A)** friends;

~~(2)~~ **(B)** relatives; and

~~(3)~~ **(C)** the resources of the deceased; **and**

(2) may consider any amount that exceeds one thousand seven hundred fifty dollars ($1,750) contributed by:

(A) friends;

(B) relatives; and

(C) the resources of the deceased;

~~may not be considered~~ when determining the amount to be paid to the funeral director for expenses under this chapter. However, the resources of the deceased may not be used if the deceased has prepaid funeral expenses that were excluded as a resource for Medicaid eligibility under IC 12-15-2.

SECTION 5. IC 12-14-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. ~~An amount not exceeding~~ **The division:**

(1) may not consider a combined total of ~~two~~ **four** hundred dollars ~~($200)~~ **($400)** that is contributed by:

~~(1)~~ **(A)** friends;

~~(2)~~ **(B)** relatives; and

~~(3)~~ **(C)** the resources of the deceased; **and**

(2) may consider any amount that exceeds four hundred dollars ($400) contributed by:

(A) friends;

(B) relatives; and

(C) the resources of the deceased;

~~may not be considered~~ when determining the amount to be paid to the cemetery for expenses under this chapter. However, the resources of the deceased may not be used if the deceased has prepaid funeral expenses that were excluded as a resource for Medicaid eligibility under IC 12-15-2.

SECTION 6. IC 12-15-1-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 20. (a) To the extent allowed by federal law, the office may use federal or state funds under the Medicaid program to pay expenses related to a life insurance policy that:**

(1) is owned by an applicant or a recipient;

(2) is paid and does not have any premiums due to be paid on the policy; and

(3) either:

(A) is assigned to the state; or

(B) makes the state a beneficiary in an irrevocable election.

(b) The office shall inform an individual before the individual makes an assignment or irrevocable election under this section that the individual may have a life insurance policy described in IC 12-15-2-17 that provides for the payment of the individual's funeral expenses.

SECTION 7. IC 12-15-2-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) Except as provided in subsections (b) and (d), if an applicant for or a recipient of Medicaid:

(1) establishes one (1) irrevocable trust that has a value of not more than ten thousand dollars ($10,000), exclusive of interest, and is established for the sole purpose of providing money for the burial of the applicant or recipient;

(2) enters into an irrevocable prepaid funeral agreement having a value of not more than ten thousand dollars ($10,000); or

(3) owns a life insurance policy with a face value of not more than ten thousand dollars ($10,000) and with respect to which provision is made to pay not more than ten thousand dollars ($10,000) toward the applicant's or recipient's funeral expenses;

the value of the trust, prepaid funeral agreement, or life insurance policy may not be considered as a resource in determining the applicant's or recipient's eligibility for Medicaid.

(b) Subject to subsection (d), if an applicant for or a recipient of Medicaid establishes an irrevocable trust or escrow under IC 30-2-13, the entire value of the trust or escrow may not be considered as a resource in determining the applicant's or recipient's eligibility for Medicaid.

(c) **Except as provided under IC 12-15-3-7,** if an applicant for or a recipient of Medicaid owns resources described in subsection (a) and the total value of those resources is more than ten thousand dollars ($10,000), the value of those resources that is more than ten thousand dollars ($10,000) may be considered as a resource in determining the applicant's or recipient's eligibility for Medicaid.

(d) In order for a trust, an escrow, a life insurance policy, or a prepaid funeral agreement to be exempt as a resource in determining an applicant's or a recipient's eligibility for Medicaid under this section, the applicant or recipient must designate the office or the applicant's or recipient's estate to receive any remaining amounts after delivery of all services and merchandise under the contract as reimbursement for Medicaid assistance provided to the applicant or recipient after fifty-five (55) years of age. The office may receive funds under this subsection only to the extent permitted by 42 U.S.C. 1396p. The computation of remaining amounts shall be made as of the date of delivery of services and merchandise under the contract and must be the excess, if any, derived from:

(1) growth in principal;

(2) accumulation and reinvestment of dividends;

(3) accumulation and reinvestment of interest; and

(4) accumulation and reinvestment of distributions;

on the applicant's or recipient's trust, escrow, life insurance policy, or prepaid funeral agreement over and above the seller's current retail price of all services, merchandise, and cash advance items set forth in the applicant's or recipient's contract.

SECTION 8. IC 12-15-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Except as provided in subsection (b) **and section 7 of this chapter,** an applicant for or recipient of Medicaid is ineligible for assistance if the total cash value of money, stock, bonds, and life insurance owned by:

(1) the applicant or recipient is more than one thousand five hundred dollars ($1,500) for assistance to the aged, blind, or disabled; or

(2) the applicant or recipient and the applicant's or recipient's spouse is more than two thousand two hundred fifty dollars ($2,250) for medical assistance to the aged, blind, or disabled.

(b) In the case of an applicant who is an eligible individual, a Holocaust victim's settlement payment received by the applicant or the applicant's spouse may not be considered when calculating the total cash value of money, stock, bonds, and life insurance owned by the applicant or the applicant's spouse.

SECTION 9. IC 12-15-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) **Except as provided in section 7 of this chapter,** if the parent of an applicant for or a recipient of assistance to the blind or disabled who is less than eighteen (18) years of age owns money, stock, bonds, and life insurance whose total cash value is more than one thousand five hundred dollars ($1,500), the amount of the excess shall be added to the total cash value of money, stock, bonds, and life insurance owned by the applicant or recipient to determine the recipient's eligibility for Medicaid under section 1 of this chapter.

(b) However, a Holocaust victim's settlement payment received by the parent of an applicant for or a recipient of assistance may not be added to the total cash value of money, stock, bonds, and life insurance owned by the applicant or recipient to determine the recipient's eligibility for Medicaid under section 1 of this chapter.

SECTION 10. IC 12-15-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. **Except as provided in section 7 of this chapter,** if the parents of an applicant for or a recipient of assistance to the blind or disabled who is less than eighteen (18) years of age own money, stock, bonds, and life insurance whose total cash value is more than two thousand two hundred fifty dollars ($2,250), the amount of the excess shall be

added to the total cash value of money, stock, bonds, and life insurance owned by the applicant or recipient to determine the recipient's eligibility for Medicaid under section 1 of this chapter.

SECTION 11. IC 12-15-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. **Except as provided in section 7 of this chapter,** the office may set the total cash value of money, stock, bonds, and life insurance that an applicant for or a recipient of Medicaid may own without being ineligible for Medicaid in cases not described in section 1 of this chapter.

SECTION 12. IC 12-15-3-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. (a) The total value of a life insurance policy owned by an applicant or a recipient may not be considered as a resource in determining the applicant's or recipient's eligibility for Medicaid if no more premiums are due on the policy and the applicant or recipient:**

(1) makes an irrevocable election to name the state as the beneficiary of the life insurance policy; or

(2) assigns the insurance policy to the state.

(b) The state has an insurable interest in an applicant or a recipient who assigns a life insurance policy to the state or names the state as beneficiary of the life insurance policy under this section.

(c) After the state:

(1) receives payment from a life insurance policy described in subsection (a); and

(2) recoups the state's expenses of providing services under the Medicaid program for the individual;

the remainder of the amount of the policy reverts to the secondary beneficiary of the life insurance policy or, if there is not a secondary beneficiary, to the individual's estate.

SECTION 13. IC 29-2-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. Except where the context clearly indicates a different meaning, the terms used in this chapter shall be construed as follows:

(a) "Bank or storage facility" means a facility licensed, accredited, or approved under the laws of any state for storage of human bodies or parts thereof.

(b) "Decedent" means a deceased individual and includes a stillborn infant or fetus.

(c) "Donor" means an individual who makes a gift of all or part of ~~his~~ **the decedent's** body.

(d) "Hospital" means a hospital licensed, accredited, or approved under the laws of any state. **The term** includes a hospital operated by the United States government, a state, or a subdivision thereof, although not required to be licensed under state laws.

(e) "Part" means organs, tissues, eyes, bones, arteries, blood, other fluids, and any other portions of a human body.

(f) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(g) "Physician" or "surgeon" means a physician or surgeon licensed or authorized to practice under the laws of any state.

(h) "Procurement organization" means an organization qualified to recover anatomical gifts from donors.

~~(h)~~ **(i)** "State" includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.

SECTION 14. IC 29-2-16-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:

(1) any hospital, surgeon, or physician for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; ~~or~~

(2) any accredited medical or dental school, college or university for education, research, advancement of medical or dental science, or therapy; ~~or~~

(3) any ~~bank~~ **procurement organization** or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(4) any specified individual for therapy or transplantation needed

by ~~him.~~ **the individual.**

SECTION 15. IC 29-2-16-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. (a) A coroner ~~may release and permit~~ **shall attempt to facilitate permission for** the removal of ~~a part from a body~~ **organs, tissues, or eyes** within the coroner's custody, for transplantation, ~~or~~ therapy, ~~only,~~ **or research by providing information to or seeking information from the procurement organization that would assist the procurement organization in the evaluation of the viability for transplantation of any organ, tissue, or eye** if all of the following occur:

(1) The coroner receives a request ~~for a part~~ from a hospital, physician, surgeon, or procurement organization.

(2) The coroner makes a reasonable effort, taking into account the useful life of a part, to locate and examine the decedent's medical records and inform individuals listed in section 2(b) of this chapter of their option to make or object to making a gift under this chapter.

(3) The decision to allow the removal of organs, tissues, or eyes is based on a medical decision made by the pathologist or forensic pathologist. If the pathologist or forensic pathologist considers withholding one (1) or more organs or tissues of a potential donor, the pathologist or forensic pathologist:

(A) shall be present during the removal of the organs or tissues;

(B) may request a biopsy of the removed organs; and

(C) after viewing the removed organs or tissues and determining that removal may interfere with the death investigation, may prohibit removal and shall provide a written explanation to the procurement organization.

If it is determined that prior removal will interfere with the death investigation, the procurement organization may remove the tissues and eyes after the autopsy.

~~(3)~~ **(4)** The coroner does not know of a refusal or contrary indication by the decedent or an objection by an individual having priority to act as listed in section 2(b) of this chapter.

~~(4)~~ **(5)**The removal will be by:

(A) a physician licensed under IC 25-22.5; or

(B) in the case of removal of an eye or part of an eye, by an individual described in section 4(e) of this chapter; and under IC 36-2-14-19.

~~(5)~~ **(6)** The removal will not interfere with any autopsy or investigation.

~~(6)~~ **(7)** The removal will be in accordance with accepted medical standards.

~~(7)~~ **(8)** Cosmetic restoration will be done, if appropriate.

(9) If the pathologist or forensic pathologist is required to be present to examine the decedent before or during the removal of the parts, the procurement organization shall reimburse the pathologist or forensic pathologist for actual costs, but the amount may not exceed one thousand dollars ($1,000). The county is not responsible for any costs incurred by the pathologist, forensic pathologist, or procurement organization under this subdivision.

(10) If requested by the coroner, pathologist, or forensic pathologist, the procurement organization shall provide a surgeon's report detailing the condition of the organs and the relationship of the organs to the cause of death, if any.

(b) If the body is not within the custody of the coroner, the ~~medical examiner~~ **pathologist or forensic pathologist** may release and permit the removal of any part from a body ~~in the medical examiner's custody~~ for transplantation or therapy if the requirements of subsection (a) are met.

(c) A person under this section who releases or permits the removal of a part shall maintain a permanent record of the name of the decedent, the individual making the request, the date and purpose of the request, the body part requested, and the person to whom it was released.

SECTION 16. IC 29-2-16-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 6.5. (a) Except for a gift made by a donor to a specific donee, a procurement organization that holds an agreement with a hospital to perform anatomical gift donation services for the hospital under 42 U.S.C. 1329b-8 and 42 CFR Part 482 is considered to be the donee of all gifts from patients who have died in the hospital.**

(b) An investigation by a coroner or a medical examiner does not change the rights of a procurement organization to act as the donee.

(Reference is to EHB 1142 as printed April 1, 2005.)

T. Brown, Chair	Kenley
Fry	Simpson
House Conferees	Senate Conferees

Roll Call 542: yeas 48, nays 0. Report adopted.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: The Senate Committee on Transportation, to which was referred Senate Resolution 27, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said resolution do pass.

Committee Vote: Yeas 8, Nays 0.

SERVER, Chair

Report adopted.

RESOLUTIONS ON SECOND READING

Senate Resolution 27

Senator Waterman called up Senate Resolution 27 for second reading. The resolution was read a second time by title and adopted by voice vote.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT

EHB 1141–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill 1141 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete the title and insert the following:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 9-13-2-1.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1.7. "Aggressive driving", for purposes of IC 9-21-8-55, has the meaning set forth in IC 9-21-8-55(a).**

SECTION 2. IC 9-21-8-55 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 55. (a) For purposes of this section, a person engages in aggressive driving if, during one (1) episode of continuous driving of a vehicle, the person does at least three (3) of the following:**

(1) Following a vehicle too closely in violation of IC 9-21-8-14.

(2) Unsafe operation of a vehicle in violation of IC 9-21-8-24.

(3) Overtaking another vehicle on the right by driving off the roadway in violation of IC 9-21-8-6.

(4) Unsafe stopping or slowing a vehicle in violation of IC 9-21-8-26.

(5) Unnecessary sounding of the horn in violation of IC 9-19-5-2.

(6) Failure to yield in violation of IC 9-21-8-29 through IC 9-21-8-34.

(7) Failure to obey a traffic control device in violation of IC 9-21-8-41.

(8) Driving at an unsafe speed in violation of IC 9-21-5.

(9) Repeatedly flashing the vehicle's headlights.

(b) A person who knowingly or intentionally engages in aggressive driving commits aggressive driving, a Class A misdemeanor.

SECTION 3. IC 33-30-2-1, AS AMENDED BY HEA 1398-2005, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) A county court is established in the following counties:

(1) Floyd County.

(2) Madison County.

~~(3) Montgomery County.~~

(b) However, a county court listed in subsection (a) is abolished if:

(1) IC 33-33 provides a small claims docket of the circuit court;

(2) IC 33-33 provides a small claims docket of the superior court; or

(3) IC 33-34 provides a small claims court;

for the county in which the county court was established.

SECTION 4. IC 33-33-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) There ~~is~~ **are** established ~~a court~~ **two (2) courts** of record to be known as the:

(1) Dearborn superior court **No. 1; and**

(2) Dearborn superior court No. 2.

(b) ~~The~~ **Each** Dearborn superior court is a standard superior court as described in IC 33-29-1.

(c) Dearborn County comprises the judicial district of ~~the~~ **each** superior court.

SECTION 5. IC 33-33-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~The~~ **Each** Dearborn superior court has one (1) judge who shall hold sessions in:

(1) the Dearborn County courthouse in Lawrenceburg; or ~~in~~

(2) other places in the county as the Dearborn County executive may provide.

SECTION 6. IC 33-33-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. In addition to a bailiff and an official court reporter for the court appointed under IC 33-29-1-5, ~~the~~ **each** judge may appoint a referee, a commissioner, or other personnel as the judge considers necessary to facilitate and transact the business of the court. The salary of a referee, a commissioner, or other person:

(1) shall be fixed in the same manner as the salaries of the personnel for the Dearborn circuit court; and

(2) shall be paid monthly out of the treasury of Dearborn County as provided by law.

Personnel appointed under this section or IC 33-29-1-5 continue in office until removed by the judge of the court **for which the personnel were appointed.**

SECTION 7. IC 33-33-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Except as provided in subsection (b), ~~the~~ **each** Dearborn superior court has the same jurisdiction as the Dearborn circuit court.

(b) The Dearborn circuit court has exclusive juvenile jurisdiction.

SECTION 8. IC 33-33-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. ~~The~~ **Each** Dearborn superior court has a standard small claims and misdemeanor division.

SECTION 9. IC 33-33-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) There ~~is~~ **are** established ~~a court~~ **two (2) courts** of record to be known as the DeKalb superior court **No. 1 and the DeKalb superior court No. 2.**

(b) ~~The~~ **Each** DeKalb superior court is a standard superior court as described in IC 33-29-1.

(c) DeKalb County comprises the judicial district of ~~the~~ **each** superior court.

SECTION 10. IC 33-33-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~The~~ **Each** DeKalb superior court has one (1) judge who shall hold sessions in:

(1) the DeKalb County courthouse in Auburn; or

(2) other places in the county as the board of county commissioners of DeKalb County may provide.

SECTION 11. IC 33-33-17-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) If:

(1) the clerk of the circuit court of DeKalb County receives the transcript of the original papers in a civil action or proceeding ~~received by the clerk of the circuit and superior courts of DeKalb County~~ on **a** change of venue from another county; ~~contains~~ **and**

(2) the papers described in subdivision (1) contain an order of the court from which venue was changed designating the circuit court or **one (1) of** the superior ~~court~~ **courts** as the court to which the case is to be transferred;

the clerk shall file the action or proceeding on the docket of the designated court.

(b) If:

(1) the clerk of the circuit court of DeKalb County receives the transcript of the original papers in a civil action or proceeding ~~docs~~ **on a change of venue from another county; and**

(2) the papers described in subdivision (1) do not contain an order designating the court to which the case is to be transferred;

the clerk shall alternately file each action or proceeding on the docket of the circuit court ~~and~~ **or** the docket of **one (1) of** the superior ~~court,~~ **courts,** depending on the order and sequence in

which the papers of the cases reach the clerk, so that if the first case is assigned to the circuit court, the next must be assigned to the superior court **No. 1, and the next must be assigned to the superior court No. 2.**

SECTION 12. IC 33-33-17-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. ~~The~~ **Each** DeKalb superior court has the same jurisdiction as the DeKalb circuit court.

SECTION 13. IC 33-33-17-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. ~~The~~ **Each** DeKalb superior court has a standard small claims and misdemeanor division.

SECTION 14. IC 33-33-29-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) There are established ~~five (5)~~ **six (6)** superior courts of record to be known as the:

(1) Hamilton superior court No. 1; ~~the~~

(2) Hamilton superior court No. 2; ~~the~~

(3) Hamilton superior court No. 3; ~~the~~

(4) Hamilton superior court No. 4; ~~and the~~

(5) Hamilton superior court No. 5; **and**

(6) Hamilton superior court No. 6.

(b) Except as otherwise provided in this chapter, each Hamilton superior court is a standard superior court as described in IC 33-29-1.

(c) Hamilton County constitutes the judicial district of each court.

SECTION 15. IC 33-33-29-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. The:

(1) Hamilton superior court No. 4; ~~and the~~

(2) Hamilton superior court No. 5; **and**

(3) Hamilton superior court No. 6;

each have a standard small claims and misdemeanor division.

SECTION 16. IC 33-33-32-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) There are established ~~three (3)~~ **five (5)** superior courts of record to be known as:

(1) Hendricks superior court No. 1;

(2) Hendricks superior court No. 2; ~~and~~

(3) Hendricks superior court No. 3;

(4) Hendricks superior court No. 4; and

(5) Hendricks superior court No. 5.

(b) Except as otherwise provided in this chapter, each Hendricks superior court is a standard superior court as described in IC 33-29-1.

(c) Hendricks County comprises the judicial district of each court.

SECTION 17. IC 33-33-32-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Change of venue from the judge or from the county may be had under the same terms, conditions, and procedure applicable to changes of venue from the judge or the county in circuit courts.

(b) If a cause is received by the clerk of the Hendricks circuit court on change of venue from another county, the cause shall be docketed on a rotating basis and assigned alternately to the:

(1) Hendricks circuit court;

(2) Hendricks superior court No. 1;

(3) Hendricks superior court No. 2; ~~and~~

(4) Hendricks superior court No. 3;

(5) Hendricks superior court No. 4; and

(6) Hendricks superior court No. 5;

unless otherwise provided in the order or entry made in ~~such~~ **the** cause in the county from which ~~such~~ **the** change of venue was taken, in which case it shall be docketed as provided in the entry or order.

SECTION 18. IC 33-33-34-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. **(a)** There ~~is~~ **are** established ~~a court~~ **four (4) superior courts** of record to be known as the Howard superior court ~~The court consists of two (2) judges each of whom holds office for six (6) years and until the judge's successor is elected and qualified.~~ **No. 1, the Howard superior court No. 2, the Howard superior court No. 3, and the Howard superior court No. 4.**

(b) Except as otherwise provided in this chapter, each Howard superior court is a standard superior court, as described in IC 33-29-1.

(c) Howard county comprises the judicial circuit of each court.

SECTION 19. IC 33-33-34-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. ~~(a) The~~ **Each** Howard superior court **has one (1) judge, who** shall hold its sessions in:

(1) the Howard County courthouse in Kokomo; or

(2) another convenient and suitable place as the board of county commissioners of Howard County provides.

~~(b) The board of county commissioners shall provide and maintain a suitable and convenient courtroom for the holding of the court, with a suitable and convenient jury room and offices for the judge and the official court reporter, and the county council shall meet and appropriate all necessary funds.~~

SECTION 20. IC 33-33-34-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The judges of the superior court

~~(1)~~ may make and adopt rules and regulations for conducting the business of the court.

~~(2) has all the powers in relation to the attendance of witnesses, the punishment of contempts, and the enforcement of its orders; and~~

~~(3) may administer oaths, solemnize marriages, take and certify acknowledgement of deeds, and give all necessary certificates for the authentication of the records and proceedings in the court.~~

SECTION 21. IC 33-33-34-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 19. The Howard superior court No. 3 has a standard small claims and misdemeanor division.**

SECTION 22. IC 33-33-48-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7.5. (a) The judges of the Madison superior court may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the superior court.**

(b) The magistrate continues in office until removed by the judges of the superior court.

SECTION 23. IC 33-33-53-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Monroe County constitutes the tenth judicial circuit.

(b) There are ~~seven (7)~~ **nine (9)** judges of the Monroe circuit court.

SECTION 24. IC 33-33-54-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) There ~~is~~ **are** established ~~a court~~ **two (2) courts** of record to be known as the:

(1) Montgomery superior court **No. 1; and**

(2) Montgomery superior court No. 2.

(b) ~~The~~ **Each** Montgomery superior court is a standard superior court as described in IC 33-29-1.

(c) Montgomery County comprises the judicial district of ~~the~~ **each** court.

SECTION 25. IC 33-33-54-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~The~~ **Each** court has one (1) judge who shall hold sessions in:

(1) the Montgomery County courthouse in Crawfordsville; or

(2) other places in the county as the Montgomery County executive may provide.

SECTION 26. IC 33-33-54-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. ~~The~~ **Each** Montgomery superior court has the same jurisdiction as the Montgomery circuit court.

SECTION 27. IC 33-33-54-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 6. Beginning January 1, 2006, each Montgomery superior court has a standard small claims and misdemeanor division.**

SECTION 28. IC 33-33-62-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Perry County constitutes the seventieth judicial circuit.

(b) The Perry circuit court has a standard small claims and misdemeanor division.

(c) The judge of the Perry circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judge.

SECTION 29. IC 33-33-84-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. There is established a court of record to be known as the Vigo superior court. The superior court has ~~four (4)~~ **five (5)** judges who shall hold their office for six (6) years and until their successors have been elected and qualified.

SECTION 30. IC 35-42-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) As used in this section, "hazing" means forcing or requiring another person:

(1) with or without the consent of the other person; and

(2) as a condition of association with a group or organization;

to perform an act that creates a substantial risk of bodily injury.

(b) A person who recklessly, knowingly, or intentionally performs:

(1) an act that creates a substantial risk of bodily injury to another person; or

(2) hazing;

commits criminal recklessness. Except as provided in subsection (c), criminal recklessness is a Class B misdemeanor.

(c) The offense of criminal recklessness as defined in subsection (b) is:

(1) a Class A misdemeanor if the conduct includes the use of a vehicle;

(2) a Class D felony if:

(A) it is committed while armed with a deadly weapon; or

(B) the person committed aggressive driving (as defined in IC 9-21-8-55) and caused serious bodily injury to another person; or

(3) a Class C felony if:

(A) it is committed by shooting a firearm ~~from a vehicle~~ into an inhabited dwelling or other building or place where people are likely to gather; **or**

(B) the person committed aggressive driving (as defined in IC 9-21-8-55) and caused the death of another person.

(d) A person who recklessly, knowingly, or intentionally:

(1) inflicts serious bodily injury on another person; or

(2) performs hazing that results in serious bodily injury to a person;

commits criminal recklessness, a Class D felony. However, the offense is a Class C felony if committed by means of a deadly weapon.

(e) A person, other than a person who has committed an offense under this section or a delinquent act that would be an offense under this section if the violator was an adult, who:

(1) makes a report of hazing in good faith;

(2) participates in good faith in a judicial proceeding resulting from a report of hazing;

(3) employs a reporting or participating person described in subdivision (1) or (2); or

(4) supervises a reporting or participating person described in subdivision (1) or (2);

is not liable for civil damages or criminal penalties that might otherwise be imposed because of the report or participation.

(f) A person described in subsection (e)(1) or (e)(2) is presumed to act in good faith.

(g) A person described in subsection (e)(1) or (e)(2) may not be treated as acting in bad faith solely because the person did not have probable cause to believe that a person committed:

(1) an offense under this section; or

(2) a delinquent act that would be an offense under this section if the offender was an adult.

SECTION 31. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 33-33-17-5; IC 33-33-34-1; IC 33-33-34-4; IC 33-33-34-5; IC 33-33-34-8; IC 33-33-34-9; IC 33-33-34-10; IC 33-33-34-11; IC 33-33-34-15; IC 33-33-34-16; IC 33-33-34-17; IC 33-33-34.3.

SECTION 32. IC 33-33-54-5 IS REPEALED [EFFECTIVE JANUARY 1, 2006].

SECTION 33. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding the amendment of IC 33-33-15 by this act, the Dearborn superior court No. 2 is not established until January 1, 2006.**

(b) The governor shall appoint a person under IC 3-13-6-1(c) to serve as the initial judge of the Dearborn superior court No. 2 established by IC 33-33-15-2, as amended by this act, before January 1, 2006.

(c) The term of the initial judge appointed under subsection (b) begins January 1, 2006, and ends December 31, 2006.

(d) The initial election of the judge of the Dearborn superior court No. 2 is the general election on November 7, 2006. The term of the initially elected judge begins January 1, 2007.

(e) This SECTION expires January 2, 2007.

SECTION 34. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding the amendment of IC 33-33-17 by this act, the DeKalb superior court No. 2 is not established until January 1, 2006.**

(b) The governor shall appoint a person under IC 3-13-6-1(c) to serve as the initial judge of the DeKalb superior court No. 2 added by IC 33-33-17-2, as amended by this act.

(c) The term of the initial judge appointed under subsection (b) begins January 1, 2006, and ends December 31, 2006.

(d) The initial election of the judge of the DeKalb superior court No. 2 is the general election on November 7, 2006. The term of the initially elected judge begins January 1, 2007.

(e) Notwithstanding the repeal of IC 33-33-17-5 by this act, the part-time small claims referee appointed under IC 33-33-17-5 shall continue to assist the DeKalb superior court in the exercise of its small claims jurisdiction until December 31, 2005.

(f) This SECTION expires January 2, 2008.

SECTION 35. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding IC 33-33-29-2, as amended by this act, the Hamilton superior court No. 6 is not established until January 1, 2007.**

(b) Notwithstanding IC 33-33-29-8, as amended by this act, the Hamilton superior court No. 6 does not have a standard small claims and misdemeanor division until January 1, 2007.

(c) The initial election of the judge of the Hamilton superior court No. 6 established in IC 33-33-29-2, as amended by this act, is the general election on November 7, 2006. The term of the initially elected judge begins January 1, 2007.

(d) This SECTION expires January 2, 2007.

SECTION 36. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding IC 33-33-32-2 and IC 33-33-32-5, both as amended by this act, the:**

(1) Hendricks superior court No. 4; and

(2) Hendricks superior court No. 5;

as added by this act, are not established until January 1, 2007.

(b) The initial election of the judges of the:

(1) Hendricks superior court No. 4; and

(2) Hendricks superior court No. 5;

added by IC 33-33-32-2, as amended by this act, is the general election on November 7, 2006. The terms of the two (2) judges initially elected under this subsection begin January 1, 2007.

(c) This SECTION expires January 2, 2007.

SECTION 37. [EFFECTIVE JULY 1, 2005] **(a) The judges of the:**

(1) Hendricks superior court No. 1;

(2) Hendricks superior court No. 2;

(3) Hendricks superior court No. 3; and

(4) Hendricks circuit court;

may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the courts.

(b) A magistrate appointed under this SECTION continues in office until:

(1) removed by the judges of the courts; or

(2) January 1, 2007;

whichever occurs first.

(c) This SECTION expires January 2, 2007.

SECTION 38. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding IC 33-33-34-3, as amended by this act, the Howard superior court is not expanded to four (4) courts until January 6, 2006.**

(b) The governor shall appoint a person under IC 3-13-6-1(c) to serve as the initial judge of the Howard superior court No. 4 established by IC 33-33-34-3, as amended by this act.

(c) The term of the initial judge appointed under subsection (b) begins January 6, 2006, and ends December 31, 2006.

(d) The initial election of the judge of the Howard superior court No. 4, established by IC 33-33-34-3, as amended by this act, is the general election on November 7, 2006. The term of the initially elected judge begins January 1, 2007.

(e) The terms of the judges of Howard superior court No. 1, Howard superior court No. 2, and Howard superior court No. 3 are not affected by the amendment of IC 33-33-34-3 or IC 33-33-34-6 by this act, or by the repeal of IC 33-33-34-4 or 33-33-34.3 by this act.

(f) This SECTION expires January 2, 2007.

SECTION 39. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding IC 33-33-53-1, as amended by this act, the Monroe circuit court is not expanded to:**

(1) eight (8) judges until January 1, 2006, as described in subsection (b); and

(2) nine (9) judges until January 1, 2008, as described in subsection (c).

(b) The governor shall appoint a person under IC 3-13-6-1(c) to serve as the eighth judge of the Monroe circuit

court added by IC 33-33-53-1, as amended by this act. The term of the initial judge appointed under this subsection begins January 1, 2006, and ends December 31, 2006. The initial election of the eighth judge of the Monroe circuit court added by IC 33-33-53-1, as amended by this act, is the general election on November 7, 2006. The term of the judge initially elected under this subsection begins January 1, 2007.

(c) The governor shall appoint a person under IC 3-13-6-1(c) to serve as the ninth judge of the Monroe circuit court added by IC 33-33-53-1, as amended by this act. The term of the initial judge appointed under this subsection begins January 1, 2008, and ends December 31, 2008. The initial election of the ninth judge of the Monroe circuit court added by IC 33-33-53-1, as amended by this act, is the general election on November 4, 2008. The term of the judge initially elected under this subsection begins January 1, 2009.

(d) This SECTION expires January 2, 2009.

SECTION 40. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding the amendment of IC 33-33-54 by this act, the Montgomery superior court No. 2 is not established until January 1, 2006.**

(b) As of January 1, 2006, the Montgomery county court is abolished.

(c) Any case pending in the Montgomery county court after the close of business on December 31, 2005, is transferred on January 1, 2006, to the Montgomery superior court No. 2 established by IC 33-33-54-2, as amended by this act. All cases transferred under this SECTION that are eligible to be heard by the standard small claims and misdemeanor division, established by IC 33-33-54-6, as added by this act, shall be transferred to the standard small claims and misdemeanor division of the Montgomery superior court No. 2 in accordance with the venue requirements prescribed in Rule 75 of the Indiana Rules of Trial Procedure. A case transferred under this SECTION shall be treated as if the case were filed in the Montgomery superior court No. 2.

(d) On January 1, 2006, all property and obligations of the Montgomery county court become the property and obligations of the Montgomery superior court No. 2.

(e) The initial judge of the Montgomery superior court No. 2 established by IC 33-33-54-2, as amended by this act, shall be the person who is the Montgomery county court judge on December 31, 2005. The term of the initial judge of the Montgomery superior court No. 2 begins January 1, 2006, and ends December 31, 2008. The initial election of a judge for the Montgomery superior court No. 2, established by IC 33-33-54-2, as amended by this act, is the general election on November 4, 2008. The term of the initial elected judge of the Montgomery superior court No. 2 begins January 1, 2009.

(f) This SECTION expires January 2, 2009.

SECTION 41. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding IC 33-33-84-3, as amended by this act, the Vigo superior court is not expanded to five (5) judges until January 1, 2006.**

(b) The governor shall appoint a person under IC 3-13-6-1(c) to serve as the initial judge added to the Vigo superior court by IC 33-33-84-3, as amended by this act.

(c) The term of the initial judge appointed under subsection (b) begins January 1, 2006, and ends December 31, 2006.

(d) The initial election of the judge of the Vigo superior court added by IC 33-33-84-3, as amended by this act, is the general election in November 2006. The term of the initially elected judge begins January 1, 2007.

(e) This SECTION expires January 2, 2007.

SECTION 42. [EFFECTIVE JULY 1, 2005] **IC 9-21-8-55, as added by this act, and IC 35-42-2-2, as amended by this act, apply only to offenses committed after June 30, 2005.**

(Reference is to EHB 1141 as reprinted April 5, 2005.)

T. Brown, Chair	Harrison
Kuzman	Lewis
House Conferees	Senate Conferees

Roll Call 543: yeas 48, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

EHB 1153–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill 1153 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete the title and insert the following:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-4.1-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004 (RETROACTIVE)]: Sec. 3. (a) "Class A transferee" means a transferee who is **a:**

(1) ~~a~~ lineal ancestor of the transferor;

(2) ~~a~~ lineal descendant of the transferor; ~~or~~

(3) ~~a~~ stepchild of the transferor, **whether or not the stepchild is adopted by the transferor; or**

(4) lineal descendant of a stepchild of the transferor, whether or not the stepchild is adopted by the transferor.

(b) "Class B transferee" means a transferee who is a:

(1) brother or sister of the transferor;

(2) descendant of a brother or sister of the transferor; or

(3) spouse, widow, or widower of a child of the transferor.

(c) "Class C transferee" means a transferee, except a surviving spouse, who is neither a Class A nor a Class B transferee.

(d) For purposes of this section, a legally adopted child is to be treated as if the child were the natural child of the child's adopting parent if the adoption occurred before the individual was totally

emancipated. **However, an individual adopted after being totally emancipated shall be treated as the natural child of the adopting parent if the adoption was finalized before July 1, 2004.**

(e) For purposes of this section, if a relationship of loco parentis has existed for at least ten (10) years and if the relationship began before the child's fifteenth birthday, the child is to be considered the natural child of the loco parentis parent.

~~(c)~~ **(f)** As used in this section, "stepchild" means a child of the transferor's surviving, deceased, or former spouse who is not a child of the transferor.

SECTION 2. IC 6-4.1-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. **(a) If the Internal Revenue Service allows an extension on a federal estate tax return, the corresponding due date for the Indiana inheritance tax return is automatically extended for the same period as the federal extension.**

(b) If the appropriate probate court finds that because of an unavoidable delay an inheritance tax return cannot be filed within nine (9) months after the date of decedent's death, the court may extend the period for filing the return. After the expiration of the first extension period, the court may grant a subsequent extension if the person seeking the extension files a written motion which states the reason for the delay in filing the return.

(c) For purposes of sections 3 and 6 of this chapter, an inheritance tax return is not due until the last day of any extension period or periods granted ~~by the court~~ under this section.

SECTION 3. IC 29-1-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004 (RETROACTIVE)]: Sec. 1. (a) The estate of a person dying intestate shall descend and be distributed as provided in this section.

(b) Except as otherwise provided in subsection (c), the surviving spouse shall receive the following share:

(1) One-half (1/2) of the net estate if the intestate is survived by at least one (1) child or by the issue of at least one (1) deceased child.

(2) Three-fourths (3/4) of the net estate, if there is no surviving issue, but the intestate is survived by one (1) or both of the intestate's parents.

(3) All of the net estate, if there is no surviving issue or parent.

(c) If the surviving spouse is a second or other subsequent spouse who did not at any time have children by the decedent, and the decedent left surviving ~~him~~ **the decedent** a child or children or the descendants of a child or children by a previous spouse, such surviving second or subsequent childless spouse shall take only an amount equal to twenty-five percent (25%) of the fair market value as of the date of death of the ~~lands~~ **real property** of the deceased spouse, **less liens and encumbrances on the real property of the deceased spouse,** and the fee shall, at the decedent's death, vest at once in such child or children, or the descendants of such as may be dead. Such second or subsequent childless spouse shall, however, receive the same share of the personal property of the decedent as is provided in subsection (b) with respect to surviving spouses generally.

(d) The share of the net estate not distributable to the surviving spouse, or the entire net estate if there is no surviving spouse, shall descend and be distributed as follows:

(1) To the issue of the intestate, if they are all of the same degree of kinship to the intestate, they shall take equally, or if of unequal degree, then those of more remote degrees shall take by representation.

(2) If there is a surviving spouse but no surviving issue of the intestate, then to the surviving parents of the intestate.

(3) If there is no surviving spouse or issue of the intestate, then to the surviving parents, brothers, and sisters, and the issue of deceased brothers and sisters of the intestate. Each living parent of the intestate shall be treated as of the same degree as a brother or sister and shall be entitled to the same share as a brother or sister. However, the share of each parent shall be not less than one-fourth (1/4) of such net estate. Issue of deceased brothers and sisters shall take by representation.

(4) If there is no surviving parent or brother or sister of the intestate, then to the issue of brothers and sisters. If such distributees are all in the same degree of kinship to the intestate, they shall take equally or, if of unequal degree, then those of more remote degrees shall take by representation.

(5) If there is no surviving issue or parent of the intestate or issue of a parent, then to the surviving grandparents of the intestate equally.

(6) If there is no surviving issue or parent or issue of a parent, or grandparent of the intestate, then the estate of the decedent shall be divided into that number of shares equal to the sum of:

(A) the number of brothers and sisters of the decedent's parents surviving the decedent; plus

(B) the number of deceased brothers and sisters of the decedent's parents leaving issue surviving both them and the decedent;

and one (1) of the shares shall pass to each of the brothers and sisters of the decedent's parents or their respective issue per stirpes.

(7) If interests in real estate go to a husband and wife under this subsection, the aggregate interests so descending shall be owned by them as tenants by the entireties. Interests in personal property so descending shall be owned as tenants in common.

(8) If there is no person mentioned in subdivisions (1) through (7), then to the state.

SECTION 4. IC 29-1-2-12.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12.1. (a) A person is a constructive trustee of any property that is acquired by ~~him~~ **the person** or that ~~he~~ **the person** is otherwise entitled to receive as a result of ~~a decedent's~~ **an individual's** death, **including property from a trust,** if that person has been found guilty, or guilty but mentally ill, of murder, causing suicide, or voluntary manslaughter, because of the ~~decedent's~~ **individual's** death. A judgment of conviction is conclusive in a subsequent civil action to have the

person declared a constructive trustee.

(b) A civil action may be initiated to have a person declared a constructive trustee of property that is acquired by ~~him,~~ **the person,** or that ~~he~~ **the person** is otherwise entitled to receive, **including property from a trust,** as a result of ~~a decedent's~~ **an individual's** death, if:

(1) the person has been charged with murder, causing suicide, or voluntary manslaughter, because of the ~~decedent's~~ **individual's** death; and

(2) the person has been found not responsible by reason of insanity at the time of the crime.

If a civil action is initiated under this subsection, the court shall declare that the person is a constructive trustee of the property if by a preponderance of the evidence it is determined that the person killed or caused the suicide of the ~~decedent.~~ **individual.**

(c) If a constructive trust is established under this section, the property that is subject to the trust may be used only to benefit those persons, other than the constructive trustee, legally entitled to the property, determined as if the constructive trustee had died immediately before the decedent. However, if any property that the constructive trustee acquired as a result of the decedent's death has been sold to an innocent purchaser for value who acted in good faith, that property is no longer subject to the constructive trust, but the property received from the purchaser under the transaction becomes subject to the constructive trust.

SECTION 5. IC 29-1-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. If either a husband or wife shall have left the other and shall be living at the time of his or her death in adultery, he or she as the case may be shall take no part of the estate **or trust** of the deceased husband or wife.

SECTION 6. IC 29-1-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. If a person shall abandon his or her spouse without just cause, he or she shall take no part of his or her estate **or trust.**

SECTION 7. IC 29-1-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. **(a) Except as provided in subsection (b),** the election by a surviving spouse to take the share hereinbefore provided must be made not later than ~~ten (10) days~~ **three (3) months** after the ~~expiration of the time limited for the filing of claims, provided that~~ **date of the order admitting to probate the will against which the election is made.**

(b) If, at the expiration of such period for making the election, litigation is pending to test the validity or ~~to~~ determine the effect or construction of the will or to determine the existence of issue surviving the deceased, or to determine any other matter of law or fact which would affect the amount of the share to be received by the surviving spouse, the right of such surviving spouse to make an election shall not be barred until the expiration of thirty (30) days after the final determination of the litigation.

SECTION 8. IC 29-1-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. In the absence of a contrary intent appearing in the will, wills shall be construed as to real and personal estate in accordance with the rules in this section.

(a) Any estate, right, or interest in land or other things acquired by the testator after the making of the testator's will shall pass as if title was vested in the testator at the time of making of the will.

(b) All devises of real estate shall pass the whole estate of the testator in the premises devised, although there are no words of inheritance or of perpetuity, whether or not at the time of the execution of the will the decedent was the owner of that particular interest in the real estate devised. Such devise shall also pass any interest which the testator may have at the time of the testator's death as vendor under a contract for the sale of such real estate.

(c) A devise of real or personal estate, whether directly or in trust, to the testator's or another designated person's "heirs", "next of kin", "relatives", or "family", or to "the persons thereunto entitled under the intestate laws" or to persons described by words of similar import, shall mean those persons (including the spouse) who would take under the intestate laws if the testator or other designated person were to die intestate at the time when such class is to be ascertained, domiciled in this state, and owning the estate so devised. With respect to a devise which does not take effect at the testator's death, the time when such class is to be ascertained shall be the time when the devise is to take effect in enjoyment.

(d) In construing a will making a devise to a person or persons described by relationship to the testator or to another, any person adopted prior to the person's twenty-first birthday before the death of the testator shall be considered the child of the adopting parent or parents and not the child of the natural or previous adopting parents. However, if a natural parent or previous adopting parent marries the adopting parent before the testator's death, the adopted person shall also be considered the child of such natural or previous adopting parent. Any person adopted after the person's twenty-first birthday by the testator shall be considered the child of the testator, but no other person shall be entitled to establish relationship to the testator through such child.

(e) In construing a will making a devise to a person described by relationship to the testator or to another, a person born out of wedlock shall be considered the child of the child's mother, and also of the child's father, if, but only if, the child's right to inherit from the child's father is, or has been, established in the manner provided in IC 29-1-2-7.

(f) A will shall not operate as the exercise of a power of appointment which the testator may have with respect to any real or personal estate, unless by its terms the will specifically indicates that the testator intended to exercise the power.

(g) If a devise of real or personal property, not included in the residuary clause of the will, is void, is revoked, or lapses, it shall become a part of the residue, and shall pass to the residuary devisee. Whenever any estate, real or personal, shall be devised to any descendant of the testator, and such devisee shall die during the lifetime of the testator, whether before or after the execution of the will, leaving a descendant who shall survive such testator, such devise shall not lapse, but the property so devised shall vest in the surviving descendant of the devisee as if such devisee had survived

the testator and died intestate. The word "descendant", as used in this section, includes children adopted during minority by the testator and by the testator's descendants and includes descendants of such adopted children. "Descendant" also includes children of the mother who are born out of wedlock, and children of the father who are born out of wedlock, if, but only if, such child's right to inherit from such father is, or has been, established in the manner provided in IC 29-1-2-7. This rule applies where the parent is a descendant of the testator as well as where the parent is the testator. Descendants of such children shall also be included.

(h) **Except as provided in subsection (m),** if a testator in the testator's will refers to a writing of any kind, such writing, whether subsequently amended or revoked, as it existed at the time of execution of the will, shall be given the same effect as if set forth at length in the will, if such writing is clearly identified in the will and is in existence both at the time of the execution of the will and at the testator's death.

(i) If a testator devises real or personal property upon such terms that the testator's intentions with respect to such devise can be determined at the testator's death only by reference to a fact or an event independent of the will, such devise shall be valid and effective if the testator's intention can be clearly ascertained by taking into consideration such fact or event even though occurring after the execution of the will.

(j) If a testator devises or bequeaths property to be added to a trust or trust fund which is clearly identified in the testator's will and which trust is in existence at the time of the death of the testator, such devise or bequest shall be valid and effective. Unless the will provides otherwise, the property so devised or bequeathed shall be subject to the terms and provisions of the instrument or instruments creating or governing the trust or trust fund, including any amendments or modifications in writing made at any time before or after the execution of the will and before or after the death of the testator.

(k) If a testator devises securities in a will and the testator then owned securities that meet the description in the will, the devise includes additional securities owned by the testator at death to the extent the additional securities were acquired by the testator after the will was executed as a result of the testator's ownership of the described securities and are securities of any of the following types:

(1) Securities of the same organization acquired because of an action initiated by the organization or any successor, related, or acquiring organization, excluding any security acquired by exercise of purchase options.

(2) Securities of another organization acquired as a result of a merger, consolidation, reorganization, or other distribution by the organization or any successor, related, or acquiring organization.

(3) Securities of the same organization acquired as a result of a plan of reinvestment.

Distributions in cash before death with respect to a described security are not part of the devise.

(l) For purposes of this subsection, "incapacitated principal" means a principal who is an incapacitated person. An adjudication of incapacity before death is not necessary. The acts of an agent within the authority of a durable power of attorney are presumed to be for an incapacitated principal. If:

(1) specifically devised property is sold or mortgaged by; or

(2) a condemnation award, insurance proceeds, or recovery for injury to specifically devised property are paid to;

a guardian or an agent acting within the authority of a durable power of attorney for an incapacitated principal, the specific devisee has the right to a general pecuniary devise equal to the net sale price, the amount of the unpaid loan, the condemnation award, the insurance proceeds, or the recovery.

(m) A written statement or list that:

(1) complies with this subsection; and

(2) is referred to in a will;

may be used to dispose of items of tangible personal property, other than property used in a trade or business, not otherwise specifically disposed of by the will. To be admissible under this subsection as evidence of the intended disposition, the writing must be signed by the testator and must describe the items and the beneficiaries with reasonable certainty. The writing may be prepared before or after the execution of the will. The writing may be altered by the testator after the writing is prepared. The writing may have no significance apart from the writing's effect on the dispositions made by the will. If more than one (1) otherwise effective writing exists, then, to the extent of a conflict among the writings, the provisions of the most recent writing revoke the inconsistent provisions of each earlier writing.

SECTION 9. IC 29-1-7-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.1. (a) This section applies whether it is:**

(1) known; or

(2) unknown;

whether a testator is living.

(b) As used in this section, "depositor" refers to a person who deposits a will with the circuit court clerk under this section.

(c) As used in this section, "will" refers to an original:

(1) will;

(2) codicil; or

(3) will and codicil.

(d) A person may deposit a will with the circuit court clerk of the county in which the testator resided when the testator executed the will. The circuit court clerk may assume, without inquiring into the facts, that the depositor's representation is accurate as to the county where the testator resided when the testator executed the will. Except as provided in subsection (e), the circuit court clerk shall collect a fee of twenty-five dollars ($25) for the deposit of the will. The circuit court clerk shall deposit the fee in the clerk's record perpetuation fund under IC 33-37-5-2.

(e) The circuit court:

(1) shall waive the fee under subsection (d) if:

(A) a court with probate jurisdiction of the county where the will is deposited certifies that the depositor deposits the will:

(i) as a participant; or

(ii) for a participant;

in a program of the supreme court, including the Judges and Lawyers Assistance Program established under Rule 31 of the supreme court Rules for Admission to the Bar and the Discipline of Attorneys; and

(B) the certification described in clause (A) accompanies the will when the will is deposited; and

(2) may waive the fee under subsection (d) if the depositor is no longer practicing law.

(f) Upon receipt of a will under this section, the circuit court clerk shall:

(1) provide the depositor with a receipt for the will;

(2) place the will in an envelope and seal the envelope securely in the presence of the depositor;

(3) designate on the envelope the:

(A) date of deposit;

(B) name of the testator; and

(C) name and address of the depositor; and

(4) index the will alphabetically by the name of the testator.

An envelope and will deposited under this section is not a public record under IC 5-14-3.

(g) During the testator's lifetime, the circuit court clerk shall:

(1) keep the envelope containing the will sealed; and

(2) deliver the envelope to:

(A) the testator; or

(B) a person authorized, in a writing signed by the testator, to receive the envelope.

(h) If the circuit court clerk has custody of the will after the death of the testator, the circuit court clerk may deliver the will to the court that has jurisdiction of the administration of the decedent's estate as set forth in section 3 of this chapter.

(i) A circuit court clerk may destroy a will deposited under this section if:

(1) the circuit court clerk has not received notice of the death of the testator; and

(2) at least one hundred (100) years have passed since the date the will was deposited.

(j) A depositor that complies with this section is immune from civil liability for depositing the will.

SECTION 10. IC 29-1-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. A petition for the probate of a will and for the issuance of letters testamentary or for the appointment of an administrator with the will annexed, or for the appointment of an administrator, shall state:

(1) the name, ~~age,~~ domicile, and date of the death of the decedent, **and whether the decedent is an adult or a minor;**

(2) the name, ~~age,~~ and place of residence of each heir, **and whether the heir is an adult or a minor,** in the event the decedent left no will; and the name, ~~age,~~ and place of residence of each legatee and devisee, **and whether each legatee and devisee is an adult or a minor,** in the event the decedent left a will, so far as such are known or can with reasonable diligence be ascertained by the personal representative;

(3) whether the person named in subdivision (1) died testate or intestate;

(4) if the decedent was not domiciled in the state at the time of ~~his~~ death, a description of the property to be administered which is within the county in which the petition is filed;

(5) if the will sought to be probated is unwritten, lost, or was improperly destroyed or suppressed, a detailed statement of the provisions of said will so far as known;

(6) the name and place of residence or business address of the person, if any, designated as executor of the will;

(7) if the petition be for the appointment of an administrator with the will annexed, or of an administrator, the name and place of residence or business address of the person to be so appointed, together with a statement of ~~his~~ **the person's** relationship to the decedent, and such other facts, if any, which entitle such person to be so appointed;

(8) the name and business address of the attorney who is to represent the personal representative; and

(9) if the person named in subdivision (1) died intestate, whether a petition to dissolve the marriage of the decedent and the decedent's spouse is pending in an Indiana court or the court of another state at the time of the decedent's death.

SECTION 11. IC 29-1-7-15.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15.1. (a) When it has been determined that a decedent died intestate and letters of administration have been issued upon the decedent's estate, no will shall be probated unless it is presented for probate before the court decrees final distribution of the estate.

(b) No real estate situate in Indiana of which any person may die seized shall be sold by the executor or administrator of the deceased person's estate to pay any debt or obligation of the deceased person, which is not a lien of record in the county in which the real estate is situate, or to pay any costs of administration of any decedent's estate, unless letters testamentary or of administration upon the decedent's estate are taken out within five (5) months after the decedent's death.

(c) The title of any real estate or interest therein purchased in good faith and for a valuable consideration from the heirs of any person who died seized of the real estate shall not be affected or impaired by any devise made by the person of the real estate so purchased, unless:

(1) the will containing the devise has been probated and recorded in the office of the clerk of the court having jurisdiction within five (5) months after the death of the testator; or

(2) an action to contest the will's validity is commenced within the time provided by law and, as a result, the will is ultimately probated.

(d) ~~If letters testamentary or of administration are not taken out upon a decedent's estate within three (3) years after the decedent's death,~~ The will of the decedent shall not be ~~probated.~~ **admitted to probate unless the will is presented for probate not more than three (3) years after the individual's death.** However, in the case of an individual presumed dead under IC 29-2-5-1, the three (3) year period commences with the date the individual's death has been established by appropriate legal action.

SECTION 12. IC 29-1-7.5-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. (a) As soon as letters testamentary or letters of administration have been issued, the clerk of the court shall serve by mail notice of the petition on each of the decedent's heirs at law, if the decedent died intestate, or the devisees and legatees under the decedent's will. The mailing of notice under this subsection may not be waived.

(b) The notice required under subsection (a) shall read substantially as follows:

NOTICE OF UNSUPERVISED ADMINISTRATION TO BE MAILED TO A DISTRIBUTEE

In the _____ Court of _____ County, Indiana.

Notice is hereby given that _____, on the _____ day of _____, ~~19__~~, **20__,** was appointed as the personal representative of the estate of _____, who died on the ____ day of _____, ~~19__~~, **20__,** {leaving a will} {not leaving a will}. The estate will be administered without court supervision.

As an heir, a devisee, or a legatee of the estate (a "distributee"), you are advised of the following information:

(1) The personal representative has the authority to take actions concerning the estate without first consulting you.

(2) The personal representative may be serving without posting a bond with the court. You have the right to petition the court to set a bond for your protection.

(3) The personal representative will not obtain court approval of any action, including the amount of attorney's or personal representative's fees.

(4) Within two (2) months after the appointment of the personal representative, the personal representative must prepare an inventory of the estate's assets. You have the right to request and receive a copy of this inventory from the personal representative. **However, if you do not participate in the residue of the estate and receive only a specific bequest in money or personal property that will be paid, you are entitled only to the information concerning your specific bequest and not to the assets of the estate as a whole.**

(5) The personal representative is required to furnish you with a copy of the closing statement that will be filed with the court, and, if your interests are affected, with a full account in writing of the administration of the estate.

(6) You must file an objection to the closing statement within three (3) months after the closing statement is filed with the court if you want the court to consider your objection.

(7) If an objection to the closing statement is not filed with the court within three (3) months after the filing of the closing statement, the estate is closed and the court does not have a duty to audit or make an inquiry.

IF, AT ANY TIME BEFORE THE ESTATE IS CLOSED, YOU HAVE REASON TO BELIEVE THAT THE ADMINISTRATION OF THE ESTATE SHOULD BE SUPERVISED BY THE COURT, YOU HAVE THE RIGHT TO PETITION THE COURT FOR SUPERVISED ADMINISTRATION.

IF YOU DO NOT UNDERSTAND THIS NOTICE, YOU SHOULD ASK YOUR ATTORNEY TO EXPLAIN IT TO YOU.

The personal representative's address is _____, and telephone number is _____. The attorney for the personal representative is _____, whose address is _____ and telephone number is _____.

Dated at _____, Indiana, this _____ day of _____, ~~19__~~ **20__.**

CLERK OF THE _____ COURT

SECTION 13. IC 29-1-15-16.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 16.5. (a) This section applies to a supervised or an unsupervised estate.**

(b) Unless authorized by:

(1) a will;

(2) a trust;

(3) the consent of all heirs, legatees, or beneficiaries; or

(4) an adjudicated compromise agreement approved by the court under IC 29-1-9;

any sale (including an auction sale), encumbrance, lease, or rental of real property that is an asset of the estate is void if the sale, encumbrance, lease, or rental of the real property causes the personal representative to directly or indirectly acquire a beneficial interest in the real property.

(c) This section does not prohibit a personal representative from enforcing or fulfilling any enforceable contract or agreement:

(1) executed during the decedent's lifetime; and

(2) between the decedent and the personal representative in the personal representative's individual capacity.

SECTION 14. IC 29-1-15-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. ~~(a) Upon the confirmation of any sale, mortgage or lease in accordance with section 16 of this chapter, the personal representative shall execute a conveyance to the grantee or mortgagee or a lease with the lessee according to the order of confirmation. A certified copy of the order of confirmation may be recorded with the deed or other instrument in the office of the recorder of the county where the land lies, and shall be prima facie evidence of the due appointment and qualification of the personal representative, the correctness of the proceedings and the authority of the personal representative to execute the instrument.~~

~~(b)~~ Whenever a personal representative executes a deed,

mortgage, lease or other conveyance under a power given ~~him~~ **the personal representative** in any will, a certified copy of the will giving such power and a certified copy of the personal representative's letters may be recorded with the deed, mortgage, lease, or other instrument executed by the personal representative pursuant to and in accordance with such power, and such certified copies shall be prima facie evidence of the due appointment and qualification of the personal representative and ~~his~~ **the personal representative's** authority to execute said deed, mortgage, lease, or other instrument.

SECTION 15. IC 29-3-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Any:

(1) sale or encumbrance of any part of the property of a protected person to a guardian or guardian's spouse, agent, attorney, or any corporation, trust, or other organization in which the guardian has a substantial beneficial interest; or

(2) other transaction involving the property that is affected by a substantial conflict between the interest of the protected person and the guardian's personal interest;

is void **unless approved by the court.**

(b) Every contract, sale, or conveyance executed by a protected person is void unless the protected person is a minor, in which event the contract, sale, or conveyance is voidable.

SECTION 16. IC 30-1-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. ~~(a)~~ Any:

(1) Indiana bank or trust company; or

(2) national bank qualified to act as fiduciary and whose principal place of business is in Indiana;

may establish and maintain one (1) or more common trust funds in accordance with section 2 of this chapter for the funds held by the bank or trust company or any other bank or trust company, including an affiliate, in its capacity as administrator, executor, guardian, or trustee under will or trust agreement.

~~(b) The bank investing under subsection (a) in:~~

~~(1) another qualified bank or trust company's common trust fund; or~~

~~(2) a common trust fund established and maintained by any bank or trust company, including an affiliate, organized or reorganized under the laws of the United States or a state listed in IC 28-2-15-14;~~

~~shall not be deemed to be in derogation of IC 30-4-3-6(b)(11), relating to a fiduciary's delegation of authority to another person.~~

SECTION 17. IC 30-2-8.5-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. (a) A custodian may deliver or pay to the minor or expend for the minor's benefit so much of the custodial property as the custodian considers advisable for the use and benefit of the minor, without court order and without regard to:

(1) the duty or ability of the custodian personally or of any other person to support the minor; or

(2) any other income or property of the minor that may be applicable or available for the support of the minor.

(b) At any time and without a court order, a custodian may transfer part or all of the custodial property to a trust, including a trust created by the custodian, in which:

(1) the minor is the sole beneficiary of the trust; and

(2) the terms of the trust satisfy the requirements of Section 2503 of the Internal Revenue Code and the regulations under that section.

The transfer terminates the custodianship of the property to the extent of the transfer.

~~(b)~~ **(c)** On petition of an interested person or the minor if the minor is at least fourteen (14) years of age, the court may order the custodian to deliver or pay to the minor or expend for the minor's benefit as much of the custodial property as the court considers advisable for the use and benefit of the minor.

~~(c)~~ **(d)** A delivery, payment, or expenditure under this section is in addition to, not in substitution for, and does not affect an obligation of a person to support the minor.

SECTION 18. IC 30-3-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. Notwithstanding IC 30-4-2-2 **and IC 30-4-3-33,** this chapter applies whenever a county that has been given, devised, or bequeathed money or property in trust for the purpose of establishing and maintaining a home for indigent women, worthy poor, or orphan children, and the board of commissioners of the county has been named as trustee by the donor of the property or money.

SECTION 19. IC 30-4-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this article:

(1) "Adult" means any person eighteen (18) years of age or older.

(2) "Affiliate" means a parent, descendant, spouse, spouse of a descendant, brother, sister, spouse of a brother or sister, employee, director, officer, partner, joint venturer, a corporation subject to common control with the trustee, a shareholder, or corporation who controls the trustee or a corporation controlled by the trustee other than as a fiduciary, **an attorney, or an agent.**

(3) "Beneficiary" has the meaning set forth in IC 30-2-14-2.

(4) "Breach of trust" means a violation by the trustee of any duty which is owed to the settlor or beneficiary.

(5) "Charitable trust" means a trust in which all the beneficiaries are the general public or organizations, including trusts, corporations, and associations, and that is organized and operated wholly for religious, charitable, scientific, public safety testing, literary, or educational purposes. The term does not include charitable remainder trusts, charitable lead trusts, pooled income funds, or any other form of split-interest charitable trust that has at least one (1) noncharitable beneficiary.

(6) "Court" means a court having jurisdiction over trust matters.

(7) "Income", except as otherwise stated in a trust agreement, has the meaning set forth in IC 30-2-14-4.

(8) "Income beneficiary" has the meaning set forth in IC 30-2-14-5.

(9) "Inventory value" means the cost of property to the settlor or the trustee at the time of acquisition or the market value of the property at the time it is delivered to the trustee, or the value of the property as finally determined for purposes of an estate or inheritance tax.

(10) "Minor" means any person under the age of eighteen (18) years.

(11) "Person" has the meaning set forth in IC 30-2-14-9.

(12) "Personal representative" means an executor or administrator of a decedent's or absentee's estate, guardian of the person or estate, guardian ad litem or other court appointed representative, next friend, parent or custodian of a minor, attorney in fact, or custodian of an incapacitated person (as defined in IC 29-3-1-7.5).

(13) "Principal" has the meaning set forth in IC 30-2-14-10.

(14) "Qualified beneficiary" means:

(A) a beneficiary who, on the date the beneficiary's qualification is determined:

(i) is a distributee or permissible distributee of trust income or principal;

(ii) would be a distributee or permissible distributee of trust income or principal if the interest of the distributee described in item (i) terminated on that date;

(iii) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date;

(iv) has sent the trustee a request for notice;

(v) is a charitable organization expressly designated to receive distributions under the terms of a charitable trust;

(vi) is a person appointed to enforce a trust for the care of an animal under IC 30-4-2-18; or

(vii) is a person appointed to enforce a trust for a noncharitable purpose under IC 30-4-2-19; or

(B) the attorney general, if the trust is a charitable trust having its principal place of administration in Indiana.

~~(14)~~ **(15)** "Remainderman" means a beneficiary entitled to principal, including income which has been accumulated and added to the principal.

~~(15)~~ **(16)** "Settlor" means a person who establishes a trust including the testator of a will under which a trust is created.

~~(16)~~ **(17)** "Trust estate" means the trust property and the income derived from its use.

~~(17)~~ **(18)** "Trust for a benevolent public purpose" means a charitable trust (as defined in subdivision (5)), a split-interest trust (as defined in Section 4947 of the Internal Revenue Code), and any other form of split-interest charitable trust that has both charitable and noncharitable beneficiaries, including but not limited to charitable remainder trusts, charitable lead trusts, and charitable pooled income funds.

~~(18)~~ **(19)** "Trust property" means property either placed in trust or purchased or otherwise acquired by the trustee for the trust regardless of whether the trust property is titled in the name of the trustee or the name of the trust.

~~(19)~~ **(20)** "Trustee" has the meaning set forth in IC 30-2-14-13.

SECTION 20. IC 30-4-1-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 13. IC 29-1-2-12.1 applies to a trust.**

SECTION 21. IC 30-4-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) A trust in either real or personal property is enforceable only if there is written evidence of its terms bearing the signature of the settlor or ~~his~~ **the settlor's** authorized agent.

(b) Except as required in the applicable probate law for the execution of wills, no formal language is required to create a trust, but its terms must be sufficiently definite so that the trust property, the identity of the trustee, the nature of the trustee's interest, the identity of the beneficiary, the nature of the beneficiary's interest and the purpose of the trust may be ascertained with reasonable certainty.

(c) It is not necessary to the validity of ~~an inter vivos~~ **a** trust that the ~~inter vivos~~ trust be funded with or have a corpus that includes property other than the present or future, vested or contingent right of the trustee to receive proceeds or property, **including:**

(1) as beneficiary of an estate under IC 29-1-6-1;

(2) life insurance benefits under section 5 of this chapter;

(3) retirement plan benefits; or

(4) the proceeds of an individual retirement account.

(d) A trust created under:

(1) section 18 of this chapter for the care of an animal; or

(2) section 19 of this chapter for a noncharitable purpose; has a beneficiary.

(e) A trust has a beneficiary if the beneficiary can be presently ascertained or ascertained in the future, subject to any applicable rule against perpetuities.

(f) A power of a trustee to select a beneficiary from an indefinite class is valid. If the power is not exercised within a reasonable time, the power fails and the property subject to the power passes to the persons who would have taken the property had the power not been conferred.

(g) A trust may be created by exercise of a power of appointment in favor of a trustee.

SECTION 22. IC 30-4-2-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 1.5. (a) Except as provided in subsection (b), a trust that is not created by a will is validly created if the trust's creation complies with the law of the jurisdiction in which the trust instrument was executed or the law of the jurisdiction in which, at the time of creation:**

(1) the settlor was domiciled, had a place of abode, or was a national;

(2) a trustee was domiciled or had a place of business; or

(3) any trust property is located.

(b) A valid trust must be:

(1) in writing; and

(2) signed by:

(A) the settlor; or

(B) an agent of the settlor who is an attorney in fact.

SECTION 23. IC 30-4-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. ~~(Acceptance by Trustee) With respect~~ **(a) This section applies** to **the** acceptance of a trust by a person named as trustee.

~~(a)~~ **(b)** The appearance of the named person's signature on the writing which is the evidence of the trust or on a separate written acceptance will be conclusive that ~~he~~ **the named person** accepted the trust.

~~(b)~~ **(c)** Except as provided in subsection ~~(d) of this section,~~ **(e),** if the named person exercises powers or performs duties under the trust, ~~he~~ **the named person** will be presumed to have accepted the trust.

~~(c)~~ **(d)** The named person may reject the trust in writing and, if ~~he~~ **the named person** does so, will incur no liability. If, after being informed that ~~he~~ **the named person** has been named as trustee, ~~he~~ **the named person** neither expressly accepts the trust nor exercises powers or performs duties under the trust within a reasonable time, ~~he~~ **the named person** will be presumed to have rejected the trust.

~~(d)~~ **(e)** If there is an immediate risk of damage to the trust estate, the named person may act to preserve the trust estate and will not be presumed to have accepted the trust, provided ~~he~~ **the named person** delivers a written rejection to the settlor at or within a reasonable time after ~~he~~ **the named person** acts, or, if the settlor is dead, to the beneficiary or the court having jurisdiction over the administration of the trust estate.

~~(e) If the person named as the original trustee does not accept the trust, or if he is dead or does not have capacity to act as trustee, the person named as the alternate trustee under the terms of the trust, or selected as alternate trustee according to a method prescribed in the terms of the trust, may accept the trust. If no person is named as trustee or if there is no alternate trustee designated or selected in the manner prescribed in the terms of the trust, the court shall appoint a trustee.~~

SECTION 24. IC 30-4-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 10. ~~(Capacity of Settlor) (a) If a trust is created by a declaration by the owner of property that he holds it in trust, his capacity must be the same as if the trust were created by a transfer to a third person.~~

~~(b) If the trust is created by a transfer of property in trust, the transferor must have the same capacity as if he had made a non-trust transfer of the property.~~

~~(c)~~ **(a)** If ~~the~~ **a** trust is created by a will, the settlor's capacity **that is required to create the trust** is determined by the applicable probate law.

(b) The capacity of a settlor that is required to create, amend, revoke, or add property to a revocable trust is the same as the capacity of a testator that is required to make a will.

(c) To create or add property to an irrevocable trust, the settlor or transferor must be of sound mind and have a reasonable understanding of the nature and effect of the act and the terms of the trust.

(d) To direct the actions of the trustee of a trust, the settlor or other person must:

(1) have the capacity to hold and deal with property for the settlor's or person's own benefit;

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

(3) be of sound mind.

SECTION 25. IC 30-4-2-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 17. (a) A charitable trust may be created for the following purposes:**

(1) The relief of poverty.

(2) The advancement of education or religion.

(3) The promotion of health.

(4) Governmental and municipal purposes.

(5) A purpose that is beneficial to the community.

(b) If the terms of a charitable trust do not indicate a particular charitable purpose or beneficiary, the court may select at least one (1) charitable purpose or beneficiary. The selection must be consistent with the settlor's intention to the extent the intention can be ascertained.

(c) The settlor of a charitable trust, among other persons, may maintain a proceeding to enforce the charitable trust.

SECTION 26. IC 30-4-2-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 18. (a) A trust may be created to provide for the care of an animal alive during the settlor's lifetime.**

(b) A trust authorized by this section terminates as follows:

(1) If the trust is created to provide for the care of one (1) animal alive during the settlor's lifetime, the trust terminates on the death of the animal.

(2) If the trust is created to provide for the care of more than one (1) animal alive during the settlor's lifetime, the trust terminates on the death of the last surviving animal.

(c) A trust authorized by this section may be enforced by the following:

(1) A person appointed in the terms of the trust.

(2) A person appointed by the court, if the terms of the trust do not appoint a person.

(d) A person having an interest in the welfare of an animal for whose care a trust is established may request the court to:

(1) appoint a person to enforce the trust; or

(2) remove a person appointed to enforce the trust.

(e) Property of a trust authorized by this section may be applied only to the trust's intended use, except to the extent the court determines that the value of the trust property exceeds the amount required for the trust's intended use.

(f) Except as provided in the terms of the trust, property not required for the trust's intended use must be distributed to the following:

(1) The settlor, if the settlor is living.

(2) The settlor's successors in interest, if the settlor is deceased.

SECTION 27. IC 30-4-2-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 19. (a) Except as provided in section 18 of this chapter, a trust may be created for a:**

(1) noncharitable purpose without a beneficiary; or

(2) noncharitable and valid purpose to be selected by the trustee.

(b) A trust authorized by this section may be enforced for not more than twenty-one (21) years.

(c) A trust authorized by this section may be enforced by the following:

(1) A person appointed in the terms of the trust.

(2) A person appointed by the court, if the terms of the trust do not appoint a person.

(d) Property of a trust authorized by this section may be applied only to the trust's intended use, except to the extent the court determines that the value of the trust property exceeds the amount required for the trust's intended use.

(e) Except as provided in the terms of the trust, property not required for the trust's intended use must be distributed to the following:

(1) The settlor, if the settlor is living.

(2) The settlor's successors in interest, if the settlor is deceased.

SECTION 28. IC 30-4-2.1-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9. A trust of a deceased spouse is subject to the following:**

(1) IC 29-1-2-14.

(2) IC 29-1-2-15.

SECTION 29. IC 30-4-2.1-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 11. (a) A written statement or list that:**

(1) complies with this section; and

(2) is referred to in a settlor's trust that was revocable during the settlor's lifetime;

may be used to dispose of items of tangible personal property, other than property used in a trade or business, not otherwise specifically disposed of by the trust.

(b) To be admissible under this section as evidence of the intended disposition, the writing must be signed by the settlor and must describe the items and the beneficiaries with reasonable certainty. The writing may be prepared before or after the execution of the trust. The writing may be altered by the settlor after the writing is prepared. The writing may have no significance apart from the writing's effect on the dispositions made by the trust.

(c) If more than one (1) otherwise effective writing exists, then, to the extent of a conflict among the writings, the provisions of the most recent writing revoke the inconsistent provisions of each earlier writing.

SECTION 30. IC 30-4-3-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1.5. (a) This subsection applies to a trust created under an instrument executed after June 30, 2005. Unless the terms of a trust expressly provide that the trust is irrevocable, the settlor may revoke or amend the trust.**

(b) This subsection applies to a revocable trust created or funded by at least two (2) settlors. Unless the terms of the trust provide otherwise:

(1) to the extent the trust consists of community property, the trust may be:

(A) revoked by either spouse acting alone; and

(B) amended only by the joint action of both spouses; and

(2) to the extent the trust consists of property other than community property, each settlor may revoke or amend the trust with regard to the part of the trust property attributable to that settlor's contribution.

(c) The settlor may revoke or amend a revocable trust as follows:

(1) The settlor may comply with a method provided in the terms of the trust.

(2) If the terms of the trust do not provide a method or the terms of the trust provide a method that is not expressly made the exclusive method to revoke or amend the trust, the settlor may revoke or amend the trust by:

(A) executing a later will or codicil that:

(i) expressly refers to the trust; or

(ii) specifically devises property that would otherwise have passed according to the terms of the trust; or

(B) any other method that:

(i) is in writing; and

(ii) manifests clear and convincing evidence of the settlor's intent.

(d) If a revocable trust is revoked, the trustee shall deliver the trust property as the settlor directs.

(e) A settlor's powers with respect to revocation, amendment, and distribution of trust property may be exercised by an agent under a power of attorney only to the extent expressly authorized by the terms of the trust or the power of attorney.

(f) A guardian of a settlor may exercise the settlor's powers with respect to revocation, amendment, or distribution of trust property only with the approval of the court supervising the guardianship.

(g) A trustee who does not know that a trust has been revoked or amended is not liable to the settlor or settlor's successors in interest for distributions made and other actions taken on the assumption that the trust had not been revoked or amended.

SECTION 31. IC 30-4-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~Unless the terms of the trust provide otherwise:~~

(a) **Except as provided in the terms of the trust and** subject to subsection (c), ~~of this section,~~ a trustee has the power to perform without court authorization, except as provided in **sections 4(b)** ~~IC 30-4-3-4(b)~~ and ~~IC 30-4-3-5(a),~~ **5(a) of this chapter,** every act necessary or appropriate for the purposes of the trust including, by way of illustration and not of limitation, the ~~power:~~ **following powers:**

(1) **The power** to:

(A) deal with the trust estate; ~~to~~

(B) buy, sell, or exchange and convey or transfer all property (real, personal, or mixed) for cash or on credit and at public or private sale with or without notice; and

(C) ~~to~~ invest and reinvest the trust estate.

(2) **The power** to receive additions to the assets of the trust.

(3) **The power** to acquire an undivided interest in a trust asset in which the trustee, in any trust capacity, holds an undivided interest.

(4) **The power** to manage real property in every way, including: ~~among other things,~~

(A) the adjusting of boundaries;

(B) erecting, altering, or demolishing buildings;

(C) dedicating of streets, alleys, or other public uses;

(D) subdividing;

(E) developing;

(F) obtaining vacation of plats;

(G) granting of easements and rights-of-way;

(H) partitioning;

(I) entering into party wall agreements; and

(J) obtaining title insurance for trust property.

(5) **The power** to:

(A) grant options concerning disposition of trust property, including the sale of covered security options; and

(B) ~~to~~ take options for acquisition of trust property, including the purchase back of previously sold covered security options.

(6) **The power** to enter into a lease as lessor or lessee, with or without option to renew.

(7) **The power** to enter into arrangements for exploration and removal of minerals or other natural resources and enter into a pooling or unitization agreement.

(8) **The power** to continue the operation or management of any business or other enterprise placed in trust.

(9) **The power** to:

(A) borrow money, to be repaid from trust property or otherwise; and

(B) ~~to~~ encumber, mortgage, pledge, or grant a security interest in trust property in connection with the exercise of any power.

(10) **The power** to:

(A) advance money for the benefit of the trust estate and for all expenses or losses sustained in the administration of the trust; and

(B) ~~to~~ collect any money advanced, without interest or with interest, at no more than the lowest rate prevailing when advanced.

(11) **The power** to prosecute or defend actions, claims, or proceedings for the protection of:

(A) trust property; and

(B) ~~of himself~~ **the trustee** in the performance of ~~his~~ **the trustee's** duties.

(12) **The power** to:

(A) pay or contest any claim;

(B) ~~to~~ settle a claim by or against the trust by compromise or arbitration; and

(C) ~~to~~ abandon or release, totally or partially, any claim belonging to the trust.

(13) **The power** to insure the:

(A) trust estate against damage or loss; and

(B) ~~the~~ trustee against liability with respect to third persons.

(14) **The power** to pay taxes, assessments, and other expenses incurred in the:

(A) acquisition, retention, and maintenance of the trust property; and

(B) ~~in the~~ administration of the trust.

(15) **The power** to:

(A) vote securities, in person or by a general or special proxy;

(B) ~~to~~ hold the securities in the name of a nominee if the trustee is a corporate trustee; and

(C) ~~to~~ effect or approve, and deposit securities in connection with, any change in the form of the corporation, including: ~~among other things~~

(i) dissolution;

(ii) liquidation;

(iii) reorganization;

(iv) acquisition; and

(v) merger.

(16) **The power** to employ persons, including: ~~among others,~~

(A) attorneys;

(B) accountants;

(C) investment advisors; and

(D) agents;

to advise and assist the trustee in the performance of ~~his~~ **the trustee's** duties.

(17) **The power** to effect distribution of property in cash, in kind, or partly in cash and partly in kind, in divided or undivided interests. ~~and~~

(18) **The power** to execute and deliver all instruments necessary or appropriate to accomplishing or facilitating the exercise of the trustee's powers.

(19) With respect to an interest in a proprietorship, partnership, limited liability company, business trust, corporation, or another form of business or enterprise, the power to:

(A) continue the business or enterprise; and

(B) take any action that may be taken by shareholders, members, or property owners, including:

(i) merging;

(ii) dissolving; or

(iii) changing the form of business organization or contributing additional capital.

(20) With respect to possible liability for violation of environmental law, the power to:

(A) inspect or investigate property:

(i) the trustee holds or has been asked to hold; or

(ii) owned or operated by an organization in which the trustee holds an interest or has been asked to hold an interest;

to determine the application of environmental law with respect to the property;

(B) take action to prevent, abate, or remedy an actual or potential violation of an environmental law affecting property held directly or indirectly by the trustee before or after the assertion of a claim or the initiation of governmental enforcement;

(C) decline to accept property into the trust or disclaim any power with respect to property that is or may be burdened with liability for violation of environmental law;

(D) compromise claims against the trust that may be asserted for an alleged violation of environmental law; and

(E) pay the expense of any inspection, review, abatement, or remedial action to comply with environmental law.

(21) The power to exercise elections with respect to federal, state, and local taxes.

(22) The power to select a mode of payment under any employee benefit plan or retirement plan, annuity, or life insurance payable to the trustee and exercise rights under the plan, annuity, or insurance, including the right to:

(A) indemnification:

(i) for expenses; and

(ii) against liabilities; and

(B) take appropriate action to collect the proceeds.

(23) The power to make loans out of trust property, including loans to a beneficiary on terms and conditions the trustee determines fair and reasonable under the circumstances. The trustee has a lien on future distributions for repayment of the loans.

(24) The power to pledge trust property to guarantee loans made by others to the beneficiary on terms and conditions the trustee considers to be fair and reasonable under the circumstances. The trustee has a lien on future distributions for repayment of the loans.

(25) The power to:

(A) appoint a trustee to act in another jurisdiction with respect to trust property located in the other jurisdiction;

(B) confer on the appointed trustee all the appointing trustee's powers and duties;

(C) require the appointed trustee to furnish security; and

(D) remove the appointed trustee.

(26) With regard to a beneficiary who is under a legal disability or whom the trustee reasonably believes is incapacitated, the power to pay an amount distributable to the beneficiary by:

(A) paying the amount directly to the beneficiary;

(B) applying the amount for the beneficiary's benefit;

(C) paying the amount to the beneficiary's guardian;

(D) paying the amount to the beneficiary's custodian under IC 30-2-8.5 to create a custodianship or custodial trust;

(E) paying the amount to an adult relative or another person having legal or physical care or custody of the beneficiary to be expended on the beneficiary's behalf, if the trustee does not know of a guardian, custodian, or custodial trustee; or

(F) managing the amount as a separate fund on the beneficiary's behalf, subject to the beneficiary's continuing right to withdraw the distribution.

(27) The power to:

(A) combine at least two (2) trusts into one (1) trust; or

(B) divide one (1) trust into at least two (2) trusts;

after notice to the qualified beneficiaries, if the result does not impair the rights of any beneficiary or adversely affect achievement of the purposes of the trust.

(b) Any act under ~~subdivision (4) of subsection (a) of this section,~~ **subsection (a)(4),** an option under ~~subdivision (5),~~ **subsection (a)(5),** a lease under ~~subdivision (6),~~ **subsection (a)(6),** an arrangement under ~~subdivision (7),~~ **subsection (a)(7),** and an encumbrance, mortgage, pledge, or security interest under ~~subdivision (9)~~ **subsection (a)(9)** may be for a term either within or extending beyond the term of the trust.

(c) In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing property for any trust, the trustee thereof shall exercise the judgment and care required by IC 30-4-3.5. Within the limitations of the foregoing standard, the trustee is authorized to acquire and retain every kind of property, real, personal, or mixed, and every kind of investment, including specifically, but without in any way limiting the generality of the foregoing, bonds, debentures, and other corporate obligations, stocks, preferred or common, and real estate mortgages, which persons of prudence, discretion, and intelligence acquire or retain for their own account, and within the limitations of the foregoing standard, the trustee is authorized to retain property properly acquired, without limitation as to time and without regard to its suitability for original purchase. Within the

limitations of the foregoing standard, the trustee is authorized to sell covered security options and to purchase back previously sold covered security options.

(d) If a distribution of particular trust assets is to be made to two (2) or more beneficiaries entitled to receive fractional shares in those assets, the trustee may distribute the particular assets without distributing to each beneficiary a pro rata share of each asset. However, the trustee shall:

(1) distribute to each beneficiary a pro rata share of the total fair market value of all of the particular assets as of the date of distribution; and

(2) cause the distribution to result in a fair and equitable division among the beneficiaries of capital gain or loss on the assets.

(e) If the trust is terminated or partially terminated, the trustee may send to the beneficiaries a proposal for distribution. If the proposal for distribution informs the beneficiary that the beneficiary:

(1) has a right to object to the proposed distribution; and

(2) must object not later than thirty (30) days after the proposal for distribution was sent;

the right of the beneficiary to object to the proposed distribution terminates if the beneficiary fails to notify the trustee of an objection within the time limit set forth in subdivision (2).

SECTION 32. IC 30-4-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The trustee has a duty to administer a trust according to its terms.

(b) Unless the terms of the trust provide otherwise, the trustee also has a duty to do the following:

(1) Administer the trust in a manner consistent with IC 30-4-3.5.

(2) Take possession of and maintain control over the trust property.

(3) Preserve the trust property.

(4) Make the trust property productive for both the income and remainder beneficiary. As used in this subdivision, "productive" includes the production of income or investment for potential appreciation.

(5) Keep the trust property separate from the trustee's individual property and separate from or clearly identifiable from property subject to another trust.

(6) Maintain clear and accurate accounts with respect to the trust estate.

(7) Upon reasonable request, give the beneficiary complete and accurate information concerning any matter related to the administration of the trust and permit the beneficiary or the beneficiary's agent to inspect the trust property, the trustee's accounts, and any other documents concerning the administration of the trust.

(8) Take whatever action is reasonable to realize on claims constituting part of the trust property.

(9) Defend actions involving the trust estate.

(10) Supervise any person to whom authority has been delegated.

(11) Determine the trust beneficiaries by acting on information:

(A) the trustee, by reasonable inquiry, considers reliable; and

(B) with respect to heirship, relationship, survivorship, or any other issue relative to determining a trust beneficiary.

SECTION 33. IC 30-4-3-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 6.5. If the happening of an event, including:**

(1) marriage;

(2) divorce;

(3) performance of educational requirements; or

(4) death;

affects the administration or distribution of a trust, a trustee who has exercised reasonable care to ascertain the happening of the event is not liable for a loss resulting from the trustee's lack of knowledge.

SECTION 34. IC 30-4-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Unless the terms of the trust provide otherwise, the trustee has a duty:

(1) not to loan funds to himself or an affiliate;

(2) not to purchase or participate in the purchase of trust property from the trust for the trustee's own or an affiliate's account;

(3) not to sell or participate in the sale of the trustee's own or an affiliate's property to the trust; or

(4) if a corporate trustee, not to purchase for or retain in the trust its own or a parent or subsidiary corporation's stock, bonds, or other capital securities. However, the trustee may retain such securities already held in trusts created prior to September 2, 1971.

(b) Unless the terms of the trust provide otherwise, a corporate trustee may invest in, purchase for, or retain in the trust its own or an affiliate's obligations, including savings accounts and certificates of deposit, without the investment, purchase, or retention constituting a conflict of interest under section 5 of this chapter.

(c) Unless the terms of the trust provide otherwise, a corporate trustee does not violate subsection (a) by investing in, purchasing for, or retaining in the trust its own or an affiliate's obligations, including savings accounts and certificates of deposit, if the payment of each obligation is fully insured by the Bank Insurance Fund or the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or any insurer approved by the department of financial institutions under IC 28-7-1-31.5.

(d) If the terms of the trust permit the trustee to deal with a beneficiary for the trustee's own account, the trustee has a duty to deal fairly with and to disclose to the beneficiary all material facts related to the transaction which the trustee knows or should know.

(e) Unless the terms of the trust provide otherwise, the trustee may sell, exchange, or participate in the sale or exchange of trust

property from one (1) trust to himself as trustee of another trust, provided the sale or exchange is fair and reasonable with respect to the beneficiaries of both trusts and the trustee discloses to the beneficiaries of both trusts all material facts related to the sale or exchange which the trustee knows or should know.

(f) This section does not prohibit a trustee from enforcing or fulfilling any enforceable contract or agreement:

(1) executed during the settlor's lifetime; and

(2) between the settlor and the trustee in the trustee's individual capacity.

SECTION 35. IC 30-4-3-24.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 24.4. (a) The court may modify the administrative or dispositive terms of a trust if, because of circumstances not anticipated by the settlor, modification or termination will further the purposes of the trust. To the extent practicable, the modification must be made in accordance with the settlor's probable intention.**

(b) The court may modify the administrative terms of a trust or terminate the trust if:

(1) the purpose of the trust has been fulfilled; or

(2) continuation of the trust on the trust's existing terms would:

(A) be illegal, impossible, impracticable, or wasteful; or

(B) impair the trust's administration.

(c) If the trust terminates under this section, the court shall direct the trustee to distribute the trust property in a manner consistent with the purposes of the trust.

(d) The court may modify the terms of a trust to give the settlor the power to revoke and modify the trust if the:

(1) settlor intended to reserve the power;

(2) settlor believed the power was reserved; and

(3) power was omitted from the terms of the trust by mistake.

SECTION 36. IC 30-4-3-24.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 24.5. (a) This section does not apply to an easement for conservation or preservation.**

(b) This subsection applies to a trust consisting of trust property having a total value of less than seventy-five thousand dollars ($75,000). Unless the terms of the trust provide otherwise, the trustee may terminate the trust:

(1) if the trustee concludes the value of the trust property is insufficient to justify the cost of administration; and

(2) after providing notice of the trust termination to qualified beneficiaries.

(c) The court may:

(1) modify or terminate a trust; or

(2) remove the trustee and appoint a different trustee;

if the court determines that the value of the trust property is insufficient to justify the cost of administration. If a trust terminates under this subsection, the court shall direct the trustee to distribute the trust property in a manner consistent with the purposes of the trust.

(d) If a trust terminates under subsection (b), the trustee shall distribute the trust property in a manner consistent with the purposes of the trust.

SECTION 37. IC 30-4-3-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. ~~(Cy Pres Doctrine)~~ (a) If property is given to a trust for a benevolent public purpose and the property is to be applied to a particular charitable purpose, and it is or becomes impossible, impracticable, **wasteful,** or illegal to carry out the particular purpose, and if the settlor manifested a more general intention to devote the property to charitable purposes, the trust need not fail, but the court may direct the application of the property to some charitable purpose which falls within the general charitable intention of the settlor.

(b) The terms of a charitable trust that would result in the distribution of the trust property to a noncharitable beneficiary prevails over the power of the court under subsection (a) to apply the cy pres doctrine to modify or terminate the trust only if, when the provision takes effect:

(1) the trust property is to revert to the settlor and the settlor is still alive; or

(2) less than twenty-one (21) years have elapsed since the trust was created.

~~(b)~~ **(c)** A living heir of the settlor or a living beneficiary named in the original trust agreement may present evidence to the court of:

(1) the heir's or beneficiary's opinion of the settlor's intent; and

(2) the heir's or beneficiary's wishes;

regarding the property given in trust.

SECTION 38. IC 30-4-3-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. (a) A trustee may be removed as follows:

(1) By the court.

(2) By the person, if any, who by the terms of the trust is authorized to remove the trustee.

(3) Unless the terms of the trust instrument provide otherwise, by a beneficiary of the trust whose petition is granted by the court under subsection ~~(c).~~ **(d).**

~~(b) Upon petition by the trustee the court may, in its discretion, permit the trustee to resign if the trustee's resignation will not be detrimental to the trust.~~

~~(c) Unless a successor trustee is named in or selected according to a method prescribed in the terms of the trust, the court may appoint a trustee to replace a removed, resigned, or deceased trustee and, on petition by a party to the trust, may appoint a co-trustee if to do so would facilitate more effective administration of the trust. The court shall inquire into the qualifications of a proposed successor trustee and give due consideration to the intentions of the settlor of the trust before appointing a successor trustee.~~

(b) Unless the terms of the trust requires a different time, the trustee may resign:

(1) if the trustee gives at least thirty (30) days notice to:

(A) the qualified beneficiaries;

(B) the settlor, if living; and

(C) all cotrustees; or

(2) with the approval of the court.

In approving a resignation, the court may issue orders and impose conditions reasonably necessary for the protection of the trust property. Any liability of a resigning trustee or of any sureties on the trustee's bond for acts or omissions of the trustee is not discharged or affected by the trustee's resignation.

~~(d)~~ **(c)** For good cause shown, the court may at any time appoint a temporary trustee for such period of time, and to perform such duties, as the court may direct.

~~(c)~~ **(d)** This subsection applies only to a trust executed after June 30, 1996. A beneficiary of a trust may petition the court for the removal of a corporate trustee if there has been a change in control of the corporate trustee after the date of the execution of the trust. The court may remove the corporate trustee if the court determines the removal is in the best interests of all the beneficiaries of the trust. For purposes of this subsection a change in control of the corporate trustee occurs whenever a person or group of persons acting in concert acquires the beneficial ownership of an aggregate of at least twenty-five percent (25%) of the outstanding shares of voting stock of:

(1) a trustee; or

(2) a corporation controlling a trustee;

after June 30, 1996.

(e) A trustee who has resigned or been removed shall expeditiously deliver the trust property within the trustee's possession to the cotrustee, successor trustee, or other person entitled to the trust property. A trustee who has resigned or been removed has the duties of trustee and the powers necessary to protect the trust property:

(1) unless a cotrustee remains in the office of trustee or the court orders otherwise; and

(2) until the trust property is delivered to a successor trustee or other person entitled to the trust property.

SECTION 39. IC 30-4-3-33 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 33. (a) In addition to the terms of a trust regarding the circumstances under which a trustee vacancy occurs, a trustee vacancy occurs if:**

(1) a person designated as trustee does not accept being trustee;

(2) a person designated as trustee cannot be identified or does not exist;

(3) a trustee resigns;

(4) a trustee is disqualified or removed;

(5) a trustee dies; or

(6) the person designated as trustee lacks capacity.

(b) Except as provided in the terms of a trust, if a trust has at least two (2) cotrustees and at least one (1) cotrustee remains in office, a cotrustee vacancy is not required to be filled. A cotrustee vacancy must be filled if the trust has no remaining cotrustee.

(c) Except as provided in the terms of a trust, a trustee vacancy of a noncharitable trust that is required to be filled must be filled according to the following priority:

(1) A person designated in the terms of the trust to act as successor trustee.

(2) A person appointed by a majority of the qualified beneficiaries.

(3) A person appointed by the court.

(d) Except as provided in the terms of a trust, a trustee vacancy of a charitable trust that is required to be filled must be filled according to the following priority:

(1) A person designated in the terms of the trust to be successor trustee.

(2) A person:

(A) selected by the charitable organizations expressly designated to receive distributions under the terms of the trust; and

(B) whose selection is approved by the attorney general.

(3) A person appointed by the court.

(e) Regardless of whether a trustee vacancy exists or is required to be filled, the court may appoint an additional trustee or a special fiduciary if the court considers the appointment necessary for the administration of the trust.

SECTION 40. IC 30-4-3-34 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 34. (a) At any time during the administration of a trust, a trustee or any interested person may petition the court to determine the:**

(1) heirs of:

(A) the settlor; or

(B) any person named in the trust; and

(2) respective interests of the persons described in subdivision (1) in the trust estate or any part of the trust estate.

(b) If a petition is filed under this section, the court shall fix the time for a hearing on the petition. Notice of the hearing shall be given in the following manner:

(1) Personally or by mail to persons who are named in the trust and:

(A) are known to claim;

(B) are believed to claim; or

(C) have;

an interest in the trust estate or any part of the trust estate as heir or through an heir of the settlor.

(2) By publication to any unknown heirs.

(c) When a hearing is held on the petition, the issues set forth in the petition under subsection (a) may be determined by:

(1) competent evidence; or

(2) affidavit, if there are no objections.

A record shall be made of the oral evidence. The record and affidavits must be a part of the files in the trust proceeding.

(d) If there is satisfactory proof, the court shall make a decree that determines the issues set forth in the petition under subsection (a). The court's decree is conclusive of the facts determined by the court with regard to any interested person who has been notified personally or by mail in accordance with

subsection (b)(1), subject to the interested person's right of appeal.

(e) An act of the trustee is valid with regard to the rights and liabilities of a purchaser, a lessee, or other person who deals with the trustee for value and in good faith, if the trustee acts in:

(1) accordance with the facts as determined by the court's decree under subsection (d);

(2) accordance with the law; and

(3) good faith.

SECTION 41. IC 30-4-4-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5. (a) A trustee may furnish to a person other than a beneficiary a certification of trust instead of a copy of the trust instrument. The certification of trust must contain the following information:**

(1) That the trust exists and the date the trust instrument was executed.

(2) The identity of the settlor.

(3) The identity and address of the currently acting trustee.

(4) The powers of the trustee.

(5) The revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust.

(6) The authority of cotrustees to sign or otherwise authenticate and whether all or less than all the cotrustees are required in order to exercise the powers of the trustee.

(7) The trust's taxpayer identification number.

(8) The manner of taking title to trust property.

(b) A certification of trust may be signed or authenticated by any trustee.

(c) A certification of trust must state that the trust has not been revoked, modified, or amended in any manner that would cause the representations contained in the certification of trust to be incorrect.

(d) A certification of trust may contain the dispositive terms of a trust.

(e) A recipient of a certification of trust may require the trustee to furnish copies of excerpts from the original trust instrument and later amendments that:

(1) designate the trustee; and

(2) confer on the trustee the power to act in a pending transaction in which the recipient has an interest.

(f) A person who acts in reliance on a certification of trust without knowledge that the representations contained in the certification of trust are incorrect:

(1) is not liable to any person for acting in reliance on the certification of trust; and

(2) may assume without inquiry the existence of the facts contained in the certification of trust.

Knowledge of the terms of the trust may not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying on the certification.

(g) A person who in good faith enters into a transaction in reliance on a certification of trust may enforce the transaction against the trust property as if the representations contained in the certification were correct.

(h) A person making a demand for the trust instrument in addition to a certification of trust or excerpts from the original trust instrument is liable for damages if the court determines that a person did not act in good faith in demanding the trust instrument.

(i) This section does not limit the right of a person to obtain a copy of the trust instrument in a judicial proceeding concerning the trust.

SECTION 42. IC 30-4-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. ~~(Right to Compensation)~~ **(a)** Unless the terms of the trust provide otherwise, and except as provided in ~~30-4-5-17,~~ **section 17 of this chapter,** the trustee is entitled to reasonable compensation from the trust estate for acting as trustee.

(b) If the terms of the trust specify the trustee's compensation, the trustee is entitled to be compensated as specified, but the court may allow more or less compensation if:

(1) the duties of the trustee are substantially different from those contemplated when the trust was created; or

(2) the compensation specified in the terms of the trust would be unreasonably low or high.

(c) A trustee is entitled to be reimbursed out of the trust property, with interest as appropriate, for:

(1) expenses that were properly incurred in the administration of the trust; and

(2) expenses that were not properly incurred in the administration of the trust, to the extent necessary to prevent unjust enrichment of the trust.

An advance by the trustee of money for the protection of the trust gives rise to a lien against trust property to secure reimbursement with reasonable interest.

SECTION 43. IC 30-4-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~(Venue)~~ (a) Unless the terms of the trust provide otherwise, venue in this state for matters arising under this article shall be exclusively in the county in which the principal place of administration of the trust is located. The principal place of administration of a trust is that usual place at which the records pertaining to the trust are kept or, if there is no such place, the trustee's residence. If there are cotrustees, the principal place of administration is either that of the corporate trustee, if there is only one (1); that of the individual trustee who has custody of the records, if there is but one (1) such person and there is no corporate cotrustee; or, if neither of these alternatives apply, that of any of the cotrustees.

(b) Unless the trust provides otherwise, a trustee is under a continuing duty to administer the trust at a place appropriate to the trust's purposes and administration.

(c) Unless the trust provides otherwise, and without precluding the right of the court to order, approve, or disapprove a transfer, the trustee, in furtherance of a duty

prescribed by subsection (b), may transfer the trust's principal place of administration to another state or to a jurisdiction outside the United States.

(d) The trustee shall notify the qualified beneficiaries of a proposed transfer of a trust's principal place of administration not less than sixty (60) days before initiating the transfer. The notice of proposed transfer must include the following information:

(1) The name of the jurisdiction to which the principal place of administration is to be transferred.

(2) The address and telephone number of the new location at which the trustee can be contacted.

(3) An explanation of the reasons for the proposed transfer.

(4) The date on which the proposed transfer is anticipated to occur.

(5) The date, not less than sixty (60) days after the giving of notice, by which the qualified beneficiary must notify the trustee of an objection to the proposed transfer.

(e) The authority of a trustee under this section to transfer a trust's principal place of administration terminates if a qualified beneficiary notifies the trustee of an objection to the proposed transfer on or before the date specified in the notice.

(f) In connection with a transfer of the trust's principal place of administration, the trustee may transfer some or all of the trust property to a successor trustee designated in the terms of the trust or appointed under IC 30-4-3-33.

~~(b)~~ **(g)** If the principal place of administration is maintained in another state, venue in this state for any matters arising under this article shall be in the county stipulated in writing by the parties to the trust or, if there is no such stipulation, in the county where the trust property, or the evidence of the trust property, which is the subject of the action is either situated or generally located.

~~(c)~~ **(h)** Any party to an action or proceeding shall be entitled to a change of venue or change of judge as provided in the Indiana Rules of Procedure. A change of venue in any action shall not be construed to authorize a permanent change of venue for all matters arising under this article, and, upon conclusion of the action, venue shall return to the court where the action was initiated.

SECTION 44. IC 30-4-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8.~~(Bonding)~~ (a) Unless the terms of the trust provide otherwise, the trustee need not provide a bond to secure ~~his~~ **the trustee's** performance as trustee.

(b) If the trust is subject to continuing supervisory jurisdiction by the court, the court may, on its own motion, direct the trustee to provide a bond to secure performance of ~~his~~ **the trustee's** duties.

(c) Upon petition by an interested party, the court may direct the trustee to provide a bond to secure ~~his~~ **the trustee's** performance, ~~as such,~~ if the court deems it reasonably necessary to protect the interest of any beneficiary.

(d) Unless the terms of the trust provide otherwise, the court may, in its discretion, direct a trustee appointed by the court under ~~30-4-3-29~~ **IC 30-4-3-33** to file a bond to secure the performance of ~~his~~ **the trustee's** duties.

(e) In any case in which bond is required, unless otherwise specified, the court shall determine the amount, term and surety of the bond to be provided. The court may also excuse a requirement of bond, reduce or increase the amount of the bond, release the surety, or permit substitution of another bond with the same or different sureties.

SECTION 45. IC 30-4-6-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 10.5. (a) Except as provided in the terms of a trust, and to the extent there is not a conflict of interest between the representative and the person represented or among those being represented:**

(1) a guardian may represent and bind the protected person who is subject to the guardianship;

(2) an attorney in fact who has authority to act with respect to the particular question or dispute may represent and bind the principal;

(3) a trustee may represent and bind the beneficiaries of the trust;

(4) a personal representative of a decedent's estate may represent and bind persons interested in the estate; and

(5) a parent may represent and bind the parent's minor, unborn, or not yet adopted child if a guardian for the child has not been appointed;

with regard to a particular question or dispute.

(b) The holder of a general power of appointment, including a general testamentary power of appointment, may represent and bind persons whose interests are subject to the power of appointment, including:

(1) permissible appointees; and

(2) takers in default.

(c) Unless otherwise represented:

(1) a minor;

(2) an incapacitated person;

(3) an unborn or a not yet adopted child; or

(4) a person whose identity or location is unknown and not reasonably ascertainable;

may be represented by and bound by another person who has a substantially identical interest with respect to the particular question or dispute but only to the extent there is not a conflict of interest between the representative and the person represented.

(d) If the court determines that an interest is not represented under this section or that the otherwise available representation might be inadequate, the court may appoint a guardian ad litem to receive notice, give consent, and otherwise represent, bind, and act on behalf of:

(1) a minor;

(2) an incapacitated person;

(3) an unborn child; or

(4) a person whose identity or location is unknown.

If not precluded by conflict of interest, a guardian ad litem may be appointed to represent several persons or interests. A guardian ad litem may act on behalf of the person represented

with respect to any matter arising under this title, regardless of whether a judicial proceeding concerning the trust is pending. In making decisions, a guardian ad litem may consider general benefits accruing to the living members of the family of the persons represented.

(e) Notice to a person who may represent and bind another person under this section has the same effect as if notice were given directly to the other person.

(f) The consent of a person who may represent and bind another person under this section is binding on the person represented unless the person represented objects to the representation before the consent would have become effective.

SECTION 46. IC 30-4-6-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 14. (a) A person must commence a judicial proceeding to contest the validity of a trust that was revocable at the settlor's death within the earlier of the following:**

(1) Ninety (90) days after the person receives from the trustee a copy of the trust certification and a notice informing the person of:

(A) the trust's existence;

(B) the trustee's name and address; and

(C) the time allowed for commencing the proceeding.

(2) Three (3) years after the settlor's death.

(b) More than one hundred twenty (120) days after the death of the settlor of a trust that was revocable at the settlor's death, the trustee may distribute the trust property in accordance with the terms of the trust. The trustee is not subject to liability for the distribution unless:

(1) the trustee knows of a pending judicial proceeding contesting the validity of the trust; or

(2) a potential contestant notifies the trustee of a possible judicial proceeding to contest the trust and a judicial proceeding is commenced not later than sixty (60) days after the contestant sends the trustee the notification.

(c) A beneficiary of a trust that is determined to be invalid shall return any distribution received.

SECTION 47. IC 30-5-2-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5.5. Notwithstanding IC 1-1-4-4 and IC 6-3-1-11, "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States as amended from time to time.**

SECTION 48. IC 30-5-5-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 4.5. (a) Language conferring general authority with respect to retirement plans means the principal authorizes the attorney in fact to:**

(1) make contributions, including rollover contributions, or cause contributions to be made on behalf of the principal to any retirement plan, including any:

(A) pension;

(B) profit sharing or stock bonus plan;

(C) individual retirement arrangement;

(D) individual retirement account described in Section 408(A) of the Internal Revenue Code;

(E) deferred compensation plan;

(F) qualified plan under Section 403(b) of the Internal Revenue Code; or

(G) other qualified or nonqualified retirement plan, arrangement, or annuity in which the principal is a participant or a beneficiary;

(2) establish at least one (1) individual retirement account or other retirement plan in the principal's name;

(3) elect a form of payment of benefits from a retirement plan and withdraw benefits from a retirement plan;

(4) exercise investment powers available under a retirement plan;

(5) designate at least one (1) beneficiary or contingent beneficiary for any benefits payable under a retirement plan on account of the principal's death and change any earlier designation of beneficiary;

(6) borrow from, sell assets to, and purchase assets from the retirement plan if authorized by the retirement plan; and

(7) waive the right of the principal to be a beneficiary of a joint or survivor annuity.

(b) The powers described in this section are equally exercisable with respect to a retirement plan established or operated in Indiana or another jurisdiction and:

(1) owned by the principal;

(2) in which the principal was a participant; or

(3) of which the principal was a beneficiary;

when the powers are given or after the powers are given.

(c) A power of attorney executed before July 1, 2005, that confers general authority with respect to all other matters under section 19 of this chapter, includes general authority with respect to retirement plans as described in this section.

SECTION 49. IC 30-5-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Language conferring general authority with respect to insurance transactions means the principal authorizes the attorney in fact to do the following:

(1) Continue, pay the premium or assessment on, modify, rescind, release, or terminate a contract of life, accident, health, or disability insurance or for the provision of health care services or any combination of these contracts procured by or on behalf of the principal before the granting of the power of attorney that insures the principal or another person, without regard to whether the principal is or is not a beneficiary under the contract.

(2) Procure new, different, or additional contracts of life, accident, health, or disability insurance for the principal or for the provision of health care services for the principal, and select the amount, type of insurance, and mode of payment under each contract, pay the premium or assessment on, modify, release, or terminate a contract procured by the

attorney in fact, and designate the beneficiary under the contract. ~~The attorney in fact may not be named a beneficiary of a contract, unless:~~

~~(A) the attorney in fact is named as beneficiary of death benefit proceeds if permitted under section 8 of this chapter; or~~

~~(B) the attorney in fact was named as a beneficiary under a contract that was procured by the principal before the granting of the power of attorney. The attorney in fact may continue to be named as beneficiary under the contract, or an extension or renewal of, or substitute for, the contract.~~

(3) Apply for and receive any available loan on the security of the contract of insurance, whether for the payment of the premium or for the procuring of cash, surrender and receive the cash surrender value, exercise an election as to beneficiary or mode of payment, change the manner of paying premiums, change or convert the type of insurance contract, with respect to a contract of life, accident, health, disability, or liability insurance in which the principal has, or claims to have, a power described in this subdivision, or change the beneficiary of the contract of insurance. ~~The attorney in fact may not be named a new beneficiary of a contract, unless:~~

~~(A) the attorney in fact is named as beneficiary of death benefit proceeds if permitted under section 8 of this chapter; or~~

~~(B) the attorney in fact was named as a beneficiary under a contract that was procured by the principal before the granting of the power of attorney. The attorney in fact may continue to be named as beneficiary under the contract, or an extension or renewal of, or substitute for, the contract.~~

(4) Demand, receive, or obtain by action or proceeding money or other things of value to which the principal is, may become, or claims to be entitled to as the proceeds of a contract of insurance or a transaction permitted under this section, conserve, invest, disburse, or use anything received for a purpose permitted under this section, and reimburse the attorney in fact for expenditures properly made in the execution of powers conferred upon the attorney in fact.

(5) Apply for and procure available governmental aid in the guaranteeing or paying of premiums of a contract of insurance on the life of the principal.

(6) Sell, assign, hypothecate, borrow upon, or pledge the interest of the principal in a contract of insurance.

(7) Pay from the proceeds or otherwise, compromise, contest, and apply for refunds in connection with a tax or an assessment levied by a taxing authority with respect to a contract of insurance, the proceeds of the refunds, or liability accruing from a tax or an assessment.

(8) Agree and contract in any manner and on any terms with any person the attorney in fact selects to accomplish a purpose permitted under this section and perform, rescind, reform, release, or modify an agreement or a contract.

(9) Execute, acknowledge, seal, and deliver a consent, a demand, a request, an application, an agreement, an indemnity, an authorization, an assignment, a pledge, a notice, a check, a receipt, a waiver, or other instrument the attorney in fact considers useful to accomplish a purpose permitted under this section.

(10) Continue, procure, pay the premium or assessment on, modify, rescind, release, terminate, or otherwise deal with a contract of insurance, other than those permitted under subdivision (1) or (2), including fire, marine, burglary, compensation, liability, hurricane, casualty, or a combination of insurance, and do acts with respect to the contract or with respect to the contract's proceeds or enforcement that the attorney in fact considers necessary or desirable for the promotion or protection of the interests of the principal.

(11) Prosecute, defend, submit to arbitration, settle, and propose or accept a compromise with respect to a claim existing in favor of or against the principal based on or involving an insurance transaction or intervene in an action or proceeding relating to a claim.

(12) Hire, discharge, and compensate an attorney, accountant, expert witness, or other assistant when the attorney in fact considers the action to be desirable for the proper execution by the attorney in fact of a power described in this section and keep needed records.

(13) Perform any other acts in connection with procuring, supervising, managing, modifying, enforcing, and terminating contracts of insurance or for the provisions of health care services in which the principal is insured or is otherwise interested.

(b) The powers described in this section are exercisable equally with respect to a contract of insurance or for the provision of health care service in which the principal is interested, whether located in Indiana or in another jurisdiction.

SECTION 50. IC 30-5-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Language conferring general authority with respect to gift transactions means the principal authorizes the attorney in fact to do the following:

(1) Make gifts to organizations, charitable or otherwise, to which the principal has made gifts, and satisfy pledges made to organizations by the principal.

(2) Make gifts on behalf of the principal to the principal's spouse, children, and other descendants or the spouse of a child or other descendant, either outright or in trust, for purposes the attorney in fact considers to be in the best interest of the principal, including the minimization of income, estate, inheritance, or gift taxes. The attorney in fact or a person that the attorney in fact has a legal obligation to support may not be the recipient of gifts in one (1) year that total more than ~~ten thousand dollars ($10,000) in aggregate value to the recipient.~~ **the amount allowed as an exclusion from gifts under Section 2503 of the Internal Revenue Code.**

(3) Prepare, execute, consent to on behalf of the principal, and file a return, report, declaration, or other document required by the laws of the United States, a state, a subdivision of a

state, or a foreign government that the attorney in fact considers desirable or necessary with respect to a gift made under the authority of this section.

(4) Execute, acknowledge, seal, and deliver a deed, an assignment, an agreement, an authorization, a check, or other instrument the attorney in fact considers useful to accomplish a purpose permitted under this section.

(5) Prosecute, defend, submit to arbitration, settle, and propose or accept a compromise with respect to a claim existing in favor of or against the principal based on or involving a gift transaction, or intervene in a related action or proceeding.

(6) Hire, discharge, and compensate an attorney, accountant, expert witness, or other assistant when the attorney in fact considers the action to be desirable for the proper execution by the attorney in fact of a power described in this section and keep needed records.

(7) Perform any other acts the attorney in fact considers desirable or necessary to complete a gift on behalf of the principal.

(b) The powers described in this section are exercisable equally with respect to a gift of property in which the principal is interested at the time of the giving of the power of attorney or becomes interested in after that time, whether conducted in Indiana or in another jurisdiction.

SECTION 51. IC 30-5-8-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. (a) A person who acts in good faith reliance on a power of attorney is immune from liability to the same extent as if the person had dealt directly with the named principal and the named principal had been competent and not incapacitated.**

(b) The named attorney in fact may furnish an affidavit to a person that states, to the best knowledge of the attorney in fact:

(1) that the instrument relied on by the person is a true copy of the power of attorney;

(2) that the named principal is alive;

(3) that the power of attorney was validly granted and executed;

(4) that the relevant powers granted to the attorney in fact have not been altered or terminated;

(5) in the case of a successor attorney in fact, that the original attorney in fact has failed or ceased to serve and the successor attorney in fact is empowered to act on behalf of the principal; and

(6) if the effective date of the power of attorney begins upon the occurrence of a certain event, that the event has occurred and the attorney in fact is authorized to act under the power of attorney.

(c) A person who:

(1) relies on an affidavit described in subsection (b); and

(2) acts in good faith;

is immune from liability that might otherwise arise from the person's action in reliance on the power of attorney that is the subject of the affidavit.

SECTION 52. IC 30-5-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. **(a)** An attorney in fact who acts with due care for the benefit of the principal is not liable or limited only because the attorney in fact:

(1) also benefits from the act;

(2) has individual or conflicting interests in relation to the property, care, or affairs of the principal; or

(3) acts in a different manner with respect to the principal's and the attorney in fact's individual interests.

(b) A gift, bequest, transfer, or transaction is not presumed to be valid or invalid if the gift, bequest, transfer, or transaction:

(1) is:

(A) made by the principal taking action; and

(B) not made by an attorney in fact acting for the principal under a power of attorney; and

(2) benefits the principal's attorney in fact.

SECTION 53. IC 30-5-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Except as provided in ~~subsection~~ **subsections** (b) **and (c),** a power of attorney terminates on the death of the principal.

(b) The death of a principal who has executed a written power of attorney does not revoke or terminate the power of attorney as to the attorney in fact or other person who, without actual knowledge of the death of the principal, acts in good faith under the power. Unless otherwise invalid or unenforceable, an action taken under this subsection binds the principal and the principal's successors in interest.

(c) The death of a principal who executes a written power of attorney does not revoke or terminate the power of attorney as to authority granted under IC 30-5-5-16(b)(5) through IC 30-5-5-16(b)(7). An action taken under this subsection binds the principal and the principal's successors in interest, unless the action is inconsistent with a written directive executed by the principal before the principal's death.

~~(c)~~ **(d)** Notice from the United States Department of Defense of the death of a principal who has given a power of attorney is official notice of the death of the principal. A report or listing of the principal's being missing or missing in action does not do any of the following:

(1) Constitute and may not be interpreted as actual notice of the death of the principal.

(2) Terminate the power of attorney.

SECTION 54. IC 32-17.5-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. Except for a disclaimer under IC 32-17.5-5 or IC 32-17.5-6-1, the following rules apply to a disclaimer of an interest in property:

(1) A disclaimer takes effect:

(A) when the instrument creating the interest becomes irrevocable; or

(B) upon the intestate's death if the interest arose under the law of intestate succession.

(2) A disclaimed interest passes according to any provision in the instrument creating the interest:

(A) that provides for the disposition of the interest should the interest be disclaimed; or

(B) that concerns disclaimed interests in general.

(3) If ~~an~~ **the** instrument **creating the disclaimed interest** does not contain a provision described in subdivision (2), the following rules apply:

(A) If the disclaimant is an individual, the following rules apply:

(i) Except as provided in item (ii), the disclaimed interest passes as if the disclaimant had died immediately before the time of distribution.

(ii) If, by law or under the instrument, the descendants of the disclaimant would share in the disclaimed interest by any method of representation had the disclaimant died before the time of distribution, the disclaimed interest passes only to the descendants of the disclaimant who survive at the time of distribution.

(B) If the disclaimant is not an individual, the disclaimed interest passes as if the disclaimant did not exist.

(4) If the disclaimed interest arose under the law of intestate succession, the disclaimed interest passes as if the disclaimant had died immediately before the intestate's death.

~~(4)~~ **(5)** Upon the disclaimer of a preceding interest:

(A) a future interest held by a person other than the disclaimant takes effect as if the disclaimant had died or ceased to exist immediately before the time of distribution; and

(B) a future interest held by the disclaimant is not accelerated in possession or enjoyment.

SECTION 55. IC 32-29-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) In a proceeding for the foreclosure of a mortgage executed on real estate, process may not issue for the execution of a judgment or decree of sale for a period of three (3) months after the filing of a complaint in the proceeding. However:

(1) the period ~~shall be.~~ **is:**

(A) twelve (12) months in a proceeding for the foreclosure of a mortgage executed before January 1, 1958; and

(B) six (6) months in a proceeding for the foreclosure of a mortgage executed after December 31, 1957, but before July 1, 1975; and

(2) if the court finds that the mortgaged real estate is residential real estate and has been abandoned, a judgment or decree of sale may be executed on the date the judgment of foreclosure or decree of sale is entered, regardless of the date the mortgage is executed.

(b) A judgment and decree in a proceeding to foreclose a mortgage that is entered by a court having jurisdiction may be filed with the clerk in any county as provided in IC 33-32-3-2. After the period set forth in subsection (a) expires, a person who may enforce the judgment and decree may file a praecipe with the clerk in any county where the judgment and decree is filed, and the clerk shall promptly issue and certify to the sheriff of that county a copy of the judgment and decree under the seal of the court.

(c) Upon receiving a certified judgment under subsection (b), the sheriff shall, subject to section 4 of this chapter, sell the mortgaged premises or as much of the mortgaged premises as necessary to satisfy the judgment, interest, and costs at public auction at the office of the sheriff or at another location that is reasonably likely to attract higher competitive bids. The sheriff shall schedule the date and time of the sheriff's sale for a time certain between the hours of 10 a.m. and 4 p.m. on any day of the week except Sunday.

(d) Before selling mortgaged property, the sheriff must advertise the sale by publication once each week for three (3) successive weeks in a daily or weekly newspaper of general circulation. The sheriff shall publish the advertisement in at least one (1) newspaper published and circulated in each county where the real estate is situated. The first publication shall be made at least thirty (30) days before the date of sale. At the time of placing the first advertisement by publication, the sheriff shall also serve a copy of the written or printed notice of sale upon each owner of the real estate. Service of the written notice shall be made as provided in the Indiana Rules of Trial Procedure governing service of process upon a person. The sheriff shall charge a fee of ten dollars ($10) to one (1) owner and three dollars ($3) to each additional owner for service of written notice under this subsection. The fee is:

(1) a cost of the proceeding;

(2) to be collected as other costs of the proceeding are collected; and

(3) to be deposited in the county general fund for appropriation for operating expenses of the sheriff's department.

(e) The sheriff also shall post written or printed notices of the sale in at least three (3) public places in each township in which the real estate is situated and at the door of the courthouse of each county in which the real estate is located.

(f) If the sheriff is unable to procure the publication of a notice within the county, the sheriff may dispense with publication. ~~However,~~ The sheriff shall state that the sheriff was not able to procure the publication and explain the reason why publication was not possible.

(g) Notices under subsections (d) and (e) must contain a statement, for informational purposes only, of the location of each property by street address, if any, or other common description of the property other than legal description. A misstatement in the informational statement under this subsection does not invalidate an otherwise valid sale.

(h) The sheriff may charge an administrative fee of not more than two hundred dollars ($200) with respect to a proceeding referred to in subsection (b) for actual costs directly attributable to the administration of the sale under subsection (c). The fee is:

(1) payable by the person seeking to enforce the judgment and decree; and

(2) due at the time of filing of the praecipe;

under subsection (b).

SECTION 56. IC 33-37-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Each clerk shall establish a clerk's record perpetuation fund. The clerk shall deposit all the following in the fund:

(1) Revenue received by the clerk for transmitting documents by facsimile machine to a person under IC 5-14-3.

(2) Document storage fees required under section 20 of this chapter.

(3) The late payment fees imposed under section 22 of this chapter that are authorized for deposit in the clerk's record perpetuation fund under IC 33-37-7-1 or IC 33-37-7-2.

(4) The fees required under IC 29-1-7-3.1 for deposit of a will.

(b) The clerk may use any money in the fund for the following purposes:

(1) The preservation of records.

(2) The improvement of record keeping systems and equipment.

SECTION 57. IC 34-30-2-122.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 122.5. IC 29-1-7-3.1 (Concerning a person who deposits a will with a circuit court clerk).**

SECTION 58. IC 34-30-2-131 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 131. **(a) IC 30-4-3-1.5 (Concerning actions of a trustee who does not know that a trust has been revoked or amended).**

(b) IC 30-4-3-6.5 (Concerning actions of a trustee who does not know of the happening of an event that affects the trust).

(c) IC 30-4-3-11 (Concerning trustees and beneficiaries of a trust in certain circumstances).

SECTION 59. IC 34-30-2-132.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 132.4. IC 30-4-4-5 (Concerning a person who acts in reliance on a certification of trust).**

SECTION 60. IC 34-30-2-132.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 132.6. IC 30-4-6-14 (Concerning distribution of trust property).**

SECTION 61. IC 34-30-2-132.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 132.8. IC 30-5-8-7 (Concerning a person who relies on a power of attorney or an affidavit concerning a power of attorney).**

SECTION 62. IC 34-54-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A judgment creditor filing a foreign judgment under this chapter must file an affidavit with the clerk of the court in which the foreign judgment is filed at the time the foreign judgment is filed. The affidavit must set forth:

(1) the name and last known address of the judgment debtor; and

(2) the name and last known address of the judgment creditor.

(b) The judgment creditor must send notice of the filing of the foreign judgment in the same process prescribed under Indiana Trial Rule 4 through Indiana Trial Rule 4.17.

(c) The notice described in subsection (b) must contain:

(1) the name and address of the judgment creditor;

(2) the name and address of the judgment creditor's attorney, if any; and

(3) the nature and amount of the judgment creditor's claim under the foreign judgment.

(d) Execution or other process for the enforcement of a foreign judgment may not be issued earlier than twenty-one (21) days after the entry of the judgment in the judgment's original jurisdiction.

(e) Not later than twenty-one (21) days after the date notice is served to the judgment debtor by the judgment creditor or the judgment creditor's attorney, the judgment debtor may file a notice with the court in which the judgment has been filed asserting any defenses that would prohibit the judgment creditor from execution or another process for enforcement of the foreign judgment.

(f) If a judgment debtor files a timely notice under subsection (e), a foreign judgment may not:

(1) constitute a lien under IC 34-55-9-2; or

(2) be enforced by execution or another process for enforcement of the foreign judgment;

until the court in which the foreign judgment is filed has issued an order sustaining or overruling each defense asserted in the notice filed under subsection (e).

(g) A court in which a foreign judgment is filed may issue an order staying the time within which a notice by a judgment debtor must be filed under subsection (e) if the court determines that litigation of a postjudgment motion:

(1) is appropriate; and

(2) would be available if the judgment had been obtained in an Indiana court.

(h) If a court stays under subsection (g) the time within which a notice by a judgment debtor must be filed under subsection (e), a foreign judgment may not:

(1) constitute a lien under IC 34-55-9-2; or

(2) be enforced by execution or another process for enforcement of the foreign judgment;

during the period of the stay.

(i) A creditor filing a foreign judgment is entitled to any prejudgment remedy that is available to a creditor in an Indiana court during the pendency of:

(1) the proceeding to determine the availability of a defense under subsection (e); or

(2) a stay under subsection (g).

SECTION 63. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 29-1-15-16; IC 30-4-3-1; IC 30-4-3-24; IC 30-4-3-28.

SECTION 64. [EFFECTIVE JULY 1, 2004 (RETROACTIVE)] **IC 6-4.1-1-3, as amended by this act, applies to the estate of an**

individual who dies after June 30, 2004.

SECTION 65. [EFFECTIVE JULY 1, 2005] **IC 29-1-2-1, as amended by this act, applies to the estate of a person who dies after June 30, 2004.**

SECTION 66. [EFFECTIVE JULY 1, 2005] **IC 6-4.1-4-2 and IC 29-1-3-2, both as amended by this act, apply to the estate of a person who dies after June 30, 2005.**

SECTION 67. **An emergency is declared for this act**.

(Reference is to EHB 1153 as printed March 25, 2005.)

Foley, Chair	Zakas
Kuzman	Antich-Carr
House Conferees	Senate Conferees

Roll Call 544: yeas 45, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

EHB 1365–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill 1365 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete the title and insert the following:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 32-29-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) In a proceeding for the foreclosure of a mortgage executed on real estate, process may not issue for the execution of a judgment or decree of sale for a period of three (3) months after the filing of a complaint in the proceeding. However:

(1) the period ~~shall be.~~ **is:**

(A) twelve (12) months in a proceeding for the foreclosure of a mortgage executed before January 1, 1958; and

(B) six (6) months in a proceeding for the foreclosure of a mortgage executed after December 31, 1957, but before July 1, 1975; and

(2) if the court finds that the mortgaged real estate is residential real estate and has been abandoned, a judgment or decree of sale may be executed on the date the judgment of foreclosure or decree of sale is entered, regardless of the date the mortgage is executed.

(b) A judgment and decree in a proceeding to foreclose a mortgage that is entered by a court having jurisdiction may be filed with the clerk in any county as provided in IC 33-32-3-2. After the period set forth in subsection (a) expires, a person who may enforce the judgment and decree may file a praecipe with the clerk in any county where the judgment and decree is filed, and the clerk shall promptly issue and certify to the sheriff of that county a copy of the judgment and decree under the seal of the court.

(c) Upon receiving a certified judgment under subsection (b), the sheriff shall, subject to section 4 of this chapter, sell the mortgaged premises or as much of the mortgaged premises as necessary to satisfy the judgment, interest, and costs at public auction at the office of the sheriff or at another location that is reasonably likely to attract higher competitive bids. The sheriff shall schedule the date and time of the sheriff's sale for a time certain between the hours of 10 a.m. and 4 p.m. on any day of the week except Sunday.

(d) Before selling mortgaged property, the sheriff must advertise the sale by publication once each week for three (3) successive weeks in a daily or weekly newspaper of general circulation. The sheriff shall publish the advertisement in at least one (1) newspaper published and circulated in each county where the real estate is situated. The first publication shall be made at least thirty (30) days before the date of sale. At the time of placing the first advertisement by publication, the sheriff shall also serve a copy of the written or printed notice of sale upon each owner of the real estate. Service of the written notice shall be made as provided in the Indiana Rules of Trial Procedure governing service of process upon a person. The sheriff shall charge a fee of ten dollars ($10) to one (1) owner and three dollars ($3) to each additional owner for service of written notice under this subsection. The fee is:

(1) a cost of the proceeding;

(2) to be collected as other costs of the proceeding are collected; and

(3) to be deposited in the county general fund for appropriation for operating expenses of the sheriff's department.

(e) The sheriff also shall post written or printed notices of the sale in at least three (3) public places in each township in which the real estate is situated and at the door of the courthouse of each county in which the real estate is located.

(f) If the sheriff is unable to procure the publication of a notice within the county, the sheriff may dispense with publication. ~~However,~~ The sheriff shall state that the sheriff was not able to procure the publication and explain the reason why publication was not possible.

(g) Notices under subsections (d) and (e) must contain a statement, for informational purposes only, of the location of each property by street address, if any, or other common description of the property other than legal description. A misstatement in the informational statement under this subsection does not invalidate an otherwise valid sale.

(h) The sheriff may charge an administrative fee of not more than two hundred dollars ($200) with respect to a proceeding referred to in subsection (b) for actual costs directly attributable to the administration of the sale under subsection (c). The fee is:

(1) payable by the person seeking to enforce the judgment and decree; and

(2) due at the time of filing of the praecipe;

under subsection (b).

SECTION 2. IC 36-2-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 13. **(a) Except as provided in subsection (b),** the compensation of an elected county officer may not be changed in the year for which it is fixed. The compensation of other county officers, deputies, and employees or the number of each may be changed at any time on:

(1) the application of the county fiscal body or the affected officer, department, commission, or agency; and

(2) a majority vote of the county fiscal body.

(b) In the year in which a newly elected county officer takes office, the county fiscal body may at any time change the compensation for holding the county office for that year if:

(1) the county officer requests the compensation change or, in the case of the county executive body, a majority of the county executive body requests the change; and

(2) the county fiscal body votes to approve the change.

SECTION 3. IC 36-6-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 1.5. Merger of Township Governments

Sec. 1. This chapter does not apply to a township in a county containing a consolidated city.

Sec. 2. As used in this chapter, "former township government" means a township government that merges with at least one (1) other township government under this chapter.

Sec 3. As used in this chapter, "new township government" means the township government that results from the merger of at least two (2) township governments under this chapter.

Sec. 4. At least two (2) township governments may merge to form one (1) township government under this chapter, if:

(1) the township governments are entirely located within the same county;

(2) all the territory within the township governments is subject to the merger; and

(3) each township whose government is subject to the merger is contiguous to at least one (1) other township whose government is subject to the merger.

Sec. 5. (a) The township trustees, with the approval of a majority of the members of the township legislative body of each township that wants to merge township governments under this chapter must comply with this section.

(b) The township trustees must present identical resolutions approving the township government merger to the trustees' respective township legislative bodies. A township legislative body may adopt a resolution under this chapter only after the legislative body has held a public hearing concerning the proposed merger. The township legislative body shall hold the hearing not earlier than thirty (30) days after the date the resolution is introduced. The hearing shall be conducted in accordance with IC 5-14-1.5 and notice of the hearing shall be published in accordance with IC 5-3-1.

(c) The township legislative bodies may adopt the identical resolutions approving the township government merger under this chapter not later than ninety (90) days after the legislative body has held the public hearing under subsection (b). The townships shall submit the resolutions to the county legislative body of the county within which the townships are located.

(d) The county legislative body of the county where the township governments are located must:

(1) adopt an ordinance ordering the merger; and

(2) file a copy of the ordinance with:

(A) the circuit court clerk; and

(B) the office of the secretary of state.

(e) The county legislative body may not adopt an ordinance ordering a merger after January 1 of a year in which:

(1) a general election is held; and

(2) a township trustee is elected.

(f) The county legislative body may not adopt an ordinance merging township governments less than one (1) year before the merger becomes effective.

(g) A merger under this chapter may not reduce the term of a township trustee of a former township government.

Sec. 6. The merger becomes effective when the officers of the new township government are elected and qualified. An officer elected to represent the merged township government shall be considered to be a resident of the territory comprising the new township government unless the township merger is dissolved under IC 36-6-1.6.

Sec. 7. If township governments merge under this chapter:

(1) IC 36-6-6 applies to the election of the township board; and

(2) IC 36-6-5-1 applies to the election of a township assessor;

of the new township government.

Sec. 8. On the date a merger takes effect:

(1) the former township governments are abolished as separate entities;

(2) each township subject to the merger retains its geographical boundaries and its name;

(3) the territory of the new township government includes all the territory that comprised the territories of the former township governments before the merger;

(4) the agencies of the former township governments are abolished;

(5) the functions of the abolished agencies are assigned to agencies of the new township government;

(6) the:

(A) property;

(B) records;

(C) personnel;

(D) rights; and

(E) liabilities;

related to the functions of the abolished agencies are assigned to agencies of the new township government; and

(7) any bonds and other indebtedness of, or assumed by, the former township governments are transferred to the new township government.

Sec. 9. Upon the corporate dissolution of a township government under this article, the following apply for purposes of all state and federal licensing and regulatory laws, statutory entitlements, gifts, grants-in-aid, governmental loans, or other governmental assistance under state or federal statutes, rules, or regulations:

(1) The entire geographic area and population of a new township government that is established under this chapter shall be used when calculating and determining the distribution basis for the following:

(A) State or federal government statutory entitlements.

(B) Gifts.

(C) Grants-in-aid.

(D) Loans.

(E) Any form of governmental assistance that is not listed in this subdivision.

(2) Following a public hearing for which notice is published in accordance with IC 5-3-1 at least thirty (30) days before the public hearing takes place, the executive of a new township government that is established under this chapter shall determine and designate to the appropriate state or federal agency the:

(A) geographic areas;

(B) parts of roads;

(C) segments of population; or

(D) combinations of the items listed in clauses (A) through (C);

that constitute rural or urban areas, roads, or populations, if this designation was previously required of any township that merges under this chapter.

Sec. 10. When a new township government is established under this chapter, the following occur:

(1) The resolutions, rules, and bylaws of each of the former township governments:

(A) remain in force within the territory to which they applied before the merger; and

(B) continue in force until amended or repealed by the legislative body or an administrative body of the new township government.

(2) Pending actions that involve any former township government shall be prosecuted to final judgment and execution, and judgments rendered in those actions may be executed and enforced against the new township government without any change of the name of the plaintiff or defendant.

Sec. 11. (a) On the date the formation of a new township government takes effect, all money in the funds of each of the former township governments is transferred to the new township government. The new township government:

(1) shall deposit the money in its funds that most closely correspond to the funds of the former township governments; and

(2) may use the money to pay its operational and capital costs for the balance of the calendar year.

(b) After the date the formation of a new township government takes effect, the new township government is entitled to receive all distributions of taxes and other revenue that would have been made to the former township governments if the merger had not occurred. The new township government shall deposit the money in its funds that correspond most closely to the funds of the former township governments into which the taxes or other revenue would have been deposited if the merger had not occurred.

Sec. 12. The officers of the new township government shall:

(1) obtain from the department of local government finance approval under IC 6-1.1-18.5-7 of:

(A) a budget;

(B) an ad valorem property tax levy; and

(C) a property tax rate;

(2) fix the annual budget under IC 6-1.1-17;

(3) impose a property tax levy; and

(4) take any action necessary to ensure the collection of fees and other revenue;

for the new township government for the budget year following the year the officers take office.

SECTION 4. IC 36-6-1.6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 1.6. Dissolution of a Township Government Merger

Sec. 1. As used in this chapter, "merged township government" means the township government that results from the merger of at least two (2) township governments under IC 36-6-1.5.

Sec. 2. As used in this chapter, "reestablished township government" means a township government that:

(1) merged with at least one (1) other township government under IC 36-6-1.5; and

(2) is reestablished as a separate township government under this chapter.

Sec. 3. (a) Freeholders may initiate proceedings to reestablish a township government by filing a petition in the office of the county auditor of the county where the freeholder's land is located. The petition must be signed by the lesser of:

(1) at least ten percent (10%) of; or

(2) at least fifty (50);

freeholders owning land within the proposed reestablished township. A petition may also be filed with the county auditor by a merged township government under a resolution adopted by the legislative body of the township government.

(b) A county legislative body may adopt an ordinance that:

(1) dissolves a merger of township governments that took effect under IC 36-6-1.5; and

(2) reestablishes the township governments that were subject to the merger.

(c) The county legislative body must file a copy of the ordinance with:

(1) the circuit court clerk; and

(2) the secretary of state.

Sec. 4. (a) A county legislative body may not adopt an ordinance ordering a dissolution under section 3 of this chapter after January 1 of a year in which:

(1) a general election is held; and

(2) a township trustee is elected.

(b) The county legislative body may not adopt an ordinance ordering a dissolution under section 3 of this chapter less than one (1) year before the dissolution takes effect.

(c) A dissolution under this chapter may reduce the term of the township trustee of the merged township government.

Sec. 5. A dissolution under an ordinance adopted under section 3 of this chapter becomes effective when the officers of the reestablished township governments are elected and qualified as set forth in IC 36-6.

Sec. 6. (a) On the date on which a dissolution under an ordinance adopted under section 3 of this chapter takes effect:

(1) the reestablished township governments are established as separate entities;

(2) the territory of the reestablished township government is the same as the territory that comprised the reestablished township government before the merger;

(3) the agencies of the merged township government are abolished and the agencies of the reestablished township governments are established;

(4) the functions of the abolished agencies are assigned to agencies of each reestablished township government;

(5) the:

(A) property;

(B) records;

(C) personnel;

(D) rights; and

(E) liabilities;

related to the functions of the abolished agencies are assigned to agencies of the reestablished township governments; and

(6) any bonds and other indebtedness of, or assumed by, the merged township government is the indebtedness of the reestablished township governments.

(b) The county legislative body shall determine the distribution of property, records, and personnel to the reestablished township governments under subsection (a)(5).

Sec. 7. Upon the corporate dissolution of a merged township government under this article, the following apply for purposes of all state and federal licensing and regulatory laws, statutory entitlements, gifts, grants-in-aid, governmental loans, or other governmental assistance under state or federal statutes, rules, or regulations:

(1) The entire geographic area and population of a reestablished township government created under this chapter shall be used when calculating and determining the distribution basis for the following:

(A) State or federal government statutory entitlements.

(B) Gifts.

(C) Grants-in-aid.

(D) Loans.

(E) Any form of governmental assistance that is not listed in this subdivision.

(2) Following a public hearing for which notice is published in accordance with IC 5-3-1 at least thirty (30) days before the public hearing takes place, the executive of each reestablished township government that is created under this chapter shall determine and designate to the appropriate state or federal agency the:

(A) geographic areas;

(B) parts of roads;

(C) segments of population; or

(D) combinations of the items listed in clauses (A) through (C);

that constitute rural or urban areas, roads, or populations, if this designation was previously required of the merged township government.

Sec. 8. When a reestablished township government is created under this chapter, the following occur:

(1) The resolutions, rules, and bylaws of the merged township government:

(A) remain in force in the reestablished township governments; and

(B) continue in force until amended or repealed by the legislative body or an administrative body of the reestablished township government.

(2) Pending actions that involve the merged township government shall be prosecuted to final judgment and execution, and judgments rendered in those actions may be executed and enforced against the reestablished township governments without any change of the name of the plaintiff or defendant.

Sec. 9. (a) On the date on which the formation of a reestablished township government takes effect under this chapter, all money in the funds of the merged township government is transferred to the reestablished township governments. The county legislative body shall determine the allocation of the funds to the reestablished township governments. The reestablished township governments:

(1) shall deposit the money in the funds that most closely correspond to the funds of the merged township government; and

(2) may use the money to pay operational and capital costs for the balance of the calendar year.

(b) After the date on which the formation of a reestablished township government takes effect under this chapter, the reestablished township government is entitled to receive all distributions of taxes and other revenue that would have been made to the new township government if the merger had not occurred. The allocation of the distributions to the reestablished township governments shall be determined by the county legislative body. A reestablished township government shall deposit the money in its funds that correspond most closely to the funds of the merged township government into which the

taxes or other revenue would have been deposited if the dissolution had not occurred.

Sec. 10. The officers of a new reestablished township government shall:

(1) obtain from the department of local government finance approval under IC 6-1.1-18.5-7 of:

(A) a budget;

(B) an ad valorem property tax levy; and

(C) a property tax rate;

(2) fix the annual budget under IC 6-1.1-17;

(3) impose a property tax levy; and

(4) take any action necessary to ensure the collection of fees and other revenue;

for the new township government for the budget year following the year the officers take office.

SECTION 5. IC 36-6-5-1, AS AMENDED BY SEA 308-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A township assessor shall be elected under IC 3-10-2-13 by the voters of each township having:

(1) a population of more than eight thousand (8,000); or

(2) an elected township assessor or the authority to elect a township assessor before January 1, 1979.

(b) A township assessor shall be elected under IC 3-10-2-14 in each township having a population of more than five thousand (5,000) but not more than eight thousand (8,000), if the legislative body of the township:

(1) by resolution, declares that the office of township assessor is necessary; and

(2) the resolution is filed with the county election board not later than the first date that a declaration of candidacy may be filed under IC 3-8-2.

(c) A township government that is created by merger under IC 36-6-1.5 shall elect only one (1) township assessor under this section.

~~(c)~~ **(d)** The township assessor must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The assessor forfeits office if the assessor ceases to be a resident of the township.

~~(d)~~ **(e)** The term of office of a township assessor is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified. However, the term of office of a township assessor elected at a general election in which no other township officer is elected ends on December 31 after the next election in which any other township officer is elected.

SECTION 6. IC 36-6-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as provided in subsection (b) **and section 2.1 of this chapter,** a three (3) member township board shall be elected under IC 3-10-2-13 by the voters of each township.

(b) The township board in a county containing a consolidated city shall consist of seven (7) members elected under IC 3-10-2-13 by the voters of each township.

(c) The township board is the township legislative body.

(d) The term of office of a township board member is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

SECTION 7. IC 36-6-6-2.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2.1. (a) This section applies if township governments merge under IC 36-6-1.5.**

(b) If two (2) township governments merge, the resulting merged township government shall elect a three (3) member township board. The voters of the resulting merged township government shall elect all the members of the township board. One (1) member must reside within the boundaries of each of the township governments that merged.

(c) If at least three (3) township governments merge, the resulting merged township government shall elect a township board that has the same number of members as the number of township governments that merged. The voters of the resulting merged township shall elect all the members of the township board. One (1) township board member must reside within the boundaries of each of the townships that merged.

SECTION 8. IC 36-6-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) This subsection applies to townships in a county containing a consolidated city. One (1) member of the legislative body must reside within each legislative body district. If a member of the legislative body ceases to be a resident of the district from which the member was elected, the office becomes vacant.

(b) This subsection applies to townships not included in subsection (a) **or (c).** A member of the legislative body must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. If a member of the legislative body ceases to be a resident of the township, the office becomes vacant.

(c) This subsection applies to a township government that:

(1) is created by a merger of township governments under IC 36-6-1.5; and

(2) elects a township board under section 2.1 of this chapter.

One (1) member of the legislative body must reside within the boundaries of each of the former townships that merged. If a member of the legislative body ceases to be a resident of that former township, the office becomes vacant.

SECTION 9. IC 36-6-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Except as provided in ~~subsection~~ **subsections** (b) **and (c),** two (2) members of the legislative body constitute a quorum.

(b) Four (4) members of the legislative body in a county containing a consolidated city constitute a quorum.

(c) This subsection applies to a township government that:

(1) is created by a merger of township governments under IC 36-6-1.5; and

(2) elects a township board under section 2.1 of this chapter.

A majority of the members of the legislative body constitute a quorum. If a township board has an even number of members, the township executive shall serve as an ex officio member of the township board for the purpose of casting the deciding vote to break a tie.

SECTION 10. **An emergency is declared for this act**.

(Reference is to EHB 1365 as printed March 23, 2005.)

Friend, Chair	Weatherwax
Bischoff	Lewis
House Conferees	Senate Conferees

Roll Call 545: yeas 46, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

EHB 1407–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill 1407 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 3-5-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. "Ballot" means:

(1) the paper ballot prepared, printed, and supplied for use at an election;

(2) the ballot label prepared, printed, and supplied for use on the front of ~~a voting machine or~~ **an** electronic voting system; or

(3) the ballot card prepared, printed, and supplied for use in a ballot card voting system.

SECTION 2. IC 3-5-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. "Ballot card" refers to ~~either a punch card ballot or~~ an optical scan ballot.

SECTION 3. IC 3-5-2-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. "Ballot card voting system" refers to ~~either a punch card voting system or~~ an optical scan voting system.

SECTION 4. IC 3-5-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. "Ballot label" means:

(1) the printed strip or sheet of cardboard or paper, supplied for use on ~~a voting machine or~~ **an** electronic voting system, that contains the names of the candidates and the public questions on the ballot; or

(2) the ~~booklet, pamphlet, or other~~ material, supplied for use with a ballot card voting system, that contains those names and questions.

SECTION 5. IC 3-5-2-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31. "Marking device" means:

~~(1) an apparatus in which paper ballots or ballot cards are inserted and used in connection with a punch apparatus for the piercing of ballots by the voter;~~

~~(2)~~ **(1)** a pencil for marking a paper ballot or ballot card; or

~~(3)~~ **(2)** an approved touch-sensitive device that automatically registers a vote on an electronic voting system.

SECTION 6. IC 3-5-2-48.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 48.5. "Testing authority" means an independent test authority ~~as described in.~~ **or independent laboratory:**

(1) **as described in the** Voting System Standards issued by the Federal Election Commission on April 30, 2002; or

~~(2) other more recent voting systems standards adopted by the commission under IC 3-11-15-13.~~

(2) accredited under Section 231 of HAVA (42 U.S.C. 15371).

SECTION 7. IC 3-5-2-52 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 52. "Voting method" means the use of:

(1) paper ballots;

~~(2) voting machines;~~

~~(3)~~ **(2)** ballot card voting systems;

~~(4)~~ **(3)** electronic voting systems; or

~~(5)~~ **(4)** any combination of these;

to register votes in a precinct.

SECTION 8. IC 3-6-4.2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. The election division shall do the following:

~~(1) Prepare and distribute paper ballots for the election or retention of persons to federal and state offices and for public questions in compliance with this title.~~

~~(2)~~ **(1)** Maintain complete and uniform descriptions and maps of all precincts in Indiana.

~~(3)~~ **(2)** Promptly update the information required by subdivision ~~(2)~~ **(1)** after each precinct establishment order is filed with the commission under IC 3-11-1.5.

~~(4)~~ **(3)** Issue media watcher cards under IC 3-6-10-6.

~~(5)~~ **(4)** Prepare and transfer to the department of state revenue voter registration affidavits for inclusion in state adjusted gross income tax booklets under IC 6-8.1-3-19.

~~(6) After December 31, 2003,~~ **(5)** Serve in accordance with 42 U.S.C. 1973ff-1(b) as the office in Indiana responsible for providing information regarding voter registration procedures and absentee ballot procedures to absent uniformed services voters and overseas voters.

~~(7)~~ **(6)** As required by 42 U.S.C. 1973ff-1(c), submit a report to the federal Election Assistance Commission not later than ninety (90) days after each general election setting forth the combined number of absentee ballots:

(A) transmitted to absent uniformed services voters and overseas voters for the election; and

(B) returned by absent uniformed services voters and overseas voters and cast in the election.

~~(8)~~ **(7)** Implement the state plan in accordance with the requirements of HAVA (42 U.S.C. 15401 through 15406) and this title, and appoint members of the committee established under 42 U.S.C. 15405.

~~(9)~~ **(8)** Submit reports required under 42 U.S.C. 15408 to the federal Election Assistance Commission concerning the use of federal funds under Title II, Subtitle D, Part I of HAVA.

SECTION 9. IC 3-6-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) Each county election board, in addition to duties otherwise prescribed by law, shall do the following:

(1) Adopt and amend a written plan to implement NVRA within the county.

(2) Conduct all elections and administer the election laws within the county, except as provided in IC 3-8-5 and IC 3-10-7 for town conventions and municipal elections in certain small towns.

(3) Prepare all ballots. ~~except those prepared by the election division.~~

(4) Distribute all ballots and pasters to all of the precincts in the county.

(b) This subsection does not apply to pasters to be attached to ballots during the final three (3) days before an election. Not later than the Monday before distributing ballots, pasters, and voting systems to the precincts in the county, the county election board shall notify the county chairman of each major political party and, upon request, the chairman of any other bona fide political party in the county, that sample ballots and pasters are available for inspection.

SECTION 10. IC 3-6-6-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 34. **(a)** In a precinct where the voting is by any voting method except entirely by paper ballot, the poll clerks of the precinct shall perform all the duties connected with voting by ~~voting machine,~~ ballot card voting system or electronic voting system, and the assistant poll clerks shall perform all the duties connected with voting by paper ballot. It is necessary for only the two (2) assistant poll clerks to place their initials on the back of the paper ballots.

(b) The poll clerks shall tally the vote cast by paper ballot, and they alone shall sign the election certificates and returns. However, the precinct election board may call upon the assistant poll clerks to assist the poll clerks in any of their duties.

SECTION 11. IC 3-6-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. A watcher appointed under this chapter is entitled to:

(1) enter the polls at least thirty (30) minutes before the opening of the polls and remain there throughout election day until all tabulations have been completed;

(2) inspect the paper ballot boxes, ~~voting machines,~~ ballot card voting system, or electronic voting system before votes have been cast;

(3) inspect the work being done by any precinct election officer;

(4) enter, leave, and reenter the polls at any time on election day;

(5) witness the calling and recording of the votes ~~the reading of the totals from the voting machines,~~ and any other proceedings of the precinct election officers in the performance of official duties;

(6) receive a summary of the vote prepared under IC 3-12-2-15, ~~IC 3-12-2.5-4,~~ IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed by the precinct election board, providing:

(A) the names of all candidates of the political party whose primary election is being observed by the watcher and the number of votes cast for each candidate;

(B) the names of all candidates at a general, municipal, or special election and the number of votes cast for each candidate; or

(C) the vote cast for or against a public question;

(7) accompany the inspector and judge in delivering the tabulation and election returns to the county election board by the most direct route;

(8) be present when the inspector takes a receipt for the tabulation and election returns delivered to the county election board; and

(9) call upon the election sheriffs to make arrests.

SECTION 12. IC 3-6-9-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. A watcher appointed under this chapter is entitled to do the following:

(1) Enter the polls at least thirty (30) minutes before the opening of the polls and remain there throughout election day until all tabulations have been completed.

(2) Inspect the paper ballot boxes, ~~voting machines,~~ ballot card voting system, or electronic voting system before votes have been cast.

(3) Inspect the work being done by any precinct election officer.

(4) Enter, leave, and reenter the polls at any time on election day.

(5) Witness the calling and recording of the votes ~~the reading of the totals from the voting machines,~~ and any other proceedings of the precinct election officers in the performance of official duties.

(6) Receive a summary of the vote prepared under IC 3-12-2-15, ~~IC 3-12-2.5-4,~~ IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed by the precinct election board, providing:

(A) the names of all candidates of the political party whose primary election is being observed by the watcher and the number of votes cast for each candidate if the watcher is appointed under section 1(a)(1) of this chapter; or

(B) the names of all candidates at a school board election and the number of votes cast for each candidate if the watcher is appointed under section 1(a)(2) of this chapter.

(7) Accompany the inspector and the judge in delivering the tabulation and the election returns to the county election board by the most direct route.

(8) Be present when the inspector takes a receipt for the tabulation and the election returns delivered to the county election board.

(9) Call upon the election sheriffs to make arrests.

SECTION 13. IC 3-6-10-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.5. A watcher appointed under this chapter is entitled to do the following:

(1) Enter the polls at least thirty (30) minutes before the opening of the polls and remain there throughout election day until all tabulations have been completed.

(2) Inspect the paper ballot boxes, ~~voting machines,~~ ballot card voting system, or electronic voting system before votes have been cast.

(3) Inspect the work being done by any precinct election officer.

(4) Enter, leave, and reenter the polls at any time on election day.

(5) Witness the calling and recording of the votes ~~the reading of the totals from the voting machines,~~ and any other proceedings of the precinct election officers in the performance of official duties.

(6) Receive a summary of the vote prepared under IC 3-12-2-15, ~~IC 3-12-2.5-4,~~ IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed by the precinct election board, providing the names of all candidates and the number of votes cast for each candidate and the votes cast for or against a public question.

(7) Accompany the inspector and the judge in delivering the tabulation and the election returns to the county election board by the most direct route.

(8) Be present when the inspector takes a receipt for the tabulation and the election returns delivered to the county election board.

SECTION 14. IC 3-8-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. Each circuit court clerk shall, not later than noon **on the second** Monday after the day the primary election is held, send to the election division by certified mail or hand delivery one (1) complete copy of all returns for presidential candidates. The clerk shall state the number of votes received by each candidate in each congressional district within the county.

SECTION 15. IC 3-8-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) This section applies to each political party that elects delegates to the party's state convention at a primary election.

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

SECTION 16. IC 3-8-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. Candidates shall be nominated or elected at a state convention by using ~~voting machines,~~ ballot card systems or electronic voting systems. However, if there is no contest for an office, the nomination or election may be by motion and acclamation.

SECTION 17. IC 3-8-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. The state chairman of the political party holding a state convention shall appoint an inspector and two (2) poll clerks to attend each voting ~~machine or~~ system at the convention. Each candidate may have one (1) watcher at each voting ~~machine or~~ system to check the voting ~~machine or~~ system before and after each ballot and to check the work of any election officer. The inspector and poll clerks:

(1) shall take an oath to perform their duties faithfully and to the best of their abilities before anyone entitled to administer an oath;

(2) must be qualified in relationship to candidates in the same manner as precinct election officers under IC 3-6-6-7; and

(3) are subject to the same penalties as precinct election officers.

SECTION 18. IC 3-8-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Each circuit court clerk, not later than noon on the ~~first~~ **second** Monday after a primary election conducted in a year in which a general election will be held, shall furnish the election division with a complete list of all:

(1) candidates nominated; and

(2) state convention delegates elected;

at the primary election.

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

SECTION 19. IC 3-9-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The election division shall develop a filing and coding system consistent with the purposes of this article. The election division and each county election board shall use the filing and coding system. The coding system must provide:

(1) not more than ten (10) codes to account for various campaign expenditure items; and

(2) a clear explanation of the kinds of expenditure items that must be accounted for under each code.

(b) The election division shall develop and use a computer system to store campaign finance reports required to be filed under IC 3-9-5-6, IC 3-9-5-10, and IC 3-9-5-20.1. The computer system must enable the election division to do the following:

(1) Identify all candidates or committees that received contributions from a contributor over the past three (3) years.

(2) Identify all contributors to a candidate or committee over the past three (3) years.

(3) Provide for electronic submission, retrieval, storage, and disclosure of campaign finance reports of candidates for the following:

(A) Legislative office.

(B) State office.

The election division shall provide training at no cost to candidates to enable candidates described in this subdivision to file campaign finance reports electronically.

(c) The election division shall notify each candidate's committee that the election division will provide at the committee's request at no cost a standardized software program to permit the committee to install the software on a computer and generate an electronic version of the reports and statements required to be filed with the election division under this article. However, the election division is not required to provide or alter the software program to make the program compatible for installation or operation on a specific computer.

(d) This subsection applies after December 31, 2005, to the following committees:

(1) A committee for a candidate seeking election to a state office.

(2) A political action committee that has received more than fifty thousand dollars ($50,000) in contributions since the close of the previous reporting period.

The committee must file electronically the report or statement required under this article with the election division using a standardized software program supplied to the committee without charge under subsection (c) or another format approved by the election division. An electronic filing approved by the election division under this subsection may not require manual reentry into a computer system of the data contained in the report or statement in order to make the data available to the general public under subsection (g).

~~(d)~~ **(e)** This subsection applies to an electronic submission under subsection (b)(3). An electronic submission must be in a format previously approved by the commission that permits the election division to print out a hard copy of the report after the receipt of the electronic submission from the candidate. Filing of a report occurs under IC 3-5-2-24.5 on the date and at the time electronically recorded by the election division's computer system. If a discrepancy exists between the text of the electronic submission and the printed report, the text of the printed report prevails until an amendment is filed under this article to correct the discrepancy.

~~(e)~~ **(f)** The election division is not required to accept an electronic submission unless the submission complies with subsection (b)(3). Upon receiving approval from the commission, the election division may accept an electronic submission from candidates, committees, or persons described in subsection (b)(3).

~~(f)~~ **(g)** The election division shall make campaign finance reports stored on the computer system under subsection (b) available to the general public through an on-line service.

SECTION 20. IC 3-9-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) In addition to any other penalty imposed, a person who does any of the following is subject to a civil penalty under this section:

(1) Fails to file with the election division a report in the manner required under IC 3-9-5.

(2) Fails to file a statement of organization required under IC 3-9-1.

(3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee.

(4) Makes a contribution other than to a committee subject to this article or to a person authorized by law or a committee to receive contributions on the committee's behalf.

(5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.

(6) Makes a contribution in the name of another person.

(7) Accepts a contribution made by one (1) person in the name of another person.

(8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.

(9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.

(10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.

(11) Violates IC 3-9-2-12.

(12) Fails to designate a contribution as required by IC 3-9-2-5(c).

(13) Violates IC 3-9-3-5.

(14) Serves as a treasurer of a committee in violation of any of the following:

(A) IC 3-9-1-13(1).

(B) IC 3-9-1-13(2).

(C) IC 3-9-1-18.

(15) Fails to comply with section 4(d) of this chapter.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the commission determines that a person failed to file the amended report or statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the commission may assess a civil penalty. The penalty is ten dollars ($10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars ($100) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the commission determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the commission shall assess a civil penalty. The penalty is fifty dollars ($50) for each day the report or statement is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars ($1,000) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to

each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the commission determines that a person is subject to a civil penalty under subsection (a), the commission may assess a civil penalty of not more than one thousand dollars ($1,000), plus any investigative costs incurred and documented by the election division.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the commission determines that a person is subject to a civil penalty under subsection (a)(5), the commission may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the election division.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the commission determines that a candidate or the candidate's committee has violated IC 3-9-2-12, the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

(1) Two (2) times the amount of any contributions received.

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

(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the commission determines that a corporation or a labor organization has failed to designate a contribution in violation of IC 3-9-2-5(c), the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

(1) Two (2) times the amount of the contributions undesignated.

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

(h) This subsection applies to a person who is subject to a civil penalty under subsection (a)(13). If the commission determines, by unanimous vote of the entire membership of the commission, that a person has violated IC 3-9-3-5, the commission may assess a civil penalty of not more than five hundred dollars ($500), plus any investigative costs incurred and documented by the election division.

(i) This subsection applies to a person who is subject to a civil penalty under subsection (a)(14). If the commission determines, by unanimous vote of the entire membership of the commission, that a person has served as the treasurer of a committee in violation of any of the statutes listed in subsection (a)(14), the commission may assess a civil penalty of not more than five hundred dollars ($500), plus any investigative costs incurred and documented by the election division.

(j) This subsection applies to a person who is subject to a civil penalty under subsection (a)(15). The commission may assess a civil penalty equal to the costs incurred by the election division for the manual entry of the data contained in the report or statement, plus any investigative costs incurred and documented by the election division.

~~(j)~~ **(k)** All civil penalties collected under this section shall be deposited with the treasurer of state in the campaign finance enforcement account.

~~(k)~~ **(l)** Proceedings of the commission under this section are subject to IC 4-21.5.

SECTION 21. IC 3-9-4-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 20. (a) Notwithstanding section 16 of this chapter, if a person is notified by the election division that the commission may assess a proposed civil penalty under this article against the person, the person may enter into an agreement with the election division to pay the proposed penalty and waive a hearing before the commission otherwise required under section 16 of this chapter.**

(b) An agreement entered into under this section must:

(1) provide for the payment of the entire proposed civil penalty not later than the date of the execution of the agreement; and

(2) be presented to the commission by the election division for ratification at the commission's next regularly scheduled meeting.

SECTION 22. IC 3-9-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) This subsection applies to a candidate's committee **other than a candidate's committee of a candidate for a state office.** Except as otherwise provided in this chapter, each committee, the committee's treasurer, and each candidate shall complete a report required by this chapter current and dated as of the following dates:

(1) Twenty-five (25) days before the nomination date.

(2) Twenty-five (25) days before the general, municipal, or special election.

(3) The annual report filed and dated as required by section 10 of this chapter.

(b) This subsection applies to a regular party committee. Except as otherwise provided in this chapter, each committee and the committee's treasurer shall complete a report required by this chapter current and dated as of the following dates:

(1) Twenty-five (25) days before a primary election.

(2) Twenty-five (25) days before a general, municipal, or special election.

(3) The date of the annual report filed and dated as required under section 10 of this chapter.

(c) This subsection applies to a legislative caucus committee. Except as otherwise provided in this chapter, each committee and the committee's treasurer shall complete a report required under this chapter current and dated as of the following dates:

(1) Twenty-five (25) days before a primary election conducted in an even-numbered year.

(2) Twenty-five (25) days before a general election conducted in an even-numbered year.

(3) The date of the annual report filed and dated as required under section 10 of this chapter.

A legislative caucus committee is not required to file any report concerning the committee's activity during an odd-numbered year

other than the annual report filed and dated under section 10 of this chapter.

(d) This subsection applies to a political action committee. Except as otherwise provided in this chapter, each committee and the committee's treasurer shall complete a report required by this chapter current and dated as of the following dates:

(1) Twenty-five (25) days before a primary election.

(2) Twenty-five (25) days before a general, municipal, or special election.

(3) The date of the annual report filed and dated as required under section 10 of this chapter.

(e) This subsection applies to a candidate's committee of a candidate for a state office. A candidate's committee is not required to file a report under section 8.2, 8.4, or 8.5 of this chapter. For a year in which an election to the state office is held, the treasurer of a candidate's committee shall file the following reports:

(1) A report covering the period from January 1 through March 31 of the year of the report. A report required by this subdivision must be filed not later than noon April 15 of the year covered by the report.

(2) A report covering the period from April 1 through June 30 of the year of the report. A report required by this subdivision must be filed not later than noon July 15 of the year covered by the report.

(3) A report covering the period from July 1 through September 30 of the year of the report. A report required by this subdivision must be filed not later than noon October 15 of the year covered by the report.

(4) A report covering the period from October 1 of the year of the report through the date that is fifteen (15) days before the date of the election. A report required by this subdivision must be filed not later than noon seven (7) days before the date of the election.

(5) A report covering the period from the date that is fifteen (15) days before the date of the election through December 31 of the year of the report. A report required by this subdivision must:

(A) provide cumulative totals from January 1 through December 31 of the year of the report; and

(B) be filed not later than the deadline specified in section 10 of this chapter.

SECTION 23. IC 3-9-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) This section:

(1) applies to a candidate for nomination to an office in a convention who becomes a candidate less than twenty-five (25) days before the nomination date for a candidate chosen at a convention; **and**

(2) does not apply to a candidate for nomination to a state office by a major political party at a convention conducted under IC 3-8-4.

(b) A candidate is not required to file a report in accordance with section 6(a)(1) of this chapter. The candidate shall file the candidate's first report not later than noon twenty (20) days after the nomination date for a candidate chosen at a convention.

(c) The reporting period for the first report required for a candidate begins on the date that the individual became a candidate and ends on the day following the adjournment of the convention.

SECTION 24. IC 3-9-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Except as provided in subsections (b) and (c), in a year in which a candidate is not a candidate for election to an office to which this article applies or does not seek nomination at a caucus or state convention for election to an office to which this article applies, the treasurer of the candidate's committee shall file only the report required by section 10 of this chapter.

(b) This subsection applies to a candidate who holds one (1) office and is a candidate for a different office (or has filed a statement of organization for an exploratory committee without indicating that the individual is a candidate for a specific office). The treasurer of the candidate's committee for the office the candidate holds shall file the following reports:

(1) If the committee spends, transfers in, or transfers out at least ten thousand dollars ($10,000) from January 1 until twenty-five (25) days before the primary election, the treasurer shall file a preprimary report under section 6 of this chapter.

(2) If the committee spends, transfers in, or transfers out at least ten thousand dollars ($10,000) from twenty-five (25) days before the primary election until twenty-five (25) days before the general election, the treasurer shall file a pregeneral election report under section 6 of this chapter.

(3) The report required under section 10 of this chapter.

(c) This subsection applies to a candidate who is required to file a preprimary report or preconvention report under section 6 of this chapter and who:

(1) is defeated at the primary election or convention; or

(2) withdraws or is disqualified as a candidate before the general election.

The treasurer of a candidate's committee described by this subsection is not required to file a pregeneral election report under section 6 of this chapter but shall file the report required by section 10 of this chapter.

(d) This subsection applies to a candidate for election to a city office or a town office. If a municipal primary is not conducted in the municipality by one (1) or more parties authorized to conduct a primary, the candidate must file a report in accordance with the schedule set forth in section 6 of this chapter as if the primary were conducted. If a municipal election is not conducted in the municipality, the candidate must file a report in accordance with section 6 of this chapter as if the municipal election were conducted.

(e) This subsection applies to a candidate's committee of a candidate for a state office. For a year in which an election to the state office is not held, the treasurer of a candidate's committee shall file the following reports in addition to any other report required by this article:

(1) A report covering the period from January 1 through June 30 of the year of the report. A report required by this subdivision must be filed not later than noon July 15 of the year covered by the report.

(2) A report covering the period from July 1 through December 31 of the year of the report. A report required by this subdivision must:

(A) provide cumulative totals from January 1 through December 31 of the year of the report; and

(B) be filed by the deadline specified in section 10 of this chapter.

SECTION 25. IC 3-9-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. **(a)** The treasurer of each committee shall file a report each year that is complete as of December 31 of the previous year and covers the period since the last report. This annual report is due by noon:

(1) the third Wednesday in January, in the case of:

(A) a candidate's committee;

(B) a legislative caucus committee; or

(C) a political action committee; or

(2) March 1, in the case of a regular party committee.

(b) A candidate's committee of a candidate for a state office that files a report:

(1) under section 6(e)(5) or 9(e)(2) of this chapter; and

(2) by the deadline specified under subsection (a) for filing a candidate's committee report;

is not required to file an additional report under this section.

SECTION 26. IC 3-9-5-20.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20.1. (a) This section:

(1) applies only to a large contribution that is received by a candidate, the candidate's committee, or the treasurer of the candidate's committee; **and**

(2) does not apply to a candidate for a state office, the candidate's committee, or the treasurer of the candidate's committee.

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

(1) A primary election.

(2) A general election.

(3) A municipal election.

(4) A special election.

(5) For candidates nominated at a state convention, the state convention.

(c) As used in this section, "large contribution" means contributions:

(1) that total at least one thousand dollars ($1,000); and

(2) that are received:

(A) not more than twenty-five (25) days before an election; and

(B) not less than forty-eight (48) hours before an election.

(d) The treasurer of a candidate's committee shall file a supplemental large contribution report with the election division or a county election board not later than forty-eight (48) hours after the contribution is received. A candidate for a legislative office shall file a report required by this section with the election division and the county election board as required by section 3 of this chapter. A report filed under this section may be filed by facsimile (fax) transmission.

(e) A report required by subsection (d) must contain the following information for each large contribution:

(1) The name of the person making the contribution.

(2) The address of the person making the contribution.

(3) If the person making the contribution is an individual, the individual's occupation.

(4) The total amount of the contribution.

(5) The dates and times the contributions making up the large contribution were received by the treasurer, the candidate, or the candidate's committee.

(f) The commission shall prescribe the form for the report required by this section.

SECTION 27. IC 3-9-5-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 22. (a) This section applies only to a large contribution that is received by a candidate for a state office, the candidate's committee, or the treasurer of the candidate's committee.**

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

(1) For a candidate nominated at a primary election, the primary election.

(2) For a candidate nominated at a state convention, the state convention.

(3) A general election.

(c) As used in this section, "large contribution" means either of the following:

(1) Contributions:

(A) that total at least one thousand dollars ($1,000); and

(B) that are received:

(i) after the end of a reporting period and before the deadline for the candidate's committee to file a report under section 6 of this chapter; and

(ii) not less than forty-eight (48) hours before an election.

(2) A single contribution that is at least ten thousand dollars ($10,000) that is received at any time.

(d) The treasurer of a candidate's committee shall file a supplemental large contribution report with the election division not later than:

(1) forty-eight (48) hours after a contribution described by subsection (c)(1) is received; or

(2) noon seven (7) days after a contribution described by subsection (c)(2) is received.

(e) A report filed under this section may be filed by facsimile transmission or as an electronic report when the requirements of IC 3-9-4 or this chapter have been met. A report required by subsection (d) must contain the following information for each

large contribution:

(1) The name of the person making the contribution.

(2) The address of the person making the contribution.

(3) If the person making the contribution is an individual, the individual's occupation.

(4) The total amount of the contribution.

(5) The dates and times the contributions making up the large contribution described in subsection (c)(1) or a large contribution described in subsection (c)(2) were received by the treasurer, the candidate, or the candidate's committee.

(f) The commission shall prescribe the form for the report required by this section.

SECTION 28. IC 3-10-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) Except as provided by subsection (b), the names of all candidates for each office who have qualified under IC 3-8 shall be arranged in alphabetical order by surnames under the designation of the office.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The names of all candidates for each office who have qualified under IC 3-8, except for a school board office, precinct committeeman, or state convention delegate, shall be arranged in random order by surnames under the designation of the office. The random order shall be determined using a lottery. The lottery held in accordance with this subsection shall be conducted in public by the county election board. The lottery shall be held not later than fifteen (15) days following the last day for a declaration of candidacy under IC 3-8-2-4. All candidates whose names are to be arranged by way of the lottery shall be notified at least five (5) days prior to the lottery of the time and place at which the lottery is to be held. Each candidate may have one (1) designated watcher, and each county political party may have one (1) designated watcher who shall be allowed to observe the lottery procedure.

(c) For paper ballots, the left margin of the ballot for each political party must show the name of the uppermost candidate printed to the right of the number 1, the next candidate number 2, the next candidate number 3, and so on, consecutively to the end of the ballot as prescribed in section 19 of this chapter. The same order shall be followed for the printing of ballot labels and their placement on the ~~voting machine or~~ electronic voting system and for the printing of ballot cards.

(d) 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). If there is insufficient room on a row to list each candidate of a political party, a second or subsequent row may be utilized. However, a second or subsequent row may not be utilized unless the first row, and all preceding rows, have been filled.

SECTION 29. IC 3-10-1-19, AS AMENDED BY SEA 14-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. (a) The ballot for a primary election shall be printed in substantially the following form for all the offices for which candidates have qualified under IC 3-8:

OFFICIAL PRIMARY BALLOT

_____ Party

For paper ballots, print: To vote for a person, make a voting mark (X or ✓) on or in the box before the person's name in the proper column. For punch card ballots, print: To vote for a person, punch through the chad before the number assigned to the person's name in the proper column. For optical scan ballots, print: To vote for a person, darken or shade in the circle, oval, or square (or draw a line to connect the arrow) that precedes the person's name in the proper column. For optical scan ballots that do not contain a candidate's name, print: To vote for a person, darken or shade in the oval that precedes the number assigned to the person's name in the proper column. For electronic voting systems, print: To vote for a person, touch the screen (or press the button) in the location indicated.

Vote for one (1) only

Representative in Congress

[] (1) AB _____

[] (2) CD _____

[] (3) EF _____

[] (4) GH _____

(b) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

(1) Federal and state offices:

(A) President of the United States.

(B) United States Senator.

(C) Governor.

(D) United States Representative.

(2) Legislative offices:

(A) State senator.

(B) State representative.

(3) Circuit offices and county judicial offices:

(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.

(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.

(C) Judge of the probate court.

(D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.

(E) Prosecuting attorney.

(F) ~~Clerk of the~~ Circuit court **clerk.**

(4) County offices:

(A) County auditor.

(B) County recorder.

(C) County treasurer.

(D) County sheriff.

(E) County coroner.

(F) County surveyor.

(G) County assessor.

(H) County commissioner.

(I) County council member.

(5) Township offices:
(A) Township assessor.
(B) Township trustee.
(C) Township board member.
(D) Judge of the small claims court.
(E) Constable of the small claims court.
(6) City offices:
(A) Mayor.
(B) Clerk or clerk-treasurer.
(C) Judge of the city court.
(D) City-county council member or common council member.
(7) Town offices:
(A) Clerk-treasurer.
(B) Judge of the town court.
(C) Town council member.

(c) The political party offices with candidates for election shall be placed on the primary election ballot in the following order after the offices described in subsection (b):

(1) Precinct committeeman.
(2) State convention delegate.

(d) The following offices and public questions shall be placed on the primary election ballot in the following order after the offices described in subsection (c):

(1) School board offices to be elected at the primary election.
(2) Other local offices to be elected at the primary election.
(3) Local public questions.

(e) The offices and public questions described in subsection (d) shall be placed:

(1) in a separate column on the ballot if voting is by paper ballot;
(2) after the offices described in subsection (c) in the form specified in IC 3-11-13-11 if voting is by ballot card; **or**
(3) either:
(A) on a separate screen for each office or public question; or
(B) after the offices described in subsection (c) in the form specified in IC 3-11-14-3.5;
if voting is by an electronic voting system. ~~or~~
~~(4) in a separate column of ballot labels if voting is by voting machine.~~

(f) A public question shall be placed on the primary election ballot in the following form:

(The explanatory text for the public question, if required by law.)
"Shall (insert public question)?"
[] YES
[] NO

SECTION 30. IC 3-10-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. In a primary election in a county having a city, ~~voting machines,~~ ballot card voting systems and electronic voting systems shall be employed as available and adaptable and shall be supplemented by paper ballots as necessary. However, this section does not require the purchase of ~~voting machines,~~ ballot card voting systems or electronic voting systems for a primary election.

SECTION 31. IC 3-10-1-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. If ~~voting machines or~~ electronic voting systems are used in a precinct, one (1) of the poll clerks shall give a printed political party identification card to a voter after the voter signs the poll list. Before entering the ~~voting machine or~~ voting booth, the voter must give the party identification card to a judge, and the judge shall set or have the ~~voting machine or~~ electronic voting system set to allow the voter to vote only for the candidates of the voter's party. After the ~~machine or~~ system is set, the voter may register a vote upon it within the time provided under

~~(1) IC 3-11-12-29.5, for a voting machine; or~~
~~(2)~~ IC 3-11-14-26. ~~for an electronic voting system.~~

SECTION 32. IC 3-10-1-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. After setting the ~~voting machine or~~ electronic voting system, the judge shall immediately deposit the political party identification card in a sealed container provided for that purpose. After the polls have closed, all party identification cards shall be counted and compared with the total number of votes cast in the election. All party identification cards must be of durable quality and the same color irrespective of the party that is designated.

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

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

SECTION 34. IC 3-10-7-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31. Upon request of a town election board, the county election board of each county in which the town is located shall furnish any available equipment that is necessary for a municipal election, including ~~voting machines,~~ ballot card voting systems and electronic voting systems. The town shall pay the expense of moving the equipment to and from the polls and for any loss of or damage to the equipment.

SECTION 35. IC 3-11-1.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. If a county executive adopts the use of ~~voting machines,~~ ballot card voting systems or electronic voting systems in a county in which ~~voting machines,~~ ballot card voting systems or electronic voting systems have not been previously used, the county executive may establish precincts after primary election day and before August 1 by combining two (2) or more precincts into one (1) precinct.

SECTION 36. IC 3-11-1.5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. **(a)** If the ~~co-directors or designated employee~~ **election division** determines that the proposed precinct establishment order would comply with this chapter, the ~~co-directors shall advise the county executive that~~

~~the co-directors will recommend that the commission approve the proposed order based on the order's compliance~~ **election division shall issue an order authorizing the county executive to establish the proposed precincts.**

(b) The order issued by the election division under subsection (a) must state that the election division finds that the proposed precincts would comply with the standards set forth in this chapter. **The election division shall promptly provide a copy of the order to the county executive.**

(c) The county executive must give notice of the proposed order to the voters of the county by one (1) publication under IC 5-3-1-4. The notice must state the following:

(1) The name of each existing precinct whose boundaries would be changed by the adoption of the proposed order by the county.

(2) That any registered voter of the county may object to the proposed order by filing a sworn statement with the election division setting forth the voter's specific objections to the proposed order and requesting that a hearing be conducted by the commission under IC 4-21.5.

(3) The mailing address of the election division.

(4) The deadline for filing the objection with the election division under this section.

(d) An objection to a proposed precinct establishment order must be filed not later than noon ten (10) days after the publication of the notice by the county executive.

(e) If an objection is not filed with the election division by the date and time specified under subsection (d), the election division shall promptly notify the county executive. The county executive may proceed immediately to adopt the proposed order.

(f) If an objection is filed with the election division by the date and time specified under subsection (d), the election division shall promptly notify the county executive. The county executive may not adopt the proposed order until the commission conducts a hearing under IC 4-21.5 and determines whether the proposed precincts would comply with the standards set forth in this chapter.

SECTION 37. IC 3-11-1.5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. When a county executive receives a proposed order approved by:

(1) the **election division; or**

(2) the commission under **section 18(f) of** this chapter, the county executive may issue the order.

SECTION 38. IC 3-11-1.5-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. Not later than fourteen (14) days following notice of final approval of a precinct establishment order **by the commission** under **section 18(f) of** this chapter, the county executive shall give notice of the approval by one (1) publication under IC 5-3-1-4.

SECTION 39. IC 3-11-1.5-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. **(a) This section applies to a proposed precinct establishment order that requires that a hearing by the commission be conducted under this chapter.**

(b) After the ~~co-directors have~~ **election division has** reviewed the proposed precinct establishment order, and the order has been revised, if necessary, to comply with this chapter, the commission shall:

(1) approve a proposed precinct establishment order under this section ~~no~~ **not** later than the following January 31; and

(2) order that the precinct establishment order takes effect January 31 of the year in which the municipal election will be held.

SECTION 40. IC 3-11-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The following statement shall be printed in underlined print at the extreme top of a ballot to be used in an election covered by this title: ~~(or in the voting instructions for a voting machine):~~ "It is a crime to falsify this ballot or to violate Indiana election laws.".

SECTION 41. IC 3-11-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. All written or printed instructions must be at the top of the ballot ~~(or above the ballot labels on a voting machine)~~ immediately below the statement required by section 7 of this chapter. No other instructions or writing may appear at any other place on the ballot, including the ballot for federal and state offices, except as specified by this title. The instructions must be in English and any other language that the board considers necessary, clear, concise, and written so that a voter will not be confused about the effect of the voter's voting mark and vote.

SECTION 42. IC 3-11-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~(a)~~ If, in the judgment of a county election board, the number of voters in a precinct of the county where a voting ~~machine~~ **system** is used for voting is so large that the ~~machine~~ **voting system** in use will not be sufficient to register the vote of all the voters in the precinct, the board may use paper ballots in addition to the ~~machine.~~ **voting system.** The voting by paper ballot is subject to all the restrictions prescribed by this article.

~~(b) The county election board shall then notify the election division of the board's determination and of the estimated number of state and presidential ballots that will be required in the precinct.~~

SECTION 43. IC 3-11-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) The ~~local~~ ballots delivered to the inspector of each precinct under section 11 of this chapter shall be placed in a strong and stout paper envelope or bag, which shall then be tightly closed, fastened securely, and attested by the initials of the circuit court clerk or the clerk's designee in the presence of the inspector or the inspector's representative. The inspector shall sign a receipt for the ballots. The ballot packages may not be opened until:

(1) they have been delivered to the precinct election board to which they are directed; and

(2) the precinct election board is fully organized and ready for the reception of votes.

(b) The ~~local~~ provisional ballots delivered to the inspector of each precinct under section 11 of this chapter shall be placed in a

strong and stout paper envelope or bag, separate from the bag described in subsection (a), which shall then be tightly closed, fastened securely, and attested by the initials of the circuit court clerk or the clerk's designee in the presence of the inspector or the inspector's representative. The inspector shall sign a receipt for the provisional ballots. The provisional ballot packages may not be opened until:

(1) they have been delivered to the precinct election board to which they are directed; and

(2) the precinct election board is fully organized and ready to receive votes.

SECTION 44. IC 3-11-3-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) Each county election board shall have printed in at least 14 point type on cards in English, braille, and any other language that the board considers necessary, the following:

(1) Instructions for the guidance of voters in preparing their ballots.

(2) Instructions explaining the procedure for write-in voting.

(3) Write-in voting notice cards that must be posted in each precinct that utilizes a ~~voting machine or~~ ballot card voting system that does not permit write-in voting. The notice cards must direct voters who want to cast write-in votes to request a write-in ballot from an election official.

(b) The board shall furnish the number of cards it determines to be adequate for each precinct to the inspector at the same time the board delivers the ballots for the precinct and shall furnish a magnifier upon request to a voter who requests a magnifier to read the cards.

SECTION 45. IC 3-11-3-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 35. (a) This section applies to a county having a population of more than four hundred thousand (400,000), but less than seven hundred thousand (700,000).

(b) In each precinct where voting is by ~~voting machine or~~ electronic voting system, the county election board shall provide the following to be used if ~~a voting machine or~~ an electronic voting system malfunctions:

(1) The following number of paper ballots:

(A) Not less than ten (10) if the number of registered voters in the precinct is not more than three hundred (300).

(B) Not less than twenty-five (25) if the number of registered voters in the precinct is more than three hundred (300).

(2) The necessary supplies and equipment as required by IC 3-11-11.

(c) Upon notice that ~~a voting machine or~~ an electronic voting system is out of order or fails to work, the precinct election board shall make the paper ballots provided under subsection (b) available to voters. The precinct election board shall contact the county election board to obtain additional ballots.

(d) Upon notice that ~~a voting machine or~~ an electronic voting system is out of order or fails to work, the county election board shall deliver additional necessary supplies to any precinct in the county, including additional paper ballots.

SECTION 46. IC 3-11-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The legislative body of a county may establish a cumulative fund under IC 6-1.1-41 to provide funds for the purchase of ~~voting machines,~~ ballot card voting systems or electronic voting systems.

SECTION 47. IC 3-11-6.5-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.1. **(a)** When approving applications for reimbursement for voting systems under this chapter, the budget agency shall give priority to approving applications to replace a punch card voting system or voting machine system.

(b) This section expires January 1, 2006.

SECTION 48. IC 3-11-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. ~~(a)~~ The commission must approve a ballot card voting system before it may be used in an election.

~~(b) After June 30, 2001, the commission may not approve a punch card voting system for use in an election.~~

SECTION 49. IC 3-11-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. A ballot card voting system must permit a voter to vote either:

(1) a straight party ticket for all of the candidates of a political party by a single mark ~~or punch~~ on each ballot card;

(2) a split ticket for the candidates of different political parties and for independent candidates; or

(3) a straight party ticket and then split that ticket by casting individual votes for candidates of another political party or independent candidate.

SECTION 50. IC 3-11-7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. **(a)** The commission shall:

(1) require the vendor to have tests conducted concerning the ~~suitability~~ **compliance** of a ballot card voting system **with HAVA and the standards set forth in this chapter and IC 3-11-15; and**

(2) have the results of the tests evaluated by the person designated under IC 3-11-16;

before determining whether to approve the **application for certification of a** ballot card voting system.

(b) The tests required under this section must be performed by an independent laboratory accredited under 42 U.S.C. 15371. The vendor shall pay any testing expenses incurred under this section.

(c) A ballot card voting system may not be marketed, sold, leased, installed, or implemented in Indiana before the application for certification of the system is approved by the commission.

(d) An approval of a ballot card voting system under this chapter expires on the date specified in section 19(a) of this chapter.

SECTION 51. IC 3-11-7-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) A **vendor may apply for approval of a** proposed improvement or change to

a ballot card voting system ~~shall be reported to the election division by:~~

~~(1) the vendor, if a vendor is involved in the proposed change; and~~

~~(2) the county election board, if a county is proposing the change.~~

that is currently certified by the commission. A proposed improvement or change may not be marketed, sold, leased, installed, or implemented in Indiana before the **application for the** improvement or change is approved by the commission.

(b) ~~A report of~~ An **application for approval of an** improvement or change must be in the form prescribed by the commission.

(c) The vendor applying for approval of an improvement or a change must have the improvement or change to the voting system tested by an independent laboratory accredited under 42 U.S.C. 15371. The vendor shall pay any testing expenses incurred under this subsection.

~~(c)~~ **(d)** The election division (or ~~a competent~~ **the** person designated ~~by the commission to act on behalf of the election division~~ **under IC 3-11-16)** shall review the **proposed** improvement or change to the voting system and report the results of the review to the commission. ~~The commission shall determine, within a reasonable period of time, whether the improvement or change impairs the accuracy, efficiency, capacity, or ability to meet the requirements of this chapter or the standards adopted by the commission under section 2 of this chapter.~~ **The review must indicate:**

(1) whether the proposed improvement or change has been approved by an independent laboratory accredited under 42 U.S.C. 15371; and

(2) whether the proposed improvement or change would comply with HAVA and the standards set forth in this chapter and IC 3-11-15.

~~(d)~~ **(e)** After the commission has approved **the application for** an improvement or change **to a ballot card voting system,** the improvement or change may be marketed, sold, leased, installed, or implemented in Indiana.

(f) An approval of an application under this section expires on the date specified under section 19(a) of this chapter.

SECTION 52. IC 3-11-7-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. The commission may not approve the **marketing,** sale, **lease, installation, or implementation** of a ballot card voting system by a vendor if the commission finds that the system fails to meet all statutory requirements.

SECTION 53. IC 3-11-7-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) The election division (or ~~a competent~~ **the** person designated ~~by the commission to act on behalf of the election division~~ **under IC 3-11-16)** may periodically examine a ballot card voting system that the commission has previously approved to determine ~~if~~ **whether** the system is still in compliance with all statutory requirements **and whether the voting system in use in a county has the same hardware, firmware, and software as the version of the voting system that was certified by the commission.**

(b) If ~~the election division or competent person finds that~~ a system ~~examined under~~ **does not comply with** subsection (a), ~~fails to meet all requirements and standards, and the commission concurs in these findings,~~ the commission may ~~by unanimous vote of all of the members of the commission,~~ rescind the commission's approval of the voting system.

(c) If the commission's approval is rescinded under subsection (b), the commission may ~~by unanimous vote of all of the members of the commission:~~

~~(1) recommend that use of the system be discontinued; and~~

~~(2)~~ prohibit the system from being **installed, implemented,** leased, marketed, **used, permitted to be used,** or sold for use in Indiana in an election conducted under this title.

~~(d) This subsection applies to a ballot card voting system approved for its initial certification before:~~

~~(1) March 25, 1992; or~~

~~(2) a revision of IC 3-11-15 enacted after July 1, 1997, that imposes additional standards that did not apply to the voting system at the time of the system's initial certification.~~

~~The commission may, by unanimous consent of its entire membership, require the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.~~

~~(e) If the independent testing authority determines that a voting system tested under subsection (d) does not comply with this article, the commission may, by unanimous consent of its entire membership, prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.~~

SECTION 54. IC 3-11-7-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) The ~~commission may require a~~ county executive ~~to~~ **shall** file a copy of all contracts, leases, or purchase orders, including modifications, for the sale or lease of voting equipment, systems, or software with the election division.

(b) The ~~election division may advise or instruct county officials on the content of the~~ documents listed in subsection (a) **must be filed not later than thirty (30) days after the date of approval of the contract, lease, or purchase order by the county executive.**

SECTION 55. IC 3-11-7-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. (a) Except as provided in subsection (g), the approval of a ballot card voting system under this chapter expires ~~five (5) years after the date the commission approves the system.~~ **October 1 of the year following the year in which presidential electors are elected under IC 3-10-2-3.**

(b) The vendor of a voting system approved under this chapter may request that the approval be renewed by filing an application with the election division.

(c) The application described in subsection (b) must identify all counties that are currently using the voting system. Before ~~considering~~ **the commission considers** the application for renewal, the election division shall give notice ~~by regular United States mail~~ of the application to the circuit court clerk of each county listed in

the application.

(d) When the commission considers the application, the commission shall request comments regarding the renewal of the application from any interested person. **Before acting on the application for renewal, the commission must receive a report from the person designated under IC 3-11-16 indicating that the hardware, firmware, and software included in the application for renewal of the voting system is identical to the version of the voting system previously certified by the commission.**

~~(e) The commission may, by unanimous consent of its entire membership, order the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.~~

~~(f)~~ **(e) After receiving the report under subsection (d) and receiving comments from interested persons,** the commission shall approve an application for renewal under this section if the commission finds that the voting system:

(1) complies with the standards prescribed under this chapter;

(2) has worked effectively where the system has been used; and

(3) has been adequately supported by the vendor of the system.

~~(g)~~ **(f)** If the commission finds that a vendor has marketed, sold, leased, installed, implemented, or permitted the use of a voting system in Indiana that:

(1) has not been certified by the commission for use in Indiana; or

(2) includes hardware, firmware, or software in a version that has not been approved for use in Indiana;

the commission may revoke the approval granted under this section and prohibit the vendor from marketing, leasing, or selling any voting system in Indiana for a specific period not to exceed five (5) years.

~~(h)~~ **(g)** A vendor subject to subsection ~~(g)~~ **(f)** may continue to provide support during the period specified in subsection ~~(g)~~ **(f)** to a county that has acquired a voting system from the vendor after the vendor certifies that the voting system to be supported by the vendor only includes hardware, firmware, and software approved for use in Indiana.

SECTION 56. IC 3-11.7-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) After the close of the polls, provisional ballots shall be counted as provided in this chapter.

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

SECTION 57. IC 3-11-7.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. A person ~~owning or interested in an electronic voting system~~ may ~~request the election division (or a competent person designated by the commission to act on behalf of the election division) to examine the~~ **submit an application for approval of an electronic voting** system ~~and report on its accuracy, efficiency, and capacity.~~ **in the form prescribed by the commission.**

SECTION 58. IC 3-11-7.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. **(a) The commission shall:**

(1) require the vendor to have tests conducted concerning the compliance of an electronic voting system with HAVA and the standards set forth in this chapter and IC 3-11-15; and

(2) have the results of the tests evaluated by the person designated under IC 3-11-16;

before determining whether to approve the application for certification of an electronic voting system.

(b) The tests required under this section must be performed by an independent laboratory accredited under 42 U.S.C. 15371. The vendor shall pay any testing expenses under this section.

(c) If the commission finds that an electronic voting system complies with this article, the commission may approve the system. The approved system then may be adopted for use at an election.

(d) An electronic voting system may not be marketed, sold, leased, installed, or implemented in Indiana before the application for certification of the system is approved by the commission.

(e) An approval of an electronic voting system under this chapter expires on the date specified by section 28(a) of this chapter.

SECTION 59. IC 3-11-7.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A **vendor may apply for approval of a** proposed improvement or change to an electronic voting system ~~shall be reported to the election division by:~~

~~(1) the vendor, if a vendor is involved in the proposed change; and~~

~~(2) the county election board, if a county is proposing the change.~~

that is currently certified by the commission. A proposed improvement or change may not be marketed, sold, leased, installed, or implemented in Indiana before the **application for the** improvement or change is approved by the commission.

(b) ~~A report of~~ An **application for approval of an** improvement or **a** change must be in the form prescribed by the commission.

(c) The vendor applying for approval of an improvement or a change must have the improvement or change to the voting system tested by an independent laboratory accredited under 42 U.S.C. 15371. The vendor shall pay any testing expenses incurred under this subsection.

~~(c)~~ **(d)** The election division (or ~~a competent~~ **the** person designated ~~by the commission to act on behalf of the election division~~ **under IC 3-11-16)** shall review the improvement or change to the voting system and report the results of the review to the commission. ~~The commission shall determine within a reasonable period of time whether the improvement or change impairs the accuracy, efficiency, capacity, or ability to meet the requirements of this article.~~ **The review must indicate:**

(1) whether the proposed improvement or change has been approved by an independent laboratory accredited under 42 U.S.C. 15371; and

(2) whether the proposed improvement or change would comply with HAVA and the standards set forth in this chapter and IC 3-11-15.

~~(d)~~ **(e)** After the commission has examined and approved **the application for** an improvement or change to an electronic voting system, the improvement or change may be marketed, sold, leased, installed, or implemented in Indiana.

(f) An approval of an application under this section expires on the date specified by section 28(a) of this chapter.

SECTION 60. IC 3-11-7.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The commission may not approve **the marketing, sale, lease, installation, or implementation of** an electronic voting system unless the system meets the specifications in sections 8 through 19 of this chapter and in IC 3-11-15.

SECTION 61. IC 3-11-7.5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. A county executive may ~~adopt and~~ purchase, ~~or~~ procure, **lease, install, implement, or authorize the use of** an electronic voting system only after the system has been approved by the commission.

SECTION 62. IC 3-11-7.5-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. (a) The election division (or ~~a competent~~ **the** person designated ~~by the commission to act on behalf of the election division~~ **under IC 3-11-16)** may periodically examine an electronic voting system that the commission has previously approved to determine ~~if~~ **whether** that system is still in compliance with all statutory requirements **and whether the voting system in use in a county has the same hardware, firmware, and software as the version of the voting system that was certified by the commission.**

(b) If ~~the election division or competent person finds that~~ a system ~~examined under~~ **does not comply with** subsection (a), ~~fails to meet all requirements and standards, and the commission concurs in these findings,~~ the commission may ~~by unanimous vote of all of the members of the commission,~~ rescind the commission's approval of the voting system.

(c) If the commission's approval is rescinded under subsection (b), the commission may ~~by unanimous vote of all of the members of the commission:~~

~~(1) recommend that use of the system be discontinued; and~~

~~(2)~~ prohibit the system from being **installed, implemented,** leased, marketed, **used, permitted to be used,** or sold for use in Indiana in an election conducted under this title.

~~(d) This subsection applies to an electronic voting system approved for its initial certification before:~~

~~(1) March 25, 1992; or~~

~~(2) a revision of IC 3-11-15 enacted after July 1, 1997, that imposes additional standards that did not apply to the voting system at the time of the system's initial certification.~~

~~The commission may, by unanimous consent of its entire membership, require the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.~~

~~(e) If the independent testing authority determines that a voting system tested under subsection (d) does not comply with this article, the commission may, by unanimous consent of its entire membership, prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.~~

SECTION 63. IC 3-11-7.5-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) The ~~commission may require a~~ county executive ~~to~~ **shall** file a copy of all contracts, leases, or purchase orders, including modifications, for the sale or lease of voting equipment, systems, or software with the election division.

(b) The ~~election division may advise or instruct county officials on the content of the~~ documents listed in subsection (a) **must be filed not later than thirty (30) days after the date of approval of the contract, lease, or purchase order by the county executive.**

SECTION 64. IC 3-11-7.5-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. (a) Except as provided in subsection (g), the approval of an electronic voting system under this chapter expires ~~five (5) years after the date the commission approves the system.~~ **October 1 of the year following the year in which presidential electors are elected under IC 3-10-2-3.**

(b) The vendor of a voting system approved under this chapter may request that the approval be renewed by filing an application with the election division.

(c) The application described in subsection (b) must identify all counties that are currently using the voting system. Before the commission considers the application for renewal, the election division shall give notice ~~by regular United States mail~~ of the application to the circuit court clerk of each county listed in the application.

(d) When the commission considers the application, the election division shall request comments regarding the renewal of the application from any interested person. **Before acting on the application for renewal, the commission must receive a report from the person designated under IC 3-11-16 indicating that the hardware, firmware, and software included in the application for renewal of the voting system is identical to the version of the voting system previously certified by the commission.**

~~(c) The commission may, by unanimous consent of the commission's entire membership, order the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.~~

~~(f)~~ **(e) After receiving the report under subsection (d) and comments from interested persons,** the commission shall approve an application for renewal under this section if the commission finds that the voting system:

(1) complies with the standards prescribed under this chapter;

(2) has worked effectively where the system has been used; and

(3) has been adequately supported by the vendor of the system.

~~(g)~~ **(f)** If the commission finds that a vendor has marketed, sold, leased, installed, implemented, or permitted the use of a voting system in Indiana that:

(1) has not been certified by the commission for use in Indiana; or

(2) includes hardware, firmware, or software in a version that has not been approved for use in Indiana;

the commission may revoke the approval granted under this section and prohibit the vendor from marketing, leasing, or selling any voting system in Indiana for a specific period not to exceed five (5) years.

~~(h)~~ **(g)** A vendor subject to ~~subsection (g)~~ **subsection (f)** may continue to provide support during the period specified in ~~subsection (g)~~ **subsection (f)** to a county that has acquired a voting system from the vendor after the vendor certifies that the voting system to be supported by the vendor only includes hardware, firmware, and software approved for use in Indiana.

SECTION 65. IC 3-11-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. In preparing the polls for an election, the county executive shall:

(1) have placed within the room a railing separating the part of the room to be occupied by the precinct election board from that part of the room to be occupied by the ~~voting machines,~~ ballot card voting systems, electronic voting systems, and the three (3) or more booths or compartments for marking paper ballots, whenever either or two (2) of these voting systems are used;

(2) ensure that the portion of the room set apart for the precinct election board includes a door at which each voter appears for challenge; and

(3) provide a **method or material for designating the boundaries of the** chute, ~~with~~ **such as** a railing, rope, or wire on each side, beginning a distance equal to the length of the chute (as defined in IC 3-5-2-10) away from and leading to the door for challenge and to the room in which the election is held.

SECTION 66. IC 3-11-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) When the hour for closing the polls occurs, the precinct election board shall permit all voters who:

(1) have passed the challengers and who are waiting to announce their names to the poll clerks for the purpose of signing the poll list;

(2) have signed the poll list but who have not voted; or

(3) are in the act of voting;

to vote. In addition, the inspector shall require all voters who have not yet passed the challengers to line up in single file within the chute. The poll clerks shall record the names of the voters in the chute, and these voters may vote unless otherwise prevented according to law.

(b) This subsection applies

~~(1) after December 31, 2003, and~~

~~(2)~~ if a court order (or other order) has been issued to extend the hours that the polls are open under section 8 of this chapter.

As provided in 42 U.S.C. 15482, the inspector shall identify the voters who would not otherwise be eligible to vote after the closing of the polls under subsection (a) and shall provide a provisional ballot to the ~~voter~~ **voters** in accordance with IC 3-11.7.

SECTION 67. IC 3-11-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A voter who:

(1) is a voter with disabilities; or

(2) is unable to read or write English;

may request assistance in voting before entering the voting booth and designate a person (other than the voter's employer, an officer of the voter's union, or an agent of the voter's employer or union) to assist the voter in voting at an election, as required by 42 U.S.C. 1973aa-6.

(b) This subsection does not apply to a person designated by a voter described by subsection (a) who is voting absentee before two (2) members of the absentee voter board. The person designated must execute a sworn affidavit on a form provided by the precinct election board stating that, to the best of the designated person's knowledge, the voter:

(1) is a voter with disabilities or is unable to read or write English; and

(2) has requested the designated person to assist the voter in voting under this section.

(c) The person designated may then accompany the voter into the voting booth and assist the voter in marking the voter's paper ballot or ballot card or in registering the voter's vote on the ~~voting machine or~~ electronic voting system.

SECTION 68. IC 3-11-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The following individuals shall assist a voter described by section 2 of this chapter who requests assistance in voting before entering the voting booth but does not wish to designate a person under that section.

(1) The two (2) judges if the voter is voting at a precinct.

(2) Two (2) members of the absentee voter board if the voter is voting absentee.

(b) This subsection does not apply to a person designated by a voter described by subsection (a) who is voting absentee before two (2) members of the absentee voter board. The individuals described in subsection (a) shall execute a sworn affidavit on a form provided by the precinct election board stating that, to the best of the individuals' knowledge, the voter:

(1) is a voter with disabilities or is unable to read or write English;

(2) has requested assistance in voting; and

(3) does not wish to designate a person to assist the voter in voting under section 2 of this chapter.

(c) The two (2) individuals described in subsection (a) shall then accompany the voter into the voting booth to assist the voter in marking the voter's paper ballot or ballot card or in registering the voter's vote on the ~~voting machine or~~ electronic voting system.

SECTION 69. IC 3-11-10-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. ~~(a) This~~

~~section applies after December 31, 2003.~~

~~(b)~~ **(a)** Upon receipt of an absentee ballot from a voter required to provide additional information to the county voter registration office under IC 3-7-33-4.5, the county election board shall contact the county voter registration office to determine if the additional information has been filed with the office by the voter.

~~(c)~~ **(b)** If the voter has filed the information with the county voter registration office, the county election board shall add a notation to the application indicating that the required information has been filed and that the absentee ballot may be counted if the ballot otherwise complies with this article.

~~(d)~~ **(c)** If the voter has not filed the information with the county voter registration office, the county election board shall add a notation on the application filed by a voter described under ~~subsection (c)~~ **subsection (b)** and on the envelope provided under this chapter reading substantially as follows:

"INSPECTOR: AS OF (insert date absentee ballot application approved) THIS VOTER WAS REQUIRED TO FILE ADDITIONAL DOCUMENTATION WITH THE COUNTY VOTER REGISTRATION OFFICE BEFORE THIS BALLOT MAY BE COUNTED. CHECK THE POLL LIST AND COUNTY ELECTION BOARD CERTIFICATION TO SEE IF THE VOTER HAS FILED THIS INFORMATION. IF NOT, PROCESS AS A PROVISIONAL BALLOT IF THIS BALLOT OTHERWISE COMPLIES WITH INDIANA LAW.".

SECTION 70. IC 3-11-10-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) On election day each circuit court clerk (or an agent of the clerk) shall visit the appropriate post office to accept delivery of absentee envelopes at the latest possible time that will permit delivery of the ballots to the appropriate precinct election boards before 6 p.m.

(b) ~~This subsection applies after December 31, 2003.~~ Not later than noon on election day, the county voter registration office shall visit the appropriate post office to accept delivery of mail containing documentation submitted by a voter to comply with IC 3-7-33-4.5. The office shall immediately notify the county election board regarding the filing of this documentation to permit the board to provide certification of this filing to the appropriate precinct election boards before 6 p.m.

SECTION 71. IC 3-11-10-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) If the inspector finds under section 15 of this chapter that:

(1) the affidavit is properly executed;

(2) the signatures correspond;

(3) the absentee voter is a qualified voter of the precinct;

(4) the absentee voter is registered and is not required to file additional information with the county voter registration office under IC 3-7-33-4.5;

(5) the absentee voter has not voted in person at the election; and

(6) in case of a primary election, if the absentee voter has not previously voted, the absentee voter has executed the proper declaration relative to age and qualifications and the political party with which the absentee voter intends to affiliate;

then the inspector shall open the envelope containing the absentee ballots so as not to deface or destroy the affidavit and take out each ballot enclosed without unfolding or permitting a ballot to be unfolded or examined.

(b) The inspector shall then hand the ballots to the judges who shall deposit the ballots in the proper ballot box and enter the absentee voter's name on the poll list, as if the absentee voter had been present and voted in person. The judges shall mark the poll list to indicate that the voter has voted by absentee ballot. If the voter has registered and voted under IC 3-7-36-14, the inspector shall attach to the poll list the circuit court clerk's certification that the voter has registered.

~~(c) If an absentee ballot is opened under this section in a precinct using voting machines, the precinct election board shall prepare certificates and memoranda under IC 3-12-2-6 that distinguish the votes cast by absentee ballots from votes cast on voting machines.~~

SECTION 72. IC 3-11-10-16.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16.5. ~~(a) This section applies after December 31, 2003.~~

~~(b)~~ If the inspector finds under section 16(a) of this chapter that the voter has not filed the additional information required to be filed with the county voter registration office under IC 3-7-33-4.5, but that all of the other findings listed under section 16(a) of this chapter apply, the inspector shall direct that the absentee ballot be processed as a provisional ballot under IC 3-11.7.

SECTION 73. IC 3-11-10-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. (a) A voter voting before an absentee voter board shall mark the voter's ballot in the presence of the board, but not in such a manner that either of the members of the board can see for whom the voter voted, unless the voter requests the help of the board in marking a ballot under IC 3-11-9.

(b) The voter shall then, in the presence of the board, place the ballot in an envelope furnished by the county election board.

(c) The circuit court clerk shall provide, to the extent practicable, the same degree of privacy to absentee voters voting at the office of the circuit court clerk as provided to voters at the polls on election day.

(d) This subsection applies to a voter required to present additional information under IC 3-7-33-4.5. If the voter does not present the required additional information before receiving the absentee ballot, the absentee ballot shall be processed in accordance with ~~section 4.5(d)~~ **section 4.5(c)** of this chapter.

(e) Upon accepting the completed absentee ballot from the voter, the board shall provide the voter with a notice:

(1) listing the documentation the voter may submit to the county voter registration office to comply with IC 3-7-33-4.5; and

(2) stating the address and hours of the county voter registration office.

SECTION 74. IC 3-11-10-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 35. (a) ~~After December 31, 2003,~~ This section does not apply to an absentee

ballot required to be treated as a provisional ballot under IC 3-11.7.

(b) If an envelope containing an absentee ballot has not been opened before the close of the polls, then the envelope may not be opened without an order of a court.

SECTION 75. IC 3-11-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) On the morning of election day, the precinct election officers shall meet at the polls at least one (1) hour before the time for opening the polls. The inspector then shall have:

(1) the **boundaries of the** chute ~~erected~~ **designated;**

(2) the sample ballots and instruction cards posted; and

(3) everything put in readiness for the commencement of voting at the opening of the polls.

(b) At the opening of the polls, the inspector and judges shall see that there are no ballots in the ballot box before the voting begins. After the inspection of the box, the inspector shall:

(1) securely lock the box;

(2) give one (1) key to the judge of the opposite political party; and

(3) retain one (1) key.

(c) Once securely locked, the ballot box may not be opened again until after the polls have been closed and the precinct election board is ready to immediately proceed with the counting, except as otherwise provided for central counting.

(d) The voting booths or compartments must be of a size and design to permit a voter to mark ballots in secret.

SECTION 76. IC 3-11-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) Before an election at which a ballot card voting system is used, a county election board shall:

(1) have the marking devices prepared for the election;

(2) have the marking devices put in order, set and adjusted, and made ready for voting when delivered to the precincts; and

(3) provide the precinct election officers with marking devices, a demonstration marking device, ~~(except in precincts using optical scan ballots),~~ ballot cards, ballot boxes, ballot labels, and other records and supplies as required.

(b) While acting under subsection (a), the county election board may restrict access to parts of the room where marking devices and other election material are being handled to safeguard this material.

(c) Each county election board shall have each ballot card voting system, along with all necessary furniture and appliances that go with the system at the polls, delivered to the appropriate precinct not later than 6 p.m. of the day before election day. The county executive shall provide transportation for the systems if requested to do so by the county election board.

SECTION 77. IC 3-11-13-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. In partisan elections, the ballot labels must include a voting square or position where a voter may by one (1) mark ~~or punch~~ on each card record a straight party or an independent ticket vote for all the candidates of one (1) political party or the independent ticket, except for offices for which the voter has voted individually for a candidate. If the voter records a vote for the two (2) candidates comprising an independent ticket, the vote must not count for any other independent candidate on the ballot.

SECTION 78. IC 3-11-13-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. ~~(a) This subsection does not apply to an optical scan voting system and expires January 1, 2006. Each ballot card provided under section 17 of this chapter must have two (2) attached perforated stubs on which is printed the same serial number. The top stub shall be bound or stapled in the package of ballot cards retained by the precinct election officers. The following information must be printed on the second stub:~~

~~(1) The name of the political subdivision holding the election.~~

~~(2) The designation of the election.~~

~~(3) The date of the election.~~

~~(4) The instructions to the voters.~~

~~(5) In a primary election, the name of the political party.~~

~~(b)~~ **(a)** The county election board in a county using a ballot card voting system shall provide ballot cards to the precinct election board that permit voters to cast write-in votes for each officer to be voted for at that election.

~~(c)~~ **(b)** The ballot cards provided under ~~subsection (b)~~ **subsection (a)** must be:

(1) designed to be folded; or

(2) accompanied by a secrecy envelope;

to ensure the secrecy of each of the votes cast by a voter.

~~(d)~~ **(c)** This subsection is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on an optical scan voting system. Except as provided in subsection ~~(c),~~ **(d),** a write-in vote shall be cast by printing the name of the candidate and the title of the office in the space provided for write-in votes on a ballot card or secrecy envelope.

~~(c)~~ **(d)** Space for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

SECTION 79. IC 3-11-13-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. The test required by section 22 of this chapter must:

~~(1) include the visual inspection of the voting devices for the correct alignment of the card stock and the templates for proper punching;~~

~~(2)~~ **(1)** be conducted by processing a preaudited group of ballot cards ~~punched or~~ marked so as to record a predetermined number of valid votes for each candidate and on each public question; and

~~(3)~~ **(2)** include for each office one (1) or more ballot cards that have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating machines to reject the votes.

SECTION 80. IC 3-11-13-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. After

completion of the count, the tabulating machines shall be sealed ~~in the same manner as voting machines under IC 3-12-2.5-6.~~ **as provided in IC 3-12-3-10.** The ballot cards and all other election materials shall be sealed, retained, and disposed of as provided for paper ballots.

SECTION 81. IC 3-11-13-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) After the delivery of a ballot card voting system to a precinct, the precinct election board may meet at the polls on the same day and open the package containing the sample ballot cards, to determine whether the system is ready for use in accordance with section 16 of this chapter. If a ballot card voting system is not in compliance with that section, the board shall immediately label, set and adjust, and place the system in order or have it done.

(b) While acting under subsection (a), the precinct election board may restrict access to parts of the room where marking devices and other election material are being handled to safeguard this material.

(c) On the morning of election day, the precinct election officers shall meet at the polls at least one (1) hour before the time for opening the polls. The inspector then shall have:

(1) the **boundaries of the** chute ~~erected;~~ **designated;**

(2) the sample ballots and instruction cards posted; and

(3) everything put in readiness for the commencement of voting at the opening of the polls.

(d) Before the opening of the polls, the precinct election officers shall **do the following:**

(1) Compare the ballot cards used in the marking device with the sample ballots furnished and determine whether the names, numbers, and letters are in agreement.

(2) Determine that the system records that zero (0) votes have been cast for each candidate and on each public question.

(3) Assure that the system is otherwise in perfect order.

(e) The officers then shall certify that:

(1) the marking device and the sample ballots are in agreement;

(2) the system records zero (0) votes cast; and

(3) the system appears to be in perfect order.

Forms shall be provided for certification, and the certification shall be filed with the election returns.

SECTION 82. IC 3-11-13-28.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28.5. (a) Unless challenged, a voter may proceed to vote.

~~(b) This subsection does not apply to an optical scan voting system. After a voter has signed the poll list, the poll clerk holding the ballot card shall remove the top stub, as described in section 18 of this chapter, and deliver to the voter one (1) of each ballot card that the voter is entitled to vote at the election. The top stub (and any second stub declined by the voter under section 33 of this chapter) shall be retained by the precinct election board and returned to the election board following the close of the polls.~~

~~(c)~~ **(b)** As each successive voter calls for a ballot, the poll clerks shall deliver to the voter the first initialed ballot of each type. The inspector shall then deliver to the poll clerks another ballot of each type, which the clerks shall initial as before.

~~(d)~~ **(c)** This subsection applies after December 31, 2005, to an optical scan ballot card ballot tabulated at a central location. As provided by 42 U.S.C. 15481, when a voter receives an optical scan ballot card ballot, 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.

SECTION 83. IC 3-11-13-28.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28.7. (a) The two (2) poll clerks of each precinct shall place their initials in ink on the secrecy envelope of a ballot card (or on the fold-over part of a ballot card described in ~~section 18(c)(1)~~ **section 18(b)(1)** of this chapter) at the time the card is issued to a voter. The initials must be in the poll clerk's ordinary handwriting or printing and without a distinguishing mark of any kind.

(b) This subsection is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on an optical scan voting system. A write-in vote cast on a secrecy envelope or fold-over envelope:

(1) is not valid unless:

(A) the secrecy envelope is initialed by both poll clerks; and

(B) the vote includes both the name of the write-in candidate and the office for which the write-in vote is cast; and

(2) makes the secrecy envelope or fold-over envelope a ballot for purposes of this title.

SECTION 84. IC 3-11-13-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. (a) In addition to the instructions printed on the ballot card or ballot labels, instructions to voters shall be posted in each voting booth or placed on the marking device. Each voter shall be instructed by both judges, on request, on how to operate the voting device before the voter enters the voting booth.

(b) The instructions posted in the voting booth or placed on the marking device must state the following:

(1) That the voter should examine the ballot card to determine if it contains the initials of the poll clerks in ink on the back of the card.

(2) That the voter should not make an unnecessary mark ~~or punch~~ on the ballot card because the mark ~~or punch~~ may void the card.

(3) That the voter should examine the ballot card to determine if the card has any mark (other than the initials of the poll clerks) before voting.

(4) That the voter should return the ballot card to the poll clerks and request another ballot card if:

(A) the poll clerks' initials have not been properly placed on the card;

(B) the card has a mark (other than the initials of the poll clerks) before the voter places a voting mark on the ballot; or

(C) the voter has improperly marked ~~or punched~~ the card.

(5) That the voter should examine the ballot card after voting to determine that all marks ~~or punches~~ made on the card to indicate the voter's selections have been completely marked. ~~or punched.~~

(c) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, a voter casting an optical scan ballot card under this section must be:

(1) permitted to verify in a private and an independent manner the votes selected by the voter before the ballot is cast and counted;

(2) provided 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.

SECTION 85. IC 3-11-13-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 30. When a voter is handed a ballot card, the voter shall be instructed to:

(1) use only the marking device provided for ~~punching, slotting, or~~ marking the cards and that the voter is not to mark a card in any other way;

(2) be certain that the initials of the poll clerks appear on the voter's card and that if the initials are not on the card it will not be counted, except as provided by IC 3-12-1-12; and

(3) place the voter's card in an envelope after the voter has voted or to fold the card in a manner so that no card is exposed upon which a choice is indicated.

SECTION 86. IC 3-11-13-31.7, AS AMENDED BY SEA 14-2005, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31.7. (a) This section is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on an optical scan voting system.

(b) After receiving ballot cards, a voter shall, without leaving the room, go alone into one (1) of the booths or compartments that is unoccupied and indicate:

(1) the candidates for whom the voter desires to vote by ~~punching a hole in or~~ marking the connectable arrows, circles, ovals, or squares immediately beside:

(A) the candidates' names; or

(B) the numbers referring to the candidates; and

(2) the voter's preference on each public question by ~~punching a hole in or~~ marking the connectable arrow, oval, or square beside:

(A) the word "yes" or "no" under the question; or

(B) the number referring to the word "yes" or "no" on the ballot.

(c) If an election is a general or municipal election and a voter desires to vote for all the candidates of one (1) political party or independent ticket (described in IC 3-11-2-6), the voter may ~~punch a hole in or~~ mark:

(1) the circle enclosing the device; or

(2) the connectable arrow, circle, oval, or square described in section 11 of this chapter;

that designates the candidates of that political party or independent ticket (described in IC 3-11-2-6). The voter's vote shall then be counted for all the candidates of that political party or included in the independent ticket (described in IC 3-11-2-6). However, if the voter ~~punches a hole in or~~ marks the circle, arrow, oval, or square of an independent ticket (described in IC 3-11-2-6), the vote shall not be counted for any other independent candidate on the ballot.

SECTION 87. IC 3-11-13-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 33. (a) After a voter has marked a ballot card, the voter shall place it inside the envelope provided for this purpose or fold the envelope described in section ~~18(c)(1)~~ **18(b)(1)** of this chapter and return the ballot card to the judge.

~~(b) This subsection does not apply to an optical scan ballot or to a ballot card with a fold-over envelope. The judge shall remove the second stub, as described in section 18 of this chapter, from the envelope and offer the second stub to the voter.~~

~~(c)~~ **(b)** The judge shall offer to return the envelope with the ballot card inside to the voter. The voter shall:

(1) accept the envelope and deposit it in the ballot box; or

(2) decline the envelope and require the judge to deposit it in the ballot box.

~~(d)~~ **(c)** If a voter offers to vote a ballot card that is not inside the envelope provided for this purpose or with the envelope not folded if the ballot is described in ~~section 18(c)(1)~~ **section 18(b)(1)** of this chapter, the precinct election board shall direct the voter to return to the booth and place the ballot card in the envelope provided for this purpose or fold the envelope.

~~(e)~~ **(d)** After a voter's ballot cards have been deposited in the ballot box, the poll clerks shall make a voting mark after the voter's name on the poll list.

~~(f)~~ **(e)** After voting, a voter shall leave the polls. However, a voter to whom ballot cards and a marking device have been delivered may not leave the polls without voting the ballot cards or returning them to the poll clerk from whom the voter received them.

SECTION 88. IC 3-11-13-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 35. ~~(a)~~ If a voter spoils or defaces a ballot card or marks it erroneously, the voter shall return the card so as not to disclose any choices that the voter has made.

~~(b) This subsection does not apply to an optical scan ballot. A voter returning a ballot must comply with subsection (a) by folding the stub on the ballot card.~~

~~(c) After complying with subsection (b), the voter then may receive another ballot card. Upon receipt of a defective ballot card,~~

~~the precinct election board shall:~~

~~(1) immediately cancel the defective card by writing on the back of the card and stub the word "VOID" in ink or in indelible pencil; and~~

~~(2) without detaching any stub attached to the card, place the card in the container for voided ballots in a manner that does not expose the choices of the voter.~~

SECTION 89. IC 3-11-14-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) Before an electronic voting system is delivered to a precinct, the county election board shall have the system put in order, set and adjusted, and ready for use in voting. **As part of the system's preparation, the county election board may conduct any of the comparisons and determinations required under section 17 of the chapter. However, notwithstanding any action taken by the county election board, each precinct election board must also perform the comparisons and determinations required under section 17 of this chapter before the opening of the polls.** The board may employ one (1) or more competent persons to prepare systems in accordance with this section.

(b) While acting under subsection (a), the county election board may restrict access to parts of the room where voting systems and other election material are being handled to safeguard this material.

SECTION 90. IC 3-11-14-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. On the morning of election day, the precinct election officers shall meet at the polls at least one (1) hour before the time for opening the polls. The inspector then shall have:

(1) the **boundaries of the** chute ~~erected~~ **designated;**

(2) the sample ballots and instruction cards posted; and

(3) everything put in readiness for the commencement of voting at the opening of the polls.

SECTION 91. IC 3-11-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 14.5. Public Tests of Electronic Voting Systems

Sec. 1. At least fourteen (14) days before election day, the county election board of each county planning to use an electronic voting system at the next election shall randomly select at least three (3) precincts within the county and test the voting system units to be used at those precincts on election day. Each voting system shall be tested to ascertain that the system will correctly count the votes cast for all candidates and on all public questions in that precinct.

Sec. 2. Public notice of the time and place shall be given at least forty-eight (48) hours before the test. The notice shall be published once in accordance with IC 5-3-1-4.

Sec. 3. The two (2) appointed members of the county election board shall observe the test required by this chapter and, if they so determine, shall certify the test as meeting the requirements of this chapter.

Sec. 4. The test must be open to representatives of political parties, candidates, the media, and the public.

Sec. 5. The test required by this chapter must include the following:

(1) The visual inspection of the voting system and ballot labels.

(2) The manual entry of a preaudited group of ballots marked so as to record a predetermined number of valid votes for each candidate and on each public question.

(3) At least one (1) ballot for each office that has votes in excess of the number allowed by law in order to test the ability of the electronic voting system to reject the overvotes.

Sec. 6. If an error is detected during the test required by section 5 of this chapter, the cause of the error shall be determined and corrected, and an errorless count must be made before the use of the electronic voting system at the election is approved.

Sec. 7. After completion of the count, the voting system shall be sealed. The ballots used to conduct the test and all other election materials shall be sealed, retained, and disposed of as provided for paper ballots.

Sec. 8. Immediately following the completion of the voting system test under section 5 of this chapter, the county election board shall enter the vote totals from the voting systems tested under this chapter into the component of the voting system used by the county election board to tabulate election results under IC 3-12-3.5. The board shall determine whether this component of the voting system properly tabulates the votes cast in each of the precincts tested under this chapter.

Sec. 9. Not later than seven (7) days after conducting the tests required under this chapter, the county election board shall certify to the election division that the tests have been conducted in conformity with this chapter.

Sec. 10. A copy of the certification of the tests conducted under this chapter shall be filed with the election returns.

SECTION 92. IC 3-11-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The performance and test standards and fees under this chapter apply to ~~a~~ **an optical scan voting system or an electronic** voting system ~~procured after March 25, 1992.~~ **described in IC 3-11-7 or IC 3-11-7.5.**

SECTION 93. IC 3-11-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The commission shall not approve any system until the fee and the expenses incurred by the election division (or ~~a competent~~ **the** person designated ~~by the commission to act on behalf of the election division~~ **under IC 3-11-16)** in making the examination are paid by the person making the application.

SECTION 94. IC 3-11-15-13.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13.3. (a) This section applies after December 31, 2005.

(b) To be approved by the commission for use in Indiana, a voting system must meet the Voting System Standards adopted by the Federal Election Commission on April 30, 2002.

~~(c) The commission may adopt rules under IC 4-22-2 to require a voting system to meet standards more recent than standards~~

~~described in subsection (b). If the commission adopts rules under this subsection, a voting system must meet the standards described in the rules instead of the standards described in subsection (b).~~

(c) A county may continue to use an optical scan ballot card voting system or an electronic voting system whose approval or certification expired on or before October 1, 2005, if the voting system:

(1) was:

(A) approved by the commission for use in elections in Indiana before July 1, 2003; and

(B) purchased by the county before July 1, 2003; and

(2) otherwise complies with the applicable provisions of HAVA and this article.

However, a voting system vendor may not market, sell, lease, or install a voting system described in this subsection.

(d) As provided by 42 U.S.C. 15481, to be used in an election in Indiana, a voting system must be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.

(e) As provided by 42 U.S.C. 15481, an election board conducting an election satisfies the requirements of subsection (d) if the election board provides at least one (1) electronic voting system or other voting system equipped for individuals with disabilities at each polling place.

(f) If a voter who is otherwise qualified to cast a ballot in a precinct chooses to cast the voter's ballot on the voting system provided under subsection (e), the voter must be allowed to cast the voter's ballot on that voting system, whether or not the voter is an individual with disabilities.

SECTION 95. IC 3-11-16 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 16. Voting System Technical Oversight Program

Sec. 1. As used in this chapter, "program" refers to the voting system technical oversight program established by section 2 of this chapter.

Sec. 2. The voting system technical oversight program is established.

Sec. 3. The secretary of state shall contract with a person or an entity to conduct the program for a term specified in the contract.

Sec. 4. The person or entity designated under this chapter to conduct the program shall do the following:

(1) Develop and propose procedures and standards for the certification, acquisition, functioning, training, and security for voting systems used to conduct elections in Indiana.

(2) Compile and maintain an inventory of all voting systems used to conduct elections in Indiana.

(3) Review reports concerning voting systems prepared by independent laboratories and submitted by applicants for voting system certification.

(4) Recommend to the commission whether an application for voting system certification should be approved and, if so, whether the approval should be subject to any restrictions or conditions to ensure compliance with Indiana law.

(5) Perform any additional testing of a voting system necessary to determine whether the voting system complies with state law.

(6) Each year perform random audits of voting systems used to conduct Indiana elections and prepare reports indicating whether the voting systems have been certified, programmed, and used in compliance with Indiana law.

(7) Review contracts, leases, purchase orders, and amendments to those documents concerning the acquisition or maintenance of voting systems.

(8) Assist with the development of quantity purchase agreements and other contracts for the lease or purchase of voting systems.

(9) Perform any other duties related to the approval or use of voting systems as provided in:

(A) state law; or

(B) the contract described in section 3 of this chapter.

SECTION 96. IC 3-11-17 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 17. Voting System Violations

Sec. 1. This chapter applies to a voting system vendor who sells, leases, installs, implements, or permits the use of a voting system in an election conducted in Indiana.

Sec. 2. In addition to any other penalty imposed, a vendor who knowingly, recklessly, or negligently sells, leases, installs, implements, or permits the use of a voting system in an election conducted in Indiana in violation of this title is subject to a civil penalty under this chapter.

Sec. 3. If the secretary of state determines that a vendor is subject to a civil penalty under section 2 of this chapter, the secretary of state may assess a civil penalty. The civil penalty assessed under this section may not exceed three hundred thousand dollars ($300,000), plus any investigative costs incurred and documented by the secretary of state.

Sec. 4. The secretary of state is subject to IC 4-21.5 in imposing a civil penalty under this chapter.

Sec. 5. All civil penalties collected under this chapter shall be deposited with the treasurer of state in the voting system technical oversight program account established by section 6 of this chapter.

Sec. 6. (a) The voting system technical oversight program account is established with the state general fund to provide money for administering and enforcing IC 3-11-7, IC 3-11-7.5, IC 3-11-15, IC 11 3-11-16, and this chapter.

(b) The election division shall administer the account. With the approval of the budget agency, funds in the account are available to augment and supplement the funds appropriated to the election division for the purposes described in this section.

(c) The expenses of administering the account shall be paid from the money in the account. The account consists of all civil penalties collected under this chapter.

SECTION 97. IC 3-11.5-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) If the absentee ballot counters find under section 11 of this chapter that:

(1) the affidavit is properly executed;

(2) the signatures correspond;

(3) the absentee voter is a qualified voter of the precinct;

(4) the absentee voter is registered and ~~after December 31, 2003,~~ is not required to file additional information with the county voter registration office under IC 3-7-33-4.5;

(5) the absentee voter has not voted in person at the election; and

(6) in case of a primary election, if the absentee voter has not previously voted, the absentee voter has executed the proper declaration relative to age and qualifications and the political party with which the absentee voter intends to affiliate;

the absentee ballot counters shall open the envelope containing the absentee ballots so as not to deface or destroy the affidavit and take out each ballot enclosed without unfolding or permitting a ballot to be unfolded or examined.

(b) ~~This subsection applies after December 31, 2003.~~ If the absentee ballot counters find under subsection (a) that the voter has not filed the additional information required to be filed with the county voter registration office under IC 3-7-33-4.5, but that all of the other findings listed under subsection (a) apply, the absentee ballot shall be processed as a provisional ballot under IC 3-11.7.

(c) The absentee ballot counters shall then deposit the ballots in a secure envelope with the name of the precinct set forth on the outside of the envelope. After the absentee ballot counters or the county election board has made the findings described in subsection (a) or section 13 of this chapter for all absentee ballots of the precinct, the absentee ballot counters shall remove all the ballots deposited in the envelope under this section for counting under IC 3-11.5-5 or IC 3-11.5-6.

SECTION 98. IC 3-11.5-4-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. (a) In addition to the preparations described in IC 3-11-11-2, ~~IC 3-11-12-24,~~ IC 3-11-13-27, or IC 3-11-14-16, the inspector shall:

(1) mark the poll list; and

(2) attach the certificates of voters who have registered and voted under IC 3-7-36-14 to the poll list;

in the presence of the poll clerks to indicate the voters of the precinct whose absentee ballots have been received by the county election board according to the certificate supplied under section 1 of this chapter.

(b) The poll clerks shall sign the statement printed on the certificate supplied under section 1 of this chapter indicating that the inspector:

(1) marked the poll list; and

(2) attached the certificates described in subsection (a)(2);

under this section in the presence of both poll clerks.

(c) The inspector shall retain custody of the certificate supplied under section 1 of this chapter until the certificate is returned under section 9 of this chapter.

SECTION 99. IC 3-11.7-5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1.5. (a) This section applies to a provisional ballot that:**

(1) has been marked and cast by a voter in compliance with this title; but

(2) may not otherwise be counted solely as the result of the act or failure to act of an election officer.

(b) A provisional ballot described in subsection (a) shall nevertheless be counted unless evidence of fraud, tampering, or misconduct affecting the integrity of the ballot is demonstrated. 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.

(c) Notwithstanding subsection (b), if the county election board, by a majority vote of its members, determines that there is a reason not to count a provisional ballot, the provisional ballot may not be counted.

SECTION 100. IC 3-12-1-9.5, AS AMENDED BY SEA 14-2005, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9.5. (a) This section applies to counting votes cast on ballot cards.

~~(b) A chad that has been pierced, but not entirely punched out of the card, shall be counted as a vote for the indicated candidate or for the indicated response to a public question.~~

~~(c) A chad that has been indented, but not in any way separated from the remainder of the card, may not be counted as a vote for a candidate or on a public question.~~

~~(d) Whenever:~~

~~(1) a ballot card contains a numbered box indicating which chad should be punched out by the voter to cast a vote for a candidate or on a public question;~~

~~(2) the indicated chad has not been punched out; and~~

~~(3) a hole has been made in the card that touches any part of the numbered box;~~

~~the hole shall be counted as a vote for the candidate or on the public question as if the indicated chad had been punched out. However, if a hole has been made in the ballot that does not touch a numbered box or punch out a chad, the hole may not be counted as a vote for a candidate or on a public question.~~

~~(e) Whenever:~~

~~(1) a chad has been punched out of a ballot card;~~

~~(2) a numbered box indicates that another chad may be punched out to cast a vote for:~~

~~(A) a different candidate for the same office as the candidate for whom a vote was cast under subdivision (1); or~~

~~(B) a different response to the same public question on which a vote was cast under subdivision (1); and~~

~~(3) a hole has been punched in the card that touches the numbered box described in subdivision (2);~~

~~neither the chad described in subdivision (1) nor the hole described in subdivision (3) may be counted as a vote for a candidate or on a public question.~~

~~(f)~~ **(b)** This subsection applies to a ballot card that:

(1) has been cast in a precinct whose votes are being recounted by a local recount commission or the state recount commission;

(2) is damaged or defective so that it cannot properly be counted by automated tabulating machines; and

(3) cannot be counted for the office subject to the recount due to the damage or defect.

The ballot card shall be remade only if the conditions in subdivisions (1) through (3) exist.

~~(g) Subsections (b) through (e) expire December 31, 2005.~~

SECTION 101. IC 3-12-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. ~~(a)~~ When all votes have been counted, the precinct election board shall prepare a certificate stating the number of votes that each candidate received for each office and the number of votes cast on each public question. The number of votes that each candidate and public question received shall be written in words and numbers. The board shall also prepare a memorandum of the total vote cast for each candidate and ensure that each member of the board receives a copy of the memorandum.

~~(b) If:~~

~~(1) an absentee ballot has been cast in the precinct; and~~

~~(2) the precinct used voting machines;~~

~~the certificates and memoranda prepared under this section must comply with IC 3-11-10-16(c).~~

SECTION 102. IC 3-12-3.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. After each electronic voting system has been secured and the paper vote total printouts obtained, the inspector shall announce in a distinct tone of voice ~~the result of the vote as shown by~~ **that** the printouts **are available** for **inspection by the members of the precinct election board and any watchers present within the polls. The members and watchers are entitled to inspect and copy the printouts to document the votes cast for:**

(1) each candidate ~~in the order as their offices are arranged~~ on each system; and

(2) each public question **on each system.**

SECTION 103. IC 3-12-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. Not later than noon **on the second** Monday after the county election board certifies the election results under section 9 of this chapter, the circuit court clerk shall furnish to the county chairman of each political party a copy of the statement.

SECTION 104. IC 3-12-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. A county election board may not reject the certificates, poll lists, or tally papers returned from a precinct election board:

(1) for lack of form or for not being strictly in accordance with the directions contained in this title if the certificates can be satisfactorily understood; or

(2) if the returns are certified by the precinct election board as required by IC 3-12-2-6, ~~IC 3-12-2.5-6,~~ IC 3-12-3-2, and IC 3-12-3.5-6 and returned by the inspector or one (1) of the judges of the board.

SECTION 105. IC 3-12-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. If ~~voting machines or~~ 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 ~~mechanical~~ recording device on any ~~voting machine or~~ 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.

SECTION 106. IC 3-12-4-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. To inspect ~~a voting machine or~~ **an** electronic voting system under section 18 of this chapter, the county election board may proceed to any place in the county where the ~~machine or~~ system is located, kept, or stored. However, the board shall make the inspection in the presence of an accredited representative of each of the major political parties of the county.

SECTION 107. IC 3-12-4-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. When making an inspection under section 18 of this chapter, a county election board shall compare the number of votes registered on the counter or other ~~mechanical~~ recording device on the ~~voting machines or~~ electronic voting systems with the returns made by the precinct election board of the precinct in which the ~~voting machine or~~ electronic voting system was used.

SECTION 108. IC 3-12-4-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. If there is a discrepancy between the number of votes registered on ~~a voting machine or~~ **an** electronic voting system and the returns made by the precinct election board, the county election board shall correct the returns made by the precinct election board so that the returns conform to the vote registered on the ~~voting machine or~~ electronic voting system. The corrected returns shall be considered the true and correct returns of the number of votes cast for each candidate or on each public question in the precinct.

SECTION 109. IC 3-12-4-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. If a nomination or election is contested or a recount is conducted, the returns of each precinct election board, as corrected by the county election board under section 21 of this chapter, constitute prima facie evidence of the vote cast for each candidate and on each public question to the same extent as the tabulation and return of the vote in a precinct where ~~voting machines or~~ electronic voting systems are not used.

SECTION 110. IC 3-12-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Whenever a candidate is elected to a local office that is commissioned by the governor under IC 4-3-1-5, the circuit court clerk shall prepare a

statement under the clerk's seal specifying the number of votes received by each candidate for that office.

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

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

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

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

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

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

(1) Each state constitutional amendment ratified or rejected.

(2) Each justice or judge retained or removed.

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

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

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

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

SECTION 111. IC 3-12-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Not later than noon on the **second** Monday following an election for governor and lieutenant governor, each circuit court clerk shall prepare a certified statement under the clerk's seal showing the number of votes each candidate received. The clerk shall transmit the statement to the election division. The election division shall deliver:

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

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

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

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

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

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

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

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

SECTION 112. IC 3-12-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) Not later than noon on the **second** Monday following an election, each circuit court clerk shall prepare a certified statement under the clerk's seal of the number of votes received by each candidate for:

(1) federal office;

(2) state office;

(3) legislative office; and

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

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

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

SECTION 113. IC 3-12-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) As soon as practical, but no later than noon on the **second** Monday following an election for a legislative office, each circuit court clerk shall:

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

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

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

SECTION 114. IC 3-12-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A candidate who desires a recount of votes must file a verified petition no later than noon ~~seven (7)~~ **fourteen (14)** days after election day.

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

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

SECTION 115. IC 3-12-6-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) A recount commission consists of three (3) persons.

(b) Two (2) members of the commission must be voters who:

(1) are members of different major political parties of the state; and

(2) were qualified to vote at the election in a county in which the election district for the office is located.

(c) This subsection applies to a recount commission conducting a recount of an election in which only paper ballots were used. The third member of the commission must be a person who:

(1) is a member of a major political party of the state; and

(2) was qualified to vote at the election in a county in which the election district for the office is located.

(d) This subsection applies to a recount of an election in which a voting method other than only paper ballots was used. The third

member of the commission must be a competent mechanic who is familiar with the ~~voting machines,~~ ballot card voting systems or electronic voting systems used in that election. The mechanic is not required to be qualified to vote at the election in a county in which the election district for the office is located.

SECTION 116. IC 3-12-6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. (a) A court ordering a recount under this chapter shall by order impound and provide for the protection of the following:

(1) All ballots ~~voting machines,~~ and electronic voting systems used at the election for casting votes in the precincts.

(2) All tally sheets relating to the votes cast for nomination or election to the office.

(3) All poll lists of persons registered by the poll clerks as having voted for nomination or election to the office.

(b) An order issued by the state recount commission under IC 3-12-10 supersedes an order issued by a court under this section to the extent that the orders conflict. The state recount commission shall assist a court acting under this section to the extent that the ability of the state recount commission to preserve the integrity of election records or equipment is not hindered.

(c) An impoundment order issued under subsection (a) may not prevent a circuit court clerk or board of registration from copying election material other than ballots if the clerk or board copies the material under the supervision of a person designated by the court.

SECTION 117. IC 3-12-6-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. A court acting under section 19 of this chapter shall make the ballots, ~~voting machines,~~ electronic voting systems, tally sheets, and poll lists available to the recount commission appointed under this chapter.

SECTION 118. IC 3-12-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. An election may be contested under section 1 of this chapter if a petitioner alleges that one (1) of the following circumstances existed:

(1) The contestee was ineligible.

(2) A mistake occurred in the printing or distribution of ballots used in the election that makes it impossible to determine which candidate received the highest number of votes.

(3) A mistake occurred in the programming of ~~a voting machine or~~ an electronic voting system, making it impossible to determine the candidate who received the highest number of votes.

(4) ~~A voting machine or~~ An electronic voting system malfunctioned, making it impossible to determine the candidate who received the highest number of votes.

(5) A deliberate act or series of actions occurred making it impossible to determine the candidate who received the highest number of votes cast in the election.

SECTION 119. IC 3-12-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A candidate who desires to contest an election or a nomination under this chapter must file a verified petition with the circuit court clerk of the county that contains the greatest percentage of the population of the election district no later than noon ~~seven (7)~~ **fourteen (14)** days after election day.

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

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

SECTION 120. IC 3-12-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) A petition filed under section 5 of this chapter must state the following:

(1) That the petitioner desires to contest the nomination or election to an office.

(2) The name of each candidate as set forth on the ballot for the election and address of each candidate as set forth in the records of the county election board or election division.

(3) That the petitioner in good faith believes that one (1) or more of the following occurred:

(A) The person declared nominated or elected does not comply with a specific constitutional or statutory requirement set forth in the petition that is applicable to a candidate for the office.

(B) A mistake was made in the printing or distribution of ballots used in the election that makes it impossible to determine which candidate received the highest number of votes cast in the election.

(C) A mistake occurred in the programming of ~~a voting machine or~~ an electronic voting system, making it impossible to determine the candidate who received the highest number of votes.

(D) ~~A voting machine or~~ An electronic voting system malfunctioned, making it impossible to determine the candidate who received the highest number of votes.

(E) A deliberate act or series of actions occurred making it impossible to determine the candidate who received the highest number of votes cast in the election.

(b) A petition stating that the petitioner believes that it is impossible to determine the candidate that received the highest number of votes for one (1) of the reasons described in subsection (a)(3)(B), (a)(3)(C), or (a)(3)(D) must identify each precinct in which:

(1) ballots:

(A) containing the printing mistake; or

(B) distributed by mistake;

were cast;

(2) a mistake occurred in the programming of ~~a voting machine or~~ an electronic voting system; or

(3) ~~a voting machine or~~ an electronic voting system malfunctioned.

(c) A petition stating that the petitioner believes that an act or series of actions described in subsection (a)(3)(E) occurred must identify each precinct or other location in which the act or series of

actions occurred to the extent known to the petitioner.

SECTION 121. IC 3-12-8-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) A contest shall be heard and determined by the court without a jury subject to the Indiana Rules of Trial Procedure.

(b) The court shall determine the issues raised by the petition and answer to the petition.

(c) After hearing and determining a petition alleging that a candidate is ineligible, the court shall declare as elected or nominated the qualified candidate who received the highest number of votes and render judgment accordingly.

(d) If the court finds that:

(1) a mistake in the printing or distribution of the ballots used in the election;

(2) a mistake in the programming of ~~a voting machine or~~ an electronic voting system;

(3) a malfunction of ~~a voting machine or~~ an electronic voting system; or

(4) the occurrence of a deliberate act or series of actions;

makes it impossible to determine which candidate received the highest number of votes, the court shall order that a special election be conducted under IC 3-10-8.

(e) The special election shall be conducted in the precincts identified in the petition in which the court determines that:

(1) ballots containing the printing mistake or distributed by mistake were cast;

(2) a mistake occurred in the programming of ~~a voting machine or~~ an electronic voting system;

(3) ~~a voting machine or~~ an electronic voting system malfunctioned; or

(4) the deliberate act or series of actions occurred.

SECTION 122. IC 3-12-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A candidate who desires:

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

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

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

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

SECTION 123. IC 3-12-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Each petition for a recount filed under section 2 of this chapter must state the following:

(1) The office for which the petitioner desires a recount.

(2) The precincts in which the petitioner desires a recount.

(3) That the individual is entitled to a recount under this chapter and that the nomination or election to office at issue was voted upon in the precincts specified.

(4) The name of the candidates as set forth on the ballot for the election and address of the candidates as set forth in the records of the election division.

(5) That the petitioner in good faith believes that the votes cast for nomination or election to the office at the election in the precincts were not correctly counted and returned.

(6) That the petitioner desires a recount of all of the votes cast for nomination or election to the office in the precincts specified.

(b) Each petition for a contest filed under section 2 of this chapter must state the following:

(1) The nomination or election to office that the petitioner contests.

(2) That the individual is entitled to contest an election or a nomination to office under this chapter.

(3) The name of the candidates as set forth on the ballot for the election and address of each of the candidates as set forth in the records of the election division.

(4) That the petitioner in good faith believes that one (1) or more of the following occurred:

(A) The person declared nominated or elected does not comply with a specific constitutional or statutory requirement set forth in the petition that is applicable to a candidate for the office.

(B) A mistake was made in the printing or distribution of ballots used in the election that makes it impossible to determine which candidate received the highest number of votes cast in the election.

(C) A mistake occurred in the programming of ~~a voting machine or~~ an electronic voting system, making it impossible to determine the candidate who received the highest number of votes.

(D) ~~A voting machine or~~ An electronic voting system malfunctioned, making it impossible to determine the candidate who received the highest number of votes.

(E) A deliberate act or series of actions occurred making it impossible to determine the candidate who received the highest number of votes cast in the election.

(c) A petition stating that the petitioner believes that a mistake described in subsection (b)(4)(B), (b)(4)(C), or (b)(4)(D) has occurred must identify each precinct in which:

(1) ballots:

(A) containing the printing mistake; or

(B) distributed by mistake;

were cast;

(2) a mistake occurred in the programming of ~~a voting machine or~~ an electronic voting system; or

(3) ~~a voting machine or~~ an electronic voting system malfunctioned.

(d) A petition stating that the petitioner believes that an act or series of actions described in subsection (b)(4)(E) occurred must identify each precinct or other location in which the act or series of actions occurred to the extent known to the petitioner.

SECTION 124. IC 3-12-11-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. **(a)** Upon the filing of a petition for a recount or contest with the election division, the secretary of state shall issue a notice of the filing and pendency of the petition to each opposing candidate and deliver the notice to the state police department.

(b) This subsection applies if an attorney has filed an appearance with the election division as the representative of a candidate. The state police shall serve the notice on the attorney for the candidate.

(c) If subsection (b) does not apply, the state police department shall immediately serve the notice upon each opposing candidate in person or by leaving a copy at the last and usual place of residence.

(d) The state police department shall make immediate return of the service **under this section.**

SECTION 125. IC 3-12-11-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) This section applies if a cross-petition is filed under this chapter.

(b) This subsection applies only to a recount of an election for nomination or election to either of the following:

(1) A legislative office in which, on the face of the election returns, the difference between the number of votes cast for the cross-petitioner and the petitioner with the greatest number of votes is not more than one percent (1%) **of the total votes cast for all candidates for the nomination or office.**

(2) An office other than a legislative office in which, on the face of the election returns, the difference between the number of votes cast for the cross-petitioner and the petitioner with the greatest number of votes is not more than one percent (1%) **of the total votes cast for all candidates for the nomination or office.**

The cross-petitioner shall furnish a cash deposit equal to ten dollars ($10) multiplied by the number of precincts that the cross-petitioner seeks to have recounted. The cash deposit shall be deposited in the state recount fund.

(c) This subsection applies only to a recount of an election for nomination or election to either of the following:

(1) A legislative office in which, on the face of the election returns, the difference between the number of votes cast for the cross-petitioner and the petitioner with the greatest number of votes is more than one percent (1%) **of the total votes cast for all candidates for the nomination or office.**

(2) An office other than a legislative office in which, on the face of the election returns, the difference between the number of votes cast for the cross-petitioner and the petitioner with the greatest number of votes is more than one percent (1%) **of the total votes cast for all candidates for the nomination or office.**

The cross-petitioner shall furnish a cash deposit equal to ten dollars ($10) multiplied by the number of precincts that the cross-petitioner seeks to have recounted for the first ten (10) precincts recounted. For each precinct in excess of ten (10) the cross-petitioner seeks to have recounted, the cross-petitioner shall furnish an additional cash deposit equal to one hundred dollars ($100) multiplied by the number of precincts in excess of ten (10) that the cross-petitioner seeks to have recounted. The cash deposit shall be deposited in the state recount fund.

(d) If after a recount, it is determined that the cross-petitioner has been nominated or elected, the deposit furnished by the cross-petitioner shall be returned to the cross-petitioner in full.

(e) Any unexpended balance remaining in a deposit after payment of the costs of the recount shall be deposited in the state recount fund.

SECTION 126. IC 3-12-11-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) Except as provided in subsection (d) **or (e),** the state recount commission shall grant the petitions and cross-petitions that have been filed and order the recount of the votes in the precincts upon:

(1) the filing of a petition and cash deposit or bond under this chapter;

(2) the expiration of the period under section 4 of this chapter for filing a cross-petition; and

(3) proof of service of all notices.

(b) Except as provided in subsection (d), whenever a petition filed under section 2 of this chapter requests a recount in all precincts in the election district, the state recount commission may order a recount in the precincts upon:

(1) the filing of a cash deposit or bond under this chapter; and

(2) proof of service of all notices.

(c) Except as provided in subsection (d), the state recount commission shall grant a petition for a contest that has been filed and order a contest proceeding upon:

(1) the filing of a petition under this chapter; and

(2) proof of service of all notices.

(d) Whenever a motion to dismiss a petition or cross-petition for a recount or a petition for a contest is filed with the state recount commission or is made by a member of the commission, the commission shall rule on the motion to dismiss before ordering or continuing with a recount or a contest. The motion to dismiss must:

(1) state that the petitioner or cross-petitioner has failed to comply with this chapter; and

(2) specifically identify the requirement that the petitioner or cross-petitioner has failed to comply with.

(e) Whenever the petitioner and each cross-petitioner or respondent file a joint motion to dismiss a recount or contest, the commission shall rule on the motion to dismiss before ordering or continuing with a recount or contest.

SECTION 127. IC 3-12-11-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. If there is a consolidation of petitions and cross-petitions, the state recount commission shall by consolidated order grant the consolidated petitions and cross-petitions and order a consolidated recount of all votes in each precinct in the ~~county~~ **election district for the office** requested in the petitions and cross-petitions.

SECTION 128. IC 3-12-11-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. The state recount commission shall conduct a recount in each precinct designated in a petition or cross-petition granted under this chapter

that is in the election district for the office. The commission may conduct a recount in any precinct that cast votes for an office that is the subject of a recount under this chapter **if the precinct is within the election district for the office.**

SECTION 129. IC 3-12-11-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) Except as provided in subsection (b), the state recount commission may by order impound and provide for the protection of ~~the following:~~

~~(1) All ballots, voting machines, and electronic voting systems used at the election for casting votes in the precincts.~~

~~(2) All tally sheets relating to the votes cast for the office.~~

~~(3) All poll lists of persons registered by the poll clerks as having voted for the office.~~

any election records or equipment described by IC 3-12-10-5(a).

(b) In a recount of an election for a legislative office, the state recount commission shall by order impound and provide for the protection of the following:

(1) All ballots, ~~voting machines,~~ and electronic voting systems used at the election for casting votes in all of the precincts within the legislative district.

(2) All tally sheets relating to the votes cast for the office.

(3) All poll lists of persons registered by the poll clerks as having voted for the office.

SECTION 130. IC 3-12-11-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) When a recount is completed by the state recount commission or its designee, the commission shall:

(1) make and sign a certificate showing the total number of votes received in the precincts by each candidate for nomination or election to the office;

(2) state in its certificate the candidate who received the highest number of votes in the precincts for nomination or election to the office and by what plurality; and

(3) file its certificate with the election division.

(b) When a contest proceeding in which a candidate is alleged to be ineligible is completed by the state recount commission or its designee, the commission shall make a final determination concerning the eligibility of the candidate for nomination or election to the office.

(c) If the state recount commission or its designee determines that:

(1) a mistake was made in the printing or distribution of ballots used in the election;

(2) a mistake was made in the programming of ~~a voting machine or~~ an electronic voting system;

(3) ~~a voting machine or~~ an electronic voting system malfunctioned; or

(4) a deliberate act or series of actions occurred;

that makes it impossible to determine which candidate received the highest number of votes cast, the commission shall order that a special election be conducted under IC 3-10-8.

(d) The special election ordered under subsection (c) shall be held in the precincts identified in the petition in which the commission determines that:

(1) ballots containing the printing mistake or distributed by mistake were cast;

(2) a mistake occurred in the programming of ~~a voting machine or~~ an electronic voting system;

(3) ~~a voting machine or~~ an electronic voting system malfunctioned; or

(4) a deliberate act or series of actions occurred.

SECTION 131. IC 3-12-12-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) A recount commission consists of three (3) persons.

(b) Two (2) members of the commission must be voters who:

(1) are members of different major political parties of the state; and

(2) were qualified to vote at the election in a county in which the election district that voted on the public question is located.

(c) This subsection applies to a recount commission conducting a recount of an election in which only paper ballots were used. The third member of the commission must be a person who:

(1) is a member of a major political party of the state; and

(2) was qualified to vote at the election in a county in which the election district that voted on the public question is located.

(d) This subsection applies to a recount of an election in which a voting method other than only paper ballots was used. The third member of the commission must be a competent mechanic who is familiar with the ~~voting machines,~~ ballot card voting systems or electronic voting systems used in that election. The mechanic is not required to be qualified to vote at the election in a county in which the election district that voted on the public question is located.

SECTION 132. IC 3-12-12-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) A court ordering a recount under this chapter shall by order impound and provide for the protection of the following:

(1) All ballots ~~voting machines,~~ and electronic voting systems used at the election for casting votes in the precincts.

(2) All tally sheets relating to the votes cast on the public question.

(3) All poll lists of persons registered by the poll clerks as having voted on the public question.

(b) An order issued by the state recount commission under IC 3-12-10 supersedes an order issued by a court under this section to the extent that the orders conflict. The state recount commission shall assist a court acting under this section to the extent that the ability of the state recount commission to preserve the integrity of election records or equipment is not hindered.

(c) An impoundment order issued under subsection (a) may not prevent a circuit court clerk or board of registration from copying election material other than ballots if the clerk or board copies the material under the supervision of a person designated by the court.

SECTION 133. IC 3-12-12-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. A court acting under section 14 of this chapter shall make the ballots, ~~voting machines,~~ electronic voting systems, tally sheets, and poll lists

available to the recount commission appointed under this chapter.

SECTION 134. IC 3-14-2-18, AS AMENDED BY SEA 15-2005, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. A voter who knowingly:

(1) does anything to enable any other person to see or know for what ticket, candidates, or public questions the voter has voted; ~~on a voting system;~~ or

(2) moves into a position, or does any other thing, to enable the voter to see or know for what ticket, candidates, or public questions any other voter votes; ~~on a voting system;~~

commits a Class D felony.

SECTION 135. IC 3-14-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. A person who knowingly:

(1) interferes with a watcher;

(2) prevents a watcher from performing the watcher's duties;

(3) otherwise violates:

(A) IC 3-6-8-3;

(B) IC 3-6-8-4;

(C) IC 3-6-8-5;

(D) IC 3-6-8-6;

(E) IC 3-6-9; or

(F) IC 3-6-10; or

(4) violates ~~IC 3-11-12-21(c) or~~ IC 3-11-13-44(d);

commits a Class D felony.

SECTION 136. IC 3-14-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. A precinct election officer who, with the intent to cause or permit a ~~voting machine,~~ ballot card voting system or **an** electronic voting system to fail to correctly register all votes cast, tampers with or disarranges the ~~machine or~~ system or any part of it commits a Class D felony.

SECTION 137. IC 3-14-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. A precinct election officer who permits a ~~voting machine,~~ ballot card voting system or **an** electronic voting system to be used for voting at an election, with knowledge of the fact that the ~~machine or~~ system is not in order or not perfectly set and adjusted so that it will correctly register all votes cast, commits a Class D felony.

SECTION 138. IC 3-14-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. A person other than a precinct election officer who knowingly, before or during an election:

(1) damages, disarranges, or tampers with a ~~voting machine,~~ ballot card system or **an** electronic voting system; or

(2) damages a ballot label placed or to be placed on the ~~machine,~~ electronic voting system, or any other appliance used in connection with the ~~machine,~~ ballot card voting system or electronic voting system;

commits a Class D felony.

SECTION 139. IC 3-14-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. A member of a precinct election board, an absentee ballot counter appointed under IC 3-11.5-4-22, or a provisional ballot counter appointed under IC 3-11.7-3 who knowingly:

(1) opens or marks, by folding or otherwise, a ballot presented by a voter, except as provided by law; or

(2) tries to find out how the voter voted before the ballot is deposited in the ballot box or cast on a ~~voting machine,~~ ballot card voting system or **an** electronic voting system or counted by the absentee ballot counter;

commits a Class D felony.

SECTION 140. IC 3-14-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. A person who knowingly violates:

(1) IC 3-11.5-5;

(2) IC 3-11.5-6;

(3) IC 3-12-2-1;

~~(4) IC 3-12-2.5-9;~~

~~(5)~~ **(4)** IC 3-12-3-14; or

~~(6)~~ **(5)** IC 3-12-3.5-7;

by providing any other person with information concerning the number of votes a candidate received for an office or cast to approve or reject a public question on absentee ballots counted under IC 3-11.5-5, IC 3-11.5-6, or IC 3-12 before the closing of the polls commits a Class D felony.

SECTION 141. IC 5-4-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. **(a)** Members of the general assembly shall take ~~such~~ **the** oath **described by section 1 of this chapter** before taking their seats. ~~which~~ **The oath** shall be entered on the journals. ~~and~~

(b) The governor and lieutenant-governor shall each take ~~such~~ **the** oath ~~in presence of both houses of the general assembly in convention, and~~ **described by section 1 of this chapter.** The ~~same~~ **oath** shall be entered on the journals ~~thereof.~~ **of each chamber of the general assembly.**

SECTION 142. IC 9-16-1-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. (a) On each general, municipal, primary, and special election day (as defined in IC 3-5-1-2), all full service license branches must remain open from 6:00 a.m., local time, to 6:00 p.m., local time, solely for the purpose of issuing driver's licenses and state identification cards under IC 9-24.**

(b) On the day before each general, municipal, primary, and special election day (as defined in IC 3-5-1-2), all full service license branches must remain open from 8:30 a.m., local time, to 8:00 p.m., local time, solely for the purpose of issuing driver's licenses and state identification cards under IC 9-24.

(c) The commission shall:

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

(2) authorize overtime pay;

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

SECTION 143. IC 9-16-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The commission may develop a separate personnel system for employees of the commission who are assigned to be managers and employees of

commission license branches. The system may establish the rights, privileges, powers, and duties of these employees, including a license branch pay scale and benefit package. If the commission does not develop and adopt a license branch personnel system, those employees are subject to the state personnel system under IC 4-15-1.8, **except as provided in IC 9-16-1-7.**

SECTION 144. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 3-5-2-21.5; IC 3-11-15-10; IC 3-11-15-11; IC 3-11-15-50; IC 3-11-15-51; IC 3-11-15-52; IC 3-11-15-53; IC 3-11-15-55; IC 3-11-15-56; IC 3-11-15-57; IC 3-11-15-58.

SECTION 145. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 3-5-2-41.5; IC 3-5-2-41.6; IC 3-5-2-50.6; IC 3-6-4.5-1; IC 3-11-3-2; IC 3-11-3-6; IC 3-11-5; IC 3-11-7.5-20; IC 3-11-12; IC 3-11-13-20; IC 3-12-2.5.

SECTION 146. [EFFECTIVE UPON PASSAGE] **(a) The definitions set forth in IC 3-5-2 apply to this SECTION.**

(b) To perform the duties set forth in IC 3-11-16, as added by this act, in establishing the voting system technical oversight program, the secretary of state shall issue a request for proposals to enter into the contract required under IC 3-11-16-3, as added by this act.

(c) Notwithstanding any other statute or rule:

(1) the secretary of state shall extend invitations to public and private colleges and universities located within Indiana to respond to the request for proposals not later than June 1, 2005; and

(2) the secretary of state and the person selected by the secretary of state shall enter into the contract required under IC 3-11-16-3, as added by this act, not later than July 1, 2005.

(d) The election commission may approve an application for the certification of a voting system if the commission determines that:

(1) the application for the voting system otherwise complies with IC 3; and

(2) either:

(A) the contract required to conduct the voting system technical oversight program required by IC 3-11-16, as added by this act, has not yet been entered into; or

(B) a testing authority has not yet been accredited by the federal government under 42 U.S.C. 15371, but the testing authority whose report concerning the voting system has been submitted to the commission is described in the Voting Systems Standards issued by the Federal Election Commission on April 30, 2002.

(e) This SECTION expires December 31, 2005.

SECTION 147. [EFFECTIVE UPON PASSAGE] **(a) The definitions set forth in IC 3-5-2 apply to this SECTION.**

(b) This SECTION applies to a county:

(1) that used a punch card ballot voting system to conduct the November 2, 2004, general election in any precinct in the county; and

(2) whose county executive, before July 1, 2005, has not entered into a contract that complies with this SECTION.

(c) To comply with this SECTION, a contract that a county executive enters into must require a voting system vendor to deliver, not later than December 31, 2005:

(1) an electronic voting system;

(2) an optical scan ballot voting system; or

(3) a combination of both systems;

certified for installation, marketing, and use in Indiana on the effective date of the contract.

(d) If a county described in subsection (b) fails to enter into a contract that complies with subsection (c) before July 1, 2005, the secretary of state may enter into a quantity purchase agreement with a voting system vendor for the purchase of:

(1) an electronic voting system;

(2) an optical scan ballot voting system; or

(3) a combination of both systems;

that is certified for installation, marketing, and use in Indiana on the effective date of the contract.

(e) The agreement described in subsection (d) must require the delivery of the voting system to each county described in this SECTION before January 1, 2006, for use in all elections conducted in the county after December 31, 2005.

(f) This SECTION expires December 31, 2006.

SECTION 148. [EFFECTIVE UPON PASSAGE] **(a) IC 3-9-4-20, as added by this act, applies to a committee that has been notified by the election division of a proposed civil penalty under IC 3-9 before January 1, 2006.**

(b) This SECTION expires January 1, 2006.

SECTION 149. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 3-5-2 apply throughout this SECTION.**

(b) A county voter registration office may provide original copies of the county's voter registration applications and other voter registration records to:

(1) the state; or

(2) an entity acting as the state's agent under a contract between the entity and the state;

for the purpose of optically scanning information set forth on the applications and records so that this information can be included in the statewide voter registration computerized list to be established under IC 3-7-26.3.

(c) If a county voter registration office provides original copies to the state under this SECTION, the state and the state's agent shall take all necessary and prudent steps to safeguard and preserve the county records during the time the state or the state's agent has custody of these records. The state or the state's agent shall promptly return the original records to the county voter registration office upon completing the optical scanning described in subsection (b).

(d) If a county voter registration office provides original records to the state or the state's agent under this SECTION, the county, the county voter registration office, the circuit court clerk, each member of the county board of registration, and

each employee of the county voter registration office are not liable, in either an official or individual capacity for any loss or damage that occurs to the county voter registration records during the time the state or the state's agent have custody of these records. The state's agent must assume full liability for any loss or damage to these records before taking custody of these records from the county voter registration office.

(e) This SECTION expires March 31, 2006.

SECTION 150. **An emergency is declared for this act.**

(Reference is to EHB 1407 as reprinted April 7, 2005.)

Richardson, Chair	Lawson
Mahern	Breaux
House Conferees	Senate Conferees

Roll Call 546: yeas 42, nays 6. Report adopted.

CONFERENCE COMMITTEE REPORT

EHB 1666–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill 1666 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 7.1-2-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. ~~Qualifications and Appointment.~~ The prosecutor shall be appointed by the governor for a term of four (4) years to be served at the pleasure of the governor. The prosecutor shall be a resident of the state and a practicing member of the Indiana bar. ~~for at least five (5) years preceding his appointment.~~

SECTION 2. IC 7.1-3-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A permit of any type issued by the commission, except as provided in subsections (b) and (f) or unless otherwise provided in this title, shall be in force for one (1) calendar year only, including the day upon which it is granted. At the end of the one (1) year period the permit shall be fully expired and null and void.

(b) Notwithstanding subsection (a), ~~in a county containing a consolidated city,~~ a permit that is subject to section 5.5 or 5.6 of this chapter is effective for two (2) calendar years, including the day upon which the permit is granted. However, a local board may recommend to the commission that the permit be issued or renewed for only a one (1) year period. The commission may issue or renew a permit for the period recommended by the local board.

(c) A permittee who is granted a two (2) year permit under subsection (b) or subsection (f) is liable for any annual fees assessed by the commission. The annual fee is due on the annual anniversary date upon which the permit was granted.

(d) If the commission grants a two (2) year permit, the commission may ask a local board to hold a hearing to reconsider the duration of a permittee's permit. A hearing held under this subsection is subject to section 5.5 or 5.6 of this chapter. A local board shall hold the hearing requested by the commission within thirty (30) days before the permittee's next annual anniversary date and forward a recommendation to the commission following the hearing.

(e) If a permittee is granted a permit for more than one (1) year, the commission ~~may~~ **shall** require the permittee to file annually with the commission the information required for an annual permit renewal.

(f) Notwithstanding subsection (a), the following are effective for two (2) calendar years, including the day upon which the permit is granted:

(1) A beer wholesaler's permit issued under IC 7.1-3-3-1.

(2) A wine wholesaler's permit issued under IC 7.1-3-13-1.

(3) A liquor wholesaler's permit issued under IC 7.1-3-8-1.

SECTION 3. IC 7.1-3-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) It is lawful for an appropriate permittee, unless otherwise specifically provided in this title, to sell alcoholic beverages each day Monday through Saturday from 7 a.m., prevailing local time, until 3 a.m., prevailing local time, the following day. Sales shall cease wholly on Sunday at 3 a.m., prevailing local time, and not be resumed until the following Monday at 7 a.m., prevailing local time.

(b) It is lawful for the holder of a ~~supplemental~~ retailer's permit to sell the appropriate alcoholic beverages **for consumption on the licensed premises only** on Sunday from 10 a.m., prevailing local time, until 12:30 a.m., prevailing local time, the following day.

(c) It is lawful for the holder of a permit under this article to sell alcoholic beverages at athletic or sports events held on Sunday upon premises that:

(1) are described in section 25(a) of this chapter;

(2) are a facility used in connection with the operation of a paved track more than two (2) miles in length that is used primarily in the sport of auto racing; or

(3) are being used for a professional or an amateur tournament;

beginning one (1) hour before the scheduled starting time of the event or, if the scheduled starting time of the event is 1 p.m. or later, beginning at noon.

(d) It is lawful for the holder of a valid beer, wine, or liquor wholesaler's permit to sell to the holder of a valid retailer's or dealer's permit at any time.

SECTION 4. IC 7.1-3-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. ~~Publication of Notice.~~ (a) Whenever, under the provisions of this title, publication of notice of application for a permit is required, the

publication shall be made in ~~two (2) newspapers of opposite political faith published in the city, town or township~~ **one (1) newspaper of general circulation published in the county** where the permit is to be in effect.

~~(b) If there is only one (1) newspaper published in the city or town, the notice shall be published in that newspaper and in another newspaper of opposite political faith published in the county, if there is one, and if not, then in any newspaper of general circulation published in the county.~~

~~(c) If there is no newspaper published in the city or town where the permit is to be in effect, then the publication shall be made in two (2) newspapers published in the city or town nearest to the city or town where the permit is to be in effect.~~

~~(d)~~ **(b)** Publication required by this section may be made in any newspaper of general circulation published one (1) or more times each week.

~~(e)~~ **(c)** The rates which shall be paid for the advertising of a notice required under this title shall be those required to be paid in case of other notices published for or on behalf of the state.

SECTION 5. IC 7.1-3-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The holder of a beer wholesaler's permit may purchase and import from the primary source of supply, possess, and sell at wholesale, beer and flavored malt beverages manufactured within or without this state.

(b) A beer wholesaler permittee may possess, transport, sell, and deliver beer to:

(1) another beer wholesaler authorized by the brewer to sell the brand purchased;

(2) a consumer; or

(3) a holder of a beer retailer's permit, beer dealer's permit, temporary beer permit, dining car permit, boat permit, airplane permit, **or** supplemental caterer's permit; ~~or supplemental retailer's permit;~~

located within this state. The sale, transportation, and delivery of beer shall be made only from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery.

(c) Delivery of beer to a consumer shall be made in barrels only with the exception of the beer wholesaler's bona fide regular employees, who may purchase beer from the wholesaler in bottles, cans, or any other type of permissible containers in an amount not to exceed forty-eight (48) pints at any one (1) time.

(d) The importation, transportation, possession, sale, and delivery of beer shall be subject to the rules of the commission and subject to the same restrictions provided in this title for a person holding a brewer's permit.

(e) The holder of a beer wholesaler's permit may purchase, import, possess, transport, sell, and deliver any commodity listed in IC 7.1-3-10-5, unless prohibited by this title. However, a beer wholesaler may deliver flavored malt beverages only to the holder of one (1) of the following permits:

(1) A beer wholesaler or wine wholesaler permit, if the wholesaler is authorized by the primary source of supply to sell the brand of flavored malt beverage purchased.

(2) A wine retailer's permit, wine dealer's permit, temporary wine permit, dining car wine permit, boat permit, airplane permit, **or** supplemental caterer's permit. ~~or supplemental retailer's permit.~~

(f) A beer wholesaler may:

(1) store beer for an out-of-state brewer described in IC 7.1-3-2-9 and deliver the stored beer to another beer wholesaler that the out-of-state brewer authorizes to sell the beer;

(2) perform all necessary accounting and auditing functions associated with the services described in subdivision (1); and

(3) receive a fee from an out-of-state brewer for the services described in subdivisions (1) through (2).

SECTION 6. IC 7.1-3-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The holder of a liquor wholesaler's permit shall be entitled to sell liquor at wholesale.

(b) A liquor wholesaler shall be entitled to purchase liquor within this state from a person who holds a distiller's permit, a rectifier's permit, or a liquor wholesaler's permit. A liquor wholesaler also may purchase liquor outside this state from the primary source of supply and, from that source, may transport and import liquor into this state.

(c) A liquor wholesaler may sell, transport, and deliver liquor only to a person who, under this title, holds a:

(1) liquor retailer's permit;

(2) supplemental caterer's permit;

~~(3) supplemental retailer's permit;~~

~~(4)~~ **(3)** liquor dealer's permit; or

~~(5)~~ **(4)** liquor wholesaler's permit.

The sale, transportation, and delivery of liquor shall be made only from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery, and only in permissible containers and is subject to the rules of the commission fixing the quantity which may be sold or delivered at any one (1) time.

SECTION 7. IC 7.1-3-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The holder of a farm winery permit:

(1) is entitled to manufacture wine and to bottle wine produced by the permit holder's farm winery;

(2) is entitled to serve complimentary samples of the winery's wine on the licensed premises;

(3) is entitled to sell the winery's wine on the licensed premises to consumers either by the glass, or by the bottle, or both;

(4) is entitled to sell wine by the bottle or by the case to a person who is the holder of a permit to sell wine at either wholesale or retail;

(5) is exempt from the provisions of IC 7.1-3-14;

(6) is entitled to advertise the name and address of any retailer or dealer who sells wine produced by the permit holder's winery;

(7) for wine described in IC 7.1-1-2-3(a)(4):

(A) may allow transportation to and consumption of the wine on the licensed premises; and

(B) may not sell, offer to sell, or allow the sale of the wine on the licensed premises; ~~and~~

(8) is entitled to purchase and sell bulk wine as set forth in this chapter; **and**

(9) is entitled to sell wine as authorized by this section for carryout on Sunday.

(b) With the approval of the commission, a holder of a permit under this chapter may conduct business at a second location that is separate from the winery. At the second location, the holder of a permit may conduct any business that is authorized at the first location, except for the manufacturing or bottling of wine.

(c) With the approval of the commission, a holder of a permit under this chapter may, individually or with other permit holders under this chapter, participate in a trade show or an exposition at which products of each permit holder participant are displayed, promoted, and sold. The commission may not grant approval under this subsection to a holder of a permit under this chapter for more than nine (9) days in a calendar year.

SECTION 8. IC 7.1-3-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The holder of a wine wholesaler's permit may purchase, import, and transport wine, brandy, or flavored malt beverage from the primary source of supply. A wine wholesaler may export and transport wine, brandy, or flavored malt beverage by the bottle, barrel, cask, or other container, to points outside Indiana. A wine wholesaler is entitled to sell, furnish, and deliver wine or flavored malt beverage from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery to a wine wholesaler, a wine retailer, a supplemental caterer, a temporary wine permittee, ~~a supplemental retailer,~~ and a wine dealer, but not at retail. A wine wholesaler may sell, furnish, and deliver brandy from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery, but not at retail, only to a person who holds a liquor retailer's permit, a supplemental caterer's permit, ~~a supplemental retailer's permit,~~ or a liquor dealer's permit. A wine wholesaler also may sell and deliver wine to a consumer, at the consumer's residence, in bottles or other permissible containers in a quantity that does not exceed fifty (50) gallons at any one (1) time.

(b) As used in this section, "brandy" means:

(1) any alcoholic distillate described in 27 CFR 5.22(d) as in effect on January 1, 1983; or

(2) a beverage product that:

(A) is prepared from a liquid described in subdivision (1);

(B) is classified as a cordial or liqueur as defined in 27 CFR 5.22(h) as in effect on January 1, 1997; and

(C) meets the following requirements:

(i) At least sixty-six and two-thirds percent (66 2/3%) of the product's alcohol content is composed of a substance described in subdivision (1).

(ii) The product's label makes no reference to any distilled spirit other than brandy.

(iii) The product's alcohol content is not less than sixteen percent (16%) by volume or thirty-two (32) degrees proof.

(iv) The product contains dairy cream.

(v) The product's sugar, dextrose, or levulose content is at least twenty percent (20%) of the product's weight.

(vi) The product contains caramel coloring.

(c) Nothing in this section allows a wine wholesaler to sell, give, purchase, transport, or export beer (as defined in IC 7.1-1-3-6) unless the wine wholesaler also holds a beer wholesaler's permit under IC 7.1-3-3-1.

(d) A wine wholesaler that also holds a liquor wholesaler's permit under IC 7.1-3-8 may not:

(1) hold a beer wholesaler's permit under IC 7.1-3-3;

(2) possess, sell, or transport beer; or

(3) sell more than one million (1,000,000) gallons of flavored malt beverage during a calendar year.

SECTION 9. IC 7.1-3-18-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The commission may issue a temporary bartender's permit to any person who is at least twenty-one (21) years of age for any of the following purposes:

(1) To be a bartender at any activity or event for which a temporary permit is issued under IC 7.1-3-6 (beer) or IC 7.1-3-16 (wine).

(2) To be a bartender at a nonprofit club for a maximum of four (4) days in a year during the same time that a fair or festival is held in the community where the club is located. However, the commission may only issue a maximum of twenty (20) temporary bartender's licenses for use in one (1) club during one (1) fair or festival.

(b) A temporary bartender's permit is the only license that is required for persons to serve as bartenders for the purposes described in subsection (a).

(c) A temporary bartender at a club may dispense any alcoholic beverage that the club's permit allows the club to serve.

(d) The fee for a temporary bartender's permit is ~~four~~ **five** dollars ~~($4).~~ **($5).**

(e) The commission may by rule provide procedures for the issuance of a temporary bartender's permit.

(f) The commission shall revoke a permit issued to a bartender under this section if the bartender is convicted of a Class B misdemeanor for violating IC 7.1-5-10-15(a).

SECTION 10. IC 7.1-3-18.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A person who desires a certificate must provide the following to the commission:

(1) The applicant's name and mailing address and the address of the premises for which the certificate is being issued.

(2) A fee of ~~fifty dollars ($50).~~ **two hundred dollars ($200).**

(b) A separate certificate is required for each location where the tobacco products are sold or distributed.

(c) The fees collected under this section shall be deposited in the enforcement and administration fund under IC 7.1-4-10.

SECTION 11. IC 7.1-3-18.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A certificate issued by the commission under this chapter must contain the following information:

(1) The certificate number.

(2) The certificate holder's name.

(3) The permanent location of the business or vending machine for which the certificate is issued.

(4) The expiration date of the certificate.

(b) A certificate is:

(1) valid for ~~one (1) year~~ **three (3) years** after the date of issuance, unless the commission suspends the certificate; and

(2) nontransferable.

SECTION 12. IC 7.1-3-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. ~~Publication of Notice of Investigation.~~ The commission shall cause ~~two (2) notices~~ **one (1) notice** of the pending investigation to be published in a newspaper in accordance with the provisions of IC ~~1971,~~ 7.1-3-1-18. The publication of ~~notices~~ **the notice** shall be ~~one (1) calendar week apart, and the first publication shall be~~ at least ~~fifteen (15)~~ **thirty (30)** days before the investigation.

SECTION 13. IC 7.1-3-20-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. ~~(a) This section applies notwithstanding IC 7.1-3-16.5.~~

~~(b)~~ **(a)** This section applies to each holder of a permit issued under section 2, 3, or 4 of this chapter.

~~(c)~~ **(b)** A permit holder may sell alcoholic beverages under the terms of the permit on any twelve (12) Sundays during a calendar year.

~~(d)~~ **(c)** Sales under this section may be made only for on-premises consumption.

SECTION 14. IC 7.1-3-20-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. The commission may issue a three-way permit for the sale of alcoholic beverages to the proprietor of a restaurant which is located outside the corporate limits of an incorporated city or town if the restaurant meets the additional requirements:

(1) It shall be a table service restaurant in which a patron is seated at a table and is served by a waiter or waitress and the food served is predominantly consumed on the premises.

(2) It shall be sufficiently served by adequate law enforcement at its premises.

(3) If it does business during seven (7) or more months of each year, it shall have had an annual gross food sales of at least one hundred thousand dollars ($100,000) for the three (3) years immediately preceding its application for a permit unless the permittee is the proprietor of a recreational facility such as a golf course, bowling center, or similar facility ~~to which IC 7.1-3-16.5-2(c) applies.~~ **that has the recreational activity and not the sale of food and beverages as the principal purpose or function of the person's business.**

(4) If it does business during six (6) or fewer months of each year, it shall have had average monthly gross food sales of at least eight thousand five hundred dollars ($8,500) for each month it did business for the three (3) years immediately preceding its application for a permit.

SECTION 15. IC 7.1-3-20-13.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.5. Notwithstanding sections 12 and 13 of this chapter, ~~IC 7.1-3-16.5-2(c), and IC 7.1-3-16.5-3(c),~~ there is no annual or monthly gross food sales requirement to obtain a three-way permit ~~or a supplemental retailer's permit~~ for the sale of alcoholic beverages in a restaurant that is:

(1) open to the general public; and

(2) located on:

(A) the grounds of a regulation size golf course that has at least nine (9) holes; or

(B) the premises of a tennis club that has at least eight (8) regulation size tennis courts.

SECTION 16. IC 7.1-3-20-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) A permit that is authorized by this section may be issued without regard to the quota provisions of IC 7.1-3-22.

(b) The commission may issue a three-way permit to sell alcoholic beverages for on premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant facility in the passenger terminal complex of a publicly owned airport which is served by a scheduled commercial passenger airline certified to enplane and deplane passengers on a scheduled basis by a federal aviation agency. A permit issued under this subsection shall not be transferred to a location off the airport premises.

(c) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a redevelopment project consisting of a building or group of buildings that:

(1) was formerly used as part of a union railway station;

(2) has been listed in or is within a district that has been listed in the federal National Register of Historic Places maintained pursuant to the National Historic Preservation Act of 1966, as amended; and

(3) has been redeveloped or renovated, with the redevelopment or renovation being funded in part with grants from the federal, state, or local government.

A permit issued under this subsection shall not be transferred to a location outside of the redevelopment project.

(d) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant:

(1) on land; or

(2) in a historic river vessel;

within a municipal riverfront development project funded in part with state and city money. A permit issued under this subsection may not be transferred.

(e) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a renovation project consisting of a building that:

(1) was formerly used as part of a passenger and freight railway station; and

(2) was built before 1900.

The permit authorized by this subsection may be issued without regard to the proximity provisions of IC 7.1-3-21-11.

(f) The commission may issue a three-way permit for the sale of alcoholic beverages for on premises consumption at a cultural center for the visual and performing arts to a town that:

(1) is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and

(2) has a population of more than twenty thousand (20,000) but less than twenty-three thousand (23,000).

(g) The commission may issue a three-way permit for the sale of alcoholic beverages for on premises consumption to an applicant who will locate as the proprietor, as owner or lessee, or both, of a restaurant within an economic development area under IC 36-7-14 in:

(1) a town with a population of more than twenty thousand (20,000); or

(2) a city with a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand four hundred (27,400);

located in a county having a population of more than ninety thousand (90,000) but less than one hundred thousand (100,000). The commission may issue not more than five (5) licenses under this section to premises within a municipality described in subdivision (1) and not more than five (5) licenses to premises within a municipality described in subdivision (2). The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission. Notwithstanding any other law, the minimum bid for an initial license under this subsection is thirty-five thousand dollars ($35,000), and the renewal fee for a license under this subsection is one thousand three hundred fifty dollars ($1,350). Before the district expires, a permit issued under this subsection may not be transferred. After the district expires, a permit issued under this subsection may be renewed, and the ownership of the permit may be transferred, but the permit may not be transferred from the permit premises.

SECTION 17. IC 7.1-3-21-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) The commission shall not issue, renew, or transfer a wholesaler, retailer, dealer, or other permit of any type if the applicant:

(1) is seeking a renewal and the applicant has not paid all the property taxes under IC 6-1.1 **and the innkeeper's tax under IC 6-9** that are due currently;

(2) is seeking a transfer and the applicant has not paid all the property taxes under IC 6-1.1 **and innkeeper's tax under IC 6-9** for the assessment periods during which the transferor held the permit; or

(3) is on the most recent tax warrant list supplied to the commission by the department of state revenue.

(b) The commission shall issue, renew, or transfer a permit that the commission denied under subsection (a) when the appropriate one (1) of the following occurs:

(1) The person, if seeking a renewal, provides to the commission a statement from the county treasurer of the county in which the property of the applicant was assessed indicating that all the property taxes under IC 6-1.1 **and, in a county where the county treasurer collects the innkeeper's tax, the innkeeper's tax under IC 6-9** that were delinquent have been paid.

(2) The person, if seeking a transfer of ownership, provides to the commission a statement from the county treasurer of the county in which the property of the transferor was assessed indicating that all the property taxes under IC 6-1.1 **and, in a county where the county treasurer collects the innkeeper's tax, the innkeeper's tax under IC 6-9** have been paid for the assessment periods during which the transferor held the permit.

(3) The person provides to the commission a statement from the commissioner of the department of state revenue indicating that the person's delinquent tax liability has been satisfied, **including any delinquency in innkeeper's tax if the state collects the innkeeper's tax for the county in which the person seeks the permit.**

(4) The commission receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

(c) An applicant may not be considered delinquent in the payment of listed taxes if the applicant has filed a proper protest under IC 6-8.1-5-1 contesting the remittance of those taxes. The applicant shall be considered delinquent in the payment of those taxes if the applicant does not remit the taxes owed to the state department of revenue after a final determination on the protest is made by the department of state revenue.

(d) The commission may require that an applicant for the issuance, renewal, or transfer of a wholesaler's, retailer's, or dealer's, or other permit of any type furnish proof of the payment of a listed tax (as defined by IC 6-8.1-1-1) or taxes imposed by IC 6-1.1. The commission shall allow the applicant to certify, under the penalties for perjury, that the applicant is not delinquent in filing returns or remitting taxes.

SECTION 18. IC 7.1-3-23-43 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 43. (a) The commission may suspend the permit of a permit holder if:**

(1) the permit holder has not paid the person who sold the permit to the permit holder in accordance with the terms of the sale;

(2) the seller of the permit receives a judgment against the permit holder in an action to obtain payment for the permit in accordance with the terms of the sale; and

(3) the seller of the permit sends a certified copy of the judgment to the commission.

(b) Before suspending a certificate under this section, the commission shall provide written notice to the permit holder and conduct a hearing. The commission shall provide written notice of the suspension to the permit holder.

(c) If a person who sells a permit:

(1) sends a judgment to the commission under subsection (a); and

(2) subsequently receives full payment of the judgment;

the seller shall notify the commission in a manner prescribed by the commission that the seller has received full payment of the judgment not later than ten (10) days after receiving the payment.

SECTION 19. IC 7.1-3-25 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 25. Product Transfer Between Wholesalers

Sec. 1. As used in this chapter, "existing wholesaler" means a beer wholesaler who distributes a product at the time a successor primary source of supply acquires rights to a product under section 5 of this chapter.

Sec. 2. As used in this chapter, "product" means an existing brand of:

(1) beer (as defined in IC 7.1-1-3-6); or

(2) flavored malt beverage (as defined in IC 7.1-1-3-16.7).

Sec. 3. As used in this chapter, "successor" means a primary source of supply that acquires rights to a product under section 5 of this chapter.

Sec. 4. As used in this chapter, "successor's designee" means one (1) or more beer wholesalers designated by a successor to replace the existing wholesaler, for all or part of the existing wholesaler's territory, in the distribution of the existing product.

Sec. 5. A successor:

(1) who acquires the rights to manufacture or distribute an existing product; and

(2) who:

(A) does not reappoint the existing wholesaler to distribute the product;

(B) reduces the existing wholesaler's territory for the product; or

(C) offers to compensate the existing wholesaler in an amount less than the fair market value determined under section 7 of this chapter;

must comply with this chapter. A successor's designee must also comply with this chapter.

Sec. 6. The successor shall notify the existing wholesaler of the successor's intent not to appoint the existing wholesaler for all or a part of the existing wholesaler's territory for the product. The successor shall mail the notice by certified mail, return receipt requested, to the existing wholesaler. The successor shall include in the notice the names, addresses, and telephone numbers of the successor's designees.

Sec. 7. A successor's designee shall negotiate with the existing wholesaler to determine the fair market value of the existing wholesaler's right:

(1) to distribute the product in the existing wholesaler's territory immediately before the successor acquired rights to the product under section 5 of this chapter; and

(2) as determined in an arms length transaction entered into without duress or threat of termination of the initial wholesaler's right described in subdivision (1).

Sec. 8. The existing wholesaler shall continue to distribute the product until payment of the compensation agreed to under section 7 of this chapter or awarded under section 11 of this chapter is received.

Sec. 9. (a) The successor's designee and the existing wholesaler shall negotiate in good faith. If the parties fail to reach an agreement not later than thirty (30) days after the existing wholesaler receives the notice under section 6 of this chapter, the successor's designee or the existing wholesaler may send a written notice to the:

(1) other party; and

(2) American Arbitration Association or its successor in interest;

declaring the party's intention to proceed with final and binding arbitration administered by the American Arbitration Association under the American Arbitration Association's Commercial Arbitration Rules.

(b) Notice of intent to arbitrate shall be sent, as provided in subsection (a), not later than thirty-five (35) days after the existing wholesaler receives notice under section 6 of this chapter. The arbitration proceedings shall conclude not later than forty-five (45) days after the date the notice of intent to arbitrate is mailed to a party.

Sec. 10. (a) The arbitration shall be conducted in the city within Indiana that:

(1) is closest to the existing wholesaler; and

(2) has a population of more than fifty thousand (50,000).

(b) The arbitration shall be conducted before one (1) impartial arbitrator to be selected by the American Arbitration Association. The arbitration shall be conducted in accordance with the rules and procedures of the American Arbitration Association.

Sec. 11. The arbitrator's award must be monetary only and may not enjoin or compel conduct. The arbitration is instead of all other remedies and procedures.

Sec. 12. (a) The cost of the arbitrator and any other direct costs of the arbitration shall be equally divided by the parties engaged in the arbitration. All other costs shall be paid by the party incurring them.

(b) The arbitrator shall render a decision not later than thirty (30) days after the conclusion of the arbitration unless this time period is extended by mutual agreement of the parties or by the arbitrator. The decision of the arbitration is final and binding on the parties. Under no circumstances may the parties appeal the decision of the arbitrator.

(c) A party who fails to participate in the arbitration hearings waives all rights the party would have had in the arbitration and is considered to have consented to the determination of the arbitrator.

Sec. 13. If the existing wholesaler does not receive payment of the compensation under section 7 or 11 of this chapter not later than thirty (30) days after the date of the settlement or arbitration award:

(1) the existing wholesaler shall remain the distributor of the product in the existing wholesaler's territory to at least the same extent that the existing wholesaler distributed the product immediately before the successor acquired rights to the product; and

(2) the existing wholesaler is not entitled to the settlement or arbitration award.

Sec. 14. Nothing in this chapter shall be construed to limit or prohibit good faith settlements voluntarily entered into by the parties.

Sec. 15. Nothing in this chapter shall be construed to give the existing wholesaler or a successor wholesaler any right to compensation if the existing wholesaler or successor wholesaler is terminated by the primary source of supply or predecessor source supplier either for failure to comply with any provision in the agreement to distribute the product or in accordance with IC 7.1-5-5-9.

SECTION 20. IC 7.1-4-4.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The following biennial license fee is imposed for an employee's permit:

(1) ~~Five~~ **Fifteen** dollars ~~($5)~~ **($15)** if the permit is used only to perform volunteer service that benefits a nonprofit organization.

(2) Thirty dollars ($30) if subdivision (1) does not apply.

The term of a biennial employee's license is two (2) years.

SECTION 21. IC 7.1-4-4.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) This section applies to the following ~~seasonal or annual~~ **biennial** permits:

(1) Beer retailer's permit.
(2) Liquor retailer's permit.
(3) Wine retailer's permit.
(4) One-way permit.
(5) Two-way permit.
(6) Three-way permit.
(7) Airplane beer permit.
(8) Airplane liquor permit.
(9) Airplane wine permit.
(10) Boat beer permit.
(11) Boat liquor permit.
(12) Boat wine permit.
(13) Dining car beer permit.
(14) Dining car liquor permit.
(15) Dining car wine permit.
(16) Hotel seasonal permit.
~~(17) Supplemental retailer's permit.~~

(b) The commission shall charge a single fee for the issuance of any combination of retailer's permits issued for the same location or conveyance. ~~Except as provided in sections 10 and 11 of this chapter, the fee is equal to the sum of the amount determined under subsection (c) and the amount determined under subsection (d).~~

(c) An annual permit fee in the following amount is imposed on a retailer:

(1) ~~Two hundred fifty~~ **Five hundred** dollars ~~($250),~~ **($500),** if the retailer serves only beer or only wine.

(2) ~~Five hundred~~ **Seven hundred fifty** dollars ~~($500),~~ **($750),** if the retailer serves both beer and wine but no liquor.

(3) ~~Seven hundred fifty~~ **One thousand** dollars ~~($750),~~ **($1,000),** if the retailer serves beer, wine, and liquor.

~~(d) An additional fee in the following amount is imposed on a retailer~~

~~(1) Two hundred fifty dollars ($250), if the retailer under the authority of IC 7.1-3-16.5 sells food and any combination of beer, wine, or liquor on Sunday.~~

~~(2) One thousand five hundred dollars ($1,500) if the retailer who is not under the authority of IC 7.1-3-16.5, sells any combination of beer, wine, or liquor on Sunday.~~

SECTION 22. IC 7.1-4-4.1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) This section applies to the following **biennial** permits:

(1) Beer dealer's permit.
(2) Liquor dealer's permit.
(3) Malt dealer's permit.
(4) Wine dealer's permit.

(b) The commission shall charge a single fee for the issuance of any combination of dealers' permits issued for the same location. The fee is equal to the sum of the amount determined under subsection (c).

(c) An annual permit fee in the following amount is imposed on a dealer:

(1) ~~Two hundred fifty~~ **Five hundred** dollars ~~($250),~~ **($500),** if the dealer sells only beer, only liquor, or only wine.

(2) ~~Five hundred~~ **Seven hundred fifty** dollars ~~($500),~~ **($750),** if the dealer sells:

(A) both beer and wine but no liquor;
(B) both wine and liquor but no beer; or
(C) both beer and liquor but no wine.

(3) ~~Seven hundred fifty~~ **One thousand** dollars ~~($750),~~ **($1,000),** if the dealer sells beer, wine, and liquor.

SECTION 23. IC 7.1-4-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Except as provided in subsection (b), the chairman and the department shall deposit the money collected under sections 1, 2, and 3 of this chapter daily with the treasurer of state, and not later than the fifth day of the following month shall cover: ~~them~~

(1) thirty-four percent (34%) of the money collected under section 1 of this chapter into the enforcement and administration fund established under IC 7.1-4-10-1; and

(2) sixty-six percent (66%) of the money collected under section 1 of this chapter and money collected under sections 2 and 3 of this chapter into the **state** general fund ~~of state~~ for **state** general fund purposes.

(b) The chairman and the department shall deposit ~~the~~ **all** money collected under IC 7.1-2-5-3, IC 7.1-2-5-8, IC 7.1-3-17.5, IC 7.1-3-17.7, IC 7.1-3-22-9, and IC 7.1-4-4.1-5 daily with the treasurer of state, and not later than the fifth day of the following month shall cover ~~them~~ **the money** into the enforcement and administration fund established under IC 7.1-4-10-1.

SECTION 24. IC 7.1-4-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. ~~Collection of Annual License Fees.~~ The chairman shall collect the required annual license fee paid in connection with the issuance of a beer retailer's permit, a beer dealer's permit, a liquor retailer's permit, a supplemental caterer's permit, a liquor dealer's permit, a wine retailer's permit, and a wine dealer's permit. ~~and a supplemental retailer's permit.~~

SECTION 25. IC 7.1-4-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~Fees Deposited in Excise Fund.~~ **(a) Except as provided in subsection (b),** the chairman shall deposit the monies collected under the authority of this chapter daily with the treasurer of the state, and not later than the fifth day of the following month shall cover them into the "excise fund" to be distributed as provided in this chapter.

(b) The chairman shall deposit the money received from the collection of the fees for a three-way permit under IC 7.1-3-20-16(f) daily with the treasurer of state, and not later than the fifth day of the following month shall transfer the money into the enforcement and administration fund of the commission under IC 7.1-4-11.

SECTION 26. IC 7.1-4-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. ~~Distribution to State General Fund. Thirty-three and one-third percent (33 1/3%)~~ **Thirty-seven percent (37%)** of the ~~monies~~ **money** in the excise fund shall be deposited in the state general fund on the first day of June and the first day of December of each year.

SECTION 27. IC 7.1-4-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. ~~Distribution to Cities and Towns. Sixty-six and two-thirds percent (66 2/3%)~~ **Thirty-three percent (33%)** of the ~~monies~~ **money** in the excise fund shall, upon warrant of the state auditor, be paid into the general fund of the treasury of the city or town in which the retailer's or dealer's licensed premises are located. The money shall be paid to the treasurer of the county in which the retailer's or dealer's premises are located if they are located outside the corporate limits of a city or town.

SECTION 28. IC 7.1-4-9-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.5. Thirty percent (30%) of the money in the excise fund shall be deposited in the enforcement and administration fund under IC 7.1-4-10 on the first day of June and the first day of December of each year.**

SECTION 29. IC 7.1-4-11-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2.5. The chairman shall deposit the money received from the collection of the fees for a three-way permit under IC 7.1-3-20-16(f) daily with the treasurer of state, and not later than the fifth day of the following month shall transfer the money into the enforcement and administration fund.**

SECTION 30. IC 7.1-5-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) It is unlawful for a permittee in a sale or contract to sell alcoholic beverages to discriminate between purchasers by granting a price, discount, allowance, or service charge which is not available to all purchasers at the same time. However, this section does not authorize or require a permittee to sell to a person to whom ~~he~~ **the permittee** is not authorized to sell under this title.

(b) A premises that operates at least two (2) restaurants that are separate and distinct from each other on the same premises may provide for a different schedule of prices in each restaurant if each restaurant conforms to all other laws and rules of the commission regarding pricing and price discrimination in its separate and distinct areas.

(c) This section does not apply to the holder of an excursion and adjacent landsite permit that complies with IC 7.1-3-17.5-6.

(d) Notwithstanding subsection (a), a beer wholesaler may offer a special discount price to a beer dealer or beer retailer for beer or flavored malt beverage, if the beer or flavored malt beverage:

(1) is a brand or package the beer wholesaler has discontinued; or

(2) will expire in not more than:

(A) twenty (20) days for packaged beer or packaged flavored malt beverage; and

(B) ten (10) days for draft beer or draft flavored malt beverage.

(e) The special discount under subsection (d) only applies to beer or flavored malt beverage that will expire and be subject to removal from retailer or dealer shelves in accordance with the primary source of supply's coding data clearly identified on the container.

(f) Any beer or flavored malt beverage sold at a special discount price under subsection (d) shall be accompanied by an invoice clearly designating, in addition to all other information required by law, all the following information:

(1) The date of delivery.

(2) The expiration date of each brand, package type, and quantity delivered.

(3) The per unit price for each package.

SECTION 31. IC 7.1-5-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. ~~Unequitable Termination of Contract Prohibited.~~ It is unlawful for a beer wholesaler or a ~~brewer in this state, or a brewer or other person located outside this state who sells beer to a permittee in this state for the purpose of importation and resale within this state~~ **primary**

source of supply to:

(1) coerce, or attempt to coerce, or persuade a beer wholesaler to enter into an agreement, or to take an action, which will violate, or tend to violate, a provision of this title or of the rules and regulations of the commission; or

(2) cancel or terminate an agreement or contract between a beer wholesaler and a ~~brewer~~ **primary source of supply** for the sale of beer, unfairly and without due regard for the equities of the other party.

SECTION 32. IC 7.1-5-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except as provided in ~~subsection~~ **subsections** (c) **and (d),** it is unlawful for a manufacturer of alcoholic beverages or a permittee authorized to sell and deliver alcoholic beverages to:

(1) give, supply, furnish, or grant to another permittee who purchases alcoholic beverages from him a rebate, sum of money, accessory, furniture, fixture, loan of money, concession, privilege, use, title, interest, lease, or rental of premises; or

(2) except as provided in IC 7.1-3-2-9 and IC 7.1-3-3-5(f), have a business dealing with the other permittee.

(b) This section shall not apply to the sale and delivery and collection of the sale price of an alcoholic beverage in the ordinary course of business.

(c) If the promotional program is approved under the rules adopted by the commission and is conducted in all wholesaler establishments through which the manufacturer distributes alcoholic beverages in Indiana, a manufacturer of alcoholic beverages may award bona fide promotional prizes and awards to any of the following:

(1) A person with a wholesaler's permit issued under IC 7.1-3.

(2) An employee of a person with a wholesaler's permit issued under IC 7.1-3.

(d) A manufacturer may offer on a nondiscriminatory basis bona fide incentives to wholesalers when the incentives are determined based on sales to retailers or dealers occurring during specified times for specified products. The incentive may be conditioned on the wholesaler selling a:

(1) specified product at a specified price or less than a specified price; or

(2) minimum quantity of a specified product to a single customer in a single transaction.

The incentive may not be conditioned on a wholesaler having total sales of a minimum quantity of a specified product during the applicable period.

SECTION 33. IC 7.1-5-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The provisions of sections 9 and 10 of this chapter shall not apply if the public place involved is one (1) of the following:

(1) Civic center.

(2) Convention center.

(3) Sports arena.

(4) Bowling center.

(5) Bona fide club.

(6) Drug store.

(7) Grocery store.

(8) Boat.

(9) Dining car.

(10) Pullman car.

(11) Club car.

(12) Passenger airplane.

(13) Horse racetrack facility holding a recognized meeting permit under IC 4-31-5.

(14) Satellite facility (as defined in IC 4-31-2-20.5).

(15) Catering hall under IC 7.1-3-20-24 that is not open to the public.

(16) That part of a hotel or restaurant which is separate from a room in which is located a bar over which alcoholic beverages are sold or dispensed by the drink.

(17) Entertainment complex.

(18) Indoor golf facility.

(19) A recreational facility such as a golf course, bowling center, or similar facility ~~to which IC 7.1-3-16.5-2(c) applies.~~ **that has the recreational activity and not the sale of food and beverages as the principal purpose or function of the person's business.**

(20) A licensed premises owned or operated by an educational institution of higher learning (as defined in IC 20-12-15-1).

(21) An automobile racetrack.

(b) For the purpose of this subsection, "food" means meals prepared on the licensed premises. It is lawful for a minor to be on licensed premises in a room in which is located a bar over which alcoholic beverages are sold or dispensed by the drink if all the following conditions are met:

(1) The minor is eighteen (18) years of age or older.

(2) The minor is in the company of a parent, guardian, or family member who is twenty-one (21) years of age or older.

(3) The purpose for being on the licensed premises is the consumption of food and not the consumption of alcoholic beverages.

SECTION 34. IC 7.1-3-16.5 REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 35. **An emergency is declared for this act.**

(Reference is to EHB 1666 as printed March 25, 2005.)

Whetstone, Chair	Jackman
Kuzman	Sipes
House Conferees	Senate Conferees

Roll Call 547: yeas 40, nays 7. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 1–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 1 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House

amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-1.1-12.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 5. (a) A property owner who desires to obtain the deduction provided by section 3 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is located. Except as otherwise provided in subsection (b) or (e), the deduction application must be filed before May 10 of the year in which the addition to assessed valuation is made.

(b) If notice of the addition to assessed valuation or new assessment for any year is not given to the property owner before April 10 of that year, the deduction application required by this section may be filed not later than thirty (30) days after the date such a notice is mailed to the property owner at the address shown on the records of the township assessor.

(c) The deduction application required by this section must contain the following information:

(1) The name of the property owner.

(2) A description of the property for which a deduction is claimed in sufficient detail to afford identification.

(3) The assessed value of the improvements before rehabilitation.

(4) The increase in the assessed value of improvements resulting from the rehabilitation.

(5) The assessed value of the new structure in the case of redevelopment.

(6) The amount of the deduction claimed for the first year of the deduction.

(7) If the deduction application is for a deduction in a residentially distressed area, the assessed value of the improvement or new structure for which the deduction is claimed.

(d) A deduction application filed under subsection (a) or (b) is applicable for the year in which the addition to assessed value or assessment of a new structure is made and in the following years the deduction is allowed without any additional deduction application being filed. However, property owners who had an area designated an urban development area pursuant to a deduction application filed prior to January 1, 1979, are only entitled to a deduction for a five (5) year period. In addition, property owners who are entitled to a deduction under this chapter pursuant to a deduction application filed after December 31, 1978, and before January 1, 1986, are entitled to a deduction for a ten (10) year period.

(e) A property owner who desires to obtain the deduction provided by section 3 of this chapter but who has failed to file a deduction application within the dates prescribed in subsection (a) or (b) may file a deduction application between March 1 and May 10 of a subsequent year which shall be applicable for the year filed and the subsequent years without any additional deduction application being filed for the amounts of the deduction which would be applicable to such years pursuant to section 4 of this chapter if such a deduction application had been filed in accordance with subsection (a) or (b).

(f) Subject to subsection (i), the county auditor shall act as follows:

(1) If a determination about the number of years the deduction is allowed has been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall make the appropriate deduction.

(2) If a determination about the number of years the deduction is allowed has not been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall send a copy of the deduction application to the designating body. Upon receipt of the resolution stating the number of years the deduction will be allowed, the county auditor shall make the appropriate deduction.

(3) If the deduction application is for rehabilitation or redevelopment in a residentially distressed area, the county auditor shall make the appropriate deduction.

(g) The amount and period of the deduction provided for property by section 3 of this chapter are not affected by a change in the ownership of the property if the new owner of the property:

(1) continues to use the property in compliance with any standards established under section 2(g) of this chapter; and

(2) files an application in the manner provided by subsection (e).

(h) The township assessor shall include a notice of the deadlines for filing a deduction application under subsections (a) and (b) with each notice to a property owner of an addition to assessed value or of a new assessment.

(i) Before the county auditor acts under subsection (f), the county auditor may request that the township assessor of the township in which the property is located review the deduction application.

(j) A property owner may appeal ~~the~~ **a** determination of the county auditor under subsection (f) **to deny or alter the amount of the deduction** by ~~filing a complaint in the office of the clerk of the circuit or superior court~~ **requesting in writing a preliminary conference with the county auditor** not more than forty-five (45) days after the county auditor gives the person notice of the determination. **An appeal initiated under this subsection is processed and determined in the same manner that an appeal is processed and determined under IC 6-1.1-15.**

SECTION 2. IC 6-1.1-12.1-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 5.1. (a) This subsection applies to:

(1) all deductions under section 3 of this chapter for property located in a residentially distressed area; and

(2) any other deductions for which a statement of benefits was approved under section 3 of this chapter before July 1, 1991.

In addition to the requirements of section 5(c) of this chapter, a deduction application filed under section 5 of this chapter must contain information showing the extent to which there has been compliance with the statement of benefits approved under section

3 of this chapter. Failure to comply with a statement of benefits approved before July 1, 1991, may not be a basis for rejecting a deduction application.

(b) This subsection applies to each deduction (other than a deduction for property located in a residentially distressed area) for which a statement of benefits was approved under section 3 of this chapter after June 30, 1991. In addition to the requirements of section 5(c) of this chapter, a property owner who files a deduction application under section 5 of this chapter must provide the county auditor and the designating body with information showing the extent to which there has been compliance with the statement of benefits approved under section 3 of this chapter. This information must be included in the deduction application and must also be updated ~~within sixty (60) days after the end of~~ each year in which the deduction is applicable **at the same time that the property owner is required to file a personal property tax return in the taxing district in which the property for which the deduction was granted is located. If the taxpayer does not file a personal property tax return in the taxing district in which the property is located, the information must be provided before May 15.**

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

(1) The name and address of the taxpayer.

(2) The location and description of the property for which the deduction was granted.

(3) Any information concerning the number of employees at the property for which the deduction was granted, including estimated totals that were provided as part of the statement of benefits.

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

(5) Any information concerning the assessed value of the property, including estimates that were provided as part of the statement of benefits.

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

(1) Any information concerning the specific salaries paid to individual employees by the property owner.

(2) Any information concerning the cost of the property.

SECTION 3. IC 6-1.1-12.1-5.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5.4. (a) A person that desires to obtain the deduction provided by section 4.5 of this chapter must file a certified deduction ~~application~~ **schedule with the person's personal property return** on ~~forms~~ **a form** prescribed by the department of local government finance with the ~~auditor~~ **township assessor** of the ~~county~~ **township** in which the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment is located. ~~A~~ **Except as provided in subsection (e), the deduction is applied in the amount claimed in a certified schedule that a** person ~~that~~ **files with:**

(1) a timely ~~files a~~ personal property return under IC 6-1.1-3-7(a) ~~for the year in which the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment is installed must file the application between March 1 and May 15 of that year. A person that obtains a filing extension under~~ **or** IC 6-1.1-3-7(b); ~~for the year in which the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment is installed must file the application between March 1 and the extended due date for that year.~~ **or**

(2) a timely amended personal property return under IC 6-1.1-3-7.5.

The township assessor shall forward to the county auditor and the county assessor a copy of each certified deduction schedule filed under this subsection.

(b) The deduction ~~application~~ **schedule** required by this section must contain the following information:

(1) The name of the owner of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(2) A description of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

~~(3) Proof of the date the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment was installed.~~

~~(4)~~ **(3)** The amount of the deduction claimed for the first year of the deduction.

(c) This subsection applies to a deduction ~~application~~ **schedule** with respect to new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment for which a statement of benefits was initially approved after April 30, 1991. If a determination about the number of years the deduction is allowed has not been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall send a copy of the deduction ~~application~~ **schedule** to the designating body, and the designating body shall adopt a resolution under section 4.5(g)(2) of this chapter.

(d) A deduction ~~application~~ **schedule** must be filed under this section in the year in which the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment is installed and in each of the immediately succeeding years the deduction is allowed.

(e) ~~Subject to subsection (i),~~ The ~~county auditor shall:~~ **township assessor or the county assessor may:**

(1) review the deduction ~~application,~~ **schedule;** and

(2) ~~approve,~~ **before the March 1 that next succeeds the assessment date for which the deduction is claimed,** deny or alter the amount of the deduction.

~~Upon approval of the deduction application or alteration of the amount of the deduction,~~ **If the township assessor or the county assessor does not deny the deduction,** the county auditor shall ~~make~~ **apply** the deduction **in the amount claimed in the deduction schedule or in the amount as altered by the township assessor or the county assessor. A township assessor or a county assessor who denies a deduction under this subsection or alters the amount of the deduction shall notify the person that claimed the deduction and the county auditor of the assessor's action.** The county auditor shall notify the **designating body and the** county property tax assessment board of appeals of all deductions ~~approved~~ **applied** under this section.

(f) If the ownership of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment changes, the deduction provided under section 4.5 of this chapter continues to apply to that equipment if the new owner:

(1) continues to use the equipment in compliance with any standards established under section 2(g) of this chapter; and

(2) files the deduction ~~applications~~ **schedules** required by this section.

(g) The amount of the deduction is the percentage under section 4.5 of this chapter that would have applied if the ownership of the property had not changed multiplied by the assessed value of the equipment for the year the deduction is claimed by the new owner.

(h) A person may appeal ~~the~~ **a** determination of the ~~county auditor~~ **township assessor or the county assessor** under subsection (e) **to deny or alter the amount of the deduction** by ~~filing a complaint in the office of the clerk of the circuit or superior court~~ **requesting in writing a preliminary conference with the township assessor or the county assessor** not more than forty-five (45) days after the ~~county auditor~~ **township assessor or the county assessor** gives the person notice of the determination. **Except as provided in subsection (i), an appeal initiated under this subsection is processed and determined in the same manner that an appeal is processed and determined under IC 6-1.1-15.**

~~(i) Before the county auditor acts under subsection (c), the county auditor may request that the township assessor in which the property is located review the deduction application.~~

(i) The county assessor is recused from any action the county property tax assessment board of appeals takes with respect to an appeal under subsection (h) of a determination by the county assessor.

SECTION 4. IC 6-1.1-12.1-5.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5.6. (a) This subsection applies to a property owner whose statement of benefits was approved under section 4.5 of this chapter before July 1, 1991. In addition to the requirements of section ~~5.5(b)~~ **5.4(b)** of this chapter, a deduction ~~application~~ **schedule** filed under section ~~5.5~~ **5.4** of this chapter must contain information showing the extent to which there has been compliance with the statement of benefits approved under section 4.5 of this chapter. Failure to comply with a statement of benefits approved before July 1, 1991, may not be a basis for rejecting a deduction ~~application.~~ **schedule.**

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

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

(1) The name and address of the taxpayer.

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

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

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

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

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

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

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

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

SECTION 5. IC 6-1.1-12.1-5.9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5.9. (a) This section does not apply to:

(1) a deduction under section 3 of this chapter for property located in a residentially distressed area; or

(2) any other deduction under section 3 or 4.5 of this chapter for which a statement of benefits was approved before July 1,

1991.

(b) Not later than forty-five (45) days after receipt of the information described in section 5.1 or 5.6 of this chapter, the designating body may determine whether the property owner has substantially complied with the statement of benefits approved under section 3 or 4.5 of this chapter. If the designating body determines that the property owner has not substantially complied with the statement of benefits and that the failure to substantially comply was not caused by factors beyond the control of the property owner (such as declines in demand for the property owner's products or services), the designating body shall mail a written notice to the property owner. The written notice must include the following provisions:

(1) An explanation of the reasons for the designating body's determination.

(2) The date, time, and place of a hearing to be conducted by the designating body for the purpose of further considering the property owner's compliance with the statement of benefits. The date of the hearing may not be more than thirty (30) days after the date on which the notice is mailed.

(c) On the date specified in the notice described in subsection (b)(2), the designating body shall conduct a hearing for the purpose of further considering the property owner's compliance with the statement of benefits. Based on the information presented at the hearing by the property owner and other interested parties, the designating body shall again determine whether the property owner has made reasonable efforts to substantially comply with the statement of benefits and whether any failure to substantially comply was caused by factors beyond the control of the property owner. If the designating body determines that the property owner has not made reasonable efforts to comply with the statement of benefits, the designating body shall adopt a resolution terminating the property owner's deduction under section 3 or 4.5 of this chapter. If the designating body adopts such a resolution, the deduction does not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes.

(d) If the designating body adopts a resolution terminating a deduction under subsection (c), the designating body shall immediately mail a certified copy of the resolution to:

(1) the property owner; ~~and~~

(2) the county auditor; **and**

(3) if the deduction applied under section 4.5 of this chapter, the township assessor.

The county auditor shall remove the deduction from the tax duplicate and shall notify the county treasurer of the termination of the deduction. If the designating body's resolution is adopted after the county treasurer has mailed the statement required by IC 6-1.1-22-8, the county treasurer shall immediately mail the property owner a revised statement that reflects the termination of the deduction.

(e) A property owner whose deduction is terminated by the designating body under this section may appeal the designating body's decision by filing a complaint in the office of the clerk of the circuit or superior court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner. An appeal under this subsection shall be promptly heard by the court without a jury and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the appeal and may confirm the action of the designating body or sustain the appeal. The judgment of the court is final and conclusive unless an appeal is taken as in other civil actions.

(f) If an appeal under subsection (e) is pending, the taxes resulting from the termination of the deduction are not due until after the appeal is finally adjudicated and the termination of the deduction is finally determined.

SECTION 6. IC 6-1.1-12.1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 8. (a) Not later than December 31 of each year, the county auditor shall publish the following in a newspaper of general interest and readership and not one of limited subject matter:

(1) A list of the ~~approved~~ deduction applications that were filed under this chapter during that year **that resulted in deductions being applied under this chapter for that year.** The list must contain the following:

(A) The name and address of each person approved for or receiving a deduction that was filed for during the year.

(B) The amount of each deduction that was filed for during the year.

(C) The number of years for which each deduction that was filed for during the year will be available.

(D) The total amount for all deductions that were filed for and ~~granted~~ **applied** during the year.

(2) The total amount of all deductions for real property that were in effect under section 3 of this chapter during the year.

(3) The total amount of all deductions for new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment that were in effect under section 4.5 of this chapter during the year.

(b) The county auditor shall file the information described in subsection (a)(2) and (a)(3) with the department of local government finance not later than December 31 of each year.

SECTION 7. IC 6-1.1-12.1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 14. (a) This section does not apply to:

(1) a deduction under section 3 of this chapter for property located in a residentially distressed area; or

(2) any other deduction under section 3 or 4.5 of this chapter for which a statement of benefits was approved before July 1, 2004.

(b) A property owner that receives a deduction under section 3 or 4.5 of this chapter is subject to this section only if the designating body, with the consent of the property owner, incorporates this section, including the percentage to be applied by the county auditor for purposes of STEP TWO of subsection (c), into its initial approval of the property owner's statement of benefits and deduction at the time of that approval.

(c) During each year in which a property owner's property tax liability is reduced by a deduction ~~granted~~ **applied** under this chapter, the property owner shall pay to the county treasurer a fee in an amount determined by the county auditor. The county auditor shall determine the amount of the fee to be paid by the property owner according to the following formula:

STEP ONE: Determine the additional amount of property taxes that would have been paid by the property owner during the year if the deduction had not been in effect.

STEP TWO: Multiply the amount determined under STEP ONE by the percentage determined by the designating body under subsection (b), which may not exceed fifteen percent (15%). The percentage determined by the designating body remains in effect throughout the term of the deduction and may not be changed.

STEP THREE: Determine the lesser of the STEP TWO product or one hundred thousand dollars ($100,000).

(d) Fees collected under this section must be distributed to one (1) or more public or nonprofit entities established to promote economic development within the corporate limits of the city, town, or county served by the designating body. The designating body shall notify the county auditor of the entities that are to receive distributions under this section and the relative proportions of those distributions. The county auditor shall distribute fees collected under this section in accordance with the designating body's instructions.

(e) If the designating body determines that a property owner has not paid a fee imposed under this section, the designating body may adopt a resolution terminating the property owner's deduction under section 3 or 4.5 of this chapter. If the designating body adopts such a resolution, the deduction does not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes.

SECTION 8. IC 6-1.1-12.4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]:

Chapter 12.4. Investment Deduction

Sec. 1. For purposes of this chapter, "official" means:

(1) a county auditor;

(2) a county assessor; or

(3) a township assessor.

Sec. 2. (a) For purposes of this section, an increase in the assessed value of real property is determined in the same manner that an increase in the assessed value of real property is determined for purposes of IC 6-1.1-12.1.

(b) This subsection applies only to a development, redevelopment, or rehabilitation that is first assessed after March 1, 2005, and before March 2, 2009. Except as provided in subsection (h) and sections 4, 5, and 8 of this chapter, an owner of real property that:

(1) develops, redevelops, or rehabilitates the real property; and

(2) creates or retains employment from the development, redevelopment, or rehabilitation;

is entitled to a deduction from the assessed value of the real property.

(c) The deduction under this section is first available in the year in which the increase in assessed value resulting from the development, redevelopment, or rehabilitation occurs and continues for the following two (2) years. The amount of the deduction that a property owner may receive with respect to real property located in a county for a particular year equals the lesser of:

(1) two million dollars ($2,000,000); or

(2) the product of:

(A) the increase in assessed value resulting from the development, rehabilitation, or redevelopment; multiplied by

(B) the percentage from the following table:

YEAR OF DEDUCTION	PERCENTAGE
1st	75%
2nd	50%
3rd	25%

(d) A property owner that qualifies for the deduction under this section must file a notice to claim the deduction in the manner prescribed by the department of local government finance under rules adopted by the department of local government finance under IC 4-22-2 to implement this chapter. The township assessor shall:

(1) inform the county auditor of the real property eligible for the deduction as contained in the notice filed by the taxpayer under this subsection; and

(2) inform the county auditor of the deduction amount.

(e) The county auditor shall:

(1) make the deductions; and

(2) notify the county property tax assessment board of appeals of all deductions approved;

under this section.

(f) The amount of the deduction determined under subsection (c)(2) is adjusted to reflect the percentage increase or decrease in assessed valuation that results from:

(1) a general reassessment of real property under IC 6-1.1-4-4; or

(2) an annual adjustment under IC 6-1.1-4-4.5.

(g) If an appeal of an assessment is approved that results in a reduction of the assessed value of the real property, the amount of the deduction under this section is adjusted to reflect the percentage decrease that results from the appeal.

(h) The deduction under this section does not apply to a facility listed in IC 6-1.1-12.1-3(e).

Sec. 3. (a) For purposes of this section, an increase in the assessed value of personal property is determined in the same manner that an increase in the assessed value of new manufacturing equipment is determined for purposes of IC 6-1.1-12.1.

(b) This subsection applies only to personal property that the owner purchases after March 1, 2005, and before March 2, 2009. Except as provided in sections 4, 5, and 8 of this chapter,

an owner that purchases personal property other than inventory (as defined in 50 IAC 4.2-5-1, as in effect on January 1, 2005) that:

(1) was never before used by its owner for any purpose in Indiana; and

(2) creates or retains employment;

is entitled to a deduction from the assessed value of the personal property.

(c) The deduction under this section is first available in the year in which the increase in assessed value resulting from the purchase of the personal property occurs and continues for the following two (2) years. The amount of the deduction that a property owner may receive with respect to personal property located in a county for a particular year equals the lesser of:

(1) two million dollars ($2,000,000); or

(2) the product of:

(A) the increase in assessed value resulting from the purchase of the personal property; multiplied by

(B) the percentage from the following table:

YEAR OF DEDUCTION	PERCENTAGE
1st	75%
2nd	50%
3rd	25%

(d) If an appeal of an assessment is approved that results in a reduction of the assessed value of the personal property, the amount of the deduction is adjusted to reflect the percentage decrease that results from the appeal.

(e) A property owner must claim the deduction under this section on the owner's annual personal property tax return. The township assessor shall:

(1) identify the personal property eligible for the deduction to the county auditor; and

(2) inform the county auditor of the deduction amount.

(f) The county auditor shall:

(1) make the deductions; and

(2) notify the county property tax assessment board of appeals of all deductions approved;

under this section.

Sec. 4. A property owner may not receive a deduction under this chapter with respect to real property or personal property located in an allocation area (as defined in IC 6-1.1-21.2-3).

Sec. 5. A property owner that qualifies for a deduction for a year under this chapter and another statute with respect to the same:

(1) real property development, redevelopment, or rehabilitation; or

(2) personal property purchase;

may not receive a deduction under both statutes for the development, redevelopment, rehabilitation, or purchase for that year.

Sec. 6. An official may:

(1) review the creation or retention of employment from:

(A) the development, redevelopment, or rehabilitation of real property; or

(B) the purchase of personal property;

that qualifies a property owner for a deduction under this chapter;

(2) determine whether the creation or retention of employment described in subdivision (1) has occurred; and

(3) if the official determines under subdivision (2) that:

(A) the creation or retention of employment described in subdivision (1) has not occurred; and

(B) the failure to create or retain employment was not caused by factors beyond the control of the property owner (such as declines in demand for the property owner's products or services);

mail a written notice to the property owner of a hearing on the termination of the deduction under this chapter.

Sec. 7. The written notice under section 6(3) of this chapter must include the following:

(1) An explanation of the reasons for the determination that the creation or retention of employment described in section 6(1) of this chapter has not occurred.

(2) The date, time, and place of a hearing to be conducted:

(A) by the official; and

(B) not more than thirty (30) days after the date of the notice under section 6(3) of this chapter;

to further consider the property owner's creation or retention of employment as described in section 6(1) of this chapter.

Sec. 8. On the date specified in the notice described in section 6(3) of this chapter, the official shall conduct a hearing for the purpose of further considering the property owner's creation or retention of employment as described in section 6(1) of this chapter. Based on the information presented at the hearing by the property owner and other interested parties, the official shall determine whether the property owner has made reasonable efforts to create or retain employment as described in section 6(1) of this chapter and whether any failure to create or retain employment was caused by factors beyond the control of the property owner. If the official determines that the property owner has not made reasonable efforts to create or retain employment, the official shall determine that the property owner's deduction under this chapter is terminated. If the official terminates the deduction, the deduction does not apply to:

(1) the next installment of property taxes owed by the property owner; or

(2) any subsequent installment of property taxes.

Sec. 9. If an official terminates a deduction under section 8 of this chapter:

(1) the official shall immediately mail a certified copy of the determination to:

(A) the property owner; and

(B) if the determination is made by the county assessor or the township assessor, the county auditor;

(2) the county auditor shall:

(A) remove the deduction from the tax duplicate; and

(B) notify the county treasurer of the termination of the deduction; and

(3) if the official's determination to terminate the deduction occurs after the county treasurer has mailed the statement required by IC 6-1.1-22-8, the county treasurer shall immediately mail the property owner a revised statement that reflects the termination of the deduction.

Sec. 10. A property owner whose deduction is terminated under section 8 of this chapter may appeal the official's decision by filing a complaint in the office of the clerk of the circuit or superior court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner. The court shall:

(1) hear an appeal under this section promptly without a jury; and

(2) determine the appeal not later than thirty (30) days after the date of the filing of the appeal.

The judgment of the court is final and conclusive unless an appeal is taken as in other civil actions.

Sec. 11. If an appeal under section 10 of this chapter is pending, the taxes resulting from the termination of the deduction are not due until after the appeal is finally adjudicated and the termination of the deduction is finally determined.

Sec. 12. If ownership of the real property or new personal property changes, the deduction under this chapter continues to apply to the real property or personal property, and the amount of deduction is the product of:

(1) the percentage under section 2(c)(2)(B) or 3(c)(2)(B) of this chapter that would have applied if the ownership of the property had not changed; multiplied by

(2) the assessed value of the real property or personal property for the year the new owner qualifies for the deduction.

Sec. 13. The department of local government finance shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 9. IC 6-2.5-5-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 37. Transactions involving ~~the following~~ tangible personal property are exempt from the state gross retail tax, **if the tangible personal property:**

(1) ~~Engines or chassis that are~~ **is** leased, owned, or operated by **a** professional racing ~~teams.~~ **team; and**

~~(2) All spare, replacement, and rebuilding parts or components for the engines and chassis described in subdivision (1), excluding tires and accessories.~~

(2) comprises any part of a professional motor racing vehicle, excluding tires and accessories.

SECTION 10. IC 6-2.5-5-40 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 40. (a) As used in this chapter, "research and development activities" does not include any of the following:**

(1) Efficiency surveys.

(2) Management studies.

(3) Consumer surveys.

(4) Economic surveys.

(5) Advertising or promotions.

(6) Research in connection with literary, historical, or similar projects.

(7) Testing for purposes of quality control.

(b) As used in this section, "research and development equipment" means tangible personal property that:

(1) consists of or is a combination of:

(A) laboratory equipment;

(B) computers;

(C) computer software;

(D) telecommunications equipment; or

(E) testing equipment;

(2) has not previously been used in Indiana for any purpose; and

(3) is acquired by the purchaser for the purpose of research and development activities devoted directly to experimental or laboratory research and development for:

(A) new products;

(B) new uses of existing products; or

(C) improving or testing existing products.

(c) A retail transaction:

(1) involving research and development equipment; and

(2) occurring after June 30, 2007;

is exempt from the state gross retail tax.

SECTION 11. IC 6-2.5-6-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 16. (a) As used in this section, "research and development equipment" has the meaning set forth in IC 6-2.5-5-40.**

(b) A person is entitled to a refund equal to fifty percent (50%) of the gross retail tax paid by the person under this article in a retail transaction occurring after June 30, 2005, and before July 1, 2007, to acquire research and development equipment.

(c) To receive the refund provided by this section, a person must claim the refund under IC 6-8.1-9 in the manner prescribed by the department.

SECTION 12. IC 6-3.1-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter:

"Base amount" means base amount (as defined in Section 41(c) of the Internal Revenue Code as in effect on January 1, 2001), **modified by considering only Indiana qualified research expenses and gross receipts attributable to Indiana in the calculation of the taxpayer's:**

(1) fixed base percentage; and

(2) average annual gross receipts.

~~"Base period Indiana qualified research expense" means base period research expense that is incurred for research conducted in Indiana.~~

~~"Base period research expense" means base period research expense (as defined in Section 41(c) of the Internal Revenue Code before January 1, 1990).~~

"Indiana qualified research expense" means qualified research expense that is incurred for research conducted in Indiana.

"Qualified research expense" means qualified research expense (as defined in Section 41(b) of the Internal Revenue Code as in effect on January 1, 2001).

"Pass through entity" means:

(1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) a partnership;

(3) a limited liability company; or

(4) a limited liability partnership.

"Research expense tax credit" means a credit provided under this chapter against any tax otherwise due and payable under IC 6-3.

"Taxpayer" means an individual, a corporation, a limited liability company, a limited liability partnership, a trust, or a partnership that has any tax liability under IC 6-3 (adjusted gross income tax).

SECTION 13. IC 6-3.1-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. **(a)** A taxpayer who incurs Indiana qualified research expense in a particular taxable year is entitled to a research expense tax credit for the taxable year. ~~in~~

(b) For Indiana qualified research expense incurred before January 1, 2008, the amount of **the research expense tax credit is equal to** the product of ~~(1)~~ ten percent (10%) multiplied by ~~(2)~~ the remainder of:

(1) the taxpayer's Indiana qualified research expenses for the taxable year; minus

~~(A) the taxpayer's base period Indiana qualified research expenses, for taxable years beginning before January 1, 1990, or~~

~~(B)~~ **(2)** the taxpayer's base amount. ~~for taxable years beginning after December 31, 1989.~~

(c) For Indiana qualified research expense incurred after December 31, 2007, the amount of the research expense tax credit is determined under STEP FOUR of the following formula:

STEP ONE: Subtract the taxpayer's base amount from the taxpayer's Indiana qualified research expense for the taxable year.

STEP TWO: Multiply the lesser of:

(A) one million dollars ($1,000,000); or

(B) the STEP ONE remainder;

by fifteen percent (15%).

STEP THREE: If the STEP ONE remainder exceeds one million dollars ($1,000,000), multiply the amount of that excess by ten percent (10%).

STEP FOUR: Add the STEP TWO and STEP THREE products.

SECTION 14. IC 6-3.1-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. (a) The amount of the credit provided by this chapter that a taxpayer uses during a particular taxable year may not exceed the sum of the taxes imposed by IC 6-3 for the taxable year after the application of all credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter. If the credit provided by this chapter exceeds that sum for the taxable year for which the credit is first claimed, then the excess may be carried over to succeeding taxable years and used as a credit against the tax otherwise due and payable by the taxpayer under IC 6-3 during those taxable years. Each time that the credit is carried over to a succeeding taxable year, it is to be reduced by the amount which was used as a credit during the immediately preceding taxable year. The credit provided by this chapter may be carried forward and applied to succeeding taxable years for ~~fifteen (15)~~ **ten (10)** taxable years following the unused credit year.

(b) A credit earned by a taxpayer in a particular taxable year shall be applied against the taxpayer's tax liability for that taxable year before any credit carryover is applied against that liability under subsection (a).

(c) A taxpayer is not entitled to any carryback or refund of any unused credit.

SECTION 15. IC 6-3.1-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) If a pass through entity does not have state income tax liability against which the research expense tax credit may be applied, a shareholder, ~~or~~ partner, **or member** of the pass through entity is entitled to a research expense tax credit equal to:

(1) the research expense tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, ~~or~~ partner, **or member** is entitled.

(b) The credit provided under subsection (a) is in addition to a research expense tax credit to which a shareholder, ~~or~~ partner, **or member** of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and a shareholder, ~~or~~ partner, **or member** of the pass through entity may not claim a credit under this chapter for the same qualified research expenses.

SECTION 16. IC 6-3.1-24-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. As used in this chapter, "qualified investment capital" means debt or equity capital that is provided to a qualified Indiana business after December 31, 2003. **However, the term does not include debt that:**

(1) is provided by a financial institution (as defined in IC 5-13-4-10) after May 15, 2005; and

(2) is secured by a valid mortgage, security agreement, or other agreement or document that establishes a collateral or security position for the financial institution that is senior to all collateral or security interests of other taxpayers that provide debt or equity capital to the qualified Indiana business.

SECTION 17. IC 6-3.1-24-7, AS AMENDED BY P.L.4-2005, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE FEBRUARY 9, 2005 (RETROACTIVE)]: Sec. 7. (a)

The Indiana economic development corporation shall certify that a business is a qualified Indiana business if the corporation determines that the business:

(1) has its headquarters in Indiana;

(2) is primarily focused on **professional motor vehicle racing,** commercialization of research and development, technology transfers, or the application of new technology, or is determined by the Indiana economic development corporation to have significant potential to:

(A) bring substantial capital into Indiana;

(B) create jobs;

(C) diversify the business base of Indiana; or

(D) significantly promote the purposes of this chapter in any other way;

(3) has had average annual revenues of less than ten million dollars ($10,000,000) in the two (2) years preceding the year in which the business received qualified investment capital from a taxpayer claiming a credit under this chapter;

(4) has:

(A) at least fifty percent (50%) of its employees residing in Indiana; or

(B) at least seventy-five percent (75%) of its assets located in Indiana; and

(5) is not engaged in a business involving:

(A) real estate;

(B) real estate development;

(C) insurance;

(D) professional services provided by an accountant, a lawyer, or a physician;

(E) retail sales, except when the primary purpose of the business is the development or support of electronic commerce using the Internet; or

(F) oil and gas exploration.

(b) A business shall apply to be certified as a qualified Indiana business on a form prescribed by the Indiana economic development corporation.

(c) If a business is certified as a qualified Indiana business under this section, the Indiana economic development corporation shall provide a copy of the certification to the investors in the qualified Indiana business for inclusion in tax filings.

(d) The Indiana economic development corporation may impose an application fee of not more than two hundred dollars ($200).

SECTION 18. IC 6-3.1-24-9, AS AMENDED BY P.L.4-2005, SECTION 99, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE FEBRUARY 9, 2005 (RETROACTIVE)]: Sec. 9. (a) The total amount of tax credits that may be allowed under this chapter in a particular calendar year for qualified investment capital provided during that calendar year may not exceed ~~ten~~ **twelve** million **five hundred thousand** dollars ~~($10,000,000).~~ **($12,500,000).** The Indiana economic development corporation may not certify a proposed investment plan under section 12.5 of this chapter if the proposed investment would result in the total amount of the tax credits certified for the calendar year exceeding ~~ten~~ **twelve** million **five hundred thousand** dollars ~~($10,000,000).~~ **($12,500,000).** An amount of an unused credit carried over by a taxpayer from a previous calendar year may not be considered in determining the amount of proposed investments that the Indiana economic development corporation may certify under this chapter.

(b) Notwithstanding the other provisions of this chapter, a taxpayer is not entitled to a credit for providing qualified investment capital to a qualified Indiana business after December 31, 2008. However, this subsection may not be construed to prevent a taxpayer from carrying over to a taxable year beginning after December 31, 2008, an unused tax credit attributable to an investment occurring before January 1, 2009.

SECTION 19. IC 6-3.1-24-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 12. If the amount of the credit determined under section 10 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess **credit** over **for a period not** to **exceed** the taxpayer's following **five (5)** taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. A taxpayer is not entitled to a carryback or a refund of any unused credit amount.

SECTION 20. IC 6-3.1-24-12.5, AS AMENDED BY P.L.4-2005, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE FEBRUARY 9, 2005 (RETROACTIVE)]: Sec. 12.5. (a) A taxpayer wishing to obtain a credit under this chapter must apply to the Indiana economic development corporation for a certification that the taxpayer's proposed investment plan would qualify for a credit under this chapter.

(b) The application required under subsection (a) must include:

(1) the name and address of the taxpayer;

(2) the name and address of each proposed recipient of the taxpayer's proposed investment;

(3) the amount of the proposed investment;

(4) a copy of the certification issued under section 7 of this chapter that the proposed recipient is a qualified Indiana business; and

(5) any other information required by the Indiana economic development corporation.

(c) If the Indiana economic development corporation determines that:

(1) the proposed investment would qualify the taxpayer for a credit under this chapter; and

(2) the amount of the proposed investment would not result in the total amount of tax credits certified for the calendar year exceeding ~~ten~~ **twelve** million **five hundred thousand** dollars ~~($10,000,000),~~ **($12,500,000);**

the corporation shall certify the taxpayer's proposed investment plan.

(d) To receive a credit under this chapter, the taxpayer must provide qualified investment capital to a qualified Indiana business

according to the taxpayer's certified investment plan within two (2) years after the date on which the Indiana economic development corporation certifies the investment plan.

(e) Upon making the investment required under subsection (d), the taxpayer shall provide proof of the investment to the Indiana economic development corporation.

(f) Upon receiving proof of a taxpayer's investment under subsection (e), the Indiana economic development corporation shall issue the taxpayer a certificate indicating that the taxpayer has fulfilled the requirements of the corporation and that the taxpayer is entitled to a credit under this chapter.

(g) A taxpayer forfeits the right to a tax credit attributable to an investment certified under subsection (c) if the taxpayer fails to make the proposed investment within the period required under subsection (d).

SECTION 21. IC 6-3.1-30 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]:

Chapter 30. Headquarters Relocation Tax Credit

Sec. 1. As used in this chapter, "corporate headquarters" means the building or buildings where the principal offices of the principal executive officers of an eligible business are located.

Sec. 2. As used in this chapter, "eligible business" means a business that:

(1) is engaged in either interstate or intrastate commerce;

(2) maintains a corporate headquarters at a location outside Indiana;

(3) has not previously maintained a corporate headquarters at a location in Indiana;

(4) had annual worldwide revenues of at least five hundred million dollars ($500,000,000) for the taxable year immediately preceding the business's application for a tax credit under section 12 of this chapter; and

(5) commits contractually to relocating its corporate headquarters to Indiana.

Sec. 3. As used in this chapter, "pass through entity" means:

(1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) a partnership;

(3) a limited liability company; or

(4) a limited liability partnership.

Sec. 4. As used in this chapter, "qualifying project" means the relocation of the corporate headquarters of an eligible business from a location outside Indiana to a location in Indiana.

Sec. 5. As used in this chapter, "relocation costs" means the reasonable and necessary expenses incurred by an eligible business for a qualifying project. The term includes:

(1) moving costs and related expenses;

(2) the purchase of new or replacement equipment;

(3) capital investment costs; and

(4) property assembly and development costs, including:

(A) the purchase, lease, or construction of buildings and land;

(B) infrastructure improvements; and

(C) site development costs.

The term does not include any costs that do not directly result from the relocation of the business to a location in Indiana.

Sec. 6. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

(2) IC 6-5.5 (the financial institutions tax); and

(3) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 7. As used in this chapter, "taxpayer" means an individual or entity that has any state tax liability.

Sec. 8. A taxpayer that:

(1) is an eligible business;

(2) completes a qualifying project; and

(3) incurs relocation costs;

is entitled to a credit against the taxpayer's state tax liability for the taxable year in which the relocation costs are incurred. The credit allowed under this section is equal to the amount determined under section 9 of this chapter.

Sec. 9. (a) Subject to subsection (b), the amount of the credit to which a taxpayer is entitled under section 8 of this chapter equals the product of:

(1) fifty percent (50%); multiplied by

(2) the amount of the taxpayer's relocation costs in the taxable year.

(b) The credit to which a taxpayer is entitled under section 8 of this chapter may not reduce the taxpayer's state tax liability below the amount of the taxpayer's state tax liability in the taxable year immediately preceding the taxable year in which the taxpayer first incurred relocation costs.

Sec. 10. If a pass through entity is entitled to a credit under section 8 of this chapter but does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

Sec. 11. (a) If the credit provided by this chapter exceeds the taxpayer's state tax liability for the taxable year for which the credit is first claimed, the excess may be carried forward to succeeding taxable years and used as a credit against the taxpayer's state tax liability during those taxable years. Each time that the credit is carried forward to a succeeding taxable year, the credit is to be reduced by the amount that was used as a credit during the immediately preceding taxable year. The

credit provided by this chapter may be carried forward and applied to succeeding taxable years for nine (9) taxable years following the unused credit year.

(b) A taxpayer is not entitled to any carryback or refund of any unused credit.

Sec. 12. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department proof of the taxpayer's relocation costs and all information that the department determines is necessary for the calculation of the credit provided by this chapter.

Sec. 13. In determining whether an expense of the eligible business directly resulted from the relocation of the business, the department shall consider whether the expense would likely have been incurred by the eligible business if the business had not relocated from its original location.

SECTION 22. [EFFECTIVE JULY 1, 2005] **(a) IC 6-1.1-12.4, as added by this act, applies only to:**

(1) real property development, redevelopment, or rehabilitation; and

(2) the purchase of personal property;

that occurs as described in that chapter after March 1, 2005.

(b) The definitions in IC 6-2.5 apply throughout this subsection. For purposes of IC 6-2.5-6-16, as added by this act, all transactions shall be considered as having occurred after June 30, 2005, to the extent that delivery of the property or services constituting selling at retail is made after that date to the purchaser or to the place of delivery designated by the purchaser. However, a transaction shall be considered as having occurred before July 1, 2005, to the extent that the agreement of the parties to the transaction was entered into before July 1, 2005, and payment for the property or services furnished in the transaction is made before July 1, 2005, notwithstanding the delivery of the property or services after June 30, 2005.

(c) The definitions in IC 6-2.5 apply throughout this subsection. For purposes of IC 6-2.5-5-40, as added by this act, all transactions shall be considered as having occurred after June 30, 2007, to the extent that delivery of the property or services constituting selling at retail is made after that date to the purchaser or to the place of delivery designated by the purchaser. However, a transaction shall be considered as having occurred before July 1, 2007, to the extent that the agreement of the parties to the transaction was entered into before July 1, 2007, and payment for the property or services furnished in the transaction is made before July 1, 2007, notwithstanding the delivery of the property or services after June 30, 2007.

(d) IC 6-3.1-4-2, as amended by this act, applies only to taxable years beginning after December 31, 2007.

(e) IC 6-3.1-4-3, as amended by this act, applies to taxable years beginning after December 31, 2005. A taxpayer with a credit carryover under IC 6-3.1-4-3 on December 31, 2005, from a taxable year beginning before January 1, 2006, may carry the excess credit over for a period not to exceed the ten (10) taxable years following the taxable year in which the taxpayer was first entitled to claim the credit. This subsection shall not be construed to disallow any part of an excess credit used under IC 6-3.1-4-3, as effective before amendment by this act, for any taxable year ending before January 1, 2005.

SECTION 23. [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)] **(a) IC 6-3.1-24-7, IC 6-3.1-24-9, and IC 6-3.1-24-12.5, all as amended by this act, apply to taxable years beginning and proposed investment plans approved after December 31, 2004.**

(b) IC 6-3.1-24-12, as amended by this act, applies to taxable years beginning after December 31, 2005. A taxpayer with a credit carryover under IC 6-3.1-24-12 on December 31, 2005, from a taxable year beginning before January 1, 2006, may carry the excess credit over for a period not to exceed the five (5) taxable years following the taxable year in which the taxpayer was first entitled to claim the credit. This subsection shall not be construed to disallow any part of an excess credit used under IC 6-3.1-24-12, as effective before amendment by this act, for any taxable year ending before January 1, 2006.

SECTION 24. [EFFECTIVE JANUARY 1, 2007] **IC 6-3.1-30, as added by this act, applies to taxable years beginning after December 31, 2006.**

SECTION 25. [EFFECTIVE JULY 1, 2005] **For purposes of IC 6-2.5-5-37, as amended by this act, all transactions shall be considered as having occurred after June 30, 2005, to the extent that delivery of the property or services constituting selling at retail is made after that date to the purchaser or to the place of delivery designated by the purchaser. However, a transaction shall be considered as having occurred before July 1, 2005, to the extent that the agreement of the parties to the transaction was entered into before July 1, 2005, and payment for the property or services furnished in the transaction is made before July 1, 2005, notwithstanding the delivery of the property or services after June 30, 2005.**

SECTION 26. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding the effective dates included in HEA 1003-2005, the following provisions take effect February 9, 2005, and not July 1, 2005:**

(1) SECTIONS 66 through 85 of HEA 1003-2005.

(2) SECTIONS 102 through 110 of HEA 1003-2005.

(3) SECTION 112 of HEA 1003-2005.

(b) The actions taken by the Indiana economic development corporation to administer IC 6-3.1-13 and IC 6-3.1-26, both as amended by HEA 1003-2005, after February 8, 2005, and before the effective date of this act, are legalized and validated.

SECTION 27. [EFFECTIVE JULY 1, 2005] **The following, all as amended by this act, apply only to property taxes first due and payable after December 31, 2006:**

(1) IC 6-1.1-12.1-5.4.

(2) IC 6-1.1-12.1-5.6.

(3) IC 6-1.1-12.1-5.9.

(4) IC 6-1.1-12.1-8.

(5) IC 6-1.1-12.1-14.

SECTION 28. [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)] **IC 6-1.1-12.1-5 and IC 6-1.1-12.1-5.1, both as amended by this act, apply to property taxes first due and payable after December 31, 2005.**

SECTION 29. [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)] **(a) Beginning January 1, 2005, and ending February 9, 2005, this SECTION applies instead of IC 6-3.1-24-7.**

(b) The definitions set forth in IC 6-3.1-24 apply throughout this SECTION.

(c) The Indiana economic development corporation shall certify that a business is a qualified Indiana business if the corporation determines that the business:

(1) has its headquarters in Indiana;

(2) is primarily focused on professional motor vehicle racing, commercialization of research and development, technology transfers, or the application of new technology, or is determined by the Indiana economic development corporation to have significant potential to:

(A) bring substantial capital into Indiana;

(B) create jobs;

(C) diversify the business base of Indiana; or

(D) significantly promote the purposes of this chapter in any other way;

(3) has had average annual revenues of less than ten million dollars ($10,000,000) in the two (2) years preceding the year in which the business received qualified investment capital from a taxpayer claiming a credit under IC 6-3.1-24;

(4) has:

(A) at least fifty percent (50%) of its employees residing in Indiana; or

(B) at least seventy-five percent (75%) of its assets located in Indiana; and

(5) is not engaged in a business involving:

(A) real estate;

(B) real estate development;

(C) insurance;

(D) professional services provided by an accountant, a lawyer, or a physician;

(E) retail sales, except when the primary purpose of the business is the development or support of electronic commerce using the Internet; or

(F) oil and gas exploration.

(d) A business shall apply to be certified as a qualified Indiana business on a form prescribed by the Indiana economic development corporation.

(e) If a business is certified as a qualified Indiana business under this SECTION, the Indiana economic development corporation shall provide a copy of the certification to the investors in the qualified Indiana business for inclusion in tax filings.

(f) The Indiana economic development corporation may impose an application fee of not more than two hundred dollars ($200).

(g) This SECTION expires February 9, 2005.

SECTION 30. [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)] **(a) Beginning January 1, 2005, and ending February 9, 2005, this SECTION applies instead of IC 6-3.1-24-9.**

(b) The definitions set forth in IC 6-3.1-24 apply throughout this SECTION.

(c) The total amount of tax credits that may be allowed under IC 6-3.1-24 in a particular calendar year for qualified investment capital provided during that calendar year may not exceed twelve million five hundred thousand dollars ($12,500,000). The Indiana economic development corporation may not certify a proposed investment plan under IC 6-3.1-24-12.5 if the proposed investment would result in the total amount of the tax credits certified for the calendar year exceeding twelve million five hundred thousand dollars ($12,500,000). An amount of an unused credit carried over by a taxpayer from a previous calendar year may not be considered in determining the amount of proposed investments that the Indiana economic development corporation may certify under IC 6-3.1-24.

(d) Notwithstanding the other provisions of this chapter, a taxpayer is not entitled to a credit for providing qualified investment capital to a qualified Indiana business after December 31, 2008. However, this subsection may not be construed to prevent a taxpayer from carrying over to a taxable year beginning after December 31, 2008, an unused tax credit attributable to an investment occurring before January 1, 2009.

(e) This SECTION expires February 9, 2005.

SECTION 31. [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)] **(a) Beginning January 1, 2005, and ending February 9, 2005, this SECTION applies instead of IC 6-3.1-24-12.5.**

(b) The definitions set forth in IC 6-3.1-24 apply throughout this SECTION.

(c) A taxpayer wishing to obtain a credit under IC 6-3.1-24 must apply to the Indiana economic development corporation for a certification that the taxpayer's proposed investment plan would qualify for a credit under IC 6-3.1-24.

(d) The application required under subsection (c) must include:

(1) the name and address of the taxpayer;

(2) the name and address of each proposed recipient of the taxpayer's proposed investment;

(3) the amount of the proposed investment;

(4) a copy of the certification issued under section IC 6-3.1-24-7 that the proposed recipient is a qualified Indiana business; and

(5) any other information required by the Indiana economic development corporation.

(e) If the Indiana economic development corporation determines that:

(1) the proposed investment would qualify the taxpayer for a credit under IC 6-3.1-24; and

(2) the amount of the proposed investment would not result in the total amount of tax credits certified for the calendar year exceeding twelve million five hundred thousand dollars ($12,500,000);

the corporation shall certify the taxpayer's proposed investment plan.

(f) To receive a credit under IC 6-3.1-24, the taxpayer must provide qualified investment capital to a qualified Indiana business according to the taxpayer's certified investment plan within two (2) years after the date on which the Indiana economic development corporation certifies the investment plan.

(g) Upon making the investment required under subsection (f), the taxpayer shall provide proof of the investment to the Indiana economic development corporation.

(h) Upon receiving proof of a taxpayer's investment under subsection (g), the Indiana economic development corporation shall issue the taxpayer a certificate indicating that the taxpayer has fulfilled the requirements of the corporation and that the taxpayer is entitled to a credit under IC 6-3.1-24.

(i) A taxpayer forfeits the right to a tax credit attributable to an investment certified under subsection (e) if the taxpayer fails to make the proposed investment within the period required under subsection (f).

(j) This SECTION expires February 9, 2005.

SECTION 32. **An emergency is declared for this act.**

(Reference is to ESB 1 as reprinted March 18, 2005.)

Ford, Chair	Turner
Hume	Kersey
Senate Conferees	House Conferees

Roll Call 548: yeas 48, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 139–2

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 139 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 25-1-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. ~~(a) By enactment of this chapter, the general assembly intends that, with the exception of the director, the staff of the Indiana professional licensing agency be comprised initially from among persons employed by the boards to which this chapter applies, and that no increase in the aggregate number of persons so employed be allowed by the state personnel department and the state budget agency except to comply with the provisions of this chapter.~~

~~(b) It is the further intent of the general assembly that~~ The centralization of staff, functions, and services contemplated by this chapter **shall** be done in such a way as to enhance the licensing agency's ability to:

(1) make maximum use of data processing as a means of more efficient operation;

(2) provide more services and carry out functions of superior quality; and

(3) ultimately and significantly reduce the number of staff needed to provide these services and carry out these functions.

SECTION 2. IC 25-1-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) There is established the Indiana professional licensing agency. The licensing agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State boxing commission (IC 25-9-1).

(6) State board of cosmetology examiners (IC 25-8-3-1).

(7) State board of funeral and cemetery service (IC 25-15-9).

(8) State board of registration for professional engineers (IC 25-31-1-3).

(9) Indiana plumbing commission (IC 25-28.5-1-3).

(10) Indiana real estate commission (IC 25-34.1).

(11) Real estate appraiser licensure and certification board (IC 25-34.1-8-1).

(12) Private detectives licensing board (IC 25-30-1-5.1).

(13) State board of registration for land surveyors (IC 25-21.5-2-1).

(14) Manufactured home installer licensing board (IC 25-23.7).

(15) Home inspectors licensing board (IC 25-20.2-3-1).

(b) ~~Except for appeals of denials of license renewals to the executive director authorized by section 5.5 of this chapter,~~ Nothing in this chapter may be construed to give the licensing agency policy making authority, which remains with each board.

SECTION 3. IC 25-1-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The licensing agency shall employ necessary staff, including specialists and professionals, to carry out the administrative duties and functions of the boards, including but not limited to:

(1) notice of board meetings and other communication services;

(2) record keeping of board meetings, proceedings, and actions;

(3) record keeping of all persons or individuals licensed, regulated, or certified by a board;

(4) administration of examinations; and

(5) administration of license or certificate issuance or renewal.

(b) In addition, the licensing agency:

(1) shall prepare a consolidated statement of the budget requests of all the boards in section 3 of this chapter;

(2) may coordinate licensing or certification renewal cycles, examination schedules, or other routine activities to efficiently utilize licensing agency staff, facilities, and transportation resources, and to improve accessibility of board functions to the public; and

(3) may consolidate, where feasible, office space, record keeping, and data processing services.

~~(4) shall, upon written request, furnish at cost to any person a list of the names and addresses of persons holding a license or permit issued by one (1) of the boards listed in section 3 of this chapter.~~

(c) In administering the renewal of licenses or certificates under this chapter, the licensing agency shall issue a sixty (60) day notice of expiration to all holders of a license or certificate. The notice ~~shall be accompanied by appropriate renewal forms.~~ **must inform the holder of a license or certificate of the requirements to:**

(1) renew the license or certificate; and

(2) pay the renewal fee.

(d) If the licensing agency fails to send notice of expiration under subsection (c), the holder of the license or certificate is not subject to a sanction for failure to renew if the holder renews the license or certificate not more than forty-five (45) days after the holder receives the notice from the licensing agency.

(e) The licensing agency may require an applicant for a license or certificate renewal to submit evidence showing that the applicant:

(1) meets the minimum requirements for licensure or certification; and

(2) is not in violation of:

(A) the law regulating the applicant's profession; or

(B) rules adopted by the board regulating the applicant's profession.

(f) The licensing agency may delay renewing a license or certificate for not more than ninety (90) days after the renewal date to permit the board to investigate information received by the licensing agency that the applicant for renewal may have committed an act for which the applicant may be disciplined. If the licensing agency delays renewing a license or certificate, the licensing agency shall notify the applicant that the applicant is being investigated. Except as provided in subsection (g), the board shall do one (1) of the following before the expiration of the ninety (90) day period:

(1) Deny renewal of the license or certificate following a personal appearance by the applicant before the board.

(2) Renew the license or certificate upon satisfaction of all other requirements for renewal.

(3) Renew the license and file a complaint under IC 25-1-7.

(4) Request the office of the attorney general to conduct an investigation under subsection (h) if, following a personal appearance by the applicant before the board, the board has good cause to believe that the applicant engaged in activity described in IC 25-1-11-5.

(5) Upon agreement of the applicant and the board and following a personal appearance by the applicant before the board, renew the license or certificate and place the applicant on probation status under IC 25-1-11-12.

(g) If an applicant fails to appear before the board under subsection (f), the board may take action as provided in subsection (f)(1), (f)(2), or (f)(3).

(h) If the board makes a request under subsection (f)(4), the office of the attorney general shall conduct an investigation. Upon completion of the investigation, the office of the attorney general may file a petition alleging that the applicant has engaged in activity described in IC 25-1-11-5. If the office of the attorney general files a petition, the board shall set the matter for a public hearing. If, after a public hearing, the board finds the applicant violated IC 25-1-11-5, the board may impose sanctions under IC 25-1-11-12. The board may delay renewing a license or certificate beyond ninety (90) days after the renewal date until a final determination is made by the board. The applicant's license or certificate remains valid until the final determination of the board is rendered unless the renewal is:

(1) denied; or

(2) summarily suspended under IC 25-1-11-13.

(i) The license or certificate of the applicant for license renewal remains valid during the ninety (90) day period unless the license or certificate is denied following a personal appearance by the applicant before the board before the end of the ninety (90) day period. If the ninety (90) day period expires without action by the board, the license or certificate shall be automatically renewed at the end of the ninety (90) day period.

(j) Notwithstanding any other law, the licensing agency may stagger license or certificate renewal cycles.

(k) An application for a license or certificate is abandoned without an action by the board if the applicant does not complete the requirements for obtaining the license or certificate not more than one (1) year after the date on which the application was filed. However, the board may, for good cause shown, extend the validity of the application for additional thirty (30) day periods. An application submitted after the abandonment of an application is considered a new application.

SECTION 4. IC 25-1-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The licensing agency shall be administered by an executive director appointed by the governor who shall serve at the will and pleasure of the governor.

(b) The executive director must be qualified by experience and training.

(c) The term "executive director" or "secretary", or any other statutory term for the administrative officer of a board listed in section 3 of this chapter, means the executive director of the licensing agency or ~~his~~ **the executive director's** designee.

(d) The executive director is the chief fiscal officer of the licensing agency and is responsible for hiring of all staff and for procurement of all services and supplies in accordance with IC 5-22. The executive director and the employees of the licensing agency are subject to IC 4-15-1.8 but are not under IC 4-15-2. The executive director may appoint no more than three (3) deputy directors, who must be qualified to work for the boards which are served by the licensing agency.

(e) The executive director shall execute a bond payable to the state, with surety to consist of a surety or guaranty corporation qualified to do business in Indiana, in an amount fixed by the state board of accounts, conditioned upon the faithful performance of duties and the accounting for all money and property that come into the executive director's hands or under the executive director's control. The executive director may likewise cause any employee of the licensing agency to execute a bond if that employee receives, disburses, or in any way handles funds or property of the licensing agency. The costs of any such bonds shall be paid from funds available to the licensing agency.

(f) The executive director may present to the general assembly legislative recommendations regarding operations of the licensing agency and the boards it serves, including adoption of four (4) year license or certificate renewal cycles wherever feasible.

(g) Upon the request of a board or commission, the executive director may execute orders, subpoenas, continuances, and other legal documents on behalf of the board or commission.

(h) Upon the request of a board or commission, the executive director may provide advice and technical assistance on issues that may be presented to the board or commission.

SECTION 5. IC 25-1-6-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.5. ~~(a)~~ A person who has a license renewal denied by a board listed in section 3 of this chapter may file an appeal of the denial ~~with the executive director of the licensing agency.~~ **in accordance with IC 4-21.5-3.**

~~(b) IC 4-21.5-3-29 and IC 4-21.5-3-30 govern the executive director's review of an appeal filed under subsection (a).~~

SECTION 6. IC 25-1-8-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. (a) As used in this section, "board" includes the entities listed in IC 25-1-6-3.**

(b) Notwithstanding any other law regarding fees for reinstatement or restoration of a delinquent or lapsed license, certificate, or registration, a delinquent or lapsed license, certificate, or registration that was issued by the board may not be reinstated or restored unless the holder of the license, certificate, or registration pays:

(1) the fee established by the board under section 2 of this chapter; and

(2) a reinstatement fee established by the Indiana professional licensing agency.

(c) A license, certificate, or registration may not be reinstated or restored unless the holder of the license, certificate, or registration completes all other requirements for reinstatement or restoration of the license, certificate, or registration that are:

(1) provided for in statute or rule; and

(2) not related to fees.

(d) This section does not apply to a license, certificate, or registration if one (1) of the following applies:

(1) The license, certificate, or registration has been revoked or suspended.

(2) A statute specifically does not allow a license, certificate, or registration to be reinstated or restored.

SECTION 7. IC 25-1-11-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. The board may order a practitioner to submit to a reasonable physical or mental examination, **at the practitioner's expense,** if the practitioner's physical or mental capacity to practice safely and competently is at issue in a disciplinary proceeding.

SECTION 8. IC 25-1-11-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. A practitioner who has been subjected to disciplinary sanctions may be required by a board to pay the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. These costs are limited to costs for the following:

(1) Court reporters.

(2) Transcripts.

(3) Certification of documents.

(4) Photo duplication.

(5) Witness attendance and mileage fees.

(6) Postage.

(7) Expert witnesses.

(8) Depositions.

(9) Notarizations.

(10) Administrative law judges.

SECTION 9. IC 25-1-11-19 IS ADDED TO THE CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 19. (a) The board may refuse to issue a license or may issue a probationary license to an applicant for licensure if:**

(1) the applicant has:

(A) been disciplined by a licensing entity of another state or jurisdiction; or

(B) committed an act that would have subjected the applicant to the disciplinary process if the applicant had been licensed in Indiana when the act occurred; and

(2) the violation for which the applicant was or could have been disciplined has a bearing on the applicant's ability to competently perform or practice the profession in Indiana.

(b) Whenever the board issues a probationary license, the board may require a licensee to do any of the following:

(1) Report regularly to the board upon the matters that are the basis of the discipline of the other state or jurisdiction.

(2) Limit practice to the areas prescribed by the board.

(3) Continue or renew professional education requirements.

(4) Engage in community restitution or service without compensation for the number of hours specified by the board.

(5) Perform or refrain from performing an act that the board considers appropriate to the public interest or to the rehabilitation or treatment of the applicant.

(c) The board shall remove any limitations placed on a probationary license under this section if the board finds after a public hearing that the deficiency that required disciplinary action has been remedied.

SECTION 10. IC 25-1-11-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 20. The board may require an applicant for licensure to appear before the board before issuing a license.**

SECTION 11. IC 25-4-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. The board shall organize by the election of a chairman and vice chairman, each of whom shall serve for a term of one (1) year. The first meeting of the board shall be held within thirty (30) days after the members thereof shall have been appointed, on call of the chairman of the board. Thereafter, the board shall hold at least two (2) regular meetings each year and may hold such special meetings, as the board in its discretion ~~may deem~~ **considers** necessary or advisable. The time for holding the regular meetings, the method of calling special meetings and the manner of giving notice of all meetings shall be prescribed in the bylaws of the board. Five (5) members of the board shall constitute a quorum for the transaction of any and all business which may come before the board. Approval by a majority of all members of the board shall be required for action to be taken. The board shall adopt official seals representing the different professions that shall be affixed to all certificates of registration granted and issued as provided in this chapter. Subject to the approval of the governor, the board is hereby authorized to make ~~such~~ bylaws and prescribe and promulgate ~~such~~ rules as ~~may be deemed~~ **considered** necessary in the performance of its duty. The board shall adopt rules establishing standards for the competent practice of architecture and landscape architecture, **and for the administration of the registered architects and registered landscape architects investigative fund established by section 32 of this chapter.** Suitable office quarters shall be provided for the use of the board in the city of Indianapolis.

SECTION 12. IC 25-4-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The board shall be entitled to the services of the attorney general in connection with any of the business of the board. The board shall have the power to administer oaths and take testimony and proofs concerning any matter which may come within its jurisdiction. The attorney general, the prosecuting attorney of any county, the board, ~~of registration for architects and landscape architects,~~ or ~~any~~ **a** citizen of ~~any~~ **a** county wherein any person, not herein exempted, shall engage in the practice of architecture or landscape architecture, as herein defined, without first having obtained a certificate of registration, or without first having renewed an expired certificate of registration, so to practice, may, in accordance with the provisions of the laws of this state governing injunctions, maintain an action, in the name of the state of Indiana, to enjoin such person from engaging in the practice of architecture or landscape architecture, as herein defined, until a certificate of registration is secured, or renewed, in accordance with the provisions of this chapter. Any person who has been so enjoined and who ~~shall violate such~~ **violates the** injunction shall be punished for contempt of court. ~~Such~~ **The** injunction shall not relieve such person so practicing architecture or landscape architecture without a certificate of registration, or without first having renewed an expired certificate of registration, from a criminal prosecution therefor, as is provided by this chapter, but such remedy by injunction shall be in addition to any remedy provided for herein for the criminal prosecution of such offender. In charging any person in a complaint for an injunction, or in an affidavit, information or indictment, with the violation of the provisions of this chapter, by practicing architecture or landscape architecture without a certificate of registration or without having renewed an expired certificate of registration, it shall be sufficient to charge that the person did upon a certain day and in a certain county engage in the practice of architecture or landscape architecture, without having a certificate of registration or without having renewed an expired certificate of registration, to so practice, without averring any further or more particular facts concerning the same. **The attorney general and the Indiana professional licensing agency may use the registered architects and registered landscape architects investigative fund established by section 32 of this chapter to hire investigators and other employees to enforce the provisions of this article and to investigate and prosecute violations of this article.**

SECTION 13. IC 25-4-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. **(a)** ~~Any~~ **A** person desiring to engage or continue in the practice of architecture ~~in this state,~~ shall:

(1) apply to the board for a certificate of registration; ~~authorizing such person so to do;~~ and

(2) ~~shall~~ submit evidence to the board that ~~he~~ **the person** is qualified to engage or continue in the practice of architecture; in compliance with the requirements of this chapter.

(b) The application for a certificate of registration shall be:

(1) made on a form ~~which shall be~~ prescribed and furnished by the board;

(2) ~~shall be~~ verified; and

(3) ~~shall be~~ accompanied by ~~the prescribed fee.~~ **a fee established by the board under IC 25-1-8-2.**

SECTION 14. IC 25-4-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) Every registered architect who continues in active practice shall, biennially, on or before ~~November 2,~~ **the date established by the licensing agency under IC 25-1-6-4,** renew the registered architect's certificate of registration and pay the required renewal fee. ~~Every license or certificate of registration that has not been renewed during the month of November in any year expires on December 1 in that year.~~ A registered architect whose certificate of registration has expired may have the certificate restored only upon payment of the required ~~restoration~~ fee **under IC 25-1-8-7.**

(b) Subject to subsection (c), any architect registered or licensed in this state who has failed to renew the architect's certificate of registration for a period of not more than five (5) years may have the certificate renewed at any time within a period of five (5) years after the registration expired upon:

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

(2) paying a ~~renewal~~ fee ~~equal to the sum of the renewal fees that the applicant would have paid if the applicant had regularly renewed the applicant's registration during the period that the applicant's registration lapsed.~~ **required under IC 25-1-8-7.**

(c) If any registered architect desires to retire from the practice of architecture in Indiana, the architect may submit to the board the architect's verified statement of intention to withdraw from practice. The statement shall be entered upon the records of the board. During the period of the architect's retirement, the architect is not liable for any renewal or restoration fees. If any retired architect desires to return to the practice of architecture in Indiana within a period of five (5) years from the date that the architect files a statement under this subsection, the retired architect must:

(1) file with the board a verified statement indicating the architect's desire to return to the practice of architecture; and

(2) pay

~~(A)~~ a renewal fee equal to the fee set by the board to renew an unexpired registration under this chapter. ~~if the retired architect's registration is renewed for one (1) year or more in a biennial renewal cycle established under subsection (a); or~~

~~(B) a renewal fee equal to one-half (1/2) the fee set by the board to renew an unexpired registration under this chapter, if the retired architect's registration is renewed for less than one (1) year in a biennial renewal cycle established under subsection (a).~~

SECTION 15. IC 25-4-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. **(a)** The fee to be paid by an applicant for an examination to determine ~~his~~ **the applicant's** fitness to receive a certificate of registration as a registered architect shall be ~~twenty-five dollars ($25.00).~~ **established by the board under IC 25-1-8-2.**

(b) The fee to be paid by an applicant for a certificate of registration as a registered architect shall be ~~twenty-five dollars ($25.00).~~ **established by the board under IC 25-1-8-2.**

(c) The fee to be paid for the restoration of an expired certificate of registration as a registered architect shall be ~~one dollar ($1.00) after the certificate has been in default for one (1) month, and an additional one dollar ($1.00) for each succeeding month or fraction thereof of such default but not exceeding a maximum restoration fee of ten dollars ($10.00). Such~~ **established under IC 25-1-8-7. The** restoration fee shall be in addition to all unpaid renewal fees.

(d) The fee to be paid upon renewal of a certificate of registration shall be ~~fifteen dollars ($15.00).~~ **established by the board under IC 25-1-8-2.**

(e) The fee to be paid by an applicant for a certificate of registration who is an architect registered or licensed under the laws of another state or territory of the United States, or of a foreign country or province, shall be ~~twenty-five dollars ($25.00).~~ **established by the board under IC 25-1-8-2.**

SECTION 16. IC 25-4-1-32 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 32. (a) The registered architects and registered landscape architects investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against violators of this article. The fund shall be administered by the attorney general and the Indiana professional licensing agency.**

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

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

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

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

SECTION 17. IC 25-4-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) To qualify for registration as a landscape architect, an applicant must:

(1) submit evidence that the applicant is an individual who is at least eighteen (18) years of age;

(2) submit evidence that the applicant has:

(A) graduated from an accredited curriculum of landscape architecture presented by a college or school approved by the board; or

(B) attained before January 1, 2003, at least eight (8) years of actual practical experience in landscape architectural work of a grade and character satisfactory to the board;

(3) submit evidence that the applicant has paid the examination fee and the ~~license~~ **application** fee set by the board;

(4) provide an affidavit that indicates that the applicant does not have a conviction for:

(A) an act that would constitute a ground for disciplinary action under IC 25-1-11; or

(B) a felony that has a direct bearing on ~~his~~ **the applicant's** ability to practice competently;

(5) pass the examination required by the board under section 4 of this chapter after meeting the requirements in subdivisions (1) through (4); and

(6) submit evidence that the applicant has at least three (3) years of diversified, actual, and practical experience in landscape architectural work of a grade and character satisfactory to the board.

(b) The board shall issue a certificate of registration under this chapter to an applicant who meets the requirements in this section.

SECTION 18. IC 25-4-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The board shall set the fees for issuance of a certificate of registration to a landscape architect and for the biennial renewal of registration. The fee for registration and for renewal of registration must be based upon the administrative costs of registering and regulating landscape architects. This fee must include the costs for:

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

(2) clerical assistance.

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

SECTION 19. IC 25-6.1-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Every individual, before acting as an auctioneer, must obtain a license from the commission.

(b) An applicant for a license must:

(1) be at least eighteen (18) years of age;

(2) have completed at least eighty (80) actual hours of auction instruction from a course provider approved by the commission;

(3) not have a conviction for:

(A) an act which would constitute a ground for disciplinary sanction under IC 25-1-11; or

(B) a felony that has a direct bearing on the applicant's ability to practice competently.

(c) Auction instruction required under subsection (b) must provide the applicant with knowledge of all of the following:

(1) The value of real estate and of various goods commonly sold at an auction.

(2) Bid calling.

(3) Sale preparation, sale advertising, and sale summary.

(4) Mathematics.

(5) The provisions of this article and the commission's rules.

(6) Any other subject matter approved by the commission.

(d) An individual seeking an initial license as an auctioneer under this article shall file with the commission a completed application on the form prescribed by the commission. When filing an ~~initial~~ application for an auctioneer license, each individual shall

~~(1)~~ pay a nonrefundable examination fee ~~of thirty-five dollars ($35)~~ **established by the commission under IC 25-1-8-2.** ~~and~~

~~(2) pay a surcharge under IC 25-6.1-8 for deposit in the auctioneer recovery fund.~~

(e) When ~~filing an application~~ **applying** for a renewal of an auctioneer license, each individual shall do the following:

(1) ~~File with the commission a completed application on the form prescribed~~ **Apply in a manner required** by the commission, including certification by the applicant that the applicant has complied with the requirements of IC 25-6.1-9-8, unless the commission has granted the applicant a waiver under IC 25-6.1-9-9.

(2) Pay the license fee prescribed by section 5 of this chapter.

(f) Upon the receipt of a completed application for an initial or a renewal license, the commission shall examine the application and verify the information contained therein.

(g) An applicant who is seeking an initial license must pass an examination ~~prepared and administered~~ **approved** by the commission **that covers subjects and topics of knowledge required to practice as an auctioneer.** The commission shall hold examinations as the commission may prescribe. ~~The examination for an auctioneer's license shall include questions on the applicant's:~~

~~(1) ability to read and write;~~

~~(2) knowledge of the value of real estate and of various goods commonly sold at an auction;~~

~~(3) knowledge of calling;~~

~~(4) knowledge of sale preparation, sale advertising, and sale summary;~~

~~(5) knowledge of mathematics; and~~

~~(6) knowledge of the provisions of this article and the commission's rules.~~

(h) The commission shall issue an auctioneer's license, in such form as it may prescribe, to each individual who meets all of the requirements for licensing and pays the appropriate fees.

(i) Auctioneer licenses shall be issued for a term of four (4) years. A license expires at midnight ~~February 28, 2004,~~ **on the date established by the licensing agency under IC 25-1-6-4** and every fourth year thereafter, unless renewed before that date. If the license has expired, it may be reinstated not more than one (1) year after the date it expired upon the payment of the renewal fee plus the ~~sum of twenty-five dollars ($25)~~ **reinstatement fee established under IC 25-1-8-7** and submission of proof that the applicant has complied with the continuing education requirement. If the license has expired for a period of more than one (1) year, the person must file an application and take the required examination. However, an applicant for ~~restoration~~ **reinstatement** of an expired license is not required to complete the initial eighty (80) hour education

requirement under this section in order to ~~restore~~ **reinstate** the expired license. The holder of an expired license shall cease to display the original wall certificate at the holder's place of business and shall return the wall certificate to the commission upon notification by the commission of the expiration of the holder's license.

(j) The commission may waive the requirement that a nonresident applicant pass an examination and that the nonresident submit written statements by two (2) individuals, if the nonresident applicant:

(1) is licensed to act as an auctioneer in the state of the applicant's domicile;

(2) submits with the application a duly certified letter of certification issued by the licensing board of the applicant's domiciliary state;

(3) is a resident of a state whose licensing requirements are substantially equal to the requirements of Indiana;

(4) is a resident of a state that grants the same privileges to the licensees of Indiana; and

(5) includes with the application an irrevocable consent that actions may be commenced against the applicant. The consent shall stipulate that service of process or pleadings on the commission shall be taken and held in all courts as valid and binding as if service of process had been made upon the applicant personally within this state. If any process or pleading mentioned in this subsection is served upon the commission, it shall be by duplicate copies. One (1) of the duplicate copies shall be filed in the office of the commission and one (1) shall be immediately forwarded by the commission by registered or certified mail to the applicant against whom the process or pleadings are directed.

(k) The commission may enter into a reciprocal agreement with another state concerning nonresident applicants.

(l) The commission may, for good cause shown, upon the receipt of an application for a license, issue a temporary permit for such reasonable period of time, not to exceed one (1) year, as the commission deems appropriate. A temporary permit has the same effect as a license and entitles and subjects the permittee to the same rights and obligations as if the individual had obtained a license.

(m) An applicant for a temporary permit must do the following:

(1) File an examination application.

(2) Pass the examination at one (1) of the next two (2) regularly scheduled examinations.

(n) An individual who does not pass the examination required under subsection (m) may not be issued a temporary permit.

SECTION 20. IC 25-6.1-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. ~~(a)~~ At the time of obtaining a license under this chapter, the licensee shall pay:

(1) the license fee ~~prescribed by this section~~ **established by the commission under IC 25-1-8-2; and**

(2) a surcharge under IC 25-6.1-8 for deposit in the auctioneer recovery fund.

~~(b) The fee for the license issued to any person, auction company, or auction house during each licensing period is seventy dollars ($70).~~

~~(c) The commission may adopt rules that provide for the payment of a proportionate amount of the licensing fee if a license will be issued for less than the full term of the license.~~

SECTION 21. IC 25-6.1-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The commission may charge the fee established under IC 25-1-8-2 as the cost of providing duplicate licenses to replace lost or destroyed licenses.

(b) The commission may charge ~~five dollars ($5) as the~~ **a fee established under IC 25-1-8-2 for the** cost of ~~certified copies of licenses, which may include certified copies of a type and size which can be easily carried on the person of the licensee.~~ **verifying a license to another state.**

SECTION 22. IC 25-6.1-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. A licensee who is initially licensed in the ~~second~~ **fourth** year of a renewal period is exempt from the continuing education requirement under this chapter for that renewal period.

SECTION 23. IC 25-7-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) If the board determines that:

(1) a person possesses a valid license from another jurisdiction to perform acts that require a license under this article; and

(2) the jurisdiction issuing the license imposes substantially equivalent requirements on applicants for the license as are imposed on applicants for an Indiana license;

the board may issue a license to perform those acts in Indiana to the person upon payment of the fee ~~required under 816 IAC 1-3-1.~~ **established by the board under IC 25-1-8-2.**

(b) This subsection applies only to applications for a barber license under IC 25-7-10. If the jurisdiction issuing the license does not impose substantially equivalent requirements as required under subsection (a)(2), the board may approve a combination of education hours plus actual licensed practice in the other jurisdiction when issuing a license to a person from that jurisdiction. One (1) year of licensed practice is equal to one hundred (100) hours of education to an applicant who has completed a minimum of one thousand (1,000) hours of education.

SECTION 24. IC 25-7-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. An expired barber license may be ~~restored~~ **reinstated** by payment of the ~~restoration fee plus all unpaid~~ **reinstatement and** renewal fees **required under IC 25-1-8-2 and IC 25-1-8-7** within five (5) years of the expiration date of the license. After five (5) years from the date that a barber license expires under this section, the person whose license has expired may ~~restore~~ **reinstate** the license only by:

(1) applying for ~~restoration~~ **reinstatement** of the license;

(2) paying the ~~fee~~ **fees** set forth under IC 25-7-11 **and IC 25-1-8-7;** and

(3) taking the same examination required under IC 25-7-10 for an applicant for a license to practice as a registered barber.

SECTION 25. IC 25-7-6-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) If a person does not receive a satisfactory grade on the examination described in section 14(3) of this chapter, the board may deny the petition to ~~restore~~ **reinstate** the license.

(b) The board may ~~restore~~ **reinstate** a license held by a person described in subsection (a) if the person complies with rules adopted by the board to permit further examination of the person for license ~~restoration.~~ **reinstatement.**

SECTION 26. IC 25-7-10-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. The board may not:

(1) renew or ~~restore~~ **reinstate** a work permit; or

(2) grant a person more than one (1) work permit;

issued under section 7 of this chapter.

SECTION 27. IC 25-7-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The board shall ~~charge a fee of three hundred dollars ($300) for an application to issue or renew a barber school license.~~ **adopt rules under IC 4-22-2 to establish fees for the application, issuance, and renewal of barber school licenses under IC 25-1-8-2.**

(b) In addition to the fee charged under subsection (a), the board shall charge a fee for ~~restoring~~ **reinstating** a barber school license **under IC 25-1-8-7.**

~~(c) The fee charged under subsection (b) shall be determined by the date that the applicant applies for the restoration of the license as follows:~~

~~Number of days following expiration of license~~	~~Fee~~
~~0-30~~	~~$0~~
~~31-180~~	~~$150~~
~~181-191~~	~~$200~~

~~(d) The fee charged under subsection (b) shall be accompanied by all unpaid renewal fees.~~

~~(c)~~ **(c)** A barber school license may not be ~~restored~~ **reinstated** if at least one ~~hundred ninety-two (192) days have~~ **(1) year has** passed since the license expired. However, the barber school may obtain a new license by:

(1) making application;

(2) meeting the requirements for licensure; and

(3) paying a fee ~~of four hundred dollars ($400).~~ **established by the board under IC 25-1-8-2.**

SECTION 28. IC 25-7-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~(a)~~ The board shall ~~charge a fee of forty dollars ($40) to issue or renew an instructor license.~~

~~(b) To restore an expired barber instructor license, the board shall charge a fee of seventy-five dollars ($75) plus all unpaid renewal fees.~~

~~(c) The board shall charge a fee of fifty dollars ($50) for providing an examination to an applicant for a barber instructor license.~~ **adopt rules under IC 4-22-2 to establish fees related to an instructor's license under IC 25-1-8-2.**

SECTION 29. IC 25-7-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The board shall ~~charge a fee of forty dollars ($40) for issuing or renewing a barber shop license.~~

~~(b) The board shall charge a fee for restoring a barber shop license that shall be determined by the date that the applicant applies for the restoration of the license as follows:~~

~~Number of days following expiration of license~~	~~Fee~~
~~0-30~~	~~$ 10~~
~~31-180~~	~~$ 50~~
~~181-191~~	~~$100~~

~~(c) The fee charged under subsection (b) shall be accompanied by all unpaid renewal fees.~~ **adopt rules under IC 4-22-2 to establish fees related to barber shop licenses under IC 25-1-8-2.**

~~(d)~~ **(b)** A barber shop license may not be ~~restored~~ **reinstated** if at least one ~~hundred ninety-two (192) days have~~ **(1) year has** passed since the license expired. However, the barber shop may obtain a new license by:

(1) making application;

(2) meeting the requirements for licensure; and

(3) paying ~~a fee of one hundred forty dollars ($140).~~ **the fees established under IC 25-1-8-2.**

SECTION 30. IC 25-7-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The board shall ~~charge a fee of at least thirty dollars ($30) and not more than fifty dollars ($50)~~ **establish fees under IC 25-1-8-2** for providing an examination to an applicant for a barber license.

(b) The board shall ~~charge a fee of forty dollars ($40)~~ **establish fees under IC 25-1-8-2** for issuing or renewing a barber license.

(c) The board shall charge a fee ~~for restoring~~ **established under IC 25-1-8-7 for reinstating** a barber license. ~~that shall be determined by the date that the applicant applies for the restoration of the license as follows:~~

~~Number of days following expiration of license~~	~~Fee~~
~~0-30~~	~~$ 10~~
~~31-181~~	~~$ 50~~
~~182-5 years~~	~~$100~~

~~(d) The fee charged under subsection (c) shall be accompanied by all unpaid renewal fees.~~

SECTION 31. IC 25-7-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The board shall ~~charge~~ **establish** a fee ~~of ten dollars ($10)~~ **under IC 25-1-8-2** for issuing a duplicate license.

SECTION 32. IC 25-7-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The board may under IC 4-21.5:

(1) refuse to issue, renew, or ~~restore~~ **reinstate** a license issued under this article; or

(2) suspend or revoke a license issued under this article;

if the board determines that the applicant or license holder has not complied with IC 25-1-11.

SECTION 33. IC 25-8-4-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. Except as provided in IC 25-8-9-11, the board may, upon application, ~~restore~~ **reinstate** a license under this chapter that has expired if the person holding the license:

(1) pays ~~any unpaid~~ renewal fees ~~to~~ **established by** the board **under IC 25-1-8-2;**

(2) pays the license ~~restoration~~ **reinstatement** fee ~~set forth in IC 25-8-13;~~ **established under IC 25-1-8-7;**

(3) complies with all requirements imposed by this article on an applicant for an initial license to perform the acts authorized by the license being ~~restored~~ **reinstated,** other than receiving a satisfactory grade (as defined in section 9 of this chapter) on an examination prescribed by the board; and

(4) fulfills the continuing education requirements under IC 25-8-15.

SECTION 34. IC 25-8-4-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) Except as provided in subsection (b), the board may not ~~restore~~ **reinstate** a license issued under this article if the person holding the license does not petition for license renewal within three (3) years after the expiration of the license, unless that person complies with section 23 of this chapter.

(b) The board may not ~~restore.~~ **reinstate:**

(1) a cosmetology salon license issued under IC 25-8-5;

(2) an electrology salon license issued under IC 25-8-7.2;

(3) an esthetician salon license issued under IC 25-8-12.6;

(4) a manicurist salon license issued under IC 25-8-7.1; or

(5) a cosmetology school license issued under IC 25-8-7;

unless the license holder submits an application for ~~restoration~~ **reinstatement** of the license within six (6) months after the date the license expired.

SECTION 35. IC 25-8-4-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. The board may ~~restore~~ **reinstate** a license issued under this article held by a person described in section 22(a) of this chapter if the applicant:

(1) receives a satisfactory grade (as defined in section 9 of this chapter) on an examination prescribed by the board;

(2) pays the examination fee set forth in IC 25-8-13;

(3) pays the ~~restoration~~ **reinstatement** fee ~~set forth in IC 25-8-13;~~ **established under IC 25-1-8-7;** and

(4) complies with all requirements imposed by this article on an applicant for an initial license to perform the acts authorized by the license being ~~restored.~~ **reinstated.**

SECTION 36. IC 25-8-4-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. If a person does not receive a satisfactory grade on the examination described in section 23 of this chapter, the board may not ~~restore~~ **reinstate** that person's license until the person has:

(1) successfully completed the cosmetology school program required for an applicant for a license issued under this article to perform the acts authorized by the license being ~~restored,~~ **reinstated;**

(2) received a satisfactory grade (as defined in section 9 of this chapter) on an examination prescribed by the board;

(3) paid the examination fee set forth in IC 25-8-13;

(4) paid the license fee set forth in IC 25-8-13; and

(5) complied with all requirements imposed by this article on an applicant for an initial license to perform the acts authorized by the license being ~~restored.~~ **reinstated.**

SECTION 37. IC 25-8-4-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25. If a person does not receive a satisfactory grade on the examination described in section 24(2) of this chapter, the board may deny the petition to ~~restore~~ **reinstate** the license.

SECTION 38. IC 25-8-4-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. The board may ~~restore~~ **reinstate** a license held by a person described in section 25 of this chapter if that person complies with any rules adopted by the board to permit further examination of that person for license ~~restoration.~~ **reinstatement.**

SECTION 39. IC 25-8-4-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. If a person holding a license described in section 22(b) of this chapter does not comply with the ~~restoration~~ **reinstatement** application filing requirements set forth in that section, that person may:

(1) file an application for a new license to operate:

(A) a cosmetology salon;

(B) an electrology salon;

(C) an esthetic salon;

(D) a manicurist salon; or

(E) a cosmetology school;

under this article; and

(2) pay the ~~restoration~~ **reinstatement** fee set forth in:

(A) IC 25-8-13-3; or

(B) IC 25-8-13-5(b).

SECTION 40. IC 25-8-9-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. The board may not renew or ~~restore~~ **reinstate** a license issued under section 7 of this chapter.

SECTION 41. IC 25-8-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The board shall charge a fee ~~of four hundred dollars ($400)~~ **established by the board under IC 25-1-8-2** for an application to issue or renew a cosmetology school license.

(b) The board shall charge a fee **established under IC 25-1-8-7** for ~~restoring~~ **reinstating** a cosmetology school license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following Expiration of License~~	~~Fee~~
~~1-30~~	~~$200~~
~~31-180~~	~~300~~
~~More than 180~~	~~400~~

SECTION 42. IC 25-8-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing:

(1) a cosmetology instructor license;

(2) an esthetics instructor license; or

(3) an electrology instructor license.

(b) The board shall charge a fee **established under IC 25-1-8-7** for ~~restoring~~ **reinstating** an instructor license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following Expiration of License~~	~~Fee~~
~~1-30~~	~~$ 20~~
~~31- 180~~	~~30~~
~~More than 180~~	~~40~~

SECTION 43. IC 25-8-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing:

(1) a cosmetology salon license;

(2) an electrology salon license;

(3) an esthetic salon license; or

(4) a manicurist salon license.

(b) The board shall charge a fee **established under IC 25-1-8-7** for ~~restoring.~~ **reinstating:**

(1) a cosmetology salon license;

(2) an electrology salon license;

(3) an esthetic salon license; or

(4) a manicurist salon license.

~~(c) The fee charged under subsection (b) shall be determined by the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following Expiration of License~~	~~Fee~~
~~0 - 30~~	~~$ 10~~
~~31 - 180~~	~~50~~
~~181 - 191~~	~~100~~

SECTION 44. IC 25-8-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The board shall charge a fee ~~of twenty-five dollars ($25)~~ **established by the board under IC 25-1-8-2** for providing an examination to an applicant for a master cosmetologist license.

(b) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing a master cosmetologist license.

(c) The board shall charge a fee **established under IC 25-1-8-7** for ~~restoring~~ **reinstating** a master cosmetologist license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following Expiration of License~~	~~Fee~~
~~1-30~~	~~$ 20~~
~~31- 180~~	~~30~~
~~More than 180~~	~~40~~

SECTION 45. IC 25-8-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The board shall charge a fee ~~of twenty dollars ($20)~~ **established by the board under IC 25-1-8-2** for providing an examination to an applicant for a cosmetologist license.

(b) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing a cosmetologist license.

(c) The board shall charge a fee **established under IC 25-1-8-7** for ~~restoring~~ **reinstating** a cosmetologist license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following Expiration of License~~	~~Fee~~
~~1-30~~	~~$ 20~~
~~31- 180~~	~~30~~
~~More than 180~~	~~40~~

(d) The board shall charge a fee ~~of one hundred dollars ($100)~~ **established by the board under IC 25-1-8-2** for issuing an Indiana cosmetologist license to a person who holds a license from another jurisdiction that meets the requirements set forth in IC 25-8-4-2.

SECTION 46. IC 25-8-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The board shall charge a fee ~~of twenty-five dollars ($25)~~ **established by the board under IC 25-1-8-2** for providing an examination to an applicant for an electrologist license.

(b) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing an electrologist license.

(c) The board shall charge a fee **established under IC 25-1-8-7** for ~~restoring~~ **reinstating** an electrologist license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following Expiration of License~~	~~Fee~~
~~1-30~~	~~$ 20~~
~~31- 180~~	~~30~~
~~More than 180~~	~~40~~

(d) The board shall charge a fee ~~of one hundred dollars ($100)~~ **established by the board under IC 25-1-8-2** for issuing a license to a person who holds an electrologist license from another jurisdiction that meets the requirements under IC 25-8-4-2.

SECTION 47. IC 25-8-13-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The board shall charge a fee ~~of ten dollars ($10)~~ **established by the board under IC 25-1-8-2** for providing an examination to an applicant for

a manicurist license.

(b) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing a manicurist license.

(c) The board shall charge a fee **required under IC 25-1-8-7** for ~~restoring~~ **reinstating** a manicurist license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following Expiration of License~~	~~Fee~~
~~1-30~~	~~$ 20~~
~~31-180~~	~~30~~
~~More than 180~~	~~40~~

(d) The board shall charge a fee ~~of one hundred dollars ($100)~~ **established by the board under IC 25-1-8-2** for issuing a license to a person who holds a manicurist license from another jurisdiction that meets the requirements under IC 25-8-4-2.

SECTION 48. IC 25-8-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) The board shall charge a fee ~~of twenty dollars ($20)~~ **established by the board under IC 25-1-8-2** for providing an examination to an applicant for a shampoo operator license.

(b) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing a shampoo operator license.

(c) The board shall charge a fee **established under IC 25-1-8-7** for ~~restoring~~ **reinstating** a shampoo operator license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following Expiration of License~~	~~Fee~~
~~1-30~~	~~$ 20~~
~~31-180~~	~~30~~
~~More than 180~~	~~40~~

SECTION 49. IC 25-8-13-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) The board shall charge a fee ~~of twenty-five dollars ($25)~~ **established by the board under IC 25-1-8-2** for providing an examination to an applicant for an esthetician license.

(b) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing an esthetician license.

(c) The board shall charge a fee **established under IC 25-1-8-7** for ~~restoring~~ **reinstating** an esthetician license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following Expiration of License~~	~~Fee~~
~~1-30~~	~~$ 20~~
~~31-180~~	~~30~~
~~More than 180~~	~~40~~

(d) The board shall charge a fee ~~of one hundred dollars ($100)~~ **established by the board under IC 25-1-8-2** for issuing a license to a person who holds an esthetician license from another jurisdiction that meets the requirements under IC 25-8-4-2.

SECTION 50. IC 25-8-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The board may under IC 4-21.5 refuse to issue, renew, or ~~restore~~ **reinstate** a license issued under this article if it determines that the applicant or license holder has not complied with IC 25-1-11.

SECTION 51. IC 25-8-15.4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. To obtain a license to operate a tanning facility, a person must do the following:

(1) Submit an application to the board on a form prescribed by the board.

(2) Pay a fee ~~of two hundred dollars ($200).~~ **established by the board under IC 25-1-8-2.**

SECTION 52. IC 25-8-16-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. If an inactive cosmetology professional intends to apply for ~~restoration~~ **reinstatement** of the professional's license, the cosmetology professional shall notify the board of that intent. The board may ~~restore~~ **reinstate** the cosmetology professional's license upon notification and receipt of:

(1) an application; and

(2) evidence of completion during the preceding four (4) years of at least sixteen (16) hours of continuing education in a continuing education course approved by the board under IC 25-8-15.

SECTION 53. IC 25-9-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. (a) The commission shall, upon application to the Indiana professional licensing agency, grant licenses to competent referees and judges whose qualifications may be tested by the commission, and the commission may revoke any such license granted to any referee or judge upon such cause as the commission may deem sufficient. Such license must be renewed biennially. No person shall be permitted to act as referee or judge in Indiana unless holding such license.

(b) The application for license as referee, or renewal thereof, shall be accompanied by a fee ~~which shall not be less than twenty-five dollars ($25).~~ **established by the commission under IC 25-1-8-2.**

(c) The commission shall appoint from among such licensed officials, all officials for all contests held under this chapter.

SECTION 54. IC 25-15-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The board shall ~~restore~~ **reinstate** the expired license of an individual who:

(1) was licensed as a funeral director or embalmer;

(2) applies for ~~restoration~~ **reinstatement** of the funeral director license or embalmer license within two (2) years or four (4) years of the date that the license expired as set by the

board;

(3) pays a fee ~~that is equal to:~~

~~(A) the fee set by the board for renewal of a funeral director license or embalmer license; or~~

~~(B) the fee set by the board for renewal of a funeral director license or embalmer license multiplied by the product of two (2) times the number of six (6) month periods that have elapsed from the date that the license expired;~~

~~whichever is greater;~~ **established under IC 25-1-8-7;** and

(4) meets the continuing education requirements set by the board.

SECTION 55. IC 25-15-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The board shall require a funeral director to obtain ten (10) hours of continuing education credit in any two (2) year period in order to renew or ~~restore~~ **reinstate** a license under this chapter. The board shall require that continuing education credit be earned in board approved courses or programs on one (1) or more of the following subjects:

(1) Embalming and restorative arts.

(2) Prevention of the spread of infectious disease and compliance with mandatory public health requirements.

(3) Federal and state laws and rules regulating the embalming and funeral professions.

(4) Funeral home management.

(5) Religion.

(6) Natural science.

(7) Grief counseling and the psychological effect of death on survivors.

(b) Continuing education hours earned as a prerequisite to the issuance or maintenance of a professional license other than a funeral director license may not be counted in determining compliance with this section.

SECTION 56. IC 25-15-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The board may ~~restore~~ **reinstate** the license of:

(1) a person that has allowed a funeral home license to expire only if the person reapplies for a funeral home license, pays ~~an additional~~ **a** fee ~~set by the board,~~ **established under IC 25-1-8-7,** and otherwise meets the requirements in IC 25-15-4-1;

(2) an individual whose funeral director intern license has expired only if the individual reapplies for a funeral director intern license, takes another examination, if required by the board, pays ~~an additional~~ **a** fee ~~set by the board,~~ **established under IC 25-1-8-7,** and otherwise meets the requirements in IC 25-15-4-2; or

(3) an individual whose funeral director license has expired after the time set in section 4 of this chapter has run only if the individual reapplies for a funeral director license, takes another examination, pays ~~an additional~~ **a** fee ~~set by the board,~~ **established under IC 25-1-8-7,** and otherwise meets the requirements in IC 25-15-4-3(b).

The board may not ~~restore~~ **reinstate** an embalmer license or a funeral director license for a person qualified only under IC 25-15-4-3(d) after the time set under section 4 of this chapter has expired.

SECTION 57. IC 25-15-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) A funeral director who holds an inactive funeral director license under IC 25-15-4-6 is exempt from continuing education requirements of section 5 of this chapter.

(b) An individual may reactivate an inactive funeral director's license by completing all hours of continuing education required of licensed funeral directors for each year that the license has been classified as inactive. If an individual's license has been inactive for four (4) or more years, the board shall require the individual to pass an examination under IC 25-15-4 before ~~restoring~~ **reinstating** the individual's license to active status.

(c) An individual who resumes the practice of funeral service or the provision of funeral services to the public under an inactive funeral director license (as described in IC 25-15-4-6) violates this article and the board shall revoke the individual's inactive license.

SECTION 58. IC 25-15-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The board's appointed members may serve only two (2) terms on the board, including prior service either as a member of the state board of funeral service or the state board of embalmers and funeral directors. **A member of the board may serve until the member's successor is appointed and qualified under this chapter.**

SECTION 59. IC 25-20.2-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. A license for a home inspector issued under this article expires ~~two (2) years after the date of issuance.~~ **on a date established by the licensing agency under IC 25-1-6-4 and shall be renewed biennially upon payment of the required renewal fees.**

SECTION 60. IC 25-20.2-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The board shall adopt rules concerning the continuing education required for the renewal of a license under this chapter.

(b) The rules must do the following:

(1) Establish procedures for approving organizations that provide continuing education.

~~(2) Establish a fee for each hour of continuing education that is required after a license is issued or renewed.~~

~~(3)~~ **(2)** Prescribe the content, duration, and organization of continuing education courses that contribute to the general competence of home inspectors.

SECTION 61. IC 25-21.5-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) The board shall enforce and administer this article.

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

of land surveying.

SECTION 62. IC 25-21.5-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. **Except as provided in IC 25-21.5-11-4,** the secretary shall receive and account for all money collected under this article and deposit the money in the state general fund with the treasurer of state. All expenses incurred in the administration of this article shall be paid from the state general fund.

SECTION 63. IC 25-21.5-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The board shall determine the amount of registration fees for a land surveyor and certification fees for a land surveyor in training. ~~Except as provided under IC 25-21.5-8-7, the registration and renewal fee for a land surveyor may be not more than fifty dollars ($50) per year.~~

SECTION 64. IC 25-21.5-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The board shall ~~determine the renewal fee and delinquent fee~~ **establish fees under IC 25-1-8.**

SECTION 65. IC 25-21.5-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The board may adopt rules requiring a land surveyor to obtain continuing education for renewal of a certificate under this chapter.

(b) If the board adopts rules under this section, the rules must do the following:

~~(1) Establish a fee of two dollars ($2) for each hour of continuing education required after the certificate of registration was issued or renewed.~~

~~(2) Require that continuing education fees be paid when the land surveyor's certificate of registration is renewed.~~

~~(3)~~ **(1)** Establish procedures for approving an organization that provides continuing education.

~~(4)~~ **(2)** Require an organization that provides an approved continuing education program to supply the following information to the board not more than thirty (30) days after the course is presented:

(A) An alphabetical list of all land surveyors who attended the course.

(B) A certified statement of the hours to be credited to each land surveyor.

(c) If the board adopts rules under this section, the board may adopt rules to do the following:

(1) Allow private organizations to implement the continuing education requirement.

(2) Establish an inactive certificate of registration. If the board adopts rules establishing an inactive certificate, the board must adopt rules that:

(A) do not require the holder of an inactive certificate to obtain continuing education;

(B) prohibit the holder of an inactive certificate from practicing land surveying;

(C) establish requirements for reactivation of an inactive certificate; and

(D) do not require the holder of an inactive certificate to pay the registration and renewal fees required under IC 25-21.5-7-5.

SECTION 66. IC 25-21.5-11-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 4. (a) The registered land surveyor and registered land surveyor in training investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against violators of this article. The fund shall be administered by the attorney general and the licensing agency.**

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

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

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

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

SECTION 67. IC 25-21.5-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. **(a)** The attorney general shall act as the legal advisor for the board and provide any legal assistance necessary to carry out this article.

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

SECTION 68. IC 25-23.7-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The board shall adopt rules concerning the continuing education required for the renewal of a license under this chapter.

(b) The rules must do the following:

(1) Establish procedures for approving organizations that provide continuing education.

~~(2) Establish a fee for each hour of continuing education required after a license is issued or renewed.~~

~~(3)~~ **(2)** Prescribe the content, duration, and organization of continuing education courses that contribute to the general competence of installers.

SECTION 69. IC 25-28.5-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) Except as otherwise provided in this chapter, ~~any~~ **a** natural person over the age of eighteen (18) years who resides in Indiana and any corporation which satisfies the further requirements of this chapter may be licensed by the commission as a plumbing contractor. Except as

otherwise provided by this chapter, ~~any~~ **a** natural person over the age of eighteen (18) years may be licensed by the commission as journeyman plumber.

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

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

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

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

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

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

SECTION 70. IC 25-28.5-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) Every license or certificate of registration issued under ~~the provisions of~~ this chapter ~~shall expire two (2) years subsequent to the date of its issuance~~ **expires on a date established by the licensing agency under IC 25-1-6-4** and shall be renewed biennially thereafter upon payment of the required renewal fees.

(b) Applications for renewal shall be filed with the commission ~~on a~~ **in the** form **and manner** provided ~~therefore, no later than thirty (30) days prior to the expiration date of the licensee's or registrant's current license or certificate of registration~~ **by the commission.** The application shall be accompanied by the required renewal fee. The commission, upon the receipt of the application for renewal and the required renewal fee, shall issue to the renewal applicant a license or certificate of registration in the category said applicant has previously held. **Unless a license is renewed, a license issued by the commission expires on the date specified by the licensing agency under IC 25-1-6-4.**

SECTION 71. IC 25-28.5-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. The fees to be charged by and paid to the commission by licensees for all licenses and license renewals ~~thereof~~ shall be established by the commission under ~~IC 25-1-8-2.~~ **IC 25-1-8.**

SECTION 72. IC 25-28.5-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. (a) All fees collected by the commission shall be deposited with the treasurer of state to be deposited by ~~him~~ **the treasurer** in the **state** general fund. ~~of the state.~~

(b) All expenses of the commission shall be paid from the **state** general fund upon appropriation being made therefor in the manner provided by law for the making of such appropriations.

SECTION 73. IC 25-28.5-2-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.1. (a) At the time of initial licensure under this article, each licensee shall pay the ~~following fee~~ **fees established by the commission under IC 25-1-8-2 for the following:**

(1) ~~Seventy-five dollars ($75) for~~ A plumbing contractor.

(2) ~~Thirty dollars ($30) for~~ A journeyman plumber.

(b) Fees collected under subsection (a) shall be placed in the plumbers recovery fund.

(c) The fee assessed under this section is in addition to any other fee under this article.

SECTION 74. IC 25-30-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) An application for license as a private detective must be on a form prescribed by the board accompanied by the license fee ~~as provided by this chapter.~~ **established by the board under IC 25-1-8.**

(b) The application shall be verified and shall include the following:

(1) The full name and business address of the applicant.

(2) The name under which the applicant intends to do business as a private detective.

(3) If the applicant is a person other than an individual, the full name and residence address of each of its members, partners, officers, and directors, and its managers.

(4) Other information, evidence, statements, or documents required by the board.

SECTION 75. IC 25-30-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) **Unless a license is renewed,** a license and the identification cards of the licensee's employees issued under this chapter expire ~~two (2) years from the date of issuance of the license.~~ **on a date specified by the licensing agency under IC 25-1-6-4 and expire biennially after the initial expiration date. An applicant for renewal shall pay the renewal fee established by the board under IC 25-1-8-2 on or before the renewal date specified by the licensing agency.**

(b) If the holder of a license does not renew the license by the date specified by the licensing agency, the license expires and becomes invalid without any action taken by the board.

~~(b)~~ **(c)** A licensee desiring a renewal license must:

(1) file an application for renewal at least thirty (30) days before the expiration of the licensee's license on a form as prescribed by the board; and

(2) meet the license renewal requirements determined by the board.

~~(c)~~ **(d)** A license may be reinstated within thirty (30) days after the expiration of the license if the applicant does the following:

(1) Files an application for renewal with the board.

(2) Meets the license requirements determined by the board.

(3) Pays ~~the license and delinquent fees.~~ **a fee established under IC 25-1-8-7.**

~~(d)~~ **(e)** Employee identification cards issued under this chapter expire at the same time as the license referred to in subsection (a).

SECTION 76. IC 25-30-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) The board shall charge and the licensing agency shall collect the ~~following private detective license~~ fees **established by the board under IC 25-1-8.**

~~(1) For issuance or renewal of a private detective license, a fee of one hundred fifty dollars ($150).~~

~~(2) For identification cards for unlicensed employees issued under section 10(d) of this chapter, a fee of:~~

~~(A) ten dollars ($10); or~~

~~(B) five dollars ($5) if application for the identification card is made in the second year of the licensee's license.~~

~~(3) For reinstatement of a license referred to in section 16(c) of this chapter, a delinquent fee of seventy-five dollars ($75).~~

(b) All fees collected under this chapter shall go into the general fund and shall be accounted for by the licensing agency.

~~(c) A license fee shall not be refunded unless a showing is made of ineligibility to receive the license by failure to meet the requirements of this chapter, or by a showing of mistake, inadvertence, or error in the collection of the fee.~~

SECTION 77. IC 25-31-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The board shall enforce and administer the provisions of this chapter, and adopt rules, not inconsistent with the Constitution and laws of this state, as may be reasonably necessary for the proper performance of its duties and the regulations of the proceedings before it. The board shall adopt rules establishing standards for the competent practice of engineering **and for the administration of the registered professional engineers and registered engineering interns investigative fund established by section 35 of this chapter.** Any rulemaking by the board shall be in accordance with IC 4-22-2.

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

SECTION 78. IC 25-31-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. **Except as provided in IC 25-31-1-35,** the licensing agency shall receive and account for all money collected under the provisions of this chapter and shall deposit the money with the treasurer of state to be deposited by the treasurer of state in the general fund of the state.

SECTION 79. IC 25-31-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) The examination required of all applicants for registration as a professional engineer shall be a written examination which shall be divided into the following two (2) parts, each of eight (8) hours duration:

(1) Engineering fundamentals.

(2) Principles and practice of engineering.

The board may adopt rules under IC 4-22-2 establishing additional examination requirements.

(b) The engineering fundamentals portion of the examination shall be designed to test the applicant's knowledge of mathematics and the physical and engineering sciences. The standards of proficiency required shall approximate that attained by graduation in an approved four (4) year engineering curriculum.

(c) The principles and practice of **the** engineering portion of the examination shall be designed primarily to test the applicant's understanding of, and judgment and ability to apply correctly, the principles of:

(1) mathematics;

(2) the physical sciences;

(3) the engineering sciences; and

(4) engineering design analysis and synthesis;

to the practice of professional engineering. A part of the examination may be designed to test the applicant's knowledge and understanding of the ethical, economic, and legal principles relating to the practices of professional engineering.

(d) An applicant for registration as a professional engineer who holds an engineering intern certificate issued in Indiana or in any other state or territory having equivalent standards may be exempted from the engineering fundamentals portion of the examination.

(e) An applicant must successfully pass the engineering fundamentals portion of the examination before taking the principles and practice portion of the examination.

(f) Examinations shall be held at times and places as determined by the board at least two (2) times each year. Examinations for certification as an engineering intern may be held separately from the examinations for registration as a professional engineer.

(g) An applicant for registration as a professional engineer who is presently registered in another state or territory may be assigned a written examination as the board deems necessary to meet the requirements of this chapter.

(h) An applicant for registration as a professional engineer who fails in the first examination may request to be readmitted for a second examination at either of the next two (2) regularly scheduled examinations. Upon application and at the discretion of the board, an applicant who misses:

(1) the originally scheduled examination; or

(2) the next two (2) regularly scheduled examinations;

may be given permission to appear for another regularly scheduled examination. The amount of fee to be paid for each examination shall be determined by the board under IC 25-1-8-2.

(i) If an applicant who has failed ~~two (2)~~ **three (3)** or more examinations reapplies and submits evidence of acquiring additional knowledge for the examination, the board may give the applicant approval to take subsequent examinations.

SECTION 80. IC 25-31-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) The board shall issue a certificate of registration, upon the payment of the fee prescribed ~~in this chapter,~~ **by the board under IC 25-1-8-2,** to any applicant who, in the opinion of the board, has satisfactorily met all requirements of this chapter. In the case of a professional engineer, the certificate shall authorize the practice of "professional engineering". The certificate of registration shall:

(1) show the full name of the registrant;

(2) bear a serial number and date; and

(3) be signed by ~~each member under the seal~~ **a designee** of the board.

The issuance of any certificate of registration by the board under this chapter is evidence that the individual named on the certificate is entitled to all the rights and privileges of a registered professional engineer from the date on the certificate until it expires or is revoked.

(b) The board shall issue a certificate of enrollment upon the payment of the certificate fee prescribed ~~in this chapter~~ **by the board under IC 25-1-8-2** to any applicant who, in the opinion of the board, has satisfactorily met all of the requirements of this chapter. In the case of an engineering intern, the certificate shall state that the applicant has successfully passed the examination in engineering fundamentals and has been enrolled as an engineering intern. The certificate of enrollment shall:

(1) show the full name of the enrollee;

(2) bear a serial number and date; and

(3) be signed by the director of the licensing agency.

The issuance of a certificate of enrollment by the board is evidence that the individual named on the certificate is entitled to all the rights and privileges of an engineering intern while the certificate remains unrevoked or until it expires.

SECTION 81. IC 25-31-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. ~~(a) The biennial period for which renewals are to be made shall extend from the first day of August of an even-numbered year to the last day of July of the next even-numbered year.~~

~~(b) A new registrant whose certificate bears a date during the first twelve (12) months of a biennial renewal period is required to pay one-half (1/2) of the biennial renewal fee in addition to and at the time of the payment of the certificate fee to validate the certificate for the last twelve (12) months of the biennial renewal period.~~

~~(c) All certificates of registration expire on the last day of July in each even-numbered year and are invalid from that date, unless renewed. The secretary of the board shall send a renewal bill notice by mail to every person registered and in good standing and to those holding invalid certificates who are delinquent not more than two (2) years. The notice must comply with the provisions of IC 25-1-2-6(c) and include the amount of the renewal fee and delinquent fee, if any, to validate the certificate for the succeeding biennial period. The renewal fee and delinquent fee shall be determined by the board under IC 25-1-8-2.~~

(a) Unless a certificate is renewed, a certificate issued under this chapter expires on a date specified by the licensing agency under IC 25-1-6-4 and expires biennially after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the board and pay the renewal fee established by the board under IC 25-1-8-2 on or before the renewal date specified by the licensing agency.

(b) If the holder of a certificate does not renew the license by the date specified by the licensing agency, the certificate expires and becomes invalid without the board taking any action.

~~(d)~~ **(c)** The failure on the part of a registrant to renew a certificate does not deprive the registrant of the right of renewal until the registrant's certificate has remained invalid during two (2) biennial renewal periods if the registrant pays the appropriate delinquent and renewal fees. After two (2) successive biennial renewal periods have elapsed renewal shall be denied.

SECTION 82. IC 25-31-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. The board may, upon application and payment of a fee established by the board in the board's rules, issue a certificate of registration as a professional engineer to an individual who holds a valid certificate of registration as a professional engineer, issued to the applicant by the proper authority of any state or territory or possession of the United States if the requirements for registration of professional engineers that the certificate of registration was issued under do not conflict with the provisions of this chapter. In determining the qualifications of an applicant, the board may accept the verified professional record of the applicant that is certified by the National Council of Examiners for Engineers and Surveyors. **However, an applicant meets the experience requirement under section 12 of this chapter if the applicant:**

(1) has at least three (3) years of engineering work experience after the applicant graduates from an approved engineering curriculum but before the applicant successfully passes an examination required under section 14 of this chapter; and

(2) has been registered or licensed as a professional engineer in another state for at least ten (10) years.

SECTION 83. IC 25-31-1-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. (a) It is the duty of all law enforcement officers of this state, or any political subdivision, to enforce the provisions of this chapter and to apprehend and prosecute any person who violates any of the provisions of this chapter.

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

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

provisions of this article and to investigate and prosecute violations of this article.

SECTION 84. IC 25-31-1-35 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 35. (a) The registered professional engineers and registered engineering interns investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against violators of this article. The fund shall be administered by the attorney general and the licensing agency.**

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

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

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

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

SECTION 85. IC 25-34.1-3-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.1. (a) To obtain a salesperson license, an individual must:

(1) be at least eighteen (18) years of age before applying for a license and must not have a conviction for:

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

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

(C) a crime that indicates the individual has the propensity to endanger the public;

(2) have successfully completed courses in the principles, practices, and law of real estate, totaling eight (8) semester credit hours, or their equivalent, as a student at an accredited college or university or have successfully completed an approved salesperson course as provided in IC 25-34.1-5-5(a);

(3) apply for a license by submitting the application fee prescribed by the commission and an application containing the name, address, and age of the applicant, the name under which the applicant intends to conduct business, the principal broker's address where the business is to be conducted, proof of compliance with subdivision (2), and any other information the commission requires;

(4) pass a written examination prepared and administered by the commission or its duly appointed agent; and

(5) submit not more than one hundred twenty (120) days after passing the written examination under subdivision (4):

(A) the license fee ~~of twenty-five dollars ($25),~~ **established by the commission under IC 25-1-8-2;** and

(B) a sworn certification of a principal broker that the principal broker intends to associate with the applicant and maintain that association until notice of termination of the association is given to the commission.

(b) Upon the applicant's compliance with the requirements of subsection (a), the commission shall:

(1) issue a wall certificate in the name of the salesperson to the principal broker who certified the applicant's association with the principal broker; and

(2) issue to the salesperson a pocket identification card which certifies that the salesperson is licensed and indicates the expiration date of the license and the name of the principal broker.

(c) Notice of passing the commission examination serves as a temporary permit to act as a salesperson as soon as the applicant sends, by registered or certified mail with return receipt requested, the license fee and certification as prescribed in subsection (a)(5)(A) and (a)(5)(B). The temporary permit expires the earliest of the following:

(1) The date the license is issued.

(2) The date the applicant's association with the certifying principal broker is terminated.

The temporary permit may not be renewed, extended, reissued, or otherwise effective for any association other than with the initial certifying principal broker.

(d) A salesperson shall:

(1) act under the auspices of the principal broker responsible for that salesperson's conduct under this article;

(2) be associated with only one (1) principal broker;

(3) maintain evidence of licensure in the office, branch office, or sales outlet of the principal broker;

(4) advertise only in the name of the principal broker, with the principal broker's name in letters of advertising larger than that of the salesperson's name; and

(5) not maintain any real estate office apart from that office provided by the principal broker.

(e) Upon termination of a salesperson's association with a principal broker, the salesperson's license shall be returned to the commission within five (5) business days. The commission shall reissue the license to any principal broker whose certification, as prescribed in subsection (a)(5)(B), is filed with the commission, and the commission shall issue a new identification card to the salesperson reflecting that change.

(f) **Unless a license is renewed,** a salesperson license expires ~~at midnight, December 31, of the next odd-numbered year following the year in which the license is issued or last renewed, unless the licensee renews the license prior to expiration by payment of a biennial license fee of twenty-five dollars ($25). An expired license may be reinstated within one hundred twenty (120) days after expiration, by payment of all unpaid license fees together with twenty dollars ($20). If the license is renewed within eighteen (18)~~

~~months, but more than one hundred twenty (120) days, after expiration, the licensee must pay a late fee of one hundred dollars ($100) plus any unpaid license fees.~~ **on a date specified by the licensing agency under IC 25-1-6-4 and expires biennially after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the board and pay the renewal fee established by the board under IC 25-1-8-2 on or before the renewal date specified by the licensing agency. If the holder of a license does not renew the license by the date specified by the licensing agency, the license expires and becomes invalid without the board taking any action.** If a salesperson fails to reinstate a license within eighteen (18) months after expiration, a license may not be issued unless that salesperson again complies with the requirements of subsection (a)(3), (a)(4), and (a)(5).

(g) A salesperson license may be issued to an individual who is not yet associated with a principal broker but who otherwise meets the requirements of subsection (a). A license issued under this subsection shall be held by the commission in an unassigned status until the date the individual submits the certification of a principal broker required by subsection (a)(5). If the individual does not submit the application for licensure within one hundred twenty (120) days after passing the commission examination, the commission shall void the application and may not issue a license to that applicant unless the applicant again complies with the requirements of subsection (a)(4) through (a)(5).

(h) If an individual holding a salesperson license is not associated with a principal broker for two (2) successive renewal periods, the commission shall notify the individual in writing that the individual's license will become void if the individual does not associate with a principal broker within thirty (30) days from the date the notification is mailed. A void license may not be renewed.

SECTION 86. IC 25-34.1-3-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.1. (a) To obtain a broker license, an individual must:

(1) be at least eighteen (18) years of age before applying for a license and must not have a conviction for:

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

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

(C) a crime that indicates the individual has the propensity to endanger the public;

(2) have satisfied section 3.1(a)(2) of this chapter and have had continuous active experience for one (1) year immediately preceding the application as a licensed salesperson in Indiana. However, this one (1) year experience requirement may be waived by the commission upon a finding of equivalent experience;

(3) have successfully completed an approved broker course of study as prescribed in IC 25-34.1-5-5(b);

(4) apply for a license by submitting the application fee prescribed by the commission and an application specifying the name, address, and age of the applicant, the name under which the applicant intends to conduct business, the address where the business is to be conducted, proof of compliance with subdivisions (2) and (3), and any other information the commission requires;

(5) pass a written examination prepared and administered by the commission or its duly appointed agent; and

(6) within one hundred twenty (120) days after passing the commission examination, submit the license fee ~~of fifty dollars ($50).~~ **established by the commission under IC 25-1-8-2.** If an individual applicant fails to file a timely license fee, the commission shall void the application and may not issue a license to that applicant unless that applicant again complies with the requirements of subdivisions (4) and (5) and this subdivision.

(b) To obtain a broker license, a partnership must:

(1) have as partners only individuals who are licensed brokers;

(2) have at least one (1) partner who:

(A) is a resident of Indiana; or

(B) is a principal broker under IC 25-34.1-4-3(b);

(3) cause each employee of the partnership who acts as a broker or salesperson to be licensed; and

(4) submit the license fee ~~of fifty dollars ($50)~~ **established by the commission under IC 25-1-8-2** and an application setting forth the name and residence address of each partner and the information prescribed in subsection (a)(4).

(c) To obtain a broker license, a corporation must:

(1) have a licensed broker:

(A) residing in Indiana who is either an officer of the corporation or, if no officer resides in Indiana, the highest ranking corporate employee in Indiana with authority to bind the corporation in real estate transactions; or

(B) who is a principal broker under IC 25-34.1-4-3(b);

(2) cause each employee of the corporation who acts as a broker or salesperson to be licensed; and

(3) submit the license fee ~~of fifty dollars ($50),~~ **established by the commission under IC 25-1-8-2,** an application setting forth the name and residence address of each officer and the information prescribed in subsection (a)(4), a copy of the certificate of incorporation, and a certificate of good standing of the corporation issued by the secretary of state. ~~of Indiana.~~

(d) To obtain a broker license, a limited liability company must:

(1) if a member-managed limited liability company:

(A) have as members only individuals who are licensed brokers; and

(B) have at least one (1) member who is:

(i) a resident of Indiana; or

(ii) a principal broker under IC 25-34.1-4-3(b);

(2) if a manager-managed limited liability company, have a licensed broker:

(A) residing in Indiana who is either a manager of the company or, if no manager resides in Indiana, the highest ranking company officer or employee in Indiana with authority to bind the company in real estate transactions;

or

(B) who is a principal broker under IC 25-34.1-4-3(b);

(3) cause each employee of the limited liability company who acts as a broker or salesperson to be licensed; and

(4) submit the license fee ~~of fifty dollars ($50)~~ **established by the commission under IC 25-1-8-2** and an application setting forth the information prescribed in subsection (a)(4), together with:

(A) if a member-managed company, the name and residence address of each member; or

(B) if a manager-managed company, the name and residence address of each manager, or of each officer if the company has officers.

(e) Licenses granted to partnerships, corporations, and limited liability companies are issued, expire, are renewed, and are effective on the same terms as licenses granted to individual brokers, except as provided in subsection (h), and except that expiration or revocation of the license of:

(1) any partner in a partnership or all individuals in a corporation satisfying subsection (c)(1); or

(2) a member in a member-managed limited liability company or all individuals in a manager-managed limited liability company satisfying subsection (d)(2);

terminates the license of that partnership, corporation, or limited liability company.

(f) Upon the applicant's compliance with the requirements of subsection (a), (b), or (c), the commission shall issue the applicant a broker license and an identification card which certifies the issuance of the license and indicates the expiration date of the license. The license shall be displayed at the broker's place of business.

(g) Notice of passing the commission examination serves as a temporary permit for an individual applicant to act as a broker as soon as the applicant sends, by registered or certified mail with return receipt requested, a timely license fee as prescribed in subsection (a)(6). The temporary permit expires the earlier of one hundred twenty (120) days after the date of the notice of passing the examination or the date a license is issued.

(h) **Unless the license is renewed,** a broker license expires, for individuals, ~~at midnight, December 31 and, for corporations, partnerships, and limited liability companies at midnight, June 30 of the next even-numbered year following the year in which the license is issued or last renewed, unless the licensee renews the license prior to expiration by payment of a biennial license fee of fifty dollars ($50). An expired license may be reinstated within one hundred twenty (120) days after expiration by payment of all unpaid license fees together with twenty dollars ($20). If the license is renewed within eighteen (18) months, but more than one hundred twenty (120) days, after expiration, the licensee must pay a late fee of one hundred dollars ($100) plus any unpaid license fees.~~ **on a date specified by the licensing agency under IC 25-1-6-4 and expires biennially after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the board and pay the renewal fee established by the commission under IC 25-1-8-2 on or before the renewal date specified by the licensing agency. If the holder of a license does not renew the license by the date specified by the licensing agency, the license expires and becomes invalid without the board taking any action.** If a broker fails to reinstate a license within eighteen (18) months after expiration, a license may not be issued unless the broker again complies with the requirements of subsection (a)(4), (a)(5), and (a)(6).

(i) A partnership, corporation, or limited liability company may not be a broker-salesperson except as authorized in IC 23-1.5. An individual broker who associates as a broker-salesperson with a principal broker shall immediately notify the commission of the name and business address of the principal broker and of any changes of principal broker that may occur. The commission shall then change the address of the broker-salesperson on its records to that of the principal broker.

SECTION 87. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 25-1-2-9; IC 25-1-11-9.5; IC 25-21.5-8-3.

SECTION 88. [EFFECTIVE JULY 1, 2005] **(a) This SECTION applies to the entities listed in IC 25-1-6-3, as amended by this act.**

(b) Notwithstanding the requirement under this act that an entity described in subsection (a) must adopt fees, a fee charged by an entity on June 30, 2005, continues in effect until the fee is changed by a rule adopted by the entity. An entity described in subsection (a) shall adopt a rule described in this SECTION before January 1, 2006.

(c) This SECTION expires July 1, 2006.

SECTION 89. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding IC 25-4-1-3, as amended by this act, the board of registration for architects and landscape architects shall carry out the duties imposed upon it by IC 25-4-1-3, as amended by this act, under interim written guidelines approved by the executive director of the Indiana professional licensing agency.**

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

(1) The date rules are adopted by the board of registration for architects and landscape architects.

(2) December 31, 2006.

SECTION 90. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding IC 25-21.5-2-14(b), as amended by this act, the state board of registration for land surveyors shall carry out the duties imposed upon it by IC 25-21.5-2-14(b), as amended by this act, under interim written guidelines approved by the executive director of the Indiana professional licensing agency.**

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

(1) The date rules are adopted by the state board of registration for land surveyors.

(2) December 31, 2006.

SECTION 91. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding IC 25-31-1-7(a), as amended by this act, the state board of registration for professional engineers shall carry out the duties imposed upon it by IC 25-31-1-7(a), as amended**

by this act, under interim written guidelines approved by the executive director of the Indiana professional licensing agency.

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

(1) The date rules are adopted by the state board of registration for professional engineers.

(2) December 31, 2006.

(Reference is to ESB 139 as reprinted April 1, 2005.)

Meeks, Chair	Alderman
Craycraft	C. Brown
Senate Conferees	House Conferees

Roll Call 549: yeas 48, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 414–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 414 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-3.1-4-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec 2.5. (a) The general assembly makes the following findings pertaining to this section:**

(1) The aerospace industry is adversely affected by the calculation of qualified research expense credits under this chapter, based on the Internal Revenue Code's treatment of federal defense spending trends in the 1980s.

(2) This adverse impact creates a disincentive for making qualified research expenditures in Indiana.

(3) Manufacturers of aerospace and jet propulsion equipment have been a major in-state employer of science and engineering graduates from Indiana universities.

(4) The presence of a strong aerospace manufacturing base furthers the state's interest in maintaining the viability of a United States government military installation that is used for the design, construction, maintenance, and testing of electronic devices and ordnance.

(5) The creation of an alternative qualified research expense credit promotes vital state interests.

(b) This section applies only to a taxpayer that:

(1) is primarily engaged in the production of civil and military jet propulsion systems;

(2) is certified by the Indiana economic development corporation as an aerospace advanced manufacturer;

(3) is a United States Department of Defense contractor; and

(4) maintains one (1) or more manufacturing facilities in Indiana employing at least three thousand (3,000) employees in full-time employment positions that pay on average more than four hundred percent (400%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.

(c) A taxpayer that incurs Indiana qualified research expense in a particular taxable year may elect to calculate the research expense tax credit under this section instead of under section 2 of this chapter.

(d) An election under this section applies to the taxable year for which the election is made and all succeeding taxable years unless the election is revoked with the consent of the department. An election must be made in the manner and on the form prescribed by the department.

(e) A credit may be authorized by the Indiana economic development corporation and, if authorized, shall be equal to a percentage determined by the Indiana economic development corporation, not to exceed ten percent (10%), multiplied by:

(1) the taxpayer's Indiana qualified research expenses for the taxable year; minus

(2) fifty percent (50%) of the taxpayer's average Indiana qualified research expenses for the three (3) taxable years preceding the taxable year for which the credit is being determined.

(f) The credit amount determined in subsection (e) applies to the taxable year for which the determination is made and all succeeding taxable years unless the determination is changed by the Indiana economic development corporation. The duration of a determination made by the Indiana economic development corporation under subsection (e) shall be specified by the Indiana economic development corporation at the time of the determination.

SECTION 2. IC 6-3.1-13-5.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5.3. As used in this chapter, "NAICS" refers to the North American Industry Classification System.**

SECTION 3. IC 6-3.1-13-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5.5. As used in this chapter, "NAICS industry sector" refers to industries that share the same first two (2) digits of the six (6) digit NAICS code assigned to industries in the NAICS Manual of the United States Office of Management and Budget.**

SECTION 4. IC 6-3.1-13-15, AS AMENDED BY P.L.4-2005, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. This section applies to an application proposing a project to create new jobs in Indiana. After receipt of an application, the corporation may enter into an agreement with the applicant for a credit under this chapter if the corporation determines that all of the following conditions exist:

(1) The applicant's project will create new jobs that were not jobs previously performed by employees of the applicant in Indiana.

(2) The applicant's project is economically sound and will benefit the people of Indiana by increasing opportunities for employment in Indiana and strengthening the economy of Indiana.

(3) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project and not receiving the tax credit will result in the applicant not creating new jobs in Indiana.

(4) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

(5) The credit is not prohibited by section 16 of this chapter.

(6) If the business is located in a community revitalization enhancement district established under IC 36-7-13 or a certified technology park established under IC 36-7-32, the legislative body of the political subdivision establishing the district or park has adopted an ordinance recommending the granting of a credit amount that is at least equal to the credit amount provided in the agreement.

SECTION 5. IC 6-3.1-13-15.5, AS AMENDED BY P.L.4-2005, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15.5. This section applies to an application proposing to retain existing jobs in Indiana. After receipt of an application, the corporation may enter into an agreement with the applicant for a credit under this chapter if the corporation determines that all the following conditions exist:

(1) The applicant's project will retain existing jobs performed by the employees of the applicant in Indiana.

~~(2) The applicant provides evidence that there is at least one (1) other competing site outside Indiana that is being considered for the project or for the relocation of jobs.~~

~~(3) A disparity is identified, using the best available data, in the projected costs for the applicant's project in Indiana compared with the costs for the project in the competing site.~~

~~(4)~~ **(2)** The applicant is engaged in research and development, manufacturing, or business services, ~~(as defined in~~ **according to** the ~~Standard Industrial Classification~~ **NAICS** Manual of the United States Office of Management and Budget.

~~(5)~~ **(3)** The average compensation (including benefits) provided to the applicant's employees during the applicant's previous fiscal year exceeds:

(A) for an application submitted before January 1, 2006, the average compensation paid during that same period to all employees in the county in which the applicant's business is located by at least five percent (5%); **or**

(B) for an application submitted after December 31, 2005, the amount specified by the calculation associated with one (1) of the following descriptions that characterizes the number of businesses in the NAICS industry sector to which the applicant's business belongs:

(i) If there is more than one (1) business in the same NAICS industry sector in the county in which the applicant's business is located, determine the average compensation paid during that same period to all employees working in the same NAICS industry sector in the county in which the applicant's business is located multiplied by one hundred five percent (105%).

(ii) If the applicant's business is the only business in the same NAICS industry sector in the county in which the applicant's business is located but there is more than one (1) business in the same NAICS industry sector in Indiana, determine the average compensation paid during that same period to all employees working in the NAICS industry sector throughout Indiana multiplied by one hundred five percent (105%).

(iii) If the applicant's business is the only business in the same NAICS industry sector in Indiana, determine the compensation for that same period corresponding to the federal minimum wage multiplied by two hundred percent (200%).

~~(6)~~ **(4)** The applicant employs at least ~~two hundred (200)~~ **seventy-five (75)** employees in Indiana.

~~(7)~~ **(5)** The applicant has prepared a plan for the use of the credits under this chapter for:

(A) investment in facility improvements or equipment and machinery upgrades, repairs, or retrofits; or

(B) other direct business related investments, including but not limited to training.

~~(8)~~ **(6)** Receiving the tax credit is a major factor in the applicant's decision to go forward with the project, and not receiving the tax credit will increase the likelihood of the applicant reducing jobs in Indiana.

~~(9)~~ **(7)** Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

~~(10)~~ **(8)** The applicant's business and project are economically sound and will benefit the people of Indiana by increasing or maintaining opportunities for employment and strengthening the economy of Indiana.

~~(11)~~ **(9)** The communities affected by the potential reduction in jobs or relocation of jobs to another site outside Indiana have committed ~~at least one dollar and fifty cents ($1.50) of~~ local incentives with respect to the retention of jobs ~~for every three dollars ($3) in credits provided under this chapter.~~ **in an amount determined by the corporation.** For purposes of this subdivision, local incentives include, but are not limited to, cash grants, tax abatements, infrastructure improvements, investment in facility rehabilitation, construction, and training investments.

~~(12)~~ **(10)** The credit is not prohibited by section 16 of this chapter.

(11) If the business is located in a community revitalization enhancement district established under IC 36-7-13 or a certified technology park established under IC 36-7-32, the legislative body of the political subdivision establishing the district or park has adopted an ordinance recommending the granting of a credit amount that is at least equal to the credit amount provided in the agreement.

SECTION 6. IC 6-3.1-13-17, AS AMENDED BY P.L.4-2005, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. In determining the credit amount that should be awarded to an applicant under section 15 of this chapter that proposes a project to create jobs in Indiana, the corporation ~~shall~~ **may** take into consideration the following factors:

(1) The economy of the county where the projected investment is to occur.

(2) The potential impact on the economy of Indiana.

(3) The incremental payroll attributable to the project.

(4) The capital investment attributable to the project.

(5) The amount the average wage paid by the applicant exceeds the average wage paid:

(A) within the county in which the project will be located, **in the case of an application submitted before January 1, 2006; or**

(B) in the case of an application submitted after December 31, 2005:

(i) to all employees working in the same NAICS industry sector to which the applicant's business belongs in the county in which the applicant's business is located, if there is more than one (1) business in that NAICS industry sector in the county in which the applicant's business is located;

(ii) to all employees working in the same NAICS industry sector to which the applicant's business belongs in Indiana, if the applicant's business is the only business in that NAICS industry sector in the county in which the applicant's business is located but there is more than one (1) business in that NAICS industry sector in Indiana; or

(iii) to all employees working in the same county as the county in which the applicant's business is located, if there is no other business in Indiana in the same NAICS industry sector to which the applicant's business belongs.

(6) The costs to Indiana and the affected political subdivisions with respect to the project.

(7) The financial assistance and incentives that are otherwise provided by Indiana and the affected political subdivisions.

(8) The extent to which the incremental income tax withholdings attributable to the applicant's project are needed for the purposes of an incremental tax financing fund or industrial development fund under IC 36-7-13 or a certified technology park fund under IC 36-7-32.

As appropriate, the corporation shall consider the factors in this section to determine the credit amount awarded to an applicant for a project to retain existing jobs in Indiana under section 15.5 of this chapter. ~~In the case of an applicant under section 15.5 of this chapter, the corporation shall consider the magnitude of the cost differential between the projected costs for the applicant's project in the competing site outside Indiana and the projected costs for the applicant's project in Indiana.~~

SECTION 7. IC 6-3.1-13-18, AS AMENDED BY P.L.4-2005, SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) The corporation shall determine the amount and duration of a tax credit awarded under this chapter. The duration of the credit may not exceed ten (10) taxable years. The credit may be stated as a percentage of the incremental income tax withholdings attributable to the applicant's project and may include a fixed dollar limitation. In the case of a credit awarded for a project to create new jobs in Indiana, the credit amount may not exceed the incremental income tax withholdings. However, the credit amount claimed for a taxable year may exceed the taxpayer's state tax liability for the taxable year, in which case the excess may, at the discretion of the corporation, be refunded to the taxpayer.

(b) For state fiscal years 2004, ~~and~~ 2005, **2006, and 2007,** the aggregate amount of credits awarded under this chapter for projects to retain existing jobs in Indiana may not exceed five million dollars ($5,000,000) per year.

SECTION 8. IC 6-3.1-13-19, AS AMENDED BY P.L.4-2005, SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. In the case of a credit awarded for a project to create new jobs in Indiana, the corporation shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all of the following:

(1) A detailed description of the project that is the subject of the agreement.

(2) The duration of the tax credit and the first taxable year for which the credit may be claimed.

(3) The credit amount that will be allowed for each taxable year.

(4) A requirement that the taxpayer shall maintain operations at the project location for at least two (2) ~~times the number of~~ years ~~as the term of~~ **following the last taxable year in which the applicant claims** the tax credit **or carries over an unused part of the tax credit under section 18 of this chapter.** A taxpayer is subject to an assessment under section 22 of this chapter for noncompliance with the requirement described in this subdivision.

(5) A specific method for determining the number of new employees employed during a taxable year who are performing jobs not previously performed by an employee.

(6) A requirement that the taxpayer shall annually report to the corporation the number of new employees who are performing jobs not previously performed by an employee, the new income tax revenue withheld in connection with the new employees, and any other information the director needs to

perform the director's duties under this chapter.

(7) A requirement that the director is authorized to verify with the appropriate state agencies the amounts reported under subdivision (6), and after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.

(8) A requirement that the taxpayer shall provide written notification to the director and the corporation not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.

(9) Any other performance conditions that the corporation determines are appropriate.

SECTION 9. IC 6-3.1-13-19.5, AS AMENDED BY P.L.4-2005, SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19.5. (a) In the case of a credit awarded for a project to retain existing jobs in Indiana, the corporation shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all of the following:

(1) A detailed description of the business that is the subject of the agreement.

(2) The duration of the tax credit and the first taxable year for which the credit may be claimed.

(3) The credit amount that will be allowed for each taxable year.

(4) A requirement that the applicant shall maintain operations at the project location for at least two (2) ~~times the number of~~ years ~~as the term of~~ **following the last taxable year in which the applicant claims** the tax credit **or carries over an unused part of the tax credit under section 18 of this chapter.** An applicant is subject to an assessment under section 22 of this chapter for noncompliance with the requirement described in this subdivision.

(5) A requirement that the applicant shall annually report the following to the corporation:

(A) The number of employees who are employed in Indiana by the applicant.

(B) The compensation (including benefits) paid to the applicant's employees in Indiana.

(C) The amount of the:

(i) facility improvements;

(ii) equipment and machinery upgrades, repairs, or retrofits; or

(iii) other direct business related investments, including training.

(6) A requirement that the applicant shall provide written notification to the director and the corporation not more than thirty (30) days after the applicant makes or receives a proposal that would transfer the applicant's state tax liability obligations to a successor taxpayer.

~~(7) A requirement that the chief executive officer of the company applying for a credit under this chapter must verify under penalty of perjury that the disparity between projected costs of the applicant's project in Indiana compared with the costs for the project in a competing site is real and actual.~~

~~(8)~~ **(7)** Any other performance conditions that the corporation determines are appropriate.

(b) An agreement between an applicant and the corporation must be submitted to the budget committee for review and must be approved by the budget agency before an applicant is awarded a credit under this chapter for a project to retain existing jobs in Indiana.

SECTION 10. IC 6-3.1-13-21, AS AMENDED BY P.L.4-2005, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. (a) If a pass through entity does not have state income tax liability against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

(b) The credit provided under subsection (a) is in addition to a tax credit to which a shareholder or partner of a pass through entity is otherwise entitled under a separate agreement under this chapter. A pass through entity and a shareholder or partner of the pass through entity may not claim more than one (1) credit under the same agreement.

(c) ~~This~~ Subsection **(d)** applies:

(1) only to a pass through entity that is a limited liability company or a limited liability partnership owned wholly or in part by an electric cooperative incorporated under IC 8-1-13; **and**

(2) if, at the request of ~~a~~ **the** pass through entity, ~~if~~ the corporation finds that the amount of the average wage to be paid by the pass through entity will be at least double the average wage paid: ~~within~~

(A) in the county in which the project will be located, **in the case of an application submitted before January 1, 2006; or**

(B) in the case of an application submitted after December 31, 2005:

(i) to all employees working in the same NAICS industry sector to which the applicant's business belongs in the county in which the applicant's business is located, if there is more than one (1) business in that NAICS industry sector in the county in which the applicant's business is located;

(ii) to all employees working in the same NAICS industry sector to which the applicant's business belongs in Indiana, if the applicant's business is the only business in that NAICS industry sector in the county in which the applicant's business is located but there is more than one (1) business in that NAICS industry sector in Indiana; or

(iii) to all employees working in the same county as the county in which the applicant's business is located, if there is no other business in Indiana in the

same NAICS industry sector to which the applicant's business belongs.

(d) The corporation may determine that:

(1) ~~the~~ **a** credit shall be claimed by the pass through entity **described in subsection (c);** and

(2) if the credit exceeds the pass through entity's state income tax liability for the taxable year, the excess shall be refunded to the pass through entity.

If the corporation grants a refund directly to a pass through entity under this subsection, the pass through entity shall claim the refund on forms prescribed by the department of state revenue.

SECTION 11. [EFFECTIVE JANUARY 1, 2006] **IC 6-3.1-4-2.5, as added by this act, applies to taxable years beginning after December 31, 2005.**

SECTION 12. [EFFECTIVE JULY 1, 2005] **IC 6-3.1-13-15, IC 6-3.1-13-15.5, IC 6-3.1-13-17, IC 6-3.1-13-18, IC 6-3.1-13-19, IC 6-3.1-13-19.5, and IC 6-3.1-13-21, all as amended by this act, apply only to credits awarded by the Indiana economic development corporation under IC 6-3.1-13 after June 30, 2005. Credits awarded under IC 6-3.1-13 before July 1, 2005, remain subject to the provisions of IC 6-3.1-13 as in effect on June 30, 2005. However, an ordinance that is described in IC 6-3.1-13-15(6) or IC 6-3.1-13-15.5(11), both as amended by this act, and that is adopted before July 1, 2005, is valid to the extent that it applies to credits awarded after June 30, 2005.**

(Reference is to ESB 414 as reprinted March 22, 2005.)

Ford, Chair	T. Harris
Hume	Cheney
Senate Conferees	House Conferees

Roll Call 550: yeas 47, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 419–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 419 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete the title and insert the following:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 3-7-32-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. A voter may not submit a registration application by **fax or an** electronic transmission except as provided in:

(1) IC 3-11-4 **concerning an absent uniformed services voter or overseas voter submitting a registration application on the standard form approved under 42 U.S.C. 1973ff(b);** or

(2) after December 31, 2005, IC 3-7-26.3.

SECTION 2. IC 3-11-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) This section applies, notwithstanding any other provision of this title, to absentee ballot applications for the following:

(1) An absent uniformed services voter.

(2) An address confidentiality program participant (as defined in IC 5-26.5-1-6).

(3) An overseas voter.

(b) A county election board shall make blank absentee ballot applications available for persons covered by this section after November 20 preceding the election to which the application applies. Except as provided in subsection (c), the person may apply for an absentee ballot at any time after the applications are made available.

(c) A person covered by this section may apply for an absentee ballot for the next scheduled primary, general, or special election at any time by filing a standard form approved under 42 U.S.C. 1973ff(b).

(d) If the county election board receives an absentee ballot application from a person described by this section, the circuit court clerk shall mail to the person, free of postage as provided by 39 U.S.C. 3406, all ballots for the election immediately upon receipt of the ballots under sections 13 and 15 of this chapter.

(e) In accordance with 42 U.S.C. 1973ff-3, whenever a voter files an application for an absentee ballot and indicates on the application that the voter:

(1) is an absent uniformed services voter or an overseas voter; and

(2) does not expect to be in the county on the next general election day following the date the application is filed and expects to remain absent from the county until at least the date of the second general election following the date the application is filed;

the application is an adequate application for an absentee ballot for both subsequent general elections and any municipal or special election conducted during that period. The circuit court clerk and county election board shall process this application and send general election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and sent under this chapter.

(f) Whenever a voter described in subsection (a)(2) files an application for a primary election absentee ballot and indicates on the application that the voter is an address confidentiality program participant, the application is an adequate application for a general election absentee ballot under this chapter and an absentee ballot for a special election conducted during the twelve (12) months following the date of the application. The circuit court clerk and county election board shall process this application and send general election and special election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and sent under this chapter.

(g) The name, address, telephone number, and any other identifying information relating to a program participant (as defined in IC 5-26.5-1-6) in the address confidentiality program, as contained in a voting registration record, is declared confidential for purposes of IC 5-14-3-4(a)(1). The county voter registration office may not disclose for public inspection or copying a name, an address, a telephone number, or any other information described in this subsection, as contained in a voting registration record, except as follows:

(1) To a law enforcement agency, upon request.

(2) As directed by a court order.

(h) The county election board shall by fax **(or electronic mail when authorized under this section)** transmit an absentee ballot to and receive an absentee ballot from an absent uniformed services voter or an overseas voter at the request of the voter. If the voter wants to submit absentee ballots by fax **or electronic mail,** the voter must separately sign and date a statement on the cover of the fax transmission that states substantively the following: "I understand that by faxing **or e-mailing** my voted ballot I am voluntarily waiving my right to a secret ballot.".

(i) The county election board shall send confirmation to a voter described in subsection (h) that the voter's absentee ballot has been received as follows:

(1) If the voter provides a fax number to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the fax number provided by the voter.

(2) If the voter provides an electronic mail address to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the electronic mail address provided by the voter.

(3) If:

(A) the voter does not provide a fax number or an electronic mail address; or

(B) the number or address provided does not permit the board to send the confirmation not later than the end of the first business day after the board receives the voter's absentee ballot;

the county election board shall send the confirmation by United States mail.

The county election board shall send the confirmation required by this subsection not later than the end of the first business day after the county election board receives the voter's absentee ballot.

(j) A county election board may transmit an absentee ballot to an absent uniformed services voter or an overseas voter by electronic mail under a program authorized and administered by the Federal Voting Assistance Program of the United States Department of Defense. A voter described by this section may transmit the voted absentee ballot to a county election board by electronic mail in accordance with the procedures established under this program. An electronic mail message transmitting a voted absentee ballot under this subsection must include an optically scanned image of the voter's signature on the statement required under subsection (h).

SECTION 3. IC 3-11-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. **(a) This section applies to an overseas voter described in IC 3-5-2-34.5(3).**

~~(a)~~ **(b)** An overseas voter who resides outside the United States and who is no longer a resident of a precinct in Indiana is only entitled to receive absentee ballots for a federal office under this chapter.

~~(b)~~ **(c)** A voter described in subsection (a) is considered to be a voter of the Indiana precinct where the voter registration office **of the county where the person was domiciled before leaving the United States** is located.

SECTION 4. IC 3-11-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. ~~(a) The absentee ballots for:~~

~~(1) President and Vice President of the United States;~~

~~(2) United States Senator;~~

~~(3) all state offices; and~~

~~(4) the ratification or rejection of a public question to be voted for by the electorate of the entire state or for the retention of a judge of the Indiana court of appeals;~~

~~shall be prepared and printed under the direction of the election division.~~

~~(b) The election division shall have the ballots printed upon certification of the political party tickets and independent candidates.~~

~~(c) Except as provided in subsection (f), ballots prepared under this section must provide space for the voter to cast a write-in ballot.~~

~~(d)~~ **(a)** The election division shall prepare a special absentee ballot for use by:

(1) absent uniformed services voters; and

(2) overseas voters;

who will be outside of the United States on general election day.

~~(c)~~ **(b)** The ballot described by ~~subsection (d).~~ **subsection (a):**

(1) must indicate each state office to be elected by the voters at the general election;

(2) must set forth each public question to be voted for at the general election by the electorate of the entire state;

(3) may not state the name of any political party or candidate for election;

(4) must permit the voter to write in the name of a political party or a candidate for election to each office; and

(5) must include a notice stating that regular absentee ballots will be mailed to the voter by the county election board as soon as the ballots are available.

~~(f)~~ **(c)** Space for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

SECTION 5. IC 3-11-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) Except as provided in subsections (b) and (c), the absentee ballots that are prepared and printed under the direction of the election division

shall be delivered to the circuit court clerk or the clerk's authorized deputy not less than forty-five (45) days before a general election or twenty-nine (29) days before a special election. The absentee ballots shall be delivered in the same manner that other official ballots are delivered.

(b) This subsection applies to the printing of absentee ballots for a general election in which the names of nominees for President and Vice President of the United States are to be printed on the ballot. The absentee ballots that are prepared and printed under the direction of the election division shall be delivered to the circuit court clerk not later than thirty-eight (38) days before the general election.

(c) An absentee ballot described by ~~section 12(d)~~ **section 12(a)** of this chapter shall be delivered by the election division to the circuit court clerk or the clerk's authorized deputy not later than the first Monday in June before a general election.

SECTION 6. IC 3-11-4-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. Upon receipt of an application for an absentee ballot, a circuit court clerk shall file the application in the clerk's office and record all of the following:

(1) The voter's name.

(2) The date the application is received.

(3) The date the ballot is sent to the voter.

(4) If mailed, the address to which the ballot is sent.

(5) If transmitted by fax, the fax number to which the ballot is faxed.

(6) The date the ballot is marked before the clerk or otherwise received from the voter.

(7) The combined total number of absentee ballots sent by the county to absent uniformed services voters and overseas voters.

(8) The total number of absentee ballots returned by voters described in subdivision (7) in time to be counted.

(9) The total number of absentee ballots described in subdivision (7) that were counted in whole or in part.

~~(7)~~ **(10)** Any other information that is necessary or advisable.

SECTION 7. IC 3-11-10-1, AS AMENDED BY SEA 15-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A voter voting by absentee ballot shall make and subscribe to the affidavit prescribed by IC 3-11-4-21. The voter then shall, except as provided in subsection (b), do the following:

(1) Mark the ballot in the presence of no other person.

(2) Fold each ballot separately.

(3) Fold each ballot so as to conceal the marking.

(4) Enclose each ballot, with the seal and signature of the circuit court clerk on the outside, together with any unused ballot, in the envelope provided.

(5) Securely seal the envelope.

(6) Do one (1) of the following:

(A) Mail the envelope to the county election board, with not more than one (1) ballot per envelope.

(B) Deliver the envelope to the county election board in person.

(C) Deliver the envelope to a member of the voter's household or a person designated as the attorney in fact for the voter under IC 30-5 for delivery to the county election board:

(i) in person;

(ii) by United States mail; or

(iii) by a bonded courier company.

(b) A voter permitted to transmit the voter's absentee ballots by fax **or electronic mail** under IC 3-11-4-6 is not required to comply with subsection (a). The individual designated by the circuit court clerk to receive absentee ballots transmitted by fax **or electronic mail** shall do the following upon receipt of an absentee ballot transmitted by fax:

(1) Note the receipt of the absentee ballot in the records of the circuit court clerk as other absentee ballots received by the circuit court clerk are noted.

(2) Fold each ballot received from the voter separately so as to conceal the marking.

(3) Enclose each ballot in a blank absentee ballot envelope.

(4) Securely seal the envelope.

(5) Mark on the envelope: "Absentee Ballot Received by Fax **or Electronic Mail**".

(6) Securely attach to the envelope the faxed affidavit received with the voter's absentee ballots.

(c) Except as otherwise provided in this title, absentee ballots received by fax **or electronic mail** shall be handled and processed as other absentee ballots received by the circuit court clerk are handled and processed.

SECTION 8. IC 3-11-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Upon receipt of an absentee ballot, a county election board (or the absentee voter board in the office of the circuit court clerk) shall immediately examine the signature of the absentee voter to determine its genuineness.

(b) This subsection does not apply to an absentee ballot cast by a voter permitted to transmit the voter's absentee ballots by fax **or electronic mail** under IC 3-11-4-6. The board shall compare the signature as it appears upon the envelope containing the absentee ballot with the signature of the voter as it appears upon the application for the absentee ballot. The board may also compare the signature on the ballot envelope with any other admittedly genuine signature of the voter.

(c) This subsection applies to an absentee ballot cast by a voter permitted to transmit the voter's absentee ballots by fax **or electronic mail** under IC 3-11-4-6. The board shall compare the signature as it appears on the affidavit transmitted with the voter's absentee ballot to the voter's signature as it appears on the application for the absentee ballot. The board may also compare the signature on the affidavit with any other admittedly genuine signature of the voter.

(d) If a member of the absentee voter board questions whether a signature on a ballot envelope or transmitted affidavit is genuine, the matter shall be referred to the county election board for consideration under section 5 of this chapter.

SECTION 9. IC 3-11-10-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) Each county election board shall have all absentee ballots delivered to the precinct election boards at their respective polls on election day.

(b) The absentee ballots shall be delivered during the hours that the polls are open and in sufficient time to enable the precinct election boards to vote the ballots during the time the polls are open.

(c) ~~This subsection applies after December 31, 2003.~~ Along with the absentee ballots delivered to the precinct election boards under subsection (a), each county election board shall provide a list certified by the circuit court clerk. This list must state the name of each voter subject to IC 3-7-33-4.5 who:

(1) filed the documentation required by IC 3-7-33-4.5 with the county voter registration office after the printing of the certified list under IC 3-7-29 or the poll list under IC 3-11-3-18; and

(2) as a result, is entitled to have the voter's absentee ballot counted if the ballot otherwise complies with this title.

(d) ~~This subsection applies after December 31, 2003.~~ If the county election board is notified not later than 3 p.m. on election day by the county voter registration office that a voter subject to IC 3-7-33-4.5 and not identified in the list certified under subsection (c) has filed documentation with the office that complies with IC 3-7-33-4.5, the county election board shall transmit a supplemental certified list to the appropriate precinct election board. If the board determines that the supplemental list may not be received before the closing of the polls, the board shall:

(1) attempt to contact the precinct election board to inform the board regarding the content of the supplemental list; and

(2) file a copy of the supplemental list for that precinct as part of the permanent records of the board.

(e) This subsection applies to a special write-in absentee ballot described in:

(1) 42 U.S.C. 1973ff for federal offices; and

(2) ~~IC 3-11-4-12(d)~~ **IC 3-11-4-12(a)** for state offices.

If the county election board receives both a special write-in absentee ballot and the regular absentee ballot described by IC 3-11-4-12 from the same voter, the county election board shall reject the special write-in ballot and deliver only the regular absentee ballot to the precinct election board.

SECTION 10. IC 3-11-10-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. Subject to section 11 of this chapter, absentee ballots received by mail (or **by** fax **or electronic mail under IC 3-11-4-6)** after the county election board has started the final delivery of the ballots to the precincts on election day are considered as arriving too late and need not be delivered to the polls.

SECTION 11. IC 3-11-10-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) If the inspector finds under section 15 of this chapter that any of the following applies, a ballot may not be accepted or counted:

(1) The affidavit is insufficient or the ballot has not been endorsed with the initials of:

(A) the two (2) members of the absentee voter board in the office of the circuit court clerk under IC 3-11-4-19 or section 27 of this chapter;

(B) the two (2) members of the absentee voter board visiting the voter under section 25(b) of the chapter; or

(C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.

(2) A copy of the voter's signature has been furnished to the precinct election board and that the signatures do not correspond or there is no signature.

(3) The absentee voter is not a qualified voter in the precinct.

(4) The absentee voter has voted in person at the election.

(5) The absentee voter has not registered.

(6) The ballot is open or has been opened and resealed. This subdivision does not permit an absentee ballot transmitted by fax **or electronic mail under IC 3-11-4-6** to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax **or electronic mail.**

(7) The ballot envelope contains more than one (1) ballot of any kind for the same office or public question.

(8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate.

(9) The ballot has been challenged and not supported.

(b) Subsection (c) applies whenever a voter with a disability is unable to make a signature:

(1) on an absentee ballot application that corresponds to the voter's signature in the records of the county voter registration office; or

(2) on an absentee ballot secrecy envelope that corresponds with the voter's signature:

(A) in the records of the county voter registration office; or

(B) on the absentee ballot application.

(c) The voter may request that the voter's signature or mark be attested to by:

(1) the absentee voter board under section 25(b) of this chapter;

(2) a member of the voter's household; or

(3) an individual serving as attorney in fact for the voter.

(d) An attestation under subsection (c) provides an adequate basis for an inspector to determine that a signature or mark complies with subsection (a)(2).

SECTION 12. IC 3-11.5-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. Subject to section 7 of this chapter, absentee ballots received by mail (or **by** fax **or electronic mail under IC 3-11-4-6)** after noon on election

day are considered as arriving too late and may not be counted.

SECTION 13. IC 3-11.5-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) If the absentee ballot counters find under section 11 of this chapter that any of the following applies, the ballots shall be rejected:

(1) The affidavit is insufficient or that the ballot has not been endorsed with the initials of:

(A) the two (2) members of the absentee voter board in the office of the clerk of the circuit court under IC 3-11-4-19 or IC 3-11-10-27;

(B) the two (2) members of the absentee voter board visiting the voter under IC 3-11-10-25; or

(C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.

(2) The signatures do not correspond or there is no signature.

(3) The absentee voter is not a qualified voter in the precinct.

(4) The absentee voter has voted in person at the election.

(5) The absentee voter has not registered.

(6) The ballot is open or has been opened and resealed. This subdivision does not permit an absentee ballot transmitted by fax **or electronic mail under IC 3-11-4-6** to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax **or electronic mail.**

(7) The ballot envelope contains more than one (1) ballot of any kind for the same office or public question.

(8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate.

(9) The ballot has been challenged and not supported.

(b) Subsection (c) applies whenever a voter with a disability is unable to make a signature:

(1) on an absentee ballot application that corresponds to the voter's signature in the records of the county voter registration office; or

(2) on an absentee ballot security envelope that corresponds with the voter's signature:

(A) in the records of the county voter registration office; or

(B) on the absentee ballot application.

(c) The voter may request that the voter's signature or mark be attested to by any of the following:

(1) The absentee voter board under section 22 of this chapter.

(2) A member of the voter's household.

(3) An individual serving as attorney in fact for the voter.

(d) An attestation under subsection (c) provides an adequate basis for the absentee ballot counters to determine that a signature or mark complies with subsection (a)(2).

(e) If the absentee ballot counters are unable to agree on a finding described under this section or section 12 of this chapter, the county election board shall make the finding.

(f) The absentee ballot counters or county election board shall issue a certificate to a voter whose ballot has been rejected under this section if the voter appears in person before the board not later than 5 p.m. on election day. The certificate must state that the voter's absentee ballot has been rejected and that the voter may vote in person under section 21 of this chapter if otherwise qualified to vote.

SECTION 14. IC 3-11.5-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) This section applies to the counting of write-in absentee ballots for:

(1) a federal office received under 42 U.S.C. 1973ff; and

(2) a federal office, state office, or public question under ~~IC 3-11-4-12(d).~~ **IC 3-11-4-12(a).**

(b) If a voter writes an abbreviation, a misspelling, or other minor variation instead of the correct name of a candidate or political party, that vote shall be counted if the intent of the voter can be determined.

(c) If a voter casts a ballot under this section for President or Vice President and writes in the name of a candidate or political party that has not certified a list of electors under IC 3-10-4-5, the vote for President or Vice President is void. The remaining votes on the ballot may be counted.

(d) IC 3-12-1-7 applies to a ballot subject to this section.

(e) A ballot subject to this section may not be counted if:

(1) the ballot was submitted from within the United States;

(2) the voter's application for a regular absentee ballot was received by the circuit court clerk or board of registration less than thirty (30) days before the election;

(3) the voter's completed regular state absentee ballot was received by the circuit court clerk or board of registration by the deadline for receiving absentee ballots under IC 3-11.5-4-7; or

(4) the ballot subject to this section was not received by the circuit court clerk or board of registration by the deadline for receiving absentee ballots under IC 3-11.5-4-7.

SECTION 15. IC 3-12-2-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.5. (a) This section applies to the counting of write-in absentee ballots for:

(1) a federal office received under 42 U.S.C. 1973ff; and

(2) a federal office, state office, or public question under ~~IC 3-11-4-12(d).~~ **IC 3-11-4-12.**

(b) If a voter writes an abbreviation, misspelling, or other minor variation instead of the correct name of a candidate or political party, that vote shall be counted if the intent of the voter can be determined.

(c) If a voter casts a ballot under this section for President or Vice President of the United States and writes in the name of a candidate or political party that has not:

(1) certified a list of electors under IC 3-10-4-5; or

(2) included a list of electors on the declaration for candidacy filed by a write-in candidate under IC 3-8-2-2.5;

the vote for President or Vice President is void. The remaining votes on the ballot may be counted.

(d) IC 3-12-1-7 applies to a ballot subject to this section.

(e) A ballot subject to this section may not be counted if:

(1) the ballot was submitted:

(A) by an overseas voter who is not an absent uniformed services voter; and

(B) from within the United States;

~~(2) the voter's application for a regular absentee ballot was received by the circuit court clerk or board of registration less than thirty (30) days before the election;~~

~~(3)~~ **(2)** the voter's completed regular state absentee ballot was received by the ~~circuit court clerk or~~ **county election** board ~~of registration~~ by the deadline for receiving absentee ballots under IC 3-11-10-11; or

~~(4)~~ **(3)** the ballot subject to this section was not received by the ~~circuit court clerk or~~ **county election** board ~~of registration~~ by the deadline for receiving absentee ballots under IC 3-11-10-11.

SECTION 16. IC 3-12-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) If a ballot card is damaged or defective so that it cannot properly be counted by the automatic tabulating machines, then a remake team composed of one (1) person from each of the major political parties of the county shall have the card prepared for processing so as to record accurately the intention of the voter insofar as it can be ascertained.

(b) If the ballot card voting system is designed to allow the counting and tabulation of votes by the precinct election board, the members of the remake team must be members of the precinct election board in which the ballot was cast.

(c) If necessary, a true, duplicate copy shall be made of the damaged ballot card in the presence of witnesses and substituted for the damaged card. Similarly, a duplicate ballot card shall be made of a defective card, not including the uncounted votes.

(d) This subsection applies to an absent uniformed services voter **or overseas voter** permitted to transmit an absentee ballot by fax **or electronic mail** under IC 3-11-4-6. To facilitate the transmittal and return of the voter's absentee ballot by fax **or electronic mail,** the county election board may provide the voter with a paper ballot rather than a ballot card. The paper ballot must conform with the requirements for paper ballots set forth in IC 3-10 and IC 3-11. After the voter returns the ballot by fax **or electronic mail,** a remake team appointed under this section shall prepare a ballot card for processing that accurately records the intention of the voter as indicated on the paper ballot. The ballot card created under this subsection must be marked and counted as a duplicate ballot under sections 6 through 7 of this chapter.

(e) If an automatic tabulating machine fails during the counting and tabulation of votes following the close of the polls, the county election board shall immediately arrange for the repair and proper functioning of the system. The county election board may, by unanimous vote of its entire membership, authorize the counting and tabulation of votes for this election on an automatic tabulating machine approved for use in Indiana by the commission:

(1) until the repair and retesting of the malfunctioning machine; and

(2) whether or not the machine was tested under IC 3-11-13-22.

SECTION 17. **An emergency is declared for this act.**

(Reference is to ESB 419 as printed April 1, 2005.)

Steele, Chair	Koch
Smith	Reske
Senate Conferees	House Conferees

Roll Call 551: yeas 47, nays 1. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 536–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 536 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-28-27 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 27. Skills 2016 Training Fund

Sec. 1. This chapter expires December 31, 2008.

Sec. 2. As used in this chapter, "fund" refers to the skills 2016 training fund established by section 3 of this chapter.

Sec. 3. (a) The skills 2016 training fund is established to do the following:

(1) Administer the costs of the skills 2016 training program established under IC 22-4-10.5.

(2) Undertake any program or activity that furthers the purposes of IC 22-4-10.5.

(3) Refund skills 2016 training assessments erroneously collected and deposited in the fund.

(b) The money in the fund shall be allocated as follows:

(1) An amount to be determined annually shall be set aside for the payment of refunds from the fund.

(2) The remainder of the money in the fund shall be allocated to employers or consortiums for incumbent worker training grants that enable workers to obtain recognizable credentials or certifications and transferable employment skills that improve employer competitiveness.

(c) Special consideration shall be given to the state educational institution established under IC 20-12-61 to be the provider of the training funded under this chapter whenever the state educational institution:

(1) meets the identified training needs of an employer or a consortium with an existing credentialing or certification program; and

(2) is the most cost effective provider.

(d) For the incumbent worker training grants described in subsection (b), the department of workforce development shall do the following:

(1) Provide grant applications to interested employers and consortiums.

(2) Accept completed applications for the grants.

(3) Obtain all information necessary or appropriate to determine whether an applicant qualifies for a grant, including information concerning:

(A) the applicant;

(B) the training to be offered;

(C) the training provider; and

(D) the workers to be trained.

(4) Prepare summaries or other reports to assist the secretary of commerce in reviewing the grant applications.

(e)The department of workforce development shall forward the grant applications and other information collected or received by the department under subsection (d) to the secretary of commerce who shall allocate the money in the fund in accordance with subsections (b) and (c), after considering the information provided by the department of workforce development.

(f) The corporation shall enter into an agreement with the department of workforce development for the department of workforce development to administer the fund using money appropriated from the fund.

(g) 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.

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

(i) The fund consists of the following:

(1) Assessments deposited in the fund.

(2) Earnings acquired through the use of money belonging to the fund.

(3) Money deposited in the fund from any other source.

(4) Interest and penalties collected.

(j) Any balance in the fund does not lapse but is available continuously to the corporation for expenditures for the program established under IC 22-4-10.5 consistent with this chapter, after considering any information concerning an expenditure provided by the department of workforce development.

SECTION 2. IC 22-4-10.5-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. This chapter expires December 31, 2008.**

SECTION 3. IC 22-4-10.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. **(a)** The skills 2016 training program is to be administered by the ~~department of workforce development~~ **Indiana economic development corporation** in the manner prescribed by ~~IC 22-4-18.3.~~ **IC 5-28-27.**

(b) The Indiana economic development corporation shall enter into an agreement with the department of workforce development for the department of workforce development to administer the fund.

SECTION 4. IC 22-4-10.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. ~~(a) After making the deposit required by subsection (b),~~ The department shall deposit skills 2016 training assessments paid to the department under this chapter in the skills 2016 training fund established by ~~IC 22-4-24.5-1.~~ **IC 5-28-27-3.**

~~(b) After June 30, 2003, unless the board approves a lesser amount, the department annually shall deposit the first four hundred fifty thousand dollars ($450,000) in skills 2016 training assessments paid to the department under this chapter in the special employment and training services fund established by IC 22-4-25-1 for the training and counseling assistance described in IC 22-4-25-1(f).~~

SECTION 5. IC 22-4-25-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) There is created in the state treasury a special fund to be known as the special employment and training services fund. All interest on delinquent contributions and penalties collected under this article, together with any voluntary contributions tendered as a contribution to this fund, ~~and amounts deposited as required by IC 22-4-10.5-7(b),~~ shall be paid into this fund. The money shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) federal funds which would in the absence of said money be available to finance expenditures for the administration of this article, but nothing in this section shall prevent said money from being used as a revolving fund to cover expenditures necessary and proper under the law for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The money in this fund shall be used by the board for the payment of refunds of interest on delinquent contributions and penalties so collected, for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds received for or in the employment and training services administration fund, on and after July 1, 1945. Such money shall be available either to satisfy the obligations incurred by the board directly, or by transfer by the board of the required amount from the special employment and training services fund to the employment and training services administration fund. No expenditure of this fund shall be made unless and until the board finds that no other funds are available or can properly be used to finance such expenditures, except that expenditures from said fund may be made for the purpose of acquiring lands and buildings or for the erection of buildings on lands so acquired which are deemed necessary by the board for the proper administration of this article. The board shall order the transfer of such funds or the payment of any such obligation or expenditure and such funds shall be paid by the treasurer of state on requisition drawn by the board directing the auditor of state to issue the auditor's warrant therefor. Any such warrant shall be drawn by the state auditor based upon vouchers certified by the board or the commissioner. The money in this fund is hereby specifically made available to replace within a reasonable

time any money received by this state pursuant to 42 U.S.C. 502, as amended, which, because of any action or contingency, has been lost or has been expended for purposes other than or in amounts in excess of those approved by the bureau of employment security. The money in this fund shall be continuously available to the board for expenditures in accordance with the provisions of this section and shall not lapse at any time or be transferred to any other fund, except as provided in this article. Nothing in this section shall be construed to limit, alter, or amend the liability of the state assumed and created by IC 22-4-28, or to change the procedure prescribed in IC 22-4-28 for the satisfaction of such liability, except to the extent that such liability may be satisfied by and out of the funds of such special employment and training services fund created by this section.

(b) The board, subject to the approval of the budget agency and governor, is authorized and empowered to use all or any part of the funds in the special employment and training services fund for the purpose of acquiring suitable office space for the department by way of purchase, lease, contract, or in any part thereof to purchase land and erect thereon such buildings as the board determines necessary or to assist in financing the construction of any building erected by the state or any of its agencies wherein available space will be provided for the department under lease or contract between the department and the state or such other agency. The commissioner may transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of any land and buildings acquired for its use until such time as the full amount of the purchase price of such land and buildings and such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund.

(c) The board may also transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of space used by the department in any building erected by the state or any of its agencies until such time as the department's proportionate amount of the purchase price of such building and the department's proportionate amount of such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund.

(d) Whenever the balance in the special employment and training services fund is deemed excessive by the board, the board shall order payment into the unemployment insurance benefit fund of the amount of the special employment and training services fund deemed to be excessive.

(e) Subject to the approval of the board, the commissioner may use not more than five million dollars ($5,000,000) during a program year for training provided by the state educational institution established under IC 20-12-61 to participants in joint labor and management apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training. Of the money allocated for training programs under this subsection, fifty percent (50%) is designated for industrial programs, and the remaining fifty (50%) percent is designated for building trade programs.

(f) The commissioner shall allocate an amount not to exceed four hundred fifty thousand dollars ($450,000) annually for training and counseling assistance under IC 22-4-14-2 provided by state educational institutions (as defined in IC 20-12-0.5-1) or counseling provided by the department of workforce development for individuals who:

(1) have been unemployed for at least four (4) weeks;

(2) are not otherwise eligible for training and counseling assistance under any other program; and

(3) are not participating in programs that duplicate those programs described in subsection (e).

Training or counseling provided under IC 22-4-14-2 does not excuse the claimant from complying with the requirements of IC 22-4-14-3. Eligibility for training and counseling assistance under this subsection shall not be determined until after the fourth week of eligibility for unemployment training compensation benefits. The training and counseling assistance programs funded by this subsection must be approved by the United States Department of Labor's Bureau of Apprenticeship Training.

SECTION 6. IC 22-4-32-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) At any time within four (4) years after the date upon which any contributions, skills 2016 training assessments under IC 22-4-10.5-3, or interest thereon were paid, an employing unit which has paid such contributions, skills 2016 training assessments, or interest thereon may make application for a refund of such contributions, skills 2016 training assessments, or an adjustment thereon in connection with subsequent contribution payments or skills 2016 training assessments. The commissioner shall thereupon determine whether or not such contribution or skills 2016 training assessment, or interest or any portion thereof was erroneously paid or wrongfully assessed and notify the employing unit in writing of its decision.

(b) Such decision shall constitute the initial determination referred to in section 4 of this chapter and shall be subject to hearing and review as provided in sections 1 through 15 of this chapter.

(c) The commissioner may grant such application in whole or in part and may allow the employing unit to make an adjustment thereof without interest in connection with subsequent contribution payments or skills 2016 training assessments. If such adjustment cannot be made, the commissioner may refund such amounts, without interest, from the fund. For like cause and within the same period, adjustments or refund may be made on the commissioner's own initiative. Any adjustments or refunds of interest or penalties collected for contributions due under IC 22-4-10-1 shall be charged to and paid from the special employment and training services fund created by IC 22-4-25. Any adjustments or refunds of interest or penalties collected for skills 2016 training assessments due under

IC 22-4-10.5-3 shall be charged to and paid from the skills 2016 training fund established by ~~IC 22-4-24.5-1.~~ **IC 5-28-27-3.**

(d) If any assessment has become final by virtue of a decision of a liability administrative law judge with the result that no proceeding for judicial review as provided in this article was instituted, no refund or adjustment with respect to such assessment shall be made.

SECTION 7. IC 22-4.5-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. "Youth council" refers to an advisory committee to a regional board ~~under IC 22-4.5-3-4.~~ **established by IC 22-4.5-3-5.**

SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 22-4-18.3; IC 22-4-24.5-1; IC 22-4.5-2-5; IC 22-4.5-3-4.

SECTION 9. [EFFECTIVE UPON PASSAGE] **On the effective date of this act:**

(1) the skills 2016 training fund; and

(2) all the money in the skills 2016 training fund;

established by IC 22-4-24.5-1 (repealed by this act) are transferred to the Indiana economic development corporation and deposited in the skills 2016 training fund established by IC 5-28-27-3, as added by this act, and administered by the department of workforce development under an agreement between the Indiana economic development corporation and the department of workforce development.

SECTION 10. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "department" refers to the department of workforce development established by IC 22-4.1-2-1.**

(b) The department shall examine the adoption of a life long learning accounts program to encourage life long learning practices by individuals:

(1) whose principal place of employment is in Indiana; or

(2) who are unemployed and seeking work in Indiana.

(c) The study described in subsection (b) must include the following:

(1) A fiscal analysis of any proposed program, including an assessment of the effectiveness of a proposed program to:

(A) retain jobs;

(B) increase income; and

(C) increase the tax base;

in Indiana.

(2) An estimate of the extent to which a proposed program may increase life long learning practices.

(3) Other issues or topics the department considers necessary or appropriate to prepare the report required by subsection (h).

(d) The study described in subsection (b) may also include a review of the practices and experiences of other states or political subdivisions with programs similar to any program considered by the department.

(e) The department may partner with a public or private group to conduct all or any part of the study described in subsection (b).

(f) Notwithstanding IC 5-28-27-3(b), as added by this act, the department may receive an allocation not to exceed fifty thousand dollars ($50,000) from the skills 2016 training fund established by IC 5-28-27-3, as added by this act, to conduct the study described in subsection (b).

(g) Subject to the approval of the budget agency, the department may receive and accept gifts and other donations from any public or private source for use in conducting all or any part of the study described in subsection (b).

(h) The department shall report to the legislative council, not later than November 1, 2005, in an electronic format under IC 5-14-6, the results of the study described in subsection (b) and the department's recommendations, including any proposed legislation, if the department's report includes a finding that a life long learning accounts program should be implemented on a permanent basis.

(i) This SECTION expires January 1, 2006.

SECTION 11. **An emergency is declared for this act.**

(Reference is to ESB 536 as reprinted April 6, 2005.)

Clark, Chair	T. Harris
Lewis	Borror
Senate Conferees	House Conferees

Roll Call 552: yeas 48, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 607–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 607 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 25-1-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The centralization of staff, functions, and services contemplated by this chapter shall be done in such a way as to enhance the ~~health professions bureau's~~ **Indiana professional licensing agency's** ability to:

(1) make maximum use of data processing as a means of more efficient operation; and

(2) provide more services and carry out functions of superior quality.

SECTION 2. IC 25-1-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this chapter:

(1) "Agency" means the Indiana professional licensing agency established by section 3 of this chapter.

(2) "Board" means any agency, board, advisory committee, or group included in section 3 of this chapter.

~~"Bureau" means the bureau created by section 3 of this chapter.~~

SECTION 3. IC 25-1-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) There is established the ~~health professions bureau.~~ **Indiana professional licensing agency.** The ~~bureau~~ **agency** shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

(1) Board of chiropractic examiners (IC 25-10-1).

(2) State board of dentistry (IC 25-14-1).

(3) Indiana state board of health facility administrators (IC 25-19-1).

(4) Medical licensing board of Indiana (IC 25-22.5-2).

(5) Indiana state board of nursing (IC 25-23-1).

(6) Indiana optometry board (IC 25-24).

(7) Indiana board of pharmacy (IC 25-26).

(8) Board of podiatric medicine (IC 25-29-2-1).

(9) Board of environmental health specialists (IC 25-32).

(10) Speech-language pathology and audiology board (IC 25-35.6-2).

(11) State psychology board (IC 25-33).

(12) Indiana board of veterinary medical examiners (IC 15-5-1.1).

(13) Controlled substances advisory committee (IC 35-48-2-1).

(14) Committee of hearing aid dealer examiners (IC 25-20).

(15) Indiana physical therapy committee (IC 25-27).

(16) Respiratory care committee (IC 25-34.5).

(17) Occupational therapy committee (IC 25-23.5).

(18) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).

(19) Physician assistant committee (IC 25-27.5).

(20) Indiana athletic trainers board (IC 25-5.1-2-1).

(21) Indiana dietitians certification board (IC 25-14.5-2-1).

(22) Indiana hypnotist committee (IC 25-20.5-1-7).

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

SECTION 4. IC 25-1-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The ~~bureau~~ **agency** shall employ necessary staff, including specialists and professionals, to carry out the administrative duties and functions of the boards, including but not limited to:

(1) notice of board meetings and other communication services;

(2) recordkeeping of board meetings, proceedings, and actions;

(3) recordkeeping of all persons licensed, regulated, or certified by a board;

(4) administration of examinations; and

(5) administration of license or certificate issuance or renewal.

(b) In addition the ~~bureau.~~ **agency:**

(1) shall prepare a consolidated statement of the budget requests of all the boards in section 3 of this chapter;

(2) may coordinate licensing or certification renewal cycles, examination schedules, or other routine activities to efficiently utilize ~~bureau~~ **agency** staff, facilities, and transportation resources, and to improve accessibility of board functions to the public; and

(3) may consolidate, where feasible, office space, recordkeeping, and data processing services.

(c) In administering the renewal of licenses or certificates under this chapter, the ~~bureau~~ **agency** shall send a notice of the upcoming expiration of a license or certificate to each holder of a license or certificate at least sixty (60) days before the expiration of the license or certificate. The notice must inform the holder of the license or certificate of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the ~~bureau,~~ **agency,** the holder of the license or certificate is not subject to a sanction for failure to renew if, once notice is received from the ~~bureau,~~ **agency,** the license or certificate is renewed within forty-five (45) days after receipt of the notice.

(d) In administering an examination for licensure or certification, the ~~bureau~~ **agency** shall make the appropriate application forms available at least thirty (30) days before the deadline for submitting an application to all persons wishing to take the examination.

(e) The ~~bureau~~ **agency** may require an applicant for license renewal to submit evidence proving that:

(1) the applicant continues to meet the minimum requirements for licensure; and

(2) the applicant is not in violation of:

(A) the statute regulating the applicant's profession; or

(B) rules adopted by the board regulating the applicant's profession.

(f) The ~~bureau~~ **agency** shall process an application for renewal of a license or certificate:

(1) not later than ten (10) days after the ~~bureau~~ **agency** receives all required forms and evidence; or

(2) within twenty-four (24) hours after the time that an applicant for renewal appears in person at the ~~bureau~~ **agency** with all required forms and evidence.

This subsection does not require the ~~bureau~~ **agency** to issue a renewal license or certificate to an applicant if subsection (g) applies.

(g) The ~~bureau~~ **agency** may delay issuing a license renewal for up to ninety (90) days after the renewal date for the purpose of permitting the board to investigate information received by the ~~bureau~~ **agency** that the applicant for renewal may have committed an act for which the applicant may be disciplined. If the ~~bureau~~ **agency** delays issuing a license renewal, the ~~bureau~~ **agency** shall notify the applicant that the applicant is being investigated. Except as provided in subsection (h), before the end of the ninety (90) day period, the board shall do one (1) of the following:

(1) Deny the license renewal following a personal appearance by the applicant before the board.

(2) Issue the license renewal upon satisfaction of all other conditions for renewal.

(3) Issue the license renewal and file a complaint under IC 25-1-7.

(4) Request the office of the attorney general to conduct an investigation under subsection (i) if, following a personal appearance by the applicant before the board, the board has good cause to believe that there has been a violation of IC 25-1-9-4 by the applicant.

(5) Upon agreement of the applicant and the board and following a personal appearance by the applicant before the board, renew the license and place the applicant on probation status under IC 25-1-9-9.

(h) If an individual fails to appear before the board under subsection (g), the board may take action on the applicant's license allowed under subsection (g)(1), (g)(2) or (g)(3).

(i) If the board makes a request under subsection (g)(4), the office of the attorney general shall conduct an investigation. Upon completion of the investigation, the office of the attorney general may file a petition alleging that the applicant has engaged in activity described in IC 25-1-9-4. If the office of the attorney general files a petition, the board shall set the matter for a hearing. If, after the hearing, the board finds the practitioner violated IC 25-1-9-4, the board may impose sanctions under IC 25-1-9-9. The board may delay issuing the renewal beyond the ninety (90) days after the renewal date until a final determination is made by the board. The applicant's license remains valid until the final determination of the board is rendered unless the renewal is denied or the license is summarily suspended under IC 25-1-9-10.

(j) The license of the applicant for a license renewal remains valid during the ninety (90) day period unless the license renewal is denied following a personal appearance by the applicant before the board before the end of the ninety (90) day period. If the ninety (90) day period expires without action by the board, the license shall be automatically renewed at the end of the ninety (90) day period.

(k) Notwithstanding any other statute, the ~~bureau~~ **agency** may stagger license or certificate renewal cycles. However, if a renewal cycle for a specific board or committee is changed, the ~~bureau~~ **agency** must obtain the approval of the affected board or committee.

(l) An application for a license, certificate, registration, or permit is abandoned without an action of the board, if the applicant does not complete the requirements to complete the application within one (1) year after the date on which the application was filed. However, the board may, for good cause shown, extend the validity of the application for additional thirty (30) day periods. An application submitted after the abandonment of an application is considered a new application.

SECTION 5. IC 25-1-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The ~~bureau~~ **agency** shall be administered by an executive director appointed by the governor who shall serve at the will and pleasure of the governor.

(b) The executive director must be qualified by experience and training.

(c) The term "executive director" or "secretary", or any other statutory term for the administrative officer of a board listed in section 3 of this chapter, means the executive director of the ~~bureau~~ **agency** or the executive director's designee.

(d) The executive director is the chief fiscal officer of the ~~bureau~~ **agency** and is responsible for hiring of all staff, and for procurement of all services and supplies in accordance with IC 5-22. The executive director and the employees of the ~~bureau~~ **agency** are subject to IC 4-15-1.8 but are not under IC 4-15-2. The executive director may appoint not to exceed three (3) deputy directors, who must be qualified to work for the boards which are served by the ~~bureau.~~ **agency.**

(e) The executive director shall execute a bond payable to the state, with surety to consist of a surety or guaranty corporation qualified to do business in Indiana, in an amount fixed by the state board of accounts, conditioned upon the faithful performance of duties and the accounting for all money and property that come into the executive director's hands or under the executive director's control. The executive director may likewise cause any employee of the ~~bureau~~ **agency** to execute a bond if that employee receives, disburses, or in any way handles funds or property of the ~~bureau.~~ **agency.** The costs of any such bonds shall be paid from funds available to the ~~bureau.~~ **agency.**

(f) The executive director may present to the general assembly legislative recommendations regarding operations of the ~~bureau~~ **agency** and the boards it serves, including adoption of four (4) year license or certificate renewal cycles wherever feasible.

(g) The executive director may execute orders, subpoenas, continuances, and other legal documents on behalf of a board or committee when requested to do so by the board or committee.

(h) The executive director or the executive director's designee may, upon request of a board or committee, provide advice and technical assistance on issues that may be presented to the boards or committees.

SECTION 6. IC 25-1-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The executive director may designate certain employees of the ~~bureau~~ **agency** to represent the executive director of the ~~bureau~~ **agency** at the board meetings, proceedings, or other activities of the board.

(b) The executive director shall assign staff to individual boards and shall work with the boards to ensure efficient utilization and placement of staff.

SECTION 7. IC 25-1-5-10, AS AMENDED BY HEA 1137-2005, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) As used in this section, "provider" means an individual licensed, certified, registered, or permitted by any of the following:

(1) Board of chiropractic examiners (IC 25-10-1).

(2) State board of dentistry (IC 25-14-1).

(3) Indiana state board of health facility administrators (IC 25-19-1).

(4) Medical licensing board of Indiana (IC 25-22.5-2).

(5) Indiana state board of nursing (IC 25-23-1).

(6) Indiana optometry board (IC 25-24).

(7) Indiana board of pharmacy (IC 25-26).

(8) Board of podiatric medicine (IC 25-29-2-1).

(9) Board of environmental health specialists (IC 25-32-1).

(10) Speech-language pathology and audiology board (IC 25-35.6-2).

(11) State psychology board (IC 25-33).

(12) Indiana board of veterinary medical examiners (IC 15-5-1.1).

(13) Indiana physical therapy committee (IC 25-27).

(14) Respiratory care committee (IC 25-34.5).

(15) Occupational therapy committee (IC 25-23.5).

(16) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).

(17) Physician assistant committee (IC 25-27.5).

(18) Indiana athletic trainers board (IC 25-5.1-2-1).

(19) Indiana dietitians certification board (IC 25-14.5-2-1).

(20) Indiana hypnotist committee (IC 25-20.5-1-7).

(b) The ~~bureau~~ **agency** shall create and maintain a provider profile for each provider described in subsection (a).

(c) A provider profile must contain the following information:

(1) The provider's name.

(2) The provider's license, certification, registration, or permit number.

(3) The provider's license, certification, registration, or permit type.

(4) The date the provider's license, certification, registration, or permit was issued.

(5) The date the provider's license, certification, registration, or permit expires.

(6) The current status of the provider's license, certification, registration, or permit.

(7) The provider's city and state of record.

(8) A statement of any disciplinary action taken against the provider within the previous ten (10) years by a board or committee described in subsection (a).

(d) The ~~bureau~~ **agency** shall make provider profiles available to the public.

(e) The computer gateway administered by the office of technology established by IC 4-13.1-2-1 shall make the information described in subsection (c)(1), (c)(2), (c)(3), (c)(6), (c)(7), and (c)(8) generally available to the public on the Internet.

(f) The ~~bureau~~ **agency** may adopt rules under IC 4-22-2 to implement this section.

SECTION 8. IC 25-1-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this chapter:

"Board" means any agency, board, advisory committee, or group included in section 3 of this chapter.

"Licensing agency" means the Indiana professional licensing agency created by ~~section 3 of this chapter.~~ **IC 25-1-5-3.**

SECTION 9. IC 25-1-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) ~~There is established~~ The ~~Indiana professional~~ licensing agency ~~The licensing agency~~ shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State boxing commission (IC 25-9-1).

(6) State board of cosmetology examiners (IC 25-8-3-1).

(7) State board of funeral and cemetery service (IC 25-15-9).

(8) State board of registration for professional engineers (IC 25-31-1-3).

(9) Indiana plumbing commission (IC 25-28.5-1-3).

(10) Indiana real estate commission (IC 25-34.1).

(11) Real estate appraiser licensure and certification board (IC 25-34.1-8-1).

(12) Private detectives licensing board (IC 25-30-1-5.1).

(13) State board of registration for land surveyors (IC 25-21.5-2-1).

(14) Manufactured home installer licensing board (IC 25-23.7).

(15) Home inspectors licensing board (IC 25-20.2-3-1).

(b) Except for appeals of denials of license renewals to the executive director authorized by section 5.5 of this chapter, nothing in this chapter may be construed to give the licensing agency policy making authority, which remains with each board.

SECTION 10. IC 25-1-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The ~~bureau~~ **licensing agency** and the boards may allow the department of state revenue access to the name of each person who:

(1) is licensed under this chapter **or IC 25-1-5;** or

(2) has applied for a license under this chapter **or IC 25-1-5.**

(b) If the department of state revenue notifies the ~~bureau~~ **licensing agency** that a person is on the most recent tax warrant list, the ~~bureau~~ **licensing agency** may not issue or renew the person's license until:

(1) the person provides to the ~~bureau~~ **licensing agency** a statement from the department of revenue that the person's delinquent tax liability has been satisfied; or

(2) the ~~bureau~~ **licensing agency** receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

SECTION 11. IC 25-1-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Subsection (b)(1) does not apply to:

(1) a complaint filed by:

(A) a member of any of the boards listed in section 1 of this chapter; or

(B) the ~~health professions bureau,~~ **Indiana professional licensing agency;** or

(2) a complaint filed under IC 25-1-5-4.

(b) The director has the following duties and powers:

(1) ~~He~~ **The director** shall make an initial determination as to the merit of each complaint. A copy of a complaint having merit shall be submitted to the board having jurisdiction over the licensee's regulated occupation, that board thereby acquiring jurisdiction over the matter except as otherwise provided in this chapter.

(2) ~~He~~ **The director** shall through any reasonable means notify the licensee of the nature and ramifications of the complaint and of the duty of the board to attempt to resolve the complaint through negotiation.

(3) ~~He~~ **The director** shall report any pertinent information regarding the status of the complaint to the complainant.

(4) ~~He~~ **The director** may investigate any written complaint against a licensee. The investigation shall be limited to those areas in which there appears to be a violation of statutes governing the regulated occupation.

(5) ~~He~~ **The director** has the power to subpoena witnesses and to send for and compel the production of books, records, papers, and documents for the furtherance of any investigation under this chapter. The circuit or superior court located in the county where the subpoena is to be issued shall enforce any such subpoena by the director.

SECTION 12. IC 25-1-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) This section does not apply to:

(1) a complaint filed by:

(A) a member of any of the boards listed in section 1 of this chapter; or

(B) the ~~health professions bureau;~~ **Indiana professional licensing agency;** or

(2) a complaint filed under IC 25-1-5-4.

(b) If, at any time before the director files ~~his~~ **the director's** recommendations with the attorney general, the board files with the director a statement signed by the licensee and the complainant that the complaint has been resolved, the director shall not take further action. For a period of thirty (30) days after the director has notified the board and the licensee that a complaint has been filed, the division shall not conduct any investigation or take any action whatsoever, unless requested by the board. If, during the thirty (30) days, the board requests an extension of the thirty (30) day time period, the director shall grant it for a period not exceeding an additional twenty (20) days. If at any time during the thirty (30) day period or an extension thereof, the board notifies the director of its intention not to proceed further to resolve the complaint, the division may proceed immediately under this chapter. For every purpose of this section, a board may designate a board member or staff member to act on behalf of or in the name of the board.

SECTION 13. IC 25-1-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) As used in this section, "board" has the meaning set forth in IC 25-1-4-0.3.

(b) This section does not apply to a license, certificate, or registration that has been revoked or suspended.

(c) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration, the holder of a license, certificate, or registration that was issued by the board that is three (3) years or less delinquent must be reinstated upon meeting the following requirements:

(1) Submission of the holder's completed renewal application.

(2) Payment of the current renewal fee established by the board under section 2 of this chapter.

(3) Payment of a reinstatement fee established by the ~~health professions bureau.~~ **Indiana professional licensing agency.**

(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board for the current renewal period.

(d) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration, unless a statute specifically does not allow a license, certificate, or registration to be reinstated if it has lapsed for more than three (3) years, the holder of a license, certificate, or registration that was issued by the board that is more than three (3) years delinquent must be reinstated upon meeting the following requirements:

(1) Submission of the holder's completed renewal application.

(2) Payment of the current renewal fee established by the board under section 2 of this chapter.

(3) Payment of a reinstatement fee equal to the current initial application fee.

(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board for the current renewal period.

(5) Complete such remediation and additional training as deemed appropriate by the board given the lapse of time involved.

(6) Any other requirement that is provided for in statute or rule that is not related to fees.

SECTION 14. IC 25-1-9-6.9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.9. In addition to the actions listed under section 4 of this chapter that subject a practitioner to disciplinary sanctions, a practitioner is subject to the exercise of disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds that the practitioner has:

(1) failed to provide information requested by the ~~bureau;~~ **Indiana professional licensing agency;** or

(2) knowingly provided false information to the ~~bureau;~~ **Indiana professional licensing agency;**

for a provider profile required under IC 25-1-5-10.

SECTION 15. IC 25-1-5-8 IS REPEALED [EFFECTIVE JULY 1, 2005].

SECTION 16. [EFFECTIVE JULY 1, 2005] **(a) The rules adopted by the health professions bureau before July 1, 2005, and in effect on June 30, 2005, shall be treated after June 30, 2005, as the rules of the Indiana professional licensing agency.**

(b) On July 1, 2005, the Indiana professional licensing agency becomes the owner of all of the property of the health professions bureau. An appropriation made to the health professions bureau shall be treated after June 30, 2005, as an appropriation to the Indiana professional licensing agency.

(c) Any reference in a law, a rule, a license, a registration, a certification, or an agreement to the health professions bureau shall be treated after June 30, 2005, as a reference to the Indiana professional licensing agency.

SECTION 17. [EFFECTIVE JULY 1, 2005] **(a) The legislative services agency shall prepare legislation for introduction in the 2006 regular session of the general assembly to make conforming statutory changes, as needed, to reconcile the statutes with this act.**

(b) This SECTION expires June 30, 2007.

(Reference is to ESB 607 as printed March 25, 2005.)

Meeks, Chair	Alderman
Craycraft	Stutzman
Senate Conferees	House Conferees

Roll Call 553: yeas 47, nays 1. Report adopted.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed Senate Bill 571 because it conflicts with HEA 1250-2005 without properly recognizing the existence of HEA 1250-2005, has had Engrossed Senate Bill 571 under consideration and begs leave to report back to the Senate with the recommendation that Engrossed Senate Bill 571 be corrected as follows:

In the conference committee report for ESB 571, page 7, line 25, after "IC 6-2.5-4-5" insert ", AS AMENDED BY HEA 1250-2005, SECTION 1,".

In the conference committee report for ESB 571, page 8, line 15, after "IC 36-7-30," insert "the part of".

In the conference committee report for ESB 571, page 8, line 17, delete "IC 36-7-14.5-12.5," and insert "IC 36-7-14.5-12.5 that is or formerly was a military base (as defined in IC 36-7-30-1(c)),".

In the conference committee report for ESB 571, page 8, line 46, after "IC 6-3-2-1.5" insert ", AS AMENDED BY HEA 1250-2005, SECTION 2,".

In the conference committee report for ESB 571, page 8, line 51, after "(3)" insert "the part of".

In the conference committee report for ESB 571, page 9, line 1, after "IC 36-7-14.5-12.5" delete ";" and insert "that is or formerly was a military base (as defined in IC 36-7-30-1(c));".

In the conference committee report for ESB 571, page 9, line 45, after "IC 6-3.1-11.6-2" insert ", AS AMENDED BY HEA 1250-2005, SECTION 4,".

In the conference committee report for ESB 571, page 9, line 50, after "(3)" insert "the part of".

In the conference committee report for ESB 571, page 9, line 51, after "IC 36-7-14.5-12.5" delete ";" and insert "that is or formerly was a military base (as defined in IC 36-7-30-1(c));".

(Reference is to ESB 571 as printed April 1, 2005, and as amended by the conference committee report adopted April 29, 2005.)

GARTON, Chair
R. YOUNG, R.M.M.
SIMPSON

Report adopted.

COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed Senate Bill 498 because it conflicts with HEA 1113-2005 without properly recognizing the existence of HEA 1113-2005, has had Engrossed Senate Bill 498 under consideration and begs leave to report back to the Senate with the recommendation that Engrossed Senate Bill 498 be corrected as follows:

In the conference committee report for ESB 498, page 1, line 2, after "IC 34-28-5-1" insert ", AS AMENDED BY HEA 1113-2005, SECTION 24,".

In the conference committee report for ESB 498, page 2, line 4, after "(f)" insert "This subsection does not apply to an offense or violation under IC 9-24-6 involving the operation of a commercial motor vehicle.".

In the conference committee report for ESB 498, page 2, line 18, delete "court costs" and insert "a fee".

In the conference committee report for ESB 498, page 2, line 19, delete "twenty-five" and insert "seventy".

In the conference committee report for ESB 498, page 2, line 19, delete "($25)" and insert "($70)".

In the conference committee report for ESB 498, page 2, line 20, delete "and".

In the conference committee report for ESB 498, page 2, line 22, delete "brought." and insert "brought; and".

In the conference committee report for ESB 498, page 2, between lines 22 and 23, begin a new line block indented and insert:

"(6) if the deferral program is offered by the prosecuting attorney, the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the prosecuting attorneys council, in a manner and format designated by the prosecuting attorneys council.".

(Reference is to ESB 498 as printed April 1, 2005, and as amended by the conference committee report adopted April 29, 2005.)

GARTON, Chair
R. YOUNG, R.M.M.
SERVER

Report adopted.

COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee

on Rules and Legislative Procedure, to which was referred Engrossed Senate Bill 529 because it conflicts with SEA 340-2005 without properly recognizing the existence of SEA 340-2005, has had Engrossed Senate Bill 529 under consideration and begs leave to report back to the Senate with the recommendation that Engrossed Senate Bill 529 be corrected as follows:

In the conference committee report for ESB 529, page 53, line 28, delete "IC 31-33-2-2.1" and insert "IC 31-33-2-2.3.".

In the conference committee report for ESB 529, page 53, line 30, delete "2.1" and insert "**2.3.**".

In the conference committee report for ESB 529, page 78, line 32, after "IC 31-34-2.5-4" insert ", AS AMENDED BY SEA 340-2005, SECTION 5,".

In the conference committee report for ESB 529, page 78, line 41, after "ad litem" insert "or a court appointed special advocate".

(Reference is to ESB 529 as reprinted April 8, 2005, and as amended by the conference committee report adopted April 29, 2005.)

GARTON, Chair
R. YOUNG, R.M.M.
LAWSON

Report adopted.

COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed Senate Bill 590 because it conflicts with HEA 1098-2005 without properly recognizing the existence of HEA 1098-2005, has had Engrossed Senate Bill 590 under consideration and begs leave to report back to the Senate with the recommendation that Engrossed Senate Bill 590 be corrected as follows:

In the Conference Committee Report to ESB 590, page 10, line 17, after "IC 25-26-13-4" insert ", AS AMENDED BY HEA 1098-2005, SECTION 22,".

In the Conference Committee Report to ESB 590, page 11, between lines 1 and 2, begin a new line block indented and insert:

"(3) Establishing standards and procedures before January 1, 2006, to ensure that a pharmacist:

(A) has entered into a contract that accepts the return of expired drugs with; or

(B) is subject to a policy that accepts the return of expired drugs of;

a wholesaler, manufacturer, or agent of a wholesaler or manufacturer concerning the return by the pharmacist to the wholesaler, the manufacturer, or the agent of expired legend drugs or controlled drugs. In determining the standards and procedures, the board may not interfere with negotiated terms related to cost, expenses, or reimbursement charges contained in contracts between parties, but may consider what is a reasonable quantity of a drug to be purchased by a pharmacy. The standards and procedures do not apply to vaccines that prevent influenza, medicine used for the treatment of malignant hyperthermia, and other drugs determined by the board to not be subject to a return policy. An agent of a wholesaler or manufacturer must be appointed in writing and have policies, personnel, and facilities to handle properly returns of expired legend drugs and controlled substances.".

(Reference is to ESB 590 as printed March 18, 2005, and as amended by the Conference Committee Report to ESB 590 adopted by the House on April 27, 2005, and by the Senate on April 29, 2005.)

GARTON, Chair
R. YOUNG, R.M.M.
RIEGSECKER

Report adopted.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has adopted the Conference Committee Report on Engrossed House Bill 1666–1.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1001.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1182.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1265.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has accepted and approved the Joint Rule 20 correction on Engrossed Senate Bill 298.

M. CAROLINE SPOTTS
Principal Clerk of the House

4:49 p.m.

The Chair declared a recess until 7:00 p.m.

Recess

The Senate reconvened at 7:39 p.m., with the President of the Senate in the Chair.

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 87

House Concurrent Resolution 87, sponsored by Senator Drozda:

A CONCURRENT RESOLUTION honoring Pope Benedict XVI.

Whereas, The recent death of Pope John Paul II required the members of the College of Cardinals to select a new pope;

Whereas, On April 19, 2005, Cardinal Joseph Ratzinger, a renowned theologian and enforcer of Catholic Church doctrine for the past two decades, was chosen to succeed his friend and close ally, Pope John Paul II;

Whereas, Cardinal Ratzinger chose the name Pope Benedict XVI and became the 265th leader of the world's largest and most powerful Christian institution;

Whereas, Cardinal Ratzinger, former Prefect of the Congregation for the Doctrine of the Faith, President of the Pontifical Biblical Commission and of the International Theological Commission, and Dean of the College of Cardinals, was born on April 16, 1927, in Marktl Am Inn, Germany, and was ordained as a priest on June 29, 1951;

Whereas, His father, a police officer, came from a traditional family of farmers from Lower Bavaria, and Cardinal Ratzinger spent his adolescent years in Traunstein;

Whereas, Cardinal Ratzinger studied philosophy and theology at the University of Munich and at the higher school in Freising, and obtained a Doctorate in Theology with a thesis entitled "The People and House of God in St. Augustine's Doctrine of the Church";

Whereas, Cardinal Ratzinger taught dogma and fundamental theology at the higher school of philosophy and theology of Freising, and was a professor of dogmatic theology and of the history of dogma at the University of Regensburg and vice president of the same university;

Whereas, At Vatican Council II, Cardinal Ratzinger became a consultor to Cardinal Joseph Frings, archbishop of Cologne, and in March 1977, Pope Paul VI appointed him Archbishop of Munich and Freising, the first diocesan priest in 80 years to take over the pastoral ministry of this large Bavarian diocese;

Whereas, Elected vice dean of the College of Cardinals on November 6, 1998, the Holy Father approved Cardinal Ratzinger's election, by the order of cardinal bishops, as dean of the College of Cardinals on November 30, 2002; and

Whereas, Pope Benedict XVI will be a strong leader who will guide the faithful with a loving and gentle hand: Therefore,

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

SECTION 1. That the Indiana General Assembly is grateful for the guidance and wisdom that Pope Benedict XVI will provide to the faithful throughout the world.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to the Most Holy Father His Holiness Pope Benedict XVI.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

SENATE MOTION

Madam President: I move that Senators Alting, Antich-Carr, Bowser, Bray, Breaux, Broden, Clark, Craycraft, Dillon, Ford, Gard, Garton, Harrison, Heinold, Hershman, Howard, Hume, Jackman, Kenley, Kruse, Lanane, Landske, Lawson, Lewis, Long, Lubbers, Lutz, Meeks, Merritt, Miller, Mishler, Mrvan, Nugent, Paul, Riegsecker, Rogers, Server, Simpson, Sipes, Skinner, Smith, Steele, Waltz, Waterman, Weatherwax, Wyss, M. Young, R. Young, and Zakas be added as cosponsors of House Concurrent Resolution 87.

DROZDA

Motion prevailed.

House Concurrent Resolution 75

House Concurrent Resolution 75, sponsored by Senators Howard and Breaux:

A CONCURRENT RESOLUTION honoring David Logan.

Whereas, University of Indianapolis senior guard David Logan has been selected as the 2004-2005 Daktronics NCAA Division II Men's Basketball Player of the Year and the 2005 Division II Bulletin Player of the Year;

Whereas, In addition to being named player of the year, David Logan was also selected to the National Association of Basketball Coaches Division II All-American Team and the All-District First Team for the Great Lakes Region;

Whereas, David Logan led the University of Indianapolis to a 19-10 overall record and a 14-6 Great Lakes Valley Conference record;

Whereas, David Logan finished the season as the top scorer in Division II with a 28.6 points per game average and was named the Great Lakes Valley Conference Player of the Year;

Whereas, University of Indianapolis head coach Todd Sturgeon says that David Logan shoots a thousand shots a day in practice and laps his teammates in running drills;

Whereas, David Logan scored in double figures in all but two games this season and had a game-high output of 46 points;

Whereas, David Logan is a finalist for the Bob Cousy Point Guard of the Year Award, which is annually awarded to the top point guard in the nation;

Whereas, David Logan is one of the 64 players from all three NCAA divisions and the NAIA to be invited to the 53rd Annual Portsmouth Invitational Tournament in Virginia, where over 200 NBA representatives from all 30 teams will be in attendance; and

Whereas, Excellence of this caliber is achieved through hard work, talent, and dedication to a goal: Therefore,

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

SECTION 1. That the Indiana General Assembly congratulates David Logan on an outstanding season and his selection as Division II Player of the Year and wishes David success in all his future endeavors.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to David Logan and his family, University of Indianapolis athletic director Dr. Sue Willey, and President Dr. Jerry Israel.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

Senate Resolution 63

Senate Resolution 63, introduced by Senators Garton and R. Young:

A SENATE RESOLUTION to express appreciation to Brian Breslin of Meijer.

Whereas, Enacting legislation requires a clear mind and a healthy body;

Whereas, Water is refreshing and has helped provide the members and staff of the Senate with hydration and fortitude; and

Whereas, Brian Breslin of Meijer has kept the Senate supplied with a considerable amount of bottled water: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana:

SECTION 1. The Indiana Senate extends its deep appreciation to Brian Breslin of Meijer for the provision of bottled water to the Indiana Senate.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Brian Breslin of Meijer.

The resolution was read in full and adopted by voice vote.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Pursuant to Senate Rule 83(i), your Committee on Rules and Legislative Procedure to which was referred Conference Committee Reports filed on Engrossed Senate Bills 213, 307, 444, 496, and 508 and Engrossed House Bills 1073 and 1394 has had the same under consideration and begs leave to report back to the Senate with the recommendation that said Conference Committee Reports are eligible for consideration.

GARTON, Chair

Report adopted.

SENATE MOTION

Madam President: I move that Senate Rule 83(a) be suspended with regard to its application to the following Conference Committee Reports:.

Conference Committee Reports for Engrossed Senate Bills 213, 444 and 496 and Engrossed House Bill 1394.

GARTON

The question being, Shall the motion to suspend the rules prevail? Roll Call 554: yeas 49, nays 0.

Motion prevailed.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT

ESB 213–2

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 213 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-2.5-1-28 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 28. "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.**

SECTION 2. IC 6-2.5-5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. (a) Sales of food and food ingredients for human consumption are exempt from the state gross retail tax.

(b) For purposes of this section, the term "food and food ingredients for human consumption" includes the following items if sold without eating utensils provided by the seller:

(1) Food sold by a seller whose proper primary NAICS classification is manufacturing in sector 311, except subsector 3118 (bakeries).

(2) Food sold in an unheated state by weight or volume as a single item.

(3) Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.

(c) Except as otherwise provided by subsection (b), for purposes of this section, the term "food and food ingredients for human consumption" does not include:

(1) candy;

(2) alcoholic beverages;

(3) soft drinks;

(4) food sold through a vending machine;

(5) food sold in a heated state or heated by the seller;

(6) two (2) or more food ingredients mixed or combined by the seller for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); ~~or~~

(7) food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food); **or**

(8) tobacco.

SECTION 3. IC 6-2.5-5-39 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 39. (a) As used in this section, "cargo trailer" means a vehicle:**

(1) without motive power;

(2) designed for carrying property;

(3) designed for being drawn by a motor vehicle; and

(4) having a gross vehicle weight rating of at least two thousand two hundred (2,200) pounds.

(b) As used in this section, "recreational vehicle" means a vehicle with or without motive power equipped exclusively for living quarters for persons traveling upon the highways. The term includes a travel trailer, a motor home, a truck camper with a floor and facilities enabling it to be used as a dwelling, and a fifth wheel trailer.

(c) A transaction involving a cargo trailer, a recreational vehicle, or an aircraft is exempt from the state gross retail tax if:

(1) the purchaser is a nonresident;

(2) upon receiving delivery of the cargo trailer, recreational vehicle, or aircraft, the person transports it within thirty (30) days to a destination outside Indiana;

(3) the cargo trailer, recreational vehicle, or aircraft will be titled or registered for use in another state or country; and

(4) the cargo trailer, recreational vehicle, or aircraft will not be titled or registered for use in Indiana.

The amount of the exemption for a cargo trailer or recreational vehicle is determined in subsection (d).

(d) The amount of the exemption for a cargo trailer or a recreational vehicle under this section is equal to the amount of:

(1) the state gross retail tax that would be imposed on the transaction if the cargo trailer or recreational vehicle were registered in Indiana; minus

(2) the sales, use, or similar tax that would have been imposed on the transaction under the laws of the state or country in which the purchaser affirms the cargo trailer or recreational vehicle will be registered.

The amount of the exemption under this section may not exceed the amount of the state gross retail tax that would be imposed on the transaction if the cargo trailer or recreational vehicle were registered in Indiana. A retail merchant that accepts an exemption claim for a cargo trailer or recreational vehicle under this section shall, within sixty (60) days after the date of the transaction, have on file a copy of the purchaser's title or registration of the cargo trailer or recreational vehicle outside Indiana or pay to the state the amount of the exemption.

(e) Any state gross retail tax due after the application of the exemption provided by this section must be paid to the retail merchant.

(f) A purchaser must claim an exemption under this section by submitting to the retail merchant an affidavit stating the purchaser's intent to:

(1) transport the cargo trailer, recreational vehicle, or aircraft to a destination outside Indiana within thirty (30) days after delivery; and

(2) title or register the cargo trailer, recreational vehicle, or aircraft for use in another state or country.

The department shall prescribe the form of the affidavit. The affidavit must identify the state or country in which the cargo trailer, recreational vehicle, or aircraft will be titled or

registered. Within sixty (60) days after the date of the transaction, the purchaser shall provide to the retail merchant a copy of the purchaser's title or registration of the cargo trailer, recreational vehicle, or aircraft outside Indiana.

(g) The department shall provide the information necessary to calculate the amount of an exemption claimed under this section to retail merchants in the business of selling cargo trailers or recreational vehicles.

SECTION 4. IC 6-2.5-11-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) A certified service provider is the agent of a seller, with whom the certified service provider has contracted, for the collection and remittance of sales and use taxes. As the seller's agent, the certified service provider is liable for sales and use tax due each member state on all sales transactions it processes for the seller except as set out in this section. A seller that contracts with a certified service provider is not liable to the state for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresented the type of items it sells or committed fraud. In the absence of probable cause to believe that the seller has committed fraud or made a material misrepresentation, the seller is not subject to audit on the transactions processed by the certified service provider. A seller is subject to audit for transactions not processed by the certified service provider. The member states acting jointly may perform a system check of the seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.

(b) A person that provides a certified automated system is responsible for the proper functioning of that system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified automated system. A seller that uses a certified automated system remains responsible and is liable to the state for reporting and remitting tax.

(c) A seller that has a proprietary system for determining the amount of tax due on transactions and has signed an agreement establishing a performance standard for that system is liable for the failure of the system to meet the performance standard.

(d) The department shall allow any monetary allowances that are provided by the member states to sellers or certified service providers in exchange for collecting the sales and use taxes as provided in article VI of the agreement.

SECTION 5. [EFFECTIVE JULY 1, 2005] **IC 6-2.5-5-39, as added by this act, applies to transactions occurring after June 30, 2005.**

(Reference is to ESB 213 as reprinted March 25, 2005.)

M. Young, Chair	Walorski
Hume	Aguilera
Senate Conferees	House Conferees

Roll Call 555: yeas 49, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 496–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 496 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-33-4-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 23. (a) An operating agent or a person holding an owner's license must report annually to the commission the following:**

(1) The total dollar amounts and recipients of incentive payments made.

(2) Any other items related to the payments described in subdivision (1) that the commission may require.

(b) The commission shall prescribe, with respect to the report required by subsection (a):

(1) the format of the report;

(2) the deadline by which the report must be filed; and

(3) the manner in which the report must be maintained and filed.

SECTION 2. IC 5-1-18 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 18. Reports Concerning Bonds and Leases of Political Subdivisions

Sec. 1. As used in this chapter,"bonds" means any bonds, notes, or other evidences of indebtedness, including guaranteed energy savings contracts and advances from the common school fund, whether payable from property taxes, other taxes, revenues, or any other source. However, the term does not include notes, warrants, or other evidences of indebtedness made in anticipation of and to be paid from current revenues of a political subdivision actually levied and in the course of collection for the fiscal year in which the notes, warrants, or other evidences of indebtedness are issued.

Sec. 2. As used in this chapter, "department" refers to the department of local government finance.

Sec. 3. As used in this chapter, "lease" means a lease of real property that is entered into by a political subdivision for a term of at least twelve (12) months, whether payable from property taxes, other taxes, revenues, or any other source.

Sec. 4. As used in this chapter, "lease rentals" means the payments required under a lease.

Sec. 5. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

Sec. 6. A political subdivision that issues bonds or enters into a lease after December 31, 2005, shall supply the department

with information concerning the bond issue or lease within twenty (20) days after the issuance of the bonds or execution of the lease.

Sec. 7. (a) Except as provided by subsection (b), the bond issue information required by section 6 of this chapter must be submitted on a form prescribed by the department and must include:

(1) the par value of the bond issue;

(2) a schedule of maturities and interest rates;

(3) the purposes of the bond issue;

(4) the itemized costs of issuance information, including fees for bond counsel, other legal counsel, underwriters, and financial advisors;

(5) the type of bonds that are issued; and

(6) other information as required by the department.

A copy of the official statement and bond covenants, if any, must be supplied with this information.

(b) The department may establish a procedure that permits a political subdivision or a person acting on behalf of a political subdivision to transfer all or part of the information described in subsection (a) to the department in a uniform format through a secure connection over the Internet or through other electronic means.

Sec. 8. (a) Except as provided by subsection (b), the lease information required by section 6 of this chapter must be submitted on a form prescribed by the department and must include:

(1) the term of the lease;

(2) the annual and total amount of lease rental payments due under the lease;

(3) the purposes of the lease;

(4) the itemized costs incurred by the political subdivision with respect to the preparation and execution of the lease, including fees for legal counsel and other professional advisors;

(5) if all or part of the lease rental payments are used by the lessor as debt service payments for bonds issued for the acquisition, construction, renovation, improvement, expansion, or use of a building, structure, or other public improvement for the political subdivision:

(A) the name of the lessor;

(B) the par value of the bond issue; and

(C) the purposes of the bond issue; and

(6) other information as required by the department.

(b) The department may establish a procedure that permits a political subdivision or a person acting on behalf of a political subdivision to transfer all or part of the information described in subsection (a) to the department in a uniform format through the Internet or other electronic means, as determined by the department.

Sec. 9. Each political subdivision that has any outstanding bonds or leases shall submit a report to the department before March 1 of 2006 and each year thereafter that includes a summary of all the outstanding bonds of the political subdivision as of January 1 of that year. The report must:

(1) distinguish the outstanding bond issues and leases on the basis of the type of bond or lease, as determined by the department;

(2) include a comparison of the political subdivision's outstanding indebtedness compared to any applicable statutory or constitutional limitations on indebtedness;

(3) include other information as required by the department; and

(4) be submitted on a form prescribed by the department or through the Internet or other electronic means, as determined by the department.

Sec. 10. The department shall:

(1) compile an electronic data base that includes the information submitted under this chapter; and

(2) after December 31, 2006, post the information submitted under this chapter on the Internet at least annually.

Sec. 11. Information submitted to the department under this chapter is a public record that may be inspected and copied under IC 5-14-3.

Sec. 12. The department may adopt rules under IC 4-22-2 to carry out the purposes of this chapter.

SECTION 3. IC 6-1.1-4-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 39. (a) For assessment dates after February 28, 2005, except as provided in ~~subsection~~ **subsections** (c) **and (e),** the true tax value of real property regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more and that has more than four (4) rental units is the lowest valuation determined by applying each of the following appraisal approaches:

(1) Cost approach that includes an estimated reproduction or replacement cost of buildings and land improvements as of the date of valuation together with estimates of the losses in value that have taken place due to wear and tear, design and plan, or neighborhood influences.

(2) Sales comparison approach, using data for generally comparable property.

(3) Income capitalization approach, using an applicable capitalization method and appropriate capitalization rates that are developed and used in computations that lead to an indication of value commensurate with the risks for the subject property use.

(b) The gross rent multiplier method is the preferred method of valuing:

(1) real property that has at least one (1) and not more than four (4) rental units; and

(2) mobile homes assessed under IC 6-1.1-7.

(c) A township assessor is not required to appraise real property referred to in subsection (a) using the three (3) appraisal approaches listed in subsection (a) if the township assessor and the taxpayer agree before notice of the assessment is given to the taxpayer under section 22 of this chapter to the determination of the true tax value of the property by the assessor using one (1) of those appraisal

approaches.

(d) To carry out this section, the department of local government finance may adopt rules for assessors to use in gathering and processing information for the application of the income capitalization method and the gross rent multiplier method. A taxpayer must verify under penalties for perjury any information provided to the assessor for use in the application of either method.

(e) The true tax value of low income rental property (as defined in section 41 of this chapter) is not determined under subsection (a). The assessment method prescribed in section 41 of this chapter is the exclusive method for assessment of that property. This subsection does not impede any rights to appeal an assessment.

SECTION 4. IC 6-1.1-4-41 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 41. (a) For purposes of this section:**

(1) "low income rental property" means real property used to provide low income housing eligible for federal income tax credits awarded under Section 42 of the Internal Revenue Code; and

(2) "rental period" means the period during which low income rental property is eligible for federal income tax credits awarded under Section 42 of the Internal Revenue Code.

(b) For assessment dates after February 28, 2006, except as provided in subsection (c), the true tax value of low income rental property is the greater of the true tax value:

(1) determined using the income capitalization approach; or

(2) that results in a gross annual tax liability equal to five percent (5%) of the total gross rent received from the rental of all units in the property for the most recent taxpayer fiscal year that ends before the assessment date.

(c) The department of local government finance may adopt rules under IC 4-22-2 to implement this section.

SECTION 5. IC 6-1.1-12-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 30, 2004 (RETROACTIVE)]: Sec. 41. (a) This section does not apply to assessment years beginning after December 31, 2005.

(b) As used in this section, "assessed value of inventory" means the assessed value determined after the application of any deductions or adjustments that apply by statute or rule to the assessment of inventory, other than the deduction allowed under subsection (f).

(c) As used in this section, "county income tax council" means a council established by IC 6-3.5-6-2.

(d) As used in this section, "fiscal body" has the meaning set forth in IC 36-1-2-6.

(e) As used in this section, "inventory" has the meaning set forth in IC 6-1.1-3-11.

(f) An ordinance may be adopted in a county to provide that a deduction applies to the assessed value of inventory located in the county. The deduction is equal to one hundred percent (100%) of the assessed value of inventory located in the county for the appropriate year of assessment. ~~An ordinance adopted under this subsection must be adopted before January 1 of a calendar year beginning after December 31, 2002.~~ An ordinance adopted under this section in a particular year applies:

(1) if adopted before March 31, 2004, to each subsequent assessment year ending before January 1, 2006; **and**

(2) if adopted after March 30, 2004, and before June 1, 2005, to the March 1, 2005, assessment date.

An ordinance adopted under this section may be consolidated with an ordinance adopted under IC 6-3.5-7-25 or IC 6-3.5-7-26. The consolidation of an ordinance adopted under this section with an ordinance adopted under IC 6-3.5-7-26 does not cause the ordinance adopted under IC 6-3.5-7-26 to expire after December 31, 2005.

(g) An ordinance may not be adopted under subsection (f) after ~~March~~ **May** 30, ~~2004.~~ **2005.** However, an ordinance adopted under this section:

(1) before March 31, 2004, may be amended after March 30, 2004; **and**

(2) before June 1, 2005, may be amended after May 30, 2005;

to consolidate an ordinance adopted under IC 6-3.5-7-26.

(h) The entity that may adopt the ordinance permitted under subsection (f) is:

(1) the county income tax council if the county option income tax is in effect on January 1 of the year in which an ordinance under this section is adopted;

(2) the county fiscal body if the county adjusted gross income tax is in effect on January 1 of the year in which an ordinance under this section is adopted; or

(3) the county income tax council or the county fiscal body, whichever acts first, for a county not covered by subdivision (1) or (2).

To adopt an ordinance under subsection (f), a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax. The entity that adopts the ordinance shall provide a certified copy of the ordinance to the department of local government finance before February 1.

(i) A taxpayer is not required to file an application to qualify for the deduction permitted under subsection (f).

(j) The department of local government finance shall incorporate the deduction established in this section in the personal property return form to be used each year for filing under IC 6-1.1-3-7 or IC 6-1.1-3-7.5 to permit the taxpayer to enter the deduction on the form. If a taxpayer fails to enter the deduction on the form, the township assessor shall:

(1) determine the amount of the deduction; and

(2) within the period established in IC 6-1.1-16-1, issue a notice of assessment to the taxpayer that reflects the application of the deduction to the inventory assessment.

(k) The deduction established in this section must be applied to any inventory assessment made by:

(1) an assessing official;

(2) a county property tax board of appeals; or

(3) the department of local government finance.

SECTION 6. IC 6-1.1-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A taxpayer may obtain a review by the county property tax assessment board of appeals of a county or township official's action with respect to the assessment of the taxpayer's tangible property if the official's action requires the giving of notice to the taxpayer. At the time that notice is given to the taxpayer, the taxpayer shall also be informed in writing of:

(1) the opportunity for review under this section, including an informal preliminary conference with the county or township official referred to in this subsection; and

(2) the procedures the taxpayer must follow in order to obtain review under this section.

(b) In order to appeal a current assessment and have a change in the assessment effective for the most recent assessment date, the taxpayer must request in writing a preliminary conference with the county or township official referred to in subsection (a):

(1) ~~within~~ **not later than** forty-five (45) days after notice of a change in the assessment is given to the taxpayer; or

(2) **on or before** May 10 of that year;

whichever is later. ~~The county or township official referred to in subsection (a) shall notify the county auditor that the assessment is under appeal.~~ The preliminary conference required under this subsection is a prerequisite to a review by the county property tax assessment board of appeals under subsection (i).

(c) A change in an assessment made as a result of an appeal filed:

(1) in the same year that notice of a change in the assessment is given to the taxpayer; and

(2) after the time prescribed in subsection (b);

becomes effective for the next assessment date.

(d) A taxpayer may appeal a current real property assessment in a year even if the taxpayer has not received a notice of assessment in the year. If an appeal is filed on or before May 10 of a year in which the taxpayer has not received notice of assessment, a change in the assessment resulting from the appeal is effective for the most recent assessment date. If the appeal is filed after May 10, the change becomes effective for the next assessment date.

(e) The written request for a preliminary conference that is required under subsection (b) must include the following information:

(1) The name of the taxpayer.

(2) The address and parcel or key number of the property.

(3) The address and telephone number of the taxpayer.

(f) The county or township official referred to in subsection (a) shall, ~~within~~ **not later than** thirty (30) days after the receipt of a written request for a preliminary conference, attempt to hold a preliminary conference with the taxpayer to resolve as many issues as possible by:

(1) discussing the specifics of the taxpayer's reassessment;

(2) reviewing the taxpayer's property record card;

(3) explaining to the taxpayer how the reassessment was determined;

(4) providing to the taxpayer information about the statutes, rules, and guidelines that govern the determination of the reassessment;

(5) noting and considering objections of the taxpayer;

(6) considering all errors alleged by the taxpayer; and

(7) otherwise educating the taxpayer about:

(A) the taxpayer's reassessment;

(B) the reassessment process; and

(C) the reassessment appeal process.

~~Within~~ **Not later than** ten (10) days after the conference, the county or township official referred to in subsection (a) shall forward to the county auditor and the county property tax assessment board of appeals the results of the conference on a form prescribed by the department of local government finance that must be completed and signed by the taxpayer and the official. The official and the taxpayer shall each retain a copy of the form for their records.

(g) The form submitted to the county property tax assessment board of appeals under subsection (f) must specify the following:

(1) The physical characteristics of the property in issue that bear on the assessment determination.

(2) All other facts relevant to the assessment determination.

(3) A list of the reasons the taxpayer believes that the assessment determination by the county or township official referred to in subsection (a) is incorrect.

(4) An indication of the agreement or disagreement by the official with each item listed under subdivision (3).

(5) The reasons the official believes that the assessment determination is correct.

(h) If after the conference there are no items listed on the form submitted to the county property tax assessment board of appeals under subsection (f) on which there is disagreement:

(1) the county or township official referred to in subsection (a) shall give notice to the taxpayer, the county property tax assessment board of appeals, and the county assessor of the assessment in the amount agreed to by the taxpayer and the official; and

(2) the county property tax assessment board of appeals may reserve the right to change the assessment under IC 6-1.1-13.

(i) If after the conference there are items listed in the form submitted under subsection (f) on which there is disagreement, the county property tax assessment board of appeals shall hold a hearing. The taxpayer and county or township official whose original determination is under review are parties to the proceeding before the board of appeals. Except as provided in subsections (k) and (l), the hearing must be held ~~within~~ **not later than** ninety (90) days ~~of~~ **after** the official's receipt of the taxpayer's written request for a preliminary conference under subsection (b). The taxpayer may present the taxpayer's reasons for disagreement with the assessment. The county or township official referred to in subsection (a) must present the basis for the assessment decision on these items to the board of appeals at the hearing and the reasons the taxpayer's appeal should be denied on those items. The board of appeals shall have a written record of the hearing and prepare a

written statement of findings and a decision on each item ~~within~~ **not later than** sixty (60) days ~~of~~ **after** the hearing, except as provided in subsections (k) and (l).

(j) If the township assessor does not attempt to hold a preliminary conference, the taxpayer may file a request in writing with the county assessor for a hearing before the property tax assessment board of appeals. If the board determines that the county or township official referred to in subsection (a) did not attempt to hold a preliminary conference, the board shall hold a hearing. The taxpayer and the county or township official whose original determination is under review are parties to the proceeding before the board of appeals. The hearing must be held ~~within~~ **not later than** ninety (90) days ~~of~~ **after** the receipt by the board of appeals of the taxpayer's hearing request under this subsection. The requirements of subsection (i) with respect to:

(1) participation in the hearing by the taxpayer and the township assessor or county assessor; and

(2) the procedures to be followed by the county board;

apply to a hearing held under this subsection.

(k) This subsection applies to a county having a population of more than three hundred thousand (300,000). In the case of a petition filed after December 31, 2000, the county property tax assessment board of appeals shall:

(1) hold its hearing ~~within~~ **not later than** one hundred eighty (180) days instead of ninety (90) days **after the filing of the petition;** and

(2) have a written record of the hearing and prepare a written statement of findings and a decision on each item ~~within~~ **not later than** one hundred twenty (120) days after the hearing.

(l) This subsection applies to a county having a population of three hundred thousand (300,000) or less. With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the county property tax assessment board of appeals shall:

(1) hold its hearing ~~within~~ **not later than** one hundred eighty (180) days instead of ninety (90) days **after the filing of the petition;** and

(2) have a written record of the hearing and prepare a written statement of findings and a decision on each item ~~within~~ **not later than** one hundred twenty (120) days after the hearing.

(m) The county property tax assessment board of appeals:

(1) may not require a taxpayer to file documentary evidence or summaries of statements of testimonial evidence before the hearing required under subsection (i) or (j); and

(2) may amend the form submitted under subsection (f) if the board determines that the amendment is warranted.

(n) Upon receiving a request for a preliminary conference under subsection (b), the county or township official referred to in subsection (a) shall notify the county auditor in writing that the assessment is under appeal. With respect to an appeal of the assessment of real property or personal property filed after June 30, 2005, the notice must include the appellant's name and address, the assessed value of the appealed items for the assessment date immediately preceding the assessment date for which the appeal was filed, and the assessed value of the appealed items on the most recent assessment date. If the county auditor determines that the assessed value of the appealed items constitutes at least one percent (1%) of the total gross certified assessed value of a particular taxing unit for the assessment date immediately preceding the assessment date for which the appeal was filed, the county auditor shall send a copy of the notice to the affected taxing unit. Failure of the county auditor to send a copy of the notice to the affected taxing unit does not affect the validity of the appeal or delay the appeal.

SECTION 7. IC 6-1.1-15-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.1. (a) The county property tax assessment board of appeals may assess the tangible property in question.

(b) The county property tax assessment board of appeals shall, by mail, give notice of the date fixed for the hearing under ~~section~~ **section 1(i)** of this chapter to the taxpayer, ~~and to~~ the township assessor, **the county assessor, and the county auditor. With respect to an appeal of the assessment of real property or personal property filed after June 30, 2005, the notice must include the following:**

(1) For those items on which there is disagreement, the assessed value of the appealed items:

(A) for the assessment date immediately preceding the assessment date for which the appeal was filed; and

(B) on the most recent assessment date.

(2) A statement that a taxing unit receiving the notice from the county auditor under subsection (c) may:

(A) attend the hearing;

(B) offer testimony; and

(C) file an amicus curiae brief in the proceeding.

A taxing unit that receives a notice from the county auditor under subsection (c) is not a party to the appeal.

(c) If, after receiving notice of a hearing under subsection (b), the county auditor determines that the assessed value of the items on which there is disagreement constitutes at least one percent (1%) of the total gross certified assessed value of a particular taxing unit for the assessment date immediately preceding the assessment date for which the appeal was filed, the county auditor shall send a copy of the notice to the affected taxing unit. Failure of the county auditor to send a copy of the notice to the affected taxing unit does not affect the validity of the appeal or delay the appeal.

~~(c)~~ **(d)** The department of local government finance shall prescribe a form for use by the county property tax assessment board of appeals in processing a review of an assessment determination. The department shall issue instructions for completion of the form. The form must require the county property tax assessment board of appeals to include a record of the hearing, findings on each item, and indicate agreement or disagreement with each item that is indicated on the form submitted by the taxpayer and the county or township official under section 1(f) of this

chapter. The form must also require the county property tax assessment board of appeals to indicate the issues in dispute for each item and its reasons in support of its resolution of those issues.

~~(d)~~ **(e)** After the hearing the county property tax assessment board of appeals shall, by mail, give notice of its determination to the taxpayer, the township assessor, ~~and~~ the county assessor, ~~and~~ **the county auditor, and any taxing unit entitled to notice of the hearing under subsection (c). The county property tax assessment board of appeals** shall include with the notice copies of the forms completed under subsection ~~(c).~~ **(d).**

SECTION 8. IC 6-1.1-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A taxpayer may obtain a review by the Indiana board of a county property tax assessment board of appeals action with respect to the assessment of that taxpayer's tangible property if the county property tax assessment board of appeals' action requires the giving of notice to the taxpayer. A township assessor, county assessor, member of a county property tax assessment board of appeals, or county property tax assessment board of appeals that made the original determination under appeal under this section is a party to the review under this section to defend the determination. At the time that notice is given to the taxpayer, the taxpayer shall also be informed in writing of:

(1) the taxpayer's opportunity for review under this section; and

(2) the procedures the taxpayer must follow in order to obtain review under this section.

(b) A township assessor or county assessor may obtain a review by the Indiana board of any assessment which the township assessor or the county assessor has made, upon which the township assessor or the county assessor has passed, or which has been made over the township assessor's or the county assessor's protest.

(c) In order to obtain a review by the Indiana board under this section, the party must file a petition for review with the appropriate county assessor ~~within~~ **not later than** thirty (30) days after the notice of the county property tax assessment board of appeals action is given to the taxpayer.

(d) The Indiana board shall prescribe the form of the petition for review of an assessment determination by the county property tax assessment board of appeals. The Indiana board shall issue instructions for completion of the form. The form and the instructions must be clear, simple, and understandable to the average individual. An appeal of such a determination must be made on the form prescribed by the Indiana board. The form must require the petitioner to specify the following:

(1) If the county or township official held a preliminary conference under section 1(f) of this chapter, the items listed in section 1(g)(1) and 1(g)(2) of this chapter.

(2) The reasons why the petitioner believes that the assessment determination by the county property tax assessment board of appeals is erroneous.

(e) The county assessor shall transmit the petition for review to the Indiana board ~~within~~ **not later than** ten (10) days after it is filed.

(f) If a township assessor or a member of the county property tax assessment board of appeals files a petition for review under this section concerning the assessment of a taxpayer's property, the county assessor must send a copy of the petition to the taxpayer. **The county assessor shall transmit the petition for review to the Indiana board not later than ten (10) days after the petition is filed.**

SECTION 9. IC 6-1.1-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) After receiving a petition for review which is filed under section 3 of this chapter, the Indiana board shall conduct a hearing at its earliest opportunity. The Indiana board may:

(1) assign:

(A) full;

(B) limited; or

(C) no;

evidentiary value to the assessed valuation of tangible property determined by stipulation submitted as evidence of a comparable sale; and

(2) correct any errors that may have been made, and adjust the assessment in accordance with the correction.

(b) If the Indiana board conducts a site inspection of the property as part of its review of the petition, the Indiana board shall give notice to all parties of the date and time of the site inspection. The Indiana board is not required to assess the property in question. The Indiana board shall give notice of the date fixed for the hearing, by mail, to the taxpayer and to the appropriate township assessor, county assessor, and county auditor. **With respect to an appeal of the assessment of real property or personal property filed after June 30, 2005, the notice must include the following:**

(1) The action of the county property tax assessment board of appeals with respect to the appealed items.

(2) A statement that a taxing unit receiving the notice from the county auditor under subsection (c) may:

(A) attend the hearing; and

(B) offer testimony.

A taxing unit that receives a notice from the county auditor under subsection (c) is not a party to the appeal. The Indiana board shall give these notices at least thirty (30) days before the day fixed for the hearing. The property tax assessment board of appeals that made the determination under appeal under this section may, with the approval of the county executive, file an amicus curiae brief in the review proceeding under this section. The expenses incurred by the property tax assessment board of appeals in filing the amicus curiae brief shall be paid from the property reassessment fund under IC 6-1.1-4-27.5. The executive of a taxing unit may file an amicus curiae brief in the review proceeding under this section if the property whose assessment is under appeal is subject to assessment by that taxing unit.

(c) If, after receiving notice of a hearing under subsection (b), the county auditor determines that the assessed value of the appealed items constitutes at least one percent (1%) of the total gross certified assessed value of a particular taxing unit for the assessment date immediately preceding the assessment date for

which the appeal was filed, the county auditor shall send a copy of the notice to the affected taxing unit. Failure of the county auditor to send a copy of the notice to the affected taxing unit does not affect the validity of the appeal or delay the appeal.

~~(b)~~ **(d)** If a petition for review does not comply with the Indiana board's instructions for completing the form prescribed under section 3 of this chapter, the Indiana board shall return the petition to the petitioner and include a notice describing the defect in the petition. The petitioner then has thirty (30) days from the date on the notice to cure the defect and file a corrected petition. The Indiana board shall deny a corrected petition for review if it does not substantially comply with the Indiana board's instructions for completing the form prescribed under section 3 of this chapter.

~~(c)~~ **(e)** The Indiana board shall prescribe a form for use in processing petitions for review of actions by the county property tax assessment board of appeals. The Indiana board shall issue instructions for completion of the form. The form must require the Indiana board to indicate agreement or disagreement with each item that is:

(1) if the county or township official held a preliminary conference under section 1(f) of this chapter, indicated on the petition submitted under that section by the taxpayer and the official; and

(2) included in the county property tax assessment board of appeals' findings, record, and determination under ~~section 2.1(c)~~ **section 2.1(d)** of this chapter.

The form must also require the Indiana board to indicate the issues in dispute and its reasons in support of its resolution of those issues.

~~(d)~~ **(f)** After the hearing the Indiana board shall give the petitioner, the township assessor, the county assessor, ~~and~~ the county auditor, **and the affected taxing units required to be notified under subsection (c):**

(1) notice, by mail, of its final determination;

(2) a copy of the form completed under subsection ~~(c);~~ **(e);** and

(3) notice of the procedures they must follow in order to obtain court review under section 5 of this chapter.

~~(e)~~ **(g)** Except as provided in subsection ~~(f),~~ **(h),** the Indiana board shall conduct a hearing not later than nine (9) months after a petition in proper form is filed with the Indiana board, excluding any time due to a delay reasonably caused by the petitioner.

~~(f)~~ **(h)** With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the Indiana board shall conduct a hearing not later than one (1) year after a petition in proper form is filed with the Indiana board, excluding any time due to a delay reasonably caused by the petitioner.

~~(g)~~ **(i)** Except as provided in subsection ~~(h),~~ **(j),** the Indiana board shall make a determination not later than the later of:

(1) ninety (90) days after the hearing; or

(2) the date set in an extension order issued by the Indiana board.

~~(h)~~ **(j)** With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the Indiana board shall make a determination not later than the later of:

(1) one hundred eighty (180) days after the hearing; or

(2) the date set in an extension order issued by the Indiana board.

~~(i)~~ **(k)** Except as provided in subsection ~~(n),~~ **(p),** the Indiana board may not extend the final determination date under subsection ~~(g)~~ **(i)** or ~~(h)~~ **(j)** by more than one hundred eighty (180) days. If the Indiana board fails to make a final determination within the time allowed by this subsection, the entity that initiated the petition may:

(1) take no action and wait for the Indiana board to make a final determination; or

(2) petition for judicial review under section 5(g) of this chapter.

~~(j)~~ **(l)** A final determination must include separately stated findings of fact for all aspects of the determination. Findings of ultimate fact must be accompanied by a concise statement of the underlying basic facts of record to support the findings. Findings must be based exclusively upon the evidence on the record in the proceeding and on matters officially noticed in the proceeding. Findings must be based upon a preponderance of the evidence.

~~(k)~~ **(m)** The Indiana board may limit the scope of the appeal to the issues raised in the petition and the evaluation of the evidence presented to the county property tax assessment board of appeals in support of those issues only if all persons participating in the hearing required under subsection (a) agree to the limitation. A person participating in the hearing required under subsection (a) is entitled to introduce evidence that is otherwise proper and admissible without regard to whether that evidence has previously been introduced at a hearing before the county property tax assessment board of appeals.

~~(l)~~ **(n)** The Indiana board:

(1) may require the parties to the appeal to file not more than five (5) business days before the date of the hearing required under subsection (a) documentary evidence or summaries of statements of testimonial evidence; and

(2) may require the parties to the appeal to file not more than fifteen (15) business days before the date of the hearing required under subsection (a) lists of witnesses and exhibits to be introduced at the hearing.

~~(m)~~ **(o)** A party to a proceeding before the Indiana board shall provide to another party to the proceeding the information described in subsection ~~(l)~~ **(n)** if the other party requests the information in writing at least ten (10) days before the deadline for filing of the information under subsection ~~(l).~~ **(n).**

~~(n)~~ **(p)** The county assessor may:

(1) appear as an additional party if the notice of appearance is filed before the review proceeding; or

(2) with the approval of the township assessor, represent the township assessor;

in a review proceeding under this section.

~~(o)~~ **(q)** The Indiana board may base its final determination on a stipulation between the respondent and the petitioner. If the final determination is based on a stipulated assessed valuation of tangible property, the Indiana board may order the placement of a notation on the permanent assessment record of the tangible property that the assessed valuation was determined by stipulation. The Indiana board may:

(1) order that a final determination under this subsection has no precedential value; or

(2) specify a limited precedential value of a final determination under this subsection.

SECTION 10. IC 6-1.1-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Not later than fifteen (15) days after the Indiana board gives notice of its final determination under section 4 of this chapter to the party or the maximum allowable time for the issuance of a final determination by the Indiana board under section 4 of this chapter expires, a party to the proceeding may request a rehearing before the Indiana board. The Indiana board may conduct a rehearing and affirm or modify its final determination, giving the same notices after the rehearing as are required by section 4 of this chapter. The Indiana board has fifteen (15) days after receiving a petition for a rehearing to determine whether to grant a rehearing. Failure to grant a rehearing not later than fifteen (15) days after receiving the petition shall be treated as a final determination to deny the petition. A petition for a rehearing does not toll the time in which to file a petition for judicial review unless the petition for rehearing is granted. If the Indiana board determines to rehear a final determination, the Indiana board:

(1) may conduct the additional hearings that the Indiana board determines necessary or review the written record without additional hearings; and

(2) shall issue a final determination not later than ninety (90) days after notifying the parties that the Indiana board will rehear the final determination.

If ~~of~~ the Indiana board fails to make a final determination within the time allowed under subdivision (2), the entity that initiated the petition for rehearing may take no action and wait for the Indiana board to make a final determination or petition for judicial review under subsection (g).

(b) A person may petition for judicial review of the final determination of the Indiana board regarding the assessment of that person's tangible property. The action shall be taken to the tax court under IC 4-21.5-5. Petitions for judicial review may be consolidated at the request of the appellants if it can be done in the interest of justice. The property tax assessment board of appeals that made the determination under appeal under this section may, with the approval of the county executive, file an amicus curiae brief in the review proceeding under this section. The expenses incurred by the property tax assessment board of appeals in filing the amicus curiae brief shall be paid from the property reassessment fund under IC 6-1.1-4-27.5. In addition, the executive of a taxing unit may file an amicus curiae brief in the review proceeding under this section if the property whose assessment is under appeal is subject to assessment by that taxing unit. The department of local government finance may intervene in an action taken under this subsection if the interpretation of a rule of the department is at issue in the action. A township assessor, county assessor, member of a county property tax assessment board of appeals, or county property tax assessment board of appeals that made the original assessment determination under appeal under this section is a party to the review under this section to defend the determination.

(c) Except as provided in subsection (g), to initiate a proceeding for judicial review under this section, a person must take the action required by subsection (b) not later than:

(1) forty-five (45) days after the Indiana board gives the person notice of its final determination, unless a rehearing is conducted under subsection (a); or

(2) thirty (30) days after the Indiana board gives the person notice under subsection (a) of its final determination, if a rehearing is conducted under subsection (a) or the maximum time elapses for the Indiana board to make a determination under this section.

(d) The failure of the Indiana board to conduct a hearing within the period prescribed in section ~~4(f)~~ **4(h)** or ~~4(g)~~ **4(i)** of this chapter does not constitute notice to the person of an Indiana board final determination.

(e) The county executive may petition for judicial review to the tax court in the manner prescribed in this section upon request by the county assessor, ~~or~~ **the** elected township assessor, **or an affected taxing unit. If an appeal is taken at the request of an affected taxing unit, the taxing unit shall pay the costs of the appeal.**

(f) If the county executive determines upon a request under this subsection to not appeal to the tax court:

(1) the entity described in subsection (b) that made the original determination under appeal under this section may take an appeal to the tax court in the manner prescribed in this section using funds from that entity's budget; and

(2) the petitioner may not be represented by the attorney general in an action described in subdivision (1).

(g) If the maximum time elapses for the Indiana board to give notice of its final determination under subsection (a) or section 4 of this chapter, a person may initiate a proceeding for judicial review by taking the action required by subsection (b) at any time after the maximum time elapses. If:

(1) a judicial proceeding is initiated under this subsection; and

(2) the Indiana board has not issued a determination;

the tax court shall determine the matter de novo.

SECTION 11. IC 6-1.1-15-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) If the assessment of tangible property is corrected by the department of local government finance or the county property tax assessment board of appeals under section 8 of this chapter, the owner of the property has a right to appeal the final determination of the corrected assessment to the Indiana board. The county executive also has a right to appeal the final determination of the reassessment by the department of local government finance or the county

property tax assessment board of appeals but only upon request by the county assessor, ~~or~~ **the** elected township assessor, **or an affected taxing unit. If the appeal is taken at the request of an affected taxing unit, the taxing unit shall pay the costs of the appeal.**

(b) An appeal under this section must be initiated in the manner prescribed in section 3 of this chapter or IC 6-1.5-5.

SECTION 12. IC 6-1.1-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. **(a)** When formulating an annual budget estimate, the proper officers of a political subdivision shall prepare an estimate of the amount of revenue which the political subdivision will receive from the state for and during the budget year for which the budget is being formulated. These estimated revenues shall be shown in the budget estimate and shall be taken into consideration in calculating the tax levy which is to be made for the ensuing calendar year. However, this section does not apply to funds to be received from the state or the federal government for:

(1) ~~poor relief,~~ **township assistance;**

(2) unemployment relief;

(3) old age pensions; or

(4) other funds which may at any time be made available under "The Economic Security Act" or under any other federal act which provides for civil and public works projects.

(b) When formulating an annual budget estimate, the proper officers of a political subdivision shall prepare an estimate of the amount of revenue that the political subdivision will receive under a development agreement (as defined in IC 36-1-8-9.5) for and during the budget year for which the budget is being formulated. Revenue received under a development agreement may not be used to reduce the political subdivision's maximum levy under IC 6-1.1-18.5 but may be used at the discretion of the political subdivision to reduce the property tax levy of the political subdivision for a particular year.

SECTION 13. IC 6-1.1-17-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. (a) This section applies:

(1) to each governing body of a taxing unit that is not comprised of a majority of officials who are elected to serve on the governing body; and

(2) if the proposed property tax levy:

(A) for the taxing unit **(other than a public library)** for the ensuing calendar year is more than five percent (5%) greater than the property tax levy for the taxing unit for the current calendar year; **or**

(B) for the operating budget of a public library for the ensuing calendar year is more than five percent (5%) greater than the property tax levy for the operating budget of the public library for the current calendar year.

(b) As used in this section, "taxing unit" has the meaning set forth in IC 6-1.1-1-21, except that the term does not include a school corporation.

(c) **This subsection does not apply to a public library.** If:

(1) the assessed valuation of a taxing unit is entirely contained within a city or town; or

(2) the assessed valuation of a taxing unit is not entirely contained within a city or town but the taxing unit was originally established by the city or town;

the governing body shall submit its proposed budget and property tax levy to the city or town fiscal body. The proposed budget and levy shall be submitted at least fourteen (14) days before the city or town fiscal body is required to hold budget approval hearings under this chapter.

(d) **This subsection does not apply to a public library.** If subsection (c) does not apply, the governing body of the taxing unit shall submit its proposed budget and property tax levy to the county fiscal body in the county where the taxing unit has the most assessed valuation. The proposed budget and levy shall be submitted at least fourteen (14) days before the county fiscal body is required to hold budget approval hearings under this chapter.

(e) This subsection applies to a public library. The library board of a public library subject to this section shall submit its proposed budget and property tax levy to the fiscal body designated under IC 20-14-14.

~~(c)~~ **(f) Subject to subsection (g),** the fiscal body of the city, town, or county (whichever applies) **or the fiscal body designated under IC 20-14-14 (in the case of a public library)** shall review each budget and proposed tax levy and adopt a final budget and tax levy for the taxing unit. The fiscal body may reduce or modify but not increase the proposed budget or tax levy.

(g) A fiscal body's review under subsection (f) is limited to the proposed operating budget of the public library and the proposed property tax levy for the library's operating budget.

SECTION 14. IC 6-1.1-33.5-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. (a) Not later than May 1of each calendar year, the division of data analysis shall:**

(1) prepare a report that includes:

(A) each political subdivision's total amount of expenditures per person during the immediately preceding calendar year, based on the political subdivision's population determined by the most recent federal decennial census; and

(B) based on the information prepared for all political subdivisions under clause (A), the highest, lowest, median, and average amount of expenditures per person for each type of political subdivision throughout Indiana.

(2) post the report on the web site maintained by the department of local government finance; and

(3) file the report:

(A) with the governor; and

(B) in an electronic format under IC 5-14-6 with the general assembly.

The report must be presented in a format that is understandable to the average individual and that permits easy comparison of the information prepared for each political

subdivision under subdivision (1)(A) to the statewide information prepared for that type of political subdivision under subdivision (1)(B).

(b) The department of local government finance shall organize the report under subsection (a) to present together the information derived from each type of political subdivision.

SECTION 15. IC 6-1.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) After receiving a petition for review that is filed under a statute listed in section 1(a) of this chapter, the Indiana board shall, at its earliest opportunity:

(1) conduct a hearing; or

(2) cause a hearing to be conducted by an administrative law judge.

The Indiana board may determine to conduct the hearing under subdivision (1) on its own motion or on request of a party to the appeal.

(b) In its resolution of a petition, the Indiana board may:

(1) assign:

(A) full;

(B) limited; or

(C) no;

evidentiary value to the assessed valuation of tangible property determined by stipulation submitted as evidence of a comparable sale; and

(2) correct any errors that may have been made, and adjust the assessment in accordance with the correction.

(c) The Indiana board shall give notice of the date fixed for the hearing by mail to:

(1) the taxpayer;

(2) the department of local government finance; and

(3) the appropriate:

(A) township assessor;

(B) county assessor; and

(C) county auditor.

(d) With respect to an appeal of the assessment of real property or personal property filed after June 30, 2005, the notices required under subsection (c) must include the following:

(1) The action of the department of local government finance with respect to the appealed items.

(2) A statement that a taxing unit receiving the notice from the county auditor under subsection (e) may:

(A) attend the hearing;

(B) offer testimony; and

(C) file an amicus curiae brief in the proceeding.

A taxing unit that receives a notice from the county auditor under subsection (e) is not a party to the appeal.

(e) If, after receiving notice of a hearing under subsection (c), the county auditor determines that the assessed value of the appealed items constitutes at least one percent (1%) of the total gross certified assessed value of a particular taxing unit for the assessment date immediately preceding the assessment date for which the appeal was filed, the county auditor shall send a copy of the notice to the affected taxing unit. Failure of the county auditor to send a copy of the notice to the affected taxing unit does not affect the validity of the appeal or delay the appeal.

~~(d)~~ **(f)** The Indiana board shall give the notices required under subsection (c) at least thirty (30) days before the day fixed for the hearing.

SECTION 16. IC 6-1.5-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. After the hearing, the Indiana board shall give the petitioner, the township assessor, the county assessor, the county auditor, **the affected taxing units required to be notified under section 2(e) of this chapter,** and the department of local government finance:

(1) notice, by mail, of its final determination, findings of fact, and conclusions of law; and

(2) notice of the procedures the petitioner or the department of local government finance must follow in order to obtain court review of the final determination of the Indiana board.

SECTION 17. IC 6-3.1-1-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: **Sec. 3. A taxpayer (as defined in the following laws), pass through entity (as defined in the following laws), or shareholder, partner, or member of a pass through entity may not be granted more than one (1) tax credit under the following laws for the same project:**

(1) IC 6-3.1-10 (enterprise zone investment cost credit).

(2) IC 6-3.1-11 (industrial recovery tax credit).

(3) IC 6-3.1-11.5 (military base recovery tax credit).

(4) IC 6-3.1-11.6 (military base investment cost credit).

(5) IC 6-3.1-13.5 (capital investment tax credit).

(6) IC 6-3.1-19 (community revitalization enhancement district tax credit).

(7) IC 6-3.1-24 (venture capital investment tax credit).

(8) IC 6-3.1-26 (Hoosier business investment tax credit).

If a taxpayer, pass through entity, or shareholder, partner, or member of a pass through entity has been granted more than one (1) tax credit for the same project, the taxpayer, pass through entity, or shareholder, partner, or member of a pass through entity must elect to apply only one (1) of the tax credits in the manner and form prescribed by the department.

SECTION 18. IC 6-3.1-26-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 5.5. As used in this chapter, "motion picture or audio production" means a:**

(1) feature length film;

(2) video;

(3) television series;

(4) commercial;

(5) music video or an audio recording; or

(6) corporate production;

for any combination of theatrical, television, or other media viewing or as a television pilot. The term does not include a motion picture that is obscene (as described in IC 35-49-2-1) or television coverage of news or athletic events.

SECTION 19. IC 6-3.1-26-8, AS AMENDED BY P.L.4-2005,

SECTION 103, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. (a) As used in this chapter, "qualified investment" means the amount of the taxpayer's expenditures **in Indiana** for:

(1) the purchase of new telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, ~~or~~ finishing, **distribution, transportation, or logistical distribution** equipment;

(2) the purchase of new computers and related equipment;

(3) costs associated with the modernization of existing telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, ~~or~~ finishing, **distribution, transportation, or logistical distribution** facilities;

(4) onsite infrastructure improvements;

(5) the construction of new telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, ~~or~~ finishing, **distribution, transportation, or logistical distribution** facilities;

(6) costs associated with retooling existing machinery and equipment; ~~and~~

(7) costs associated with the construction of special purpose buildings and foundations for use in the computer, software, biological sciences, or telecommunications industry; **and**

(8) costs associated with the purchase, before January 1, 2008, of machinery, equipment, or special purpose buildings used to make motion pictures or audio productions;

that are certified by the corporation under this chapter as being eligible for the credit under this chapter.

(b) The term does not include property that can be readily moved outside Indiana.

SECTION 20. IC 6-3.1-26-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 14. ~~(a)~~ The total amount of a tax credit claimed **for a taxable year** under this chapter ~~equals thirty~~ **is a percentage determined by the corporation, not to exceed ten** percent ~~(30%)~~ **(10%),** of the amount of a qualified investment made by the taxpayer in Indiana **during that taxable year.**

~~(b) In the taxable year in which a taxpayer makes a qualified investment, the taxpayer may claim a credit under this chapter in an amount equal to the lesser of:~~

~~(1) thirty percent (30%) of the amount of the qualified investment; or~~

~~(2) the taxpayer's state tax liability growth.~~

The taxpayer may carry forward any unused credit.

SECTION 21. IC 6-3.1-26-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. (a) A taxpayer may carry forward an unused credit for **the number of years determined by the corporation,** not ~~more than~~ **to exceed** nine (9) consecutive taxable years, beginning with the taxable year after the taxable year in which the taxpayer makes the qualified investment.

(b) The amount that a taxpayer may carry forward to a particular taxable year under this section equals the ~~lesser of the following:~~

~~(1) The taxpayer's state tax liability growth.~~

~~(2) The~~ unused part of a credit allowed under this chapter.

(c) A taxpayer may:

(1) claim a tax credit under this chapter for a qualified investment; and

(2) carry forward a remainder for one (1) or more different qualified investments;

in the same taxable year.

(d) The total amount of each tax credit claimed under this chapter may not exceed ~~thirty~~ **ten** percent ~~(30%)~~ **(10%)** of the qualified investment for which the tax credit is claimed.

SECTION 22. IC 6-3.1-26-16, AS AMENDED BY P.L.4-2005, SECTION 107, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16. If a pass through entity does not have state tax liability ~~growth~~ against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

SECTION 23. IC 6-3.1-26-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 18. After receipt of an application, the corporation may enter into an agreement with the applicant for a credit under this chapter if the corporation determines that all the following conditions exist:

~~(1) The applicant has conducted business in Indiana for at least one (1) year immediately preceding the date the application is received.~~

~~(2)~~ **(1)** The applicant's project will raise the total earnings of employees of the applicant in Indiana.

~~(3)~~ **(2)** The applicant's project is economically sound and will benefit the people of Indiana by increasing opportunities for employment and strengthening the economy of Indiana.

~~(4)~~ **(3)** Receiving the tax credit is a major factor in the applicant's decision to go forward with the project and not receiving the tax credit will result in the applicant not raising the total earnings of employees in Indiana.

~~(5)~~ **(4)** Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

~~(6)~~ **(5)** The credit is not prohibited by section 19 of this chapter.

~~(7)~~ **(6)** The average wage that will be paid by the taxpayer to its employees (excluding highly compensated employees) at the location after the credit is given will be at least equal to one hundred fifty percent (150%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.

SECTION 24. IC 6-3.5-7-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 31, 2005 (RETROACTIVE)]: Sec. 25. (a) This section applies only to a county that has adopted an ordinance under IC 6-1.1-12-41(f).

(b) For purposes of this section, "imposing entity" means the entity that adopted the ordinance under IC 6-1.1-12-41(f).

(c) The imposing entity may adopt an ordinance to provide for the use of the certified distribution described in section 16(c) of this chapter for the purpose provided in subsection (e). A county income tax council that adopts an ordinance under this subsection shall use the procedures set forth in IC 6-3.5-6 concerning the adoption of an ordinance for the imposition of the county option income tax. Except as provided in subsection (j), an ordinance must be adopted under this subsection after January 1 but before ~~April~~ **June** 1 of a calendar year. The ordinance may provide for an additional rate under section 5(p) of this chapter. An ordinance adopted under this subsection:

(1) first applies to the certified distribution described in section 16(c) of this chapter made in the calendar year that immediately succeeds the calendar year in which the ordinance is adopted;

(2) must specify the calendar years to which the ordinance applies; and

(3) must specify that the certified distribution must be used to provide for:

(A) uniformly applied increased homestead credits as provided in subsection (f); or

(B) allocated increased homestead credits as provided in subsection (h).

An ordinance adopted under this subsection may be combined with an ordinance adopted under section 26 of this chapter.

(d) If an ordinance is adopted under subsection (c), the percentage of the certified distribution specified in the ordinance for use for the purpose provided in subsection (e) shall be:

(1) retained by the county auditor under subsection ~~(g),~~ **(i);** and

(2) used for the purpose provided in subsection (e) instead of the purposes specified in the capital improvement plans adopted under section 15 of this chapter.

(e) If an ordinance is adopted under subsection (c), the imposing entity shall use the certified distribution described in section 16(c) of this chapter to increase the homestead credit allowed in the county under IC 6-1.1-20.9 for a year to offset the effect on homesteads in the county resulting from a county deduction for inventory under IC 6-1.1-12-41.

(f) If the imposing entity specifies the application of uniform increased homestead credits under subsection (c)(3)(A), the county auditor shall, for each calendar year in which an increased homestead credit percentage is authorized under this section, determine:

(1) the amount of the certified distribution that is available to provide an increased homestead credit percentage for the year;

(2) the amount of uniformly applied homestead credits for the year in the county that equals the amount determined under subdivision (1); and

(3) the increased percentage of homestead credit that equates to the amount of homestead credits determined under subdivision (2).

(g) The increased percentage of homestead credit determined by the county auditor under subsection (f) applies uniformly in the county in the calendar year for which the increased percentage is determined.

(h) If the imposing entity specifies the application of allocated increased homestead credits under subsection (c)(3)(B), the county auditor shall, for each calendar year in which an increased homestead credit is authorized under this section, determine:

(1) the amount of the certified distribution that is available to provide an increased homestead credit for the year; and

(2) an increased percentage of homestead credit for each taxing district in the county that allocates to the taxing district an amount of increased homestead credits that bears the same proportion to the amount determined under subdivision (1) that the amount of inventory assessed value deducted under IC 6-1.1-12-41 in the taxing district for the immediately preceding year's assessment date bears to the total inventory assessed value deducted under IC 6-1.1-12-41 in the county for the immediately preceding year's assessment date.

(i) 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. The money shall be distributed to the civil taxing units and school corporations of the county:

(1) as if the money were from property tax collections; and

(2) in such a manner that no civil taxing unit or school corporation will suffer a net revenue loss because of the allowance of an increased homestead credit.

(j) An entity authorized to adopt:

(1) an ordinance under subsection (c); and

(2) an ordinance under IC 6-1.1-12-41(f);

may consolidate the two (2) ordinances. The limitation under subsection (c) that an ordinance must be adopted after January 1 of a calendar year does not apply if a consolidated ordinance is adopted under this subsection. **However, notwithstanding subsection (c)(1), the ordinance must state that it first applies to certified distributions in the calendar year in which property taxes are initially affected by the deduction under IC 6-1.1-12-41.**

SECTION 25. IC 6-3.5-7-25.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 25.5. Subject to the approval of the imposing entity, the county auditor may adjust the increased percentage of homestead credit determined under section 25(h)(2) of this chapter if the county auditor determines that the adjustment is necessary to achieve an equitable reduction of property taxes among the homesteads in the county.**

SECTION 26. IC 6-3.5-7-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. (a) This section applies only to homestead credits for property taxes first due and payable after calendar year 2006.

(b) For purposes of this section, "adopting entity" means:

(1) the entity that adopts an ordinance under

IC 6-1.1-12-41(f); or

(2) any other entity that may impose a county economic development income tax under section 5 of this chapter.

(c) An adopting entity may adopt an ordinance to provide for the use of the certified distribution described in section 16(c) of this chapter for the purpose provided in subsection (e). An adopting entity that adopts an ordinance under this subsection shall use the procedures set forth in IC 6-3.5-6 concerning the adoption of an ordinance for the imposition of the county option income tax. An ordinance must be adopted under this subsection after January 1 but before April 1 of a calendar year. The ordinance may provide for an additional rate under section 5(p) of this chapter. An ordinance adopted under this subsection:

(1) first applies to the certified distribution described in section 16(c) of this chapter made in the later of the calendar year that immediately succeeds the calendar year in which the ordinance is adopted or calendar year 2007; and

(2) must specify that the certified distribution must be used to provide for:

(A) uniformly applied increased homestead credits as provided in subsection (f); or

(B) allocated increased homestead credits as provided in subsection (h).

An ordinance adopted under this subsection may be combined with an ordinance adopted under section 25 of this chapter.

(d) If an ordinance is adopted under subsection (c), the percentage of the certified distribution specified in the ordinance for use for the purpose provided in subsection (e) shall be:

(1) retained by the county auditor under subsection ~~(g);~~ **(i);** and

(2) used for the purpose provided in subsection (e) instead of the purposes specified in the capital improvement plans adopted under section 15 of this chapter.

(e) If an ordinance is adopted under subsection (c), the adopting entity shall use the certified distribution described in section 16(c) of this chapter to increase the homestead credit allowed in the county under IC 6-1.1-20.9 for a year to offset the effect on homesteads in the county resulting from the statewide deduction for inventory under IC 6-1.1-12-42.

(f) If the imposing entity specifies the application of uniform increased homestead credits under subsection (c)(2)(A), the county auditor shall, for each calendar year in which an increased homestead credit percentage is authorized under this section, determine:

(1) the amount of the certified distribution that is available to provide an increased homestead credit percentage for the year;

(2) the amount of uniformly applied homestead credits for the year in the county that equals the amount determined under subdivision (1); and

(3) the increased percentage of homestead credit that equates to the amount of homestead credits determined under subdivision (2).

(g) The increased percentage of homestead credit determined by the county auditor under subsection (f) applies uniformly in the county in the calendar year for which the increased percentage is determined.

(h) If the imposing entity specifies the application of allocated increased homestead credits under subsection (c)(2)(B), the county auditor shall, for each calendar year in which an increased homestead credit is authorized under this section, determine:

(1) the amount of the certified distribution that is available to provide an increased homestead credit for the year; and

(2) **except as provided in subsection (j),** an increased percentage of homestead credit for each taxing district in the county that allocates to the taxing district an amount of increased homestead credits that bears the same proportion to the amount determined under subdivision (1) that the amount of inventory assessed value deducted under IC 6-1.1-12-42 in the taxing district for the immediately preceding year's assessment date bears to the total inventory assessed value deducted under IC 6-1.1-12-42 in the county for the immediately preceding year's assessment date.

(i) 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. The money shall be distributed to the civil taxing units and school corporations of the county:

(1) as if the money were from property tax collections; and

(2) in such a manner that no civil taxing unit or school corporation will suffer a net revenue loss because of the allowance of an increased homestead credit.

(j) Subject to the approval of the imposing entity, the county auditor may adjust the increased percentage of homestead credit determined under subsection (h)(2) if the county auditor determines that the adjustment is necessary to achieve an equitable reduction of property taxes among the homesteads in the county.

SECTION 27. IC 20-14-14 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 14. Review of Budgets of Appointed Boards

Sec. 1. Before an appointed library board described in IC 6-1.1-17-20(a)(2)(B) may impose a property tax levy for the operating budget of a public library for the ensuing calendar year that is more than five percent (5%) greater than the property tax levy for the operating budget of the public library for the current calendar year, the library board must submit its proposed budget and property tax levy to the appropriate fiscal body under section 2 of this chapter.

Sec. 2. An appointed library board subject to section 1 of this chapter shall submit its proposed operating budget and property tax levy for the operating budget to the following fiscal body at least fourteen (14) days before the first meeting of the county board of tax adjustment under IC 6-1.1-29-4:

(1) If the library district is located entirely within the corporate boundaries of a municipality, the fiscal body of the municipality.

(2) If the library district:

(A) is not described by subdivision (1); and

(B) is located entirely within the boundaries of a township;

the fiscal body of the township.

(3) If the library district is not described by subdivision (1) or (2), the fiscal body of each county in which the library district is located.

SECTION 28. IC 36-1-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Each unit that receives:

(1) tax revenue under IC 4-33-12-6 **or** IC 4-33-13; ~~or~~

(2) revenue under an agreement to share ~~a~~ ~~city's or county's part of~~ the tax revenue **received under IC 4-33-12 or IC 4-33-13 by another unit; or**

(3) revenue under a development agreement (as defined in section 9.5 of this chapter);

may establish a riverboat fund. Money in the fund may be used for any legal or corporate purpose of the unit.

(b) The riverboat fund established under subsection (a) shall be administered by the unit's treasurer, and the expenses of administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a particular fiscal year does not revert to the unit's general fund.

SECTION 29. IC 36-1-8-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9.5. (a) As used in this section, "development agreement" means an agreement between a licensed owner (as defined in IC 4-33-2-13) and a unit setting forth the licensed owner's financial commitments to support economic development in the unit.**

(b) Funds received by a unit under a development agreement are public funds (as defined in IC 5-13-4-20).

(c) Funds received under a development agreement:

(1) may not be used to reduce the unit's maximum levy under IC 6-1.1-18.5 but may be used at the discretion of the unit to reduce the property tax levy of the unit for a particular year;

(2) may be used for any legal or corporate purpose of the unit, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4; and

(3) are considered miscellaneous revenue.

SECTION 30. IC 36-7-13-3.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.4. (a) Except as provided in subsection (b), as used in this chapter, "income tax incremental amount" means the remainder of:

(1) the aggregate amount of state and local income taxes paid by employees employed in a district with respect to wages earned for work in the district for a particular state fiscal year; minus

(2) the **sum of the:**

(A) income tax base period amount; **and**

(B) tax credits awarded by the economic development for a growing economy board under IC 6-3.1-13 to businesses operating in a district as the result of wages earned for work in the district for the state fiscal year;

as determined by the department of state revenue under section 14 of this chapter.

(b) For purposes of a district designated under section 12.1 of this chapter, "income tax incremental amount" means seventy-five percent (75%) of the amount described in subsection (a).

SECTION 31. IC 36-7-13-10.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10.5. (a) This section applies only to a county that meets the following conditions:

(1) The county's annual rate of unemployment has been above the average annual statewide rate of unemployment during at least three (3) of the preceding five (5) years.

(2) The median income of the county has:

(A) declined over the preceding ten (10) years; or

(B) has grown at a lower rate than the average annual statewide growth in median income during at least three (3) of the preceding five (5) years.

(3) The population of the county (as determined by the legislative body of the county) has declined over the preceding ten (10) years.

(b) Except as provided in section 10.7 of this chapter, in a county described in subsection (a), the legislative body of the county may adopt an ordinance designating an unincorporated part or unincorporated parts of the county as a district, and the legislative body of a municipality located within the county may adopt an ordinance designating a part or parts of the municipality as a district, if the legislative body finds all of the following:

(1) The area to be designated as a district contains a building or buildings that:

(A) have a total of at least fifty thousand (50,000) square feet of usable interior floor space; and

(B) are vacant or will become vacant due to the relocation of the employer or the cessation of operations on the site by the employer.

(2) Significantly fewer persons are employed in the area to be designated as a district than were employed in the area during the year that is ten (10) years previous to the current year.

(3) There are significant obstacles to redevelopment in the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or inefficient utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination or remediation.

(c) A legislative body adopting an ordinance under subsection (b) shall designate the duration of the district. However, a district must terminate not later than fifteen (15) years after the income tax incremental amount or gross retail incremental amount is first allocated to the district.

(d) Except as provided in section 10.7 of this chapter, upon

adoption of an ordinance designating a district, the legislative body shall:

(1) publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and

(2) file the following information with each taxing unit in the county where the district is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement disclosing the impact of the district, including the following:

(i) The estimated economic benefits and costs incurred by the district, as measured by increased employment and anticipated growth of property assessed values.

(ii) The anticipated impact on tax revenues of each taxing unit.

The notice must state the general boundaries of the district.

(e) Upon completion of the actions required by subsection (d), the legislative body shall submit the ordinance to the budget committee for review and recommendation to the budget agency. If the budget agency fails to take action on an ordinance designating a district within one hundred twenty (120) days after the date that the ordinance is submitted to the budget committee, the designation of the district by the ordinance is considered approved.

~~(e)~~ **(f)** Except as provided in section 10.7 of this chapter, when considering the designation of a district by an ordinance adopted under this section, the budget committee and the budget agency must make the following findings before approving the designation of the district:

(1) The area to be designated as a district meets the conditions necessary for the designation as a district.

(2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

~~(f)~~ **(g)** Except as provided in section 10.7 of this chapter, the income tax incremental amount and the gross retail incremental amount may not be allocated to the district until the designation of the district by the local ordinance is approved under this section.

SECTION 32. IC 36-7-13-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) If a municipal or county executive has submitted an application to an advisory commission on industrial development requesting that an area be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission may adopt a resolution designating the area as a district if it makes the findings described in subsection (b), (c), (d), or (e). In a county described in subsection (c), an advisory commission may designate more than one (1) district under subsection (c).

(b) For an area located in a county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

(1) The area contains a building or buildings:

(A) with at least one million (1,000,000) square feet of usable interior floor space; and

(B) that is or are vacant or will become vacant due to the relocation of an employer.

(2) At least one thousand (1,000) fewer persons are employed in the area than were employed in the area during the year that is ten (10) years previous to the current year.

(3) There are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or inefficient utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination.

(4) The unit has expended, appropriated, pooled, set aside, or pledged at least one hundred thousand dollars ($100,000) for purposes of addressing the redevelopment obstacles described in subdivision (3).

(5) The area is located in a county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000).

(c) For a county having a population of more than one hundred eighteen thousand (118,000) but less than one hundred twenty thousand (120,000), an advisory commission may adopt a resolution designating not more than two (2) areas as districts. An advisory commission may designate an area as a district only after finding the following:

(1) The area meets either of the following conditions:

(A) The area contains a building with at least seven hundred ninety thousand (790,000) square feet, and at least eight hundred (800) fewer people are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.

(B) The area contains a building with at least three hundred eighty-six thousand (386,000) square feet, and at least four hundred (400) fewer people are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.

(2) The area is located in or is adjacent to an industrial park.

(3) There are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or inefficient utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination.

(4) The area is located in a county having a population of more than one hundred eighteen thousand (118,000) but less than one hundred twenty thousand (120,000).

(d) For an area located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), an advisory commission may adopt a resolution

designating a particular area as a district only after finding all of the following:

(1) The area contains a building or buildings:

(A) with at least one million five hundred thousand (1,500,000) square feet of usable interior floor space; and

(B) that is or are vacant or will become vacant.

(2) At least eighteen thousand (18,000) fewer persons are employed in the area at the time of application than were employed in the area before the time of application.

(3) There are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or inefficient utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination.

(4) The unit has expended, appropriated, pooled, set aside, or pledged at least one hundred thousand dollars ($100,000) for purposes of addressing the redevelopment obstacles described in subdivision (3).

(5) The area is located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

(e) For an area located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

(1) The area contains a building or buildings:

(A) with at least eight hundred thousand (800,000) gross square feet; and

(B) having leasable floor space, at least fifty percent (50%) of which is or will become vacant.

(2) There are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings as evidenced by a decline of at least seventy-five percent (75%) in their assessed valuation during the preceding ten (10) years.

(B) Transportation or access problems.

(C) Environmental contamination.

(3) At least four hundred (400) fewer persons are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.

(4) The area has been designated as an economic development target area under IC 6-1.1-12.1-7.

(5) The unit has appropriated, pooled, set aside, or pledged at least two hundred fifty thousand dollars ($250,000) for purposes of addressing the redevelopment obstacles described in subdivision (2).

(6) The area is located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(f) The advisory commission, or the county or municipal legislative body, in the case of a district designated under section 10.5 of this chapter, shall designate the duration of the district. However, a district must terminate not later than fifteen (15) years after the income tax incremental amount or gross retail incremental amount is first allocated to the district.

(g) Upon adoption of a resolution designating a district, the advisory commission shall:

(1) publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and

(2) file the following information with each taxing unit in the county where the district is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement disclosing the impact of the district, including the following:

(i) The estimated economic benefits and costs incurred by the district, as measured by increased employment and anticipated growth of property assessed values.

(ii) The anticipated impact on tax revenues of each taxing unit.

The notice must state the general boundaries of the district.

(h) Upon completion of the actions required by subsection (g), the advisory commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. If the budget agency fails to take action on a resolution designating a district within one hundred twenty (120) days after the date that the resolution is submitted to the budget committee, the designation of the district by the resolution is considered approved.

~~(h)~~ **(i)** When considering a resolution, the budget committee and the budget agency must make the following findings:

(1) The area to be designated as a district meets the conditions necessary for designation as a district.

(2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

~~(i)~~ **(j)** The income tax incremental amount and the gross retail incremental amount may not be allocated to the district until the resolution is approved under this section.

SECTION 33. IC 36-7-13-12.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12.1. (a) If the executive of a city described in section 10.1(a) of this chapter has submitted an application to an advisory commission on industrial development requesting that an area be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission may adopt a resolution designating the area as a district if it finds the following:

(1) That the redevelopment of the area in the district will:

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

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

(C) retain or expand a significant business enterprise within the area.

(2) That there are significant obstacles to redevelopment of

the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or ineffective utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination.

(G) Lack of development or cessation of growth.

(H) Deterioration of improvements or character of occupancy, age, obsolescence, or substandard buildings.

(I) Other factors that have impaired values or prevent a normal development of property or use of property.

(b) To address the obstacles identified in subsection (a)(2), the city may make expenditures for:

(1) the acquisition of land;

(2) interests in land;

(3) site improvements;

(4) infrastructure improvements;

(5) buildings;

(6) structures;

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

(8) machinery;

(9) equipment;

(10) furnishings;

(11) facilities;

(12) administration expenses associated with such a project;

(13) operating expenses; or

(14) substance removal or remedial action to the area.

(c) In addition to the findings described in subsection (a), an advisory commission must also find that the city described in section 10.1(a) of this chapter has expended, appropriated, pooled, set aside, or pledged at least two hundred fifty thousand dollars ($250,000) for purposes of addressing the redevelopment obstacles described in subsection (a)(2).

(d) The advisory commission shall designate the duration of the district. However, a district must terminate not later than fifteen (15) years after the income tax incremental amount or gross retail incremental amount is first allocated to the district under this chapter.

(e) Upon adoption of a resolution designating a district, the advisory commission shall:

(1) publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and

(2) file the following information with each taxing unit in the county where the district is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement disclosing the impact of the district, including the following:

(i) The estimated economic benefits and costs incurred by the district, as measured by increased employment and anticipated growth of property assessed values.

(ii) The anticipated impact on tax revenues of each taxing unit.

The notice must state the general boundaries of the district.

(f) Upon completion of the actions required by subsection (e), the advisory commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. If the budget agency fails to take action on a resolution designating a district within one hundred twenty (120) days after the date that the resolution is submitted to the budget committee, the designation of the district by the resolution is considered approved.

~~(f)~~ **(g)** When considering a resolution, the budget committee and the budget agency must make the following findings:

(1) The area to be designated as a district meets the conditions necessary for designation as a district.

(2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

~~(g)~~ **(h)** The income tax incremental amount and the gross retail incremental amount may not be allocated to the district until the resolution is approved under this section.

SECTION 34. IC 36-7-13-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) If an advisory commission on industrial development designates a district under section 12 or 12.1 of this chapter or if the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter, the advisory commission, or the legislative body in the case of a district designated under section 10.5 of this chapter, shall send a certified copy of the resolution or ordinance designating the district to the department of state revenue by certified mail and shall include with the resolution a complete list of the following:

(1) Employers in the district.

(2) Street names and the range of street numbers of each street in the district.

(3) Federal tax identification number of each business in the district.

(4) The street address of each employer.

(5) Name, telephone number, and electronic mail address (if available) of a contact person for each employer.

(b) The advisory commission, or the legislative body in the case of a district designated under section 10.5 of this chapter, shall update the list:

(1) before July 1 of each year; or

(2) within fifteen (15) days after the date that the budget agency approves a petition to modify the boundaries of the district under section 12.5 of this chapter.

(c) Not later than sixty (60) days after receiving a copy of the resolution or ordinance designating a district, the department of state revenue shall determine the gross retail base period amount and the income tax base period amount.

(d) Not later than sixty (60) days after receiving a certification of a district's modified boundaries under section 12.5(c) of this chapter, the department shall recalculate the gross retail base period amount and the income tax base period amount for a district modified under section 12.5 of this chapter.

SECTION 35. IC 36-7-13-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 14. (a) Before the first business day in October of each year, the department shall calculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for each district designated under this chapter.

(b) Businesses operating in the district shall report, in the manner and in the form prescribed by the department, information that the department determines necessary to calculate incremental gross retail, use, and income taxes.

~~(b)~~ **(c)** Not later than sixty (60) days after receiving a certification of a district's modified boundaries under section 12.5(c) of this chapter, the department shall recalculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for a district modified under section 12.5 of this chapter.

SECTION 36. IC 36-7-31-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. **(a)** Upon adoption of a resolution establishing a tax area under section 14 of this chapter, the commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. The budget committee shall meet not later than ~~ten~~ ~~(10)~~ **sixty (60)** days after receipt of a resolution and shall make a recommendation on the resolution to the budget agency.

(b) Upon adoption of a resolution changing the boundaries of a tax area under section 14 of this chapter, the commission shall:

(1) publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and

(2) file the following information with each taxing unit in the county in which the district is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement disclosing the impact of the district, including the following:

(i) The estimated economic benefits and costs incurred by the district, as measured by increased employment and anticipated growth of property assessed values.

(ii) The anticipated impact on tax revenues of each taxing unit.

The notice must state the general boundaries of the district.

(c) Upon completion of the actions required by subsection (b), the commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. The budget committee shall meet not later than sixty (60) days after receipt of a resolution and shall make a recommendation on the resolution to the budget agency.

SECTION 37. IC 36-7-31.3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. **(a)** Upon adoption of a resolution establishing a tax area under section 10 of this chapter, the designating body shall submit the resolution to the budget committee for review and recommendation to the budget agency.

(b) Upon adoption of a resolution changing the boundaries of a tax area under section 10 of this chapter, the commission shall:

(1) publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and

(2) file the following information with each taxing unit in the county where the district is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement disclosing the impact of the district, including the following:

(i) The estimated economic benefits and costs incurred by the district, as measured by increased employment and anticipated growth of property assessed values.

(ii) The anticipated impact on tax revenues of each taxing unit.

The notice must state the general boundaries of the district.

(c) Upon completion of the actions required by subsection (b), the commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. The budget committee shall meet not later than sixty (60) days after receipt of a resolution and shall make a recommendation on the resolution to the budget agency.

SECTION 38. IC 36-7-32-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 6.5. As used in this chapter, "gross retail incremental amount" means the remainder of:**

(1) the aggregate amount of state gross retail and use taxes that are remitted under IC 6-2.5 by businesses operating in the territory comprising a certified technology park during a state fiscal year; minus

(2) the gross retail base period amount;

as determined by the department of state revenue.

SECTION 39. IC 36-7-32-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 8.5. As used in this chapter, "income tax incremental amount" means the remainder of:**

(1) the total amount of state adjusted gross income taxes, county adjusted gross income tax, county option income taxes, and county economic development income taxes paid by employees employed in the territory comprising the certified technology park with respect to wages and salary earned for work in the territory comprising the certified technology park for a particular state fiscal year; minus

(2) the sum of the:

(A) income tax base period amount; and

(B) tax credits awarded by the economic development for a growing economy board under IC 6-3.1-13 to businesses operating in a certified technology park as the result of wages earned for work in the certified technology park for the state fiscal year;

as determined by the department of state revenue.

SECTION 40. IC 6-3.1-26-10 IS REPEALED [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)].

SECTION 41. [EFFECTIVE UPON PASSAGE] **(a) An ordinance that:**

(1) is adopted under IC 6-1.1-12-41 or IC 6-3.5-7-25 after March 30, 2004, and before the passage of this act; and

(2) would have been valid if this act had been enacted before the time the ordinance was adopted;

shall be treated as valid to the same extent as if this act had been enacted before the ordinance was adopted.

(b) The department of local government finance may adopt interim rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to govern the determination of deductions, the processing of personal property tax returns, and the calculation of the assessed valuation of each taxpayer in cases in which:

(1) the personal property of the taxpayer is eligible for a deduction under IC 6-1.1-12-41, as amended by this act, as the result of the adoption of an ordinance under IC 6-1.1-12-41, as amended by this act, after March 30, 2004; and

(2) the taxpayer did not take the deduction on the taxpayer's personal property tax return.

The rules may include special procedures and filing dates for filing an amended return.

(c) An interim rule adopted under subsection (b) expires on the earliest of the following:

(1) The date that the department of local government finance adopts an interim rule under subsection (b) to supersede a rule previously adopted under subsection (b).

(2) The date that the department of local government finance adopts a permanent rule under IC 4-22-2 to supersede a rule previously adopted under subsection (b).

(3) The date that the department of local government finance adopts under subsection (b) or IC 4-22-2 a repeal of a rule previously adopted under subsection (b).

(4) December 31, 2006.

SECTION 42. [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)] **(a) IC 6-3.1-26-5.5, IC 6-3.1-26-14, IC 6-3.1-26-15, and IC 6-3.1-26-18, all as amended by this act, apply only to credits awarded by the Indiana economic development corporation under IC 6-3.1-26 after May 14, 2005. Credits awarded under IC 6-3.1-26 before May 15, 2005, remain subject to the provisions of IC 6-3.1-26 as in effect on May 14, 2005.**

(b) IC 6-3.1-26-8, as amended by this act, applies to taxable years beginning after December 31, 2004.

SECTION 43. [EFFECTIVE JULY 1, 2005] **IC 6-3.5-7-26, as amended by this act, applies only to property taxes first due and payable after December 31, 2006.**

SECTION 44. [EFFECTIVE JULY 1, 2005] **IC 6-3.5-7-25.5, as added by this act, applies only to property taxes first due and payable after December 31, 2005.**

SECTION 45. [EFFECTIVE UPON PASSAGE] **(a) IC 36-7-13-10.5, IC 36-7-13-12.1, IC 36-7-13-13, IC 36-7-31-12, and IC 36-7-31.3-11, all as amended by this act, apply only to districts established or expanded after June 30, 2005.**

(b) IC 36-7-13-14, as amended by this act, applies to taxable years beginning after December 31, 2004.

(c) IC 36-7-13-3.4, as amended by this act, and IC 36-7-32-8.5, as added by this act, apply only to distributions for a community revitalization enhancement district or certified technology park as the result of wages and salary earned for work in the community revitalization enhancement district or certified technology park after June 30, 2005.

SECTION 46. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 6-1.1-1 apply throughout this SECTION.**

(b) For purposes of this SECTION:

(1) "fiscal body" has the meaning set forth in IC 36-1-2-6;

(2) "settlement amount" means an amount that:

(A) exceeds ten million dollars ($10,000,000); and

(B) is received by the county auditor on behalf of a county and the political subdivisions in the county in 2005 or 2006 as a result of the settlement of one (1) or more cases before the Indiana tax court concerning the property tax assessments of tangible property that are the basis for determination of property taxes payable by a taxpayer in the county for one (1) or more calendar years that precede 2006; and

(3) "subsequent year's taxes" means the property taxes imposed by a political subdivision on tangible property in the political subdivision, other than property taxes imposed on tangible property for which a taxpayer that paid all or part of the settlement amount is liable, for property taxes first due and payable in the calendar year that immediately succeeds the calendar year in which the settlement amount is received.

(c) The fiscal body of a political subdivision may adopt an ordinance:

(1) before September 1, 2005, to direct the county auditor to use the part of a settlement amount attributable to the political subdivision to apply a credit against the subsequent year's taxes for property taxes first due and payable in 2006; and

(2) before September 1, 2006, to direct the county auditor to use the part of a settlement amount attributable to the political subdivision to apply a credit against the subsequent year's taxes for property taxes first due and payable in 2007.

The total amount of the credits applied under this subsection must equal the part of the settlement amount received by the political subdivision in the immediately preceding calendar year. The settlement amount received must be used to replace the amount of property tax revenue lost due to the allowance of the credit in the political subdivision. The county auditor shall retain the settlement amount and distribute the money to the political subdivisions in the county as though the money were property tax collections and in such a manner that a political subdivision does not suffer a net revenue loss due to the allowance of the credit under this subsection.

(d) A credit under subsection (c) applies as a percentage of the liability for property taxes before the application of the credits under IC 6-1.1-20.9 and IC 6-1.1-21. The percentage applicable in a taxing district that is attributable to a political subdivision in which the taxing district is located is determined under the last STEP of the following STEPS:

STEP ONE: Determine the total assessed value of tangible property (after the application of all applicable deductions under IC 6-1.1), other than tangible property for which a taxpayer that paid all or part of the settlement amount is liable for property taxes, in the political subdivision that is the basis for the subsequent year's taxes.

STEP TWO: Determine the total assessed value of tangible property (after the application of all applicable deductions under IC 6-1.1), other than tangible property for which a taxpayer that paid all or part of the settlement amount is liable for property taxes, in the taxing district that constitutes a part of the total assessed value that is the basis for the subsequent year's taxes.

STEP THREE: Determine the quotient of the total assessed value determined under STEP TWO divided by the total assessed value determined under STEP ONE.

STEP FOUR: Determine the product of:

(A) the part of a settlement amount attributable to the political subdivision; multiplied by

(B) the quotient determined in STEP THREE.

STEP FIVE: Determine the total property tax levy in the taxing district for the subsequent year's taxes, before the application of the credits under IC 6-1.1-20.9 and IC 6-1.1-21.

STEP SIX: Determine the quotient of:

(A) the product determined under STEP FOUR; divided by

(B) the remainder determined under STEP FIVE;

expressed as a percentage.

The total credit percentage applicable in a taxing district is the sum of the percentages determined under STEP SIX with respect to all political subdivisions in which the taxing district is located.

(e) If a fiscal body adopts an ordinance under subsection (c):

(1) the part of the settlement amount attributable to the political subdivision is set aside in a separate fund of the political subdivision for the sole purpose of dedicating the money in the fund to providing credits under subsection (c);

(2) money in the separate fund does not become part of the political subdivision's levy excess fund under IC 6-1.1-18.5-17 or IC 6-1.1-19-1.7; and

(3) for the year in which the subsequent year's taxes are first due and payable, the total county tax levy under IC 6-1.1-21-2(g) is reduced by the part of the settlement amount attributable to the political subdivision that, notwithstanding subdivisions (1) and (2), would have been deposited in the political subdivision's levy excess fund under IC 6-1.1-18.5-17 or IC 6-1.1-19-1.7.

(f) This SECTION expires January 1, 2008.

SECTION 47. **An emergency is declared for this act.**

(Reference is to ESB 496 as reprinted April 5, 2005.)

Kenley, Chair	Espich
Simpson	E. Harris
Senate Conferees	House Conferees

Roll Call 556: yeas 49, nays 0. Report adopted.

REPORT OF THE PRESIDENT PRO TEMPORE

Madam President: I hereby report that Senator Wyss has requested that he be removed as sponsor of Engrossed House Bill 1057.

GARTON

Motion prevailed.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT

EHB 1394–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill 1394 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

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

"SECTION 1. IC 5-10-1.1-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. (a) The state, through the budget agency, may adopt a defined contribution plan, under Section 401(a) of the Internal Revenue Code, for the purpose of matching all or a specified portion of state employees' contributions to the state employees' deferred compensation plan and for any additional purposes established by statute.

(b) The deferred compensation committee shall be the trustee of a plan established under subsection (a) as described in section 4 of this chapter. A plan established under subsection (a) shall be administered by the auditor of state as described in section 5 of this chapter.

(c) The deferred compensation committee may approve funding offerings for a plan established under subsection (a), which may be the same as offerings for the state employees' deferred compensation plan. All funds in each plan shall be separately accounted for but may be commingled for investment purposes.

(d) Contributions to a plan established under subsection (a) are limited to the amount of biennial appropriations the budget agency

determines are available for any such purposes. The deferred compensation committee may use funds available under the plan to hire or contract with qualified attorneys, financial advisers, or other professional or administrative persons that the committee believes are necessary or useful in the administration of the plan.

(e) A plan established under subsection (a) must include appropriate provisions concerning the plan's day to day operation and any other provisions that are appropriate. Notwithstanding IC 22-2-6-2, the plan may also include provisions for the use of automated voice response units and telephonic communications, online activities, and other technology for participant elections, directions, and services if the technology has sufficient capacity to record and store the elections and directions.

(f) The state is obligated at any particular time only for the current market value of the funding previously made to a plan established under subsection (a).

(g) The state board of finance shall extend the plan established under subsection (a) to any political subdivision that also elects to use the state employees' deferred compensation plan for its employees as authorized in section 7(b)(2) **or 7(b)(3)** of this chapter.

SECTION 2. IC 5-10-1.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The deferred compensation committee is established. The committee consists of five (5) persons appointed by the state board of finance as follows:

(1) Each member of the state board of finance shall appoint one (1) member to the committee.

(2) The remaining two (2) members:

(A) must be participants in the state employees' deferred compensation plan;

(B) may not be employees of the members of the state board of finance;

(C) must be from different political parties; and

(D) may not serve for more than two (2) consecutive three (3) year terms.

(b) The deferred compensation committee may annually elect a chairperson and a secretary.

(c) The deferred compensation committee may approve proposed investment products for the state employees' deferred compensation plan.

(d) All amounts deferred under the state employees' deferred compensation plan must be put into a trust for the exclusive benefit of plan participants, as required by Section 457(g) of the Internal Revenue Code. The deferred compensation committee is the trustee of the trust.

(e) The plan shall include appropriate provisions pertaining to its day to day operation providing for methods of electing to defer income, methods of changing the amount of income to be deferred, and such other provisions as may be appropriate. Notwithstanding IC 22-2-6-2, the plan may also include provisions for the use of automated voice response units and telephonic communications, on-line activities, and other technology for participant elections, directions, and services if the technology has sufficient capacity to record and store the elections and directions.

(f) The plan shall provide for the preparation and distribution, from time to time to all eligible employees, of pamphlets describing the plan and outlining the opportunities available to employees under the plan.

(g) The state board of finance shall extend the plan to any political subdivision which elects to utilize the state employees' deferred compensation plan for its employees as authorized in section 7(b)(2) **or 7(b)(3)** of this chapter.

(h) At least annually, the deferred compensation committee shall report to the state board of finance on the status of the state employees' deferred compensation plan, including any changes to the plan.

SECTION 3. IC 5-10-1.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Any political subdivision (as defined by IC 36-1-2-13) may establish for its employees a deferred compensation plan. The plan shall be selected by the governing body of the political subdivision, which in the case of a unit subject to IC 36-1-3 shall be done by ordinance. Participation shall be by written agreement between each employee and the governing body of the political subdivision, which agreement provides for the deferral of compensation and subsequent administration of such funds.

(b) For funding such agreements, the governing body of the political subdivision may:

(1) designate one (1) of its agencies or departments to establish and administer such plans and choose such funding as deemed appropriate by the agency or department, which may include more than one (1) funding product; ~~or~~

(2) extend the state employees' deferred compensation plan to employees of the political subdivision, subject to the terms and conditions of the state employees' deferred compensation plan as it is established from time to time; **or**

(3) offer both of the plans described in subdivisions (1) and (2).

(c) This section does not limit the power or authority of any political subdivision to establish and administer other plans deemed appropriate by the governing bodies of such subdivisions, including plans established under section 1(2) of this chapter.

SECTION 4. IC 5-10-1.1-7.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.3. (a) Any political subdivision (as defined in IC 36-1-2-13) that elects to use the state employees' deferred compensation plan for its employees as authorized in section 7(b)(2) **or 7(b)(3)** of this chapter also may elect to participate in the state's defined contribution plan established by section 1.5 of this chapter for the purpose of matching all or a specified portion of the political subdivision's employees' contributions to the deferred compensation plan.

(b) Participation in the state's defined contribution plan described in subsection (a) shall be authorized by the governing body of the political subdivision, which in the case of a unit subject to IC 36-1-3 shall be done by ordinance.

(c) Contributions by a political subdivision to the state's defined contribution plan described in subsection (a) for the purpose of matching all or a specified portion of employee contributions are

limited to the amount of appropriations made each year for that purpose.

(d) The political subdivision is obligated at any particular time only for the current market value of the funding previously made to the state's defined contribution plan described in subsection (a).

(e) This section does not limit the power or authority of any political subdivision to establish and administer any other plans considered appropriate by the governing body of the political subdivision, including plans established under section 1(2) of this chapter.

SECTION 5. IC 5-10-1.1-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.5. (a) As used in this section, "state agency" means the following:

(1) An authority, a board, a branch, a commission, a committee, a department, a division, or other instrumentality of state government.

(2) A separate corporate body politic that adopts the plan described in subsection (b).

(3) State elected officials and their office staff.

(4) The legislative services agency.

(5) Legislative staff eligible to participate in the state employees' deferred compensation plan established by section 1 of this chapter.

However, the term does not include a state educational institution (as defined in IC 20-12-0.5-1) or a political subdivision.

(b) The deferred compensation committee shall adopt provisions in a defined contribution plan, under Sections 401(a) and 414(d) of the Internal Revenue Code, for the purpose of converting unused excess accrued leave to a monetary contribution for employees of a state agency. These provisions may be part of the plan and trust established under section 1.5(a) of this chapter.

(c) The deferred compensation committee is the trustee of the plan described in subsection (b). The plan must be a qualified plan, as determined by the Internal Revenue Service.

(d) The state personnel department shall adopt rules under IC 4-22-2 that it considers appropriate or necessary to implement this section. The rules adopted by the state personnel department under this section must:

(1) be consistent with the plan described in subsection (b);

(2) include provisions concerning:

(A) the type and amount of leave that may be converted to a monetary contribution;

(B) the conversion formula for valuing any leave that is converted;

(C) the manner of employee selection of leave conversion; and

(D) the vesting schedule for any leave that is converted; and

(3) apply to all state agencies.

(e) The rules adopted by the state personnel department under subsection (d) specifying the conversion formula must provide for a conversion rate under which the amount contributed on behalf of a participating employee for a day of leave that is converted under this section is equal to at least sixty percent (60%) of the employee's daily pay as of the date the leave is converted.

(f) The deferred compensation committee may adopt the following:

(1) Plan provisions governing:

(A) the investment of accounts in the plan; and

(B) the accounting for converted leave.

(2) Any other plan provisions that are necessary or appropriate for operation of the plan.

(g) The plan described in subsection (b) may be implemented only if the deferred compensation committee has received from the Internal Revenue Service any rulings or determination letters that the committee considers necessary or appropriate.

(h) To the extent allowed by:

(1) the Internal Revenue Code; and

(2) rules adopted by:

(A) the state personnel department under this section; and

(B) the board of trustees of the public employees' retirement fund under IC 5-10.3-8-14;

an employee of a state agency may convert unused excess accrued leave to a monetary contribution under this section and under IC 5-10.3-8-14.

SECTION 6. IC 5-10.3-8-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 14. (a) This section applies to employees of the state (as defined in IC 5-10.3-7-1(d)) who are members of the fund.**

(b) The board shall adopt provisions to establish a retirement medical benefits account within the fund under Section 401(h) or as a separate fund under another applicable section of the Internal Revenue Code for the purpose of converting unused excess accrued leave to a monetary contribution for an employee of the state to fund on a pretax basis benefits for sickness, accident, hospitalization, and medical expenses for the employee and the spouse and dependents of the employee after the employee's retirement.

(c) The board is the trustee of the account described in subsection (b). The account must be qualified, as determined by the Internal Revenue Service, as a separate account within the fund whose benefits are subordinate to the retirement benefits provided by the fund.

(d) The board may adopt rules under IC 5-10.3-3-8 that it considers appropriate or necessary to implement this section after consulting with the state personnel department. The rules adopted by the board under this section must:

(1) be consistent with the federal and state law that applies to:

(A) the account described in subsection (b); and

(B) the fund; and

(2) include provisions concerning:

(A) the type and amount of leave that may be converted to a monetary contribution;

(B) the conversion formula for valuing any leave that is converted;

(C) the manner of employee selection of leave conversion; and

(D) the vesting schedule for any leave that is converted.

(e) The board may adopt the following:

(1) Account provisions governing:

(A) the investment of amounts in the account; and

(B) the accounting for converted leave.

(2) Any other provisions that are necessary or appropriate for operation of the account.

(f) The account described in subsection (b) may be implemented only if the board has received from the Internal Revenue Service any rulings or determination letters that the board considers necessary or appropriate.

(g) To the extent allowed by:

(1) the Internal Revenue Code; and

(2) rules adopted by:

(A) the board under this section; and

(B) the state personnel department under IC 5-10-1.1-7.5;

employees of the state may convert unused excess accrued leave to a monetary contribution under this section and under IC 5-10-1.1-7.5.

SECTION 7. P.L.126-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: SECTION 1. (a) As used in this SECTION, "PERF board" refers to the public employees' retirement fund board of trustees established by IC 5-10.3-3-1.

(b) As used in this SECTION, "fund" refers to the fund for the defined contribution plan of the legislators' retirement system established by IC 2-3.5-3-2.

(c) Beginning January 1, 2004, the PERF board shall conduct a pilot program concerning:

(1) the implementation of a member's investment selection; and

(2) the crediting of a member's contributions and earnings; for the fund.

(d) The pilot program referred to in subsection (c) must include the following elements:

(1) Notwithstanding IC 2-3.5-5-3(b)(2), the PERF board shall implement a member's selection under IC 2-3.5-5-3 not later than the next business day following receipt of the member's selection by the PERF board. This date is the effective date of the member's selection.

(2) Notwithstanding IC 2-3.5-5-3(b)(7), all contributions to a member's account in the fund must be allocated under IC 2-3.5-5-3 not later than the last day of the quarter in which the contributions are received and reconciled in accordance with the member's most recent effective direction.

(3) Notwithstanding IC 2-3.5-5-3(c) and IC 2-3.5-5-3(d), when a member retires, becomes disabled, dies, or withdraws from the fund, the amount credited to the member is the market value of the member's investment as of five (5) business days preceding the member's distribution or annuitization at retirement, disability, death, or withdrawal, plus contributions received after that date.

(4) Notwithstanding IC 2-3.5-5-4, contributions to the fund under IC 2-3.5-5-4 must be credited to the fund not later than the last day of the quarter in which the contributions were deducted.

(5) Notwithstanding IC 2-3.5-5-5, the state shall make contributions under IC 2-3.5-5-5 to the fund not later than the last day of each quarter. The contributions must equal twenty percent (20%) of the annual salary received by each participant during that quarter.

(e) Before November 1, 2005, the PERF board shall report to the pension management oversight commission established by IC 2-5-12 the results of the pilot program referred to in subsection (c) and shall recommend proposed legislation if the report includes a finding that the pilot program should be implemented on a permanent basis. If the PERF board recommends implementing the pilot program on a permanent basis, the PERF board shall provide to the pension management oversight commission a schedule to implement the elements of the pilot program on a permanent basis for all funds for which it has responsibility.

(f) This SECTION expires ~~December 31, 2005.~~ **July 1, 2006.**

SECTION 8. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "committee" refers to the deferred compensation committee established by IC 5-10-1.1-4.**

(b) As used in this SECTION, "plan" refers to the deferred compensation plan described in IC 5-10-1.1-1.5.

(c) The committee shall adopt a pilot program that enables the employees of at least one (1) branch of state government to make the first conversion of unused excess accrued leave to a monetary contribution under the plan not later than December 31, 2005.

(d) The auditor of state shall provide for the administration of the pilot program under IC 5-10-1.1-5.

(e) The provisions of IC 5-10-1.1-7.5 apply to the pilot program described in subsection (c).

(f) This SECTION expires on the earlier of:

(1) the date the leave conversion provisions of the plan are fully implemented on a permanent basis for all state agencies (as defined in IC 5-10-1.1-7.5(a)); or

(2) July 1, 2010.".

Page 2, after line 16, begin a new paragraph and insert:

"SECTION 10. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "department" refers to the state personnel department established by IC 4-15-1.8-2.**

(b) Notwithstanding IC 5-10-1.1-7.5(d), the department shall adopt any rules to implement IC 5-10-1.1-7.5, as amended by this act, and SECTION 8 of this act, in the same manner as emergency rules are adopted under IC 4-22-2-37.1.

(c) Any rules adopted under this SECTION must be adopted so that employees of at least one (1) branch of state government are able to make the first conversion of unused excess accrued leave not later than December 31, 2005.

(d) A rule adopted under this SECTION expires on the earlier of:

(1) the date rules are adopted by the department under IC 4-22-2-24 through IC 4-22-2-36 to implement IC 5-10-1.1-7.5, as amended by this act, for all state agencies (as defined in IC 5-10-1.1-7.5(a)); or

(2) July 1, 2010.

(e) This SECTION expires July 1, 2010.

SECTION 11. [EFFECTIVE JULY 1, 2005] **(a) This SECTION applies to a surviving spouse of an employee beneficiary who:**

(1) died before July 1, 2005; and

(2) was a member of a retirement plan established under IC 36-8-10-12.

(b) A monthly pension paid under IC 36-8-10-16(c), before its amendment by SEA 611-2005, to a surviving spouse after the date the surviving spouse remarried and before July 1, 2005, shall be treated as properly paid.

(c) The monthly pension of a surviving spouse:

(1) who remarried after December 31, 1989; and

(2) whose monthly pension paid under IC 36-8-10-16(c), before its amendment by SEA 611-2005, ceased on the date of remarriage;

shall be reinstated on July 1, 2005, under IC 36-8-10-16, as amended by SEA 611-2005, SECTION 2, and continue during the life of the surviving spouse.

SECTION 12. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1394 as printed March 18, 2005.)

Stutzman, Chair	M. Young
Kromkowski	Skinner
House Conferees	Senate Conferees

Roll Call 557: yeas 49, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 602–2

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 602 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 36-10-11-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 33. (a) The fiscal body of the lessee shall adopt an ordinance creating a board of five (5) members to be known as the "Civic Center Board of Managers". The board of managers shall supervise, manage, operate, and maintain a building and its programs.

(b) A person appointed to the board of managers must be at least twenty-one (21) years of age and a resident of the lessee governmental entity for at least five (5) years. If the lessee is a city, three (3) of the managers shall be appointed by the city executive, and two (2) of the managers shall be appointed by the city legislative body. If the lessee is not a city, all five (5) managers shall be appointed by the fiscal body of the lessee. An officer or employee of a political subdivision may not serve as a manager. The managers serve for terms of three (3) years.

(c) Notwithstanding subsection (b), if the lessee is a city, initial terms of the managers appointed by the executive are as follows:

(1) One (1) manager for a term of one (1) year.

(2) One (1) manager for a term of two (2) years.

(3) One (1) manager for a term of three (3) years.

The initial term of one (1) of the managers appointed by the legislative body is two (2) years, and the other is three (3) years.

(d) Notwithstanding subsection (b), if the lessee is not a city, initial terms of the managers are as follows:

(1) One (1) manager for a term of one (1) year.

(2) Two (2) managers for terms of two (2) years.

(3) Two (2) managers for terms of three (3) years.

(e) A manager may be removed for cause by the appointing authority. Vacancies shall be filled by the appointing authority, and any person appointed to fill a vacancy serves for the remainder of the vacated term. The managers may ~~not~~ receive salaries ~~but~~ **and** shall be reimbursed for any expenses necessarily incurred in the performance of their duties. **If the managers receive salaries under this subsection, the fiscal body of the city shall by ordinance determine the amount of the salaries to be paid to the managers.**

(f) The board of managers shall annually elect officers to serve during the calendar year. The board of managers may adopt resolutions and bylaws governing its operations and procedure and may hold meetings as often as necessary to transact business and to perform its duties. A majority of the managers constitutes a quorum.

(Reference is to ESB 602 as printed April 1, 2005.)

Riegsecker, Chair	Ayres
Rogers	V. Smith
Senate Conferees	House Conferees

Roll Call 558: yeas 49, nays 0. Report adopted.

8:15 p.m.

The Chair declared a recess until the fall of the gavel.

Recess

The Senate reconvened at 9:04 p.m., with the President of the Senate in the Chair.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred

Engrossed Senate Bill 578 because it conflicts with HEA 1033-2005 without properly recognizing the existence of HEA 1033-2005, has had Engrossed Senate Bill 578 under consideration and begs leave to report back to the Senate with the recommendation that Engrossed Senate Bill 578 be corrected as follows:

In the conference committee report for ESB 578, delete page 63, line 29 through page 64, line 31, begin a new paragraph and insert:

"SECTION 99. IC 6-3.1-23-5, AS AMENDED BY HEA 1033-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 5. (a) A taxpayer is entitled to a credit equal to the amount determined under section 6 of this chapter against the taxpayer's state tax liability for a taxable year if the following requirements are satisfied:

(1) The taxpayer does the following:

(A) Makes a qualified investment in that taxable year.

(B) Submits the following to the Indiana ~~development~~ finance authority:

(i) A description of the taxpayer's proposed redevelopment of the property.

(ii) The sources and amounts of money to be used for the remediation and proposed redevelopment of the property.

(iii) An estimate of the value of the remediation and proposed redevelopment.

(iv) A description documenting any good faith attempts to recover the costs of the environmental damages from liable parties.

(v) Proof of appropriate zoning for the intended reuse.

(vi) A letter supporting the proposed project and redevelopment from the legislative body.

(vii) The documentation described in subsection (b).

(2) The department determines under section 15 of this chapter that the taxpayer's return claiming the credit is filed with the department before the maximum amount of credits allowed under this chapter is met.

(b) The documentation referred to in subsection (a)(1)(B)(vii) consists of information reflecting that the taxpayer:

(1) has never had an ownership interest in an entity that caused or contributed to; and

(2) has not caused or contributed to;

the release or threatened release of a hazardous substance, a contaminant, petroleum, or a petroleum product that is the subject of the remediation.

(c) The Indiana ~~development~~ finance authority shall:

(1) determine whether the taxpayer meets the requirements of subsection (a)(1); and

(2) if the taxpayer meets the requirements of subsection (a)(1), certify to the taxpayer that the taxpayer is eligible for the credit allowed under this chapter.".

In the conference committee report for ESB 578, page 64, line 32, after "IC 6-3.1-23-12" insert ", AS AMENDED BY HEA 1033-2005, SECTION 6,".

In the conference committee report for ESB 578, page 64, line 43, delete "costs under the standards adopted by the" and insert "costs;".

In the conference committee report for ESB 578, page 64, line 44, delete "department of environmental management;".

In the conference committee report for ESB 578, delete page 65, lines 12 through 32, begin a new paragraph and insert:

"SECTION 101. IC 6-3.1-23-13, AS AMENDED BY HEA 1033-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13. (a) To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department of state revenue.

(b) The taxpayer shall submit the following to the department of state revenue:

(1) The certification of the qualified investment by the department of environmental management and the Indiana ~~development~~ finance authority under section 12(c) of this chapter.

(2) Either:

(A) an official copy of the certification referred to in section 12(d)(2)(A) of this chapter; or

(B) the certification issued by the department of environmental management in response to a request under section 12(d)(2)(B) of this chapter.

(3) Proof of payment of the certified qualified investment.

(4) The certification received by the taxpayer under section 5(c) of this chapter.

(5) Information that the department determines is necessary for the calculation of the credit provided by this chapter.".

In the conference committee report for ESB 578, page 65, line 33, after "IC 6-3.1-23-15" insert ", AS AMENDED BY HEA 1033-2005, SECTION 8,".

In the conference committee report for ESB 578, page 65, line 35, delete "one" and insert "two".

In the conference committee report for ESB 578, page 65, line 36, delete "($1,000,000)" and insert "($2,000,000)".

In the conference committee report for ESB 578, page 66, line 16, delete "subaccount of the".

In the conference committee report for ESB 578, page 66, line 19, delete "December 31" and insert "June 30".

(Reference is to ESB 578 as reprinted March 29, 2005, and as amended by the conference committee report adopted April 29, 2005.)

GARTON, Chair
R. YOUNG, R.M.M.
HERSHMAN

Report adopted.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has adopted the Senate amendments to Engrossed House Bill 1141 and is eligible for enrollment.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has adopted the Conference Committee Report on Engrossed House Bill 1001–1.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the Speaker of the House has removed Representative Borror as Chair and Representative Crawford as a conferee on Engrossed House Bill 1097 and now appoints Representative Borror and Mahern thereon.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has adopted the Conference Committee Reports on Engrossed Senate Bills 414–1 and 607–1.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed House Concurrent Resolution 87 and the same is herewith transmitted for further action.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has accepted and approved the Joint Rule 20 correction on Engrossed Senate Bill 590.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has accepted and approved the Joint Rule 20 correction on Engrossed Senate Bill 571.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has accepted and approved the Joint Rule 20 correction on Engrossed Senate Bill 529.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has accepted and approved the Joint Rule 20 correction on Engrossed Senate Bill 298.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has accepted and approved the Joint Rule 20 correction on Engrossed Senate Bill 498.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE PRESIDENT PRO TEMPORE OF THE INDIANA STATE SENATE

Madam President and Members of the Senate: I have on April 29, 2005, signed the following House Enrolled Acts: 1004, 1039, 1063, 1080, 1159, 1200, 1250, 1262, 1335, 1403, 1488, 1553, 1590, 1611, 1776, and 1822.

ROBERT D. GARTON
President Pro Tempore

MESSAGE FROM THE PRESIDENT PRO TEMPORE OF THE INDIANA STATE SENATE

Madam President and Members of the Senate: I have on April 29, 2005, signed the following Senate Enrolled Acts: 100, 127, 132, 206, 242, 268, 279, 282, 322, 382, 420, 432, 446, 549, 574, and 615.

ROBERT D. GARTON
President Pro Tempore

SENATE MOTION

Madam President: I move that Senate Rule 83(a) be suspended with regard to its application to the following Conference Committee Reports:

Conference Committee Reports for Engrossed Senate Bills 307 and 508 and Engrossed House Bills 1073, 1097, and 1120.

GARTON

The question being, Shall the motion to suspend the rules prevail? Roll Call 559: yeas 49, nays 0.

Motion prevailed.

COMMITTEE REPORT

Pursuant to Senate Rule 83(i), your Committee on Rules and

Legislative Procedure to which was referred Conference Committee Reports filed on Engrossed House Bills 1097 and 1120 has had the same under consideration and begs leave to report back to the Senate with the recommendation that said Conference Committee Reports are eligible for consideration.

GARTON, Chair

Report adopted.

SENATE MOTION

Madam President: I move that Senator R. Young be added as coauthor of Senate Resolution 27.

WATERMAN

Motion prevailed.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed Senate Bill 607 because it conflicts with SEA 139-2005 without properly recognizing the existence of SEA 139-2005, has had Engrossed Senate Bill 607 under consideration and begs leave to report back to the Senate with the recommendation that Engrossed Senate Bill 607 be corrected as follows:

In the Conference Committee Report to ESB 607, page 6, line 40, after "IC 25-1-6-3" insert ", AS AMENDED BY SEA 139-2005, SECTION 2,".

In the Conference Committee Report to ESB 607, page 7, line 13, delete "Except for appeals of denials of license renewals to the executive".

In the Conference Committee Report to ESB 607, page 7, line 14, delete "director authorized by section 5.5 of this chapter, nothing" and insert "Nothing".

(Reference is to ESB 607 as printed March 25, 2005, and as amended by the Conference Report to ESB 607 adopted April 29, 2005.)

GARTON, Chair
R. YOUNG, R.M.M.
MEEKS

Report adopted.

COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed House Bill 1141 because it conflicts with House Enrolled Act 1398-2005 without properly recognizing the existence of HEA 1398-2005, has had EHB 1141 under consideration and begs leave to report back to the Senate with the recommendation that EHB 1141 be corrected as follows:

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

"SECTION 1. IC 33-30-2-1, AS AMENDED BY HEA 1398-2005, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) A county court is established in the following counties:

(1) Floyd County.

(2) Madison County.

~~(3) Montgomery County.~~

(b) However, a county court listed in subsection (a) is abolished if:

(1) IC 33-33 provides a small claims docket of the circuit court;

(2) IC 33-33 provides a small claims docket of the superior court; or

(3) IC 33-34 provides a small claims court;

for the county in which the county court was established.".

Page 6, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 26. IC 33-33-54-5 IS REPEALED [EFFECTIVE JANUARY 1, 2006]."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1141 as reprinted April 5, 2005.)

GARTON, Chair
R. YOUNG, R.M.M.
HARRISON

Report adopted.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT

EHB 1073–2

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill 1073 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete the title and insert the following:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-14-3-4, AS AMENDED BY P.L.173-2003, SECTION 5, AND AS AMENDED BY P.L.200-2003, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

(2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.

(3) Those required to be kept confidential by federal law.

(4) Records containing trade secrets.

(5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.

(6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.

(11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(12) A social security number contained in the records of a public agency.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between the ~~department of commerce,~~ **Indiana economic development corporation,** the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the ~~department of commerce,~~ **Indiana economic development corporation,** the Indiana development finance authority, the Indiana film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the ~~department of commerce~~ **Indiana economic development corporation** shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) ~~*information*~~ ~~*concerning*~~ *the factual basis for a* disciplinary ~~*actions*~~ *action* in which final action has been taken and that resulted in the employee being ~~*disciplined*~~ *suspended, demoted,* or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a record keeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing *medical* ~~*committee.*~~ advisory *board* **regarding the ability of a driver to operate a motor vehicle safely.** However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations. ~~that concern the driver.~~

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

(A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;

(B) vulnerability assessments;

(C) risk planning documents;

(D) needs assessments;

(E) threat assessments;

(F) domestic preparedness strategies;

(G) the location of community drinking water wells and surface water intakes;

(H) the emergency contact information of emergency responders and volunteers;

(I) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and

(J) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection *by any public agency* without the prior approval of the public agency *that owns, occupies, leases, or maintains the airport.* The ~~*submitting*~~ public agency *that owns, occupies, leases, or maintains the airport:*

(i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and

(ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under ~~IC 5-14-3-4(19)(I)~~ **IC 5-14-3-4(b)(19)(J)** without approval of (insert name of submitting public agency)".

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Address.

(C) Social Security number.

(21) The following personal information about a complainant contained in records of a law enforcement agency:

(A) Telephone number.

(B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Notwithstanding subsection (d) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 2. IC 6-6-1.1-903 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 903. (a) A person is entitled to a refund of gasoline tax paid on gasoline purchased or used for the following purposes:

(1) Operating stationary gas engines.

(2) Operating equipment mounted on motor vehicles, whether or not operated by the engine propelling the motor vehicle.

(3) Operating a tractor used for agricultural purposes.

(3.1) Operating implements of ~~husbandry~~ **agriculture** (as defined in IC 9-13-2-77).

(4) Operating motorboats or aircraft.

(5) Cleaning or dyeing.

(6) Other commercial use, except propelling motor vehicles operated in whole or in part on an Indiana public highway.

(7) Operating a taxicab (as defined in section 103 of this chapter).

(b) If a refund is not issued within ninety (90) days of filing of the verified statement and all supplemental information required by IC 6-6-1.1-904.1, the department shall pay interest at the rate established by IC 6-8.1-9 computed from the date of filing of the verified statement and all supplemental information required by the department until a date determined by the administrator that does not precede by more than thirty (30) days the date on which the refund is made.

SECTION 3. IC 6-6-5-7.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7.9. (a) As used in this section, "passenger motor vehicle" has the meaning set forth in IC 9-13-2-123(a).**

(b) Notwithstanding any other law, and for calendar year 2006, the registration fee for a passenger motor vehicle that is registered in Indiana in calendar year 2005 shall be at the rate as set forth in IC 9-29-5-1 with no reduction for any partial calendar month that has elapsed since the regular annual registration date in calendar year 2005.

(c) This section expires January 1, 2007.

SECTION 4. IC 8-2.1-24-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) 49 CFR Parts 382 through 387, 390 through 393, and 395 through 398 is incorporated into Indiana law by reference, and, except as provided in subsections (d), (e), (f), and (g), must be complied with by an interstate and intrastate motor carrier of persons or property throughout Indiana. Intrastate motor carriers subject to compliance reviews under 49 CFR 385 shall be selected according to criteria determined by the superintendent which must include but is not limited to factors such as previous history of violations found in roadside compliance checks and other recorded violations. However, the provisions of 49 CFR 395 that regulate the hours of service of drivers, including requirements for the maintenance of logs, do not apply to a driver of a truck that is registered by the bureau of motor vehicles and used as a farm truck under IC 9-18, or a vehicle operated in intrastate construction or construction related service, or the restoration of public utility services interrupted by an emergency. Except as provided in subsection (i), intrastate motor carriers not operating under authority issued by the United States Department of Transportation shall comply with the requirements of 49 CFR 390.21(b)(3) by registering with the department of state revenue as an intrastate motor carrier and displaying the certification number issued by the department of state revenue preceded by the letters "IN". Except as provided in subsection (i), all other requirements of 49 CFR 390.21 apply equally to interstate and intrastate motor carriers.

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

(1) private carrier;

(2) common carrier;

(3) contract carrier;

(4) motor carrier of property, intrastate;

(5) hazardous material shipper; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

on the enforcement of 49 CFR, may, upon demand, inspect

the books, accounts, papers, records, memoranda, equipment, and premises of any carrier, including a carrier exempt under section 3 of this chapter.

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

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

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

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

(A) is **not** otherwise physically ~~qualified~~ **disqualified** under Subpart 391.41 to operate a motor vehicle, **whether or not any additional disqualifying condition results from the diabetic condition,** and is not likely to suffer any diminution in driving ability due to the driver's diabetic condition;

(B) is free of severe hypoglycemia or hypoglycemia unawareness and has had less than one (1) documented, symptomatic hypoglycemic reaction per month;

(C) has demonstrated the ability and willingness to properly monitor and manage the driver's diabetic condition;

(D) has agreed to and, to the endocrinologist's or treating physician's knowledge, has carried a source of rapidly absorbable glucose at all times while driving a motor vehicle, has self monitored blood glucose levels one (1) hour before driving and at least once every four (4) hours while driving or on duty before driving using a portable glucose monitoring device equipped with a computerized memory; and

(E) has submitted the blood glucose logs from the monitoring device to the endocrinologist or treating physician at the time of the annual medical examination. A copy of the blood glucose logs shall be filed along with the annual statement from the endocrinologist or treating physician with the bureau of motor vehicles for review by the driver licensing medical advisory board established under IC 9-14-4. A copy of the annual statement shall also be provided to the driver's employer for retention in the driver's qualification file, and a copy shall be retained and held by the driver while driving for presentation to an authorized federal, state, or local law enforcement official. **Notwithstanding the requirements of this clause, the endocrinologist, the treating physician, the advisory board of the bureau of motor vehicles, or the bureau of motor vehicles may, where medical indications warrant, establish a short period for the medical examinations required under this clause.**

(2) Subpart 396.9 as it applies to inspection of vehicles carrying or loaded with a perishable product. However, this exemption does not prohibit a law enforcement officer from stopping these vehicles for an obvious violation that poses an imminent threat of an accident or incident. The exemption is not intended to include refrigerated vehicles loaded with perishables when the refrigeration unit is working.

(3) Subpart 396.11 as it applies to driver vehicle inspection reports.

(4) Subpart 396.13 as it applies to driver inspection.

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

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

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

SECTION 5. IC 9-13-2-56 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 56. ~~(a)~~ "Farm tractor" means ~~except as provided in subsection (b),~~ a motor vehicle designed and used primarily as a farm implement for drawing ~~farm machinery including plows, mowing machines, harvesters, and other~~ implements of ~~husbandry,~~ **agriculture** used on a farm and, when using the highways, in traveling from one (1) field or farm to another or to or from places of repairs. The term includes a wagon, trailer, or other vehicle pulled by a farm tractor.

~~(b) "Farm tractor", for purposes of IC 9-21, means a motor~~

~~vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.~~

SECTION 6. IC 9-13-2-60 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 60. "Farm wagon" means a wagon, other than an implement of ~~husbandry,~~ **agriculture,** used primarily for transporting farm products and farm supplies in connection with a farming operation.

SECTION 7. IC 9-13-2-77 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 77. **(a)** "Implement of ~~husbandry"~~ **agriculture"** means ~~special farm machinery, farm machinery, and other~~ **agricultural implements, pull type and** self-propelled, ~~equipment~~ used for the: ~~transportation and~~

(1) transport;

(2) delivery; or

(3) application;

of ~~plant food materials or agricultural chemicals~~ **crop inputs, including seed, fertilizers, and crop protection products,** and vehicles designed to transport ~~farm~~ **these types of agricultural** implements.

(b) The bureau shall determine by rule under IC 4-22-2 whether a category of implement of agriculture was designed to be operated primarily:

(1) in a farm field or on farm premises; or

(2) on a highway.

SECTION 8. IC 9-13-2-92 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 92. (a) "Law enforcement officer", except as provided in subsection (b), includes the following:

(1) A state police officer.

(2) A city, town, or county police officer.

(3) A sheriff.

(4) A county coroner.

(5) A conservation officer.

(6) An individual assigned as a motor carrier inspector under IC 10-11-2-26(a).

(b) "Law enforcement officer", for purposes of IC 9-30-5, IC 9-30-6, IC 9-30-7, IC 9-30-8, and IC 9-30-9, has the meaning set forth in IC 35-41-1.

SECTION 9. IC 9-13-2-105 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 105. (a) "Motor vehicle" means, except as otherwise provided in this section, a vehicle that is self-propelled. The term does not include a farm tractor, an implement of ~~husbandry,~~ **agriculture designed to be operated primarily in a farm field or on farm premises,** or an electric personal assistive mobility device.

(b) "Motor vehicle", for purposes of IC 9-21, means:

(1) a vehicle except a motorized bicycle that is self-propelled; or

(2) a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(c) "Motor vehicle", for purposes of IC 9-19-10.5 and IC 9-25, means a vehicle that is self-propelled upon a highway in Indiana. The term does not include a farm tractor.

(d) "Motor vehicle", for purposes of IC 9-30-10, does not include a motorized bicycle.

SECTION 10. IC 9-13-2-127 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 127. (a) "Police officer" means, except as provided in subsection (b), the following:

(1) A regular member of the state police department.

(2) A regular member of a city or town police department.

(3) A town marshal or town marshal deputy.

(4) A regular member of a county sheriff's department.

(5) A conservation officer of the department of natural resources.

(6) An individual assigned as a motor carrier inspector under IC 10-11-2-26(a).

(b) "Police officer", for purposes of IC 9-21, means an officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

SECTION 11. IC 9-13-2-170.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 170.3. "Special machinery" means a portable saw mill or well drilling machinery.**

SECTION 12. IC 9-13-2-180 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 180. "Tractor" means a motor vehicle designed and used primarily for drawing or propelling trailers, semitrailers, or vehicles of any kind. The term does not include ~~the following:~~

~~(1)~~ a farm tractor.

~~(2) A farm tractor used in transportation.~~

~~(3) A tractor that is used exclusively for drawing a passenger carrying semitrailer.~~

SECTION 13. IC 9-13-2-188 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 188. (a) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

(b) "Truck", for purposes of IC 9-21-8-3, includes the following:

(1) A motor vehicle designed and used primarily for drawing another vehicle and constructed to carry a load other than a part of the weight of the vehicle and load ~~so~~ drawn.

(2) A motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of ~~husbandry.~~ **agriculture.**

SECTION 14. IC 9-13-2-196 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 196. (a) "Vehicle" means, except as otherwise provided in this section, a device in, upon, or by which a person or property is, or may be, transported or drawn upon a highway.

(b) "Vehicle", for purposes of IC 9-14 through IC 9-18, does not include the following:

(1) A device moved by human power.

(2) A vehicle that runs only on rails or tracks.

(3) A vehicle propelled by electric power obtained from overhead trolley wires but not operated upon rails or tracks.

(4) A firetruck and apparatus owned by a person or municipal division of the state and used for fire protection.

(5) A municipally owned ambulance.

(6) A police patrol wagon.

(7) A vehicle not designed for or employed in general highway transportation of persons or property and occasionally operated or moved over the highway, including the following:

(A) Road construction or maintenance machinery.

(B) A movable device designed, used, or maintained to alert motorists of hazardous conditions on highways.

(C) Construction dust control machinery.

(D) Well boring apparatus.

(E) Ditch digging apparatus.

(F) An implement of ~~husbandry.~~ **agriculture designed to be operated primarily in a farm field or on farm premises.**

(G) An invalid chair.

(H) A yard tractor.

(8) An electric personal assistive mobility device.

(c) For purposes of IC 9-20 and IC 9-21, the term does not include devices moved by human power or used exclusively upon stationary rails or tracks.

(d) For purposes of IC 9-22, the term refers to an automobile, a motorcycle, a truck, a trailer, a semitrailer, a tractor, a bus, a school bus, a recreational vehicle, or a motorized bicycle.

(e) For purposes of IC 9-30-5, IC 9-30-6, IC 9-30-8, and IC 9-30-9, the term means a device for transportation by land or air. The term does not include an electric personal assistive mobility device.

SECTION 15. IC 9-14-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The commissioner shall do the following:

(1) Administer and enforce:

(A) this title and other statutes concerning the bureau; **and**

~~(2) Administer and enforce~~

(B) the policies and procedures of the ~~commission.~~ **bureau.**

~~(3)~~ **(2)** Organize the bureau in the manner necessary to carry out the duties of the bureau.

~~(4)~~ **(3)** Submit ~~to the commission, before September 1 of each year~~ budget proposals for the bureau ~~including license branches staffed by employees of the commission under IC 9-16.~~ **to the budget director before September 1 of each year.**

~~(5)~~ **(4)** Perform other duties ~~assigned by the commission.~~ **as required by the bureau.**

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

(1) submitted in writing; **or**

(2) made electronically through the computer gateway administered by the intelenet commission under IC 5-21;

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

(b) The bureau shall not disclose:

(1) the Social Security number;

(2) the federal identification number;

(3) the driver's license number;

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

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

(6) medical or disability information;

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

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

(1) to a law enforcement officer;

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

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

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

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

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

SECTION 17. IC 9-14-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The board shall provide the commissioner **and the office of traffic safety created by IC 9-27-2-2** with assistance in the administration of Indiana driver licensing laws, including:

(1) providing guidance to the commissioner in the area of licensing drivers with health or other problems that may adversely affect a driver's ability to operate a vehicle safely;

(2) recommending factors to be used in determining qualifications and ability for issuance and retention of a driver's license; and

(3) recommending and participating in the review of license suspension, restriction, or revocation appeal procedures, **including reasonable investigation into the facts of the matter.**

SECTION 18. IC 9-16-1-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. (a) The commission may contract with a qualified person to provide partial services at a qualified person's ~~walk-up~~ location, including locations within a facility used for other purposes, such as electronic titling and title application services and self-serve terminal access.

(b) A contract for providing motor vehicle registration and renewal services at a ~~walk-up~~ location must include the following provisions:

(1) The contractor must provide trained personnel to properly process motor vehicle registration and renewal transactions.

(2) The contractor shall do the following:

(A) Collect and transmit all bureau fees and taxes collected at the contract location.

(B) Deposit the taxes collected at the contract location with the county treasurer in the manner prescribed by IC 6-3.5 or IC 6-6-5.

(3) The contractor shall provide fidelity bond coverage in an amount prescribed by the commission.

(4) The contractor shall pay the cost of any post audits conducted by the commission or the state board of accounts on an actual cost basis.

(5) The commission must approve each location and physical facility used by a contractor.

(6) The term of the contract must be for a fixed period.

SECTION 19. IC 9-16-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. Each license branch, **full service provider, or partial services provider** shall collect the service charges prescribed by IC 9-29-3 and ~~deposited~~ **deposit the service charges** in the state license branch fund established under IC 9-29-14.

SECTION 20. IC 9-18-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This article does not apply to the following:

(1) Farm wagons.

(2) Farm tractors.

~~(3) Farm machinery.~~

~~(4)~~ **(3)** A new motor vehicle if the new motor vehicle is being operated in Indiana solely to remove it from an accident site to a storage location because:

(A) the new motor vehicle was being transported on a railroad car or semitrailer; and

(B) the railroad car or semitrailer was involved in an accident that required the unloading of the new motor vehicle to preserve or prevent further damage to it.

(4) An implement of agriculture designed to be operated primarily in a farm field or on farm premises.

SECTION 21. IC 9-18-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The bureau shall register vehicles under the schedule in this section.

(b) A person who owns a vehicle shall receive a license plate, renewal tag, or other indicia upon registration of the vehicle. The bureau may determine the device required to be displayed.

(c) A corporation shall register, before February 1 of each year, the following vehicles that are owned by the corporation:

(1) A passenger motor vehicle that is not regularly rented to others for not more than twenty-nine (29) days in the regular course of the corporation's business.

(2) A recreational vehicle.

(3) A motorcycle.

(4) A truck that:

(A) is not regularly rented to others for not more than twenty-nine (29) days in the regular course of the corporation's business; and

(B) has a declared gross weight of not more than eleven thousand (11,000) pounds.

(d) A corporation that owns a:

(1) passenger motor vehicle; or

(2) truck that has a declared gross weight of not more than eleven thousand (11,000) pounds;

that is regularly rented to others for periods of not more than twenty-nine (29) days in the regular course of the corporation's business must register the passenger motor vehicle or truck before March 1 of each year.

(e) **For registrations for 2005,** a person who owns a:

(1) passenger motor vehicle;

(2) recreational vehicle;

(3) motorcycle; or

(4) truck that has a declared gross weight of not more than eleven thousand (11,000) pounds;

that is not subject to the registration requirements under subsection (d) shall register the passenger motor vehicle, recreational vehicle, motorcycle, or truck in conformance with the schedule set forth in subsection (f) **or (g).**

(f) **After December 31, 2005, a person who owns a vehicle subject to registration under this subsection shall register the vehicle in accordance with subsection (g).** The following schedule applies to persons who own vehicles that are required to be registered under subsection (e):

(1) Persons whose last names begin with the letters A through BE shall register before February 16 of each year.

(2) Persons whose last names begin with the letters BF through BZ shall register before March 1 of each year.

(3) Persons whose last names begin with the letter C shall register before March 16 of each year.

(4) Persons whose last names begin with the letter D shall register before April 1 of each year.

(5) Persons whose last names begin with the letters E through F shall register before April 16 of each year.

(6) Persons whose last names begin with the letter G shall register before May 1 of each year.

(7) Persons whose last names begin with the letters HA through HN shall register before May 16 of each year.

(8) Persons whose last names begin with the letters HO through I shall register before June 1 of each year.

(9) Persons whose last names begin with the letters J through KM shall register before June 16 of each year.

(10) Persons whose last names begin with the letters KN through L shall register before July 1 of each year.

(11) Persons whose last names begin with the letters MA through ME shall register before July 16 of each year.

(12) Persons whose last names begin with the letters MF through O shall register before August 1 of each year.

(13) Persons whose last names begin with the letters P through Q shall register before August 16 of each year.

(14) Persons whose last names begin with the letter R shall register before September 1 of each year.

(15) Persons whose last names begin with the letters SA through SN shall register before September 16 of each year.

(16) Persons whose last names begin with the letters SO through T shall register before October 1 of each year.

(17) Persons whose last names begin with the letters U through WK shall register before October 16 of each year.

(18) Persons whose last names begin with the letters WL through Z shall register before November 1 of each year.

(g) The bureau shall determine the schedule for registration for the categories of vehicles set forth in subsection (e) for registrations required after December 31, 2005.

~~(g)~~ **(h)** A person who owns a vehicle **in a category** required to be registered under subsection (c), (d), or (e), and who desires to register the vehicle for the first time must apply to the bureau for a registration application form. The bureau shall do the following:

(1) Administer the registration application form.

(2) Issue the license plate.

(3) Collect the proper registration and service fees in accordance with the procedure established by the bureau.

~~(h)~~ **(i)** The bureau shall issue a semipermanent plate under section 30 of this chapter, or:

(1) an annual renewal tag; or

(2) other indicia;

to be affixed on the semipermanent plate.

SECTION 22. IC 9-18-2-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. (a) License plates shall be displayed as follows:

(1) For a motorcycle, trailer, semitrailer, or recreational vehicle, upon the rear of the vehicle.

(2) For a ~~farm tractor or~~ tractor, upon the front of the vehicle.

(3) For every other vehicle, upon the rear of the vehicle.

(b) A license plate shall be securely fastened, in a horizontal position, to the vehicle for which the plate is issued:

(1) to prevent the license plate from swinging;

(2) at a height of at least twelve (12) inches from the ground, measuring from the bottom of the license plate;

(3) in a place and position that are clearly visible;

(4) maintained free from foreign materials and in a condition to be clearly legible; and

(5) not obstructed or obscured by tires, bumpers, accessories, or other opaque objects.

(c) The bureau may adopt rules the bureau considers advisable to enforce the proper mounting and securing of license plates on vehicles consistent with this chapter.

SECTION 23. IC 9-18-2-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. Notwithstanding any other law, license plates, including personalized license plates, for:

(1) passenger motor vehicles;

(2) recreational vehicles;

(3) motor vehicles registered to disabled veterans under IC 9-18-18; or

(4) motor vehicles registered to former prisoners of war under IC 9-18-17;

that contain any of the numerals 1 through 100 following the prefix numbers and letter shall be issued ~~annually~~ **biennially** by the bureau.

SECTION 24. IC 9-18-2-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. Except as otherwise provided, before:

(1) a motor vehicle;

(2) a motorcycle;

(3) a truck;

(4) a trailer;

(5) a semitrailer;

(6) a tractor;

~~(7) an implement of husbandry or a farm tractor used in transportation;~~

~~(8)~~ **(7)** a bus;

~~(9)~~ **(8)** a school bus;

~~(10)~~ **(9)** a recreational vehicle; or

~~(11)~~ **(10)** special ~~farm~~ machinery;

is operated or driven on a highway, the person who owns the vehicle must register the vehicle with the bureau and pay the applicable registration fee.

SECTION 25. IC 9-18-2-29.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 29.5. Before a piece of special machinery is operated off a highway or in a farm field, the person who owns the piece of special machinery must:**

(1) register the piece of special machinery with the bureau; and

(2) pay the applicable registration fee.

SECTION 26. IC 9-18-2-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 43. (a) Notwithstanding any law to the contrary but except as provided in subsection (b), a law enforcement officer authorized to enforce motor vehicle laws who discovers a vehicle required to be registered under this article that does not have the proper certificate of registration or license plate:

(1) shall take the vehicle into the officer's custody; and

(2) may cause the vehicle to be taken to and stored in a suitable place until:

(A) the legal owner of the vehicle can be found; or

(B) the proper certificate of registration and license plates have been procured.

(b) **Except as provided in IC 9-21-21-7(b),** a law enforcement officer who discovers a vehicle in violation of the registration provisions of this article has discretion in the impoundment of any of the following:

(1) Perishable commodities.

(2) Livestock.

~~(c) A person who recklessly violates this section commits a Class A misdemeanor.~~

SECTION 27. IC 9-19-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Except as provided in ~~subsections~~ **subsection** (b) ~~through (c)~~ and as otherwise provided in this chapter, this article does not apply to the following with respect to equipment on vehicles:

(1) Implements of ~~husbandry.~~ **agriculture designed to be**

operated primarily in a farm field or on farm premises.

(2) Road machinery.

(3) Road rollers.

(4) Farm tractors.

(5) Vehicle chassis that:

(A) are a part of a vehicle manufacturer's work in process; and

(B) are driven under this subdivision only for a distance of less than one (1) mile.

~~(b) A farm type dry or liquid fertilizer tank trailer or spreader that is drawn or towed on a highway by:~~

~~(1) a farm tractor; or~~

~~(2) a motor vehicle at a speed not greater than thirty (30) miles per hour;~~

~~is considered an implement of husbandry with respect to equipment requirements and all the requirements of this article regarding lamps on combinations, including farm tractors, apply.~~

~~(c)~~ **(b)** A farm type dry or liquid fertilizer tank trailer or spreader that is drawn or towed on a highway by a motor vehicle other than a farm tractor at a speed greater than thirty (30) miles per hour is considered a trailer for equipment requirement purposes and all equipment requirements concerning trailers apply.

SECTION 28. IC 9-19-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Sections 4 through 5 of this chapter and IC 9-19-4-3, IC 9-19-4-4, and IC 9-19-5-7:

(1) do not apply to:

(A) machinery or equipment used in highway construction or maintenance by the Indiana department of transportation, counties, or municipalities;

(B) farm drainage machinery;

(C) implements of ~~husbandry~~ **agriculture** when used during farming operations or when ~~so~~ constructed **so** that they can be moved without material damage to the highways; or

(D) firefighting apparatus owned or operated by a political subdivision or a volunteer fire department (as defined in ~~IC 36-8-12-1);~~ **IC 36-8-12-2);** and

(2) do not limit the width or height of farm vehicles when loaded with farm products.

SECTION 29. IC 9-19-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) A farm tractor and a self-propelled farm equipment unit or an implement of ~~husbandry~~ **agriculture designed to be operated primarily in a farm field or on farm premises, when operated on a highway and** not equipped with an electric lighting system, must, at all times required by IC 9-21-7-2, be equipped with the following:

(1) At least one (1) lamp displaying a white light visible from a distance of not less than five hundred (500) feet to the front of the vehicle.

(2) At least one (1) lamp displaying a red light visible from a distance of not less than five hundred (500) feet to the rear of the vehicle.

(3) Two (2) red reflectors visible from a distance of one hundred (100) feet to six hundred (600) feet to the rear when illuminated by the upper beams of head lamps.

The lights required by this subsection must be positioned so that one (1) lamp showing to the front and one (1) lamp or reflector showing to the rear will indicate the furthest projection of the tractor, unit, or implement on the side of the road used in passing the vehicle.

(b) A combination of farm tractor and towed unit of farm equipment or implement of ~~husbandry~~ **agriculture designed to be operated primarily in a farm field or on farm premises, when operated on a highway and** not equipped with an electric lighting system, must, at all times required by IC 9-21-7-2, be equipped with two (2) red reflectors that meet the following requirements:

(1) Are visible from a distance of one hundred (100) feet to six hundred (600) feet to the rear when illuminated by the upper beams of head lamps.

(2) Are mounted in a manner so as to indicate as nearly as practicable the extreme left and right rear projections of the towed unit or implement on the highway.

(c) A farm tractor and a self-propelled unit of farm equipment or an implement of ~~husbandry~~ **agriculture designed to be operated primarily in a farm field or on farm premises, when operated on a highway and** equipped with an electric lighting system, must, at all times required by IC 9-21-7-2, be equipped with the following:

(1) Two (2) single-beam or multiple-beam head lamps meeting the requirements of section 20 or 21 of this chapter **or** IC 9-21-7-9.

(2) Two (2) red lamps visible from a distance of not less than five hundred (500) feet to the rear, or in the alternative, one (1) red lamp visible from a distance of not less than five hundred (500) feet to the rear and two (2) red reflectors visible from a distance of one hundred (100) feet to six hundred (600) feet to the rear when illuminated by the upper beams of head lamps.

The red lamps or reflectors must be mounted in the rear of the farm tractor or self-propelled implement of ~~husbandry~~ **agriculture** so as to indicate as nearly as practicable the extreme left and right projections of the vehicle on the highways.

(d) A combination of farm tractor and towed farm equipment or towed implement of ~~husbandry~~ **agriculture designed to be operated primarily in a farm field or on farm premises, when operated on a highway and** equipped with an electric lighting system, must, at all times required by IC 9-21-7-2, be equipped as follows:

(1) The farm tractor element of each combination must be equipped with two (2) single-beam or multiple-beam head lamps meeting the requirements of section 20 or 21 of this chapter or IC 9-21-7-9.

(2) The towed unit of farm equipment or implement of ~~husbandry~~ **agriculture** element of each combination must be equipped with the following:

(A) Two (2) red lamps visible from a distance of not less

than five hundred (500) feet to the rear, or as an alternative, one (1) red lamp visible from a distance of not less than five hundred (500) feet to the rear.

(B) Two (2) red reflectors visible from a distance of one hundred (100) feet to six hundred (600) feet to the rear when illuminated by the upper beams of head lamps.

The red lamps or reflectors must be located so as to indicate as nearly as practicable the extreme left and right rear projections of the towed unit or implement on the highway.

(3) A combination of farm tractor and towed farm equipment or towed implement of ~~husbandry~~ **agriculture** equipped with an electric lighting system must be equipped with the following:

(A) A lamp displaying a white or an amber light, or any shade of color between white and amber, visible from a distance of not less than five hundred (500) feet to the front.

(B) A lamp displaying a red light visible from a distance of not less than five hundred (500) feet to the rear.

The lamps must be installed or capable of being positioned so as to indicate to the front and rear the furthest projection of that combination on the side of the road used by other vehicles in passing that combination.

(e) A farm tractor, a self-propelled farm equipment unit, or an implement of ~~husbandry~~ **agriculture** must not display blinding field or flood lights when operated on a highway.

(f) All rear lighting requirements may be satisfied by having a vehicle with flashing lights immediately trail farm equipment in accordance with IC 9-21-7-11.

SECTION 30. IC 9-19-18-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Except as provided in subsections (b) through (d), a tire on a vehicle moved on a highway may not have on the tire's periphery a block, stud, flange, cleat, or spike or any other protuberance of any material other than rubber that projects beyond the tread of the traction surface of the tire.

(b) ~~Farm machinery~~ **Implements of agriculture** may use tires having protuberances that will not injure the highway.

(c) Tire chains of reasonable proportions may be used upon a vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid.

(d) From October 1 to the following May 1, a vehicle may use tires in which have been inserted ice grips or tire studs of wear-resisting material, installed in a manner that provides resiliency upon contact with the road, with projections that do not exceed three thirty-seconds (3/32) of an inch beyond the tread of the traction surface of the tire, and constructed to prevent any appreciable damage to the road surface.

SECTION 31. IC 9-19-18-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The Indiana department of transportation and local authorities in their respective jurisdictions may in their discretion issue special permits authorizing the operation upon a highway of:

(1) traction engines; ~~or~~

(2) tractors having movable tracks with transverse corrugations upon the periphery of movable tracks; or

(3) farm tractors or ~~other farm machinery,~~ **implements of agriculture designed to be operated primarily in a farm field or on farm premises;**

the operation of which upon a highway would otherwise be prohibited under this chapter.

SECTION 32. IC 9-20-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) As used in this section, "farm vehicle loaded with a farm product" includes a truck hauling unprocessed leaf tobacco.

(b) Except for interstate highway travel, this article does not apply to the following:

(1) Machinery or equipment used in highway construction or maintenance by the Indiana department of transportation, counties, or municipalities.

~~(2) Farm drainage machinery.~~

~~(3)~~ **(2)** Implements of ~~husbandry~~ **agriculture** when used during farming operations or when ~~so~~ constructed **so** that the implements can be moved without material damage to the highways.

(c) This article does not apply to firefighting apparatus owned or operated by a political subdivision or volunteer fire department (as defined in IC 36-8-12-2).

(d) Except for interstate highway travel, this article does not limit the width or height of a farm vehicle loaded with a farm product.

SECTION 33. IC 9-21-8-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) Except as provided in subsection (b), a stop or turn signal required under this chapter may be given by means of the hand and arm or by a signal lamp or lamps or mechanical signal device.

(b) This subsection does not apply to farm tractors and implements **of agriculture designed to be operated primarily in a farm field or on farm premises.** A motor vehicle in use on a highway must be equipped with and a required signal shall be given by a signal lamp or lamps or mechanical signal device when either of the following conditions exist:

(1) The distance from the center of the top of the steering post to the left outside limit of the body, cab, or load of the motor vehicle exceeds twenty-four (24) inches.

(2) The distance from the center of the top of the steering post to the rear limit of the body or load of the motor vehicle exceeds fourteen (14) feet. This measurement applies to a single vehicle and a combination of vehicles.

SECTION 34. IC 9-21-8-46 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 46. A person may not drive or operate:

(1) an implement of ~~husbandry~~ **agriculture designed to be operated primarily in a farm field or on farm premises; or**

(2) a piece of special machinery;

upon any part of an interstate highway.

SECTION 35. IC 9-21-8-47 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 47. The following

vehicles must be moved or operated so as to avoid any material damage to the highway or unreasonable interference with other highway traffic:

(1) Machinery or equipment used in highway construction or maintenance by the Indiana department of transportation, counties, or municipalities.

(2) Farm drainage machinery.

(3) Implements of ~~husbandry.~~ **agriculture.**

(4) Firefighting apparatus owned or operated by a political subdivision or a volunteer fire department (as defined in IC 36-8-12-2).

(5) Farm vehicles loaded with farm products.

SECTION 36. IC 9-21-21 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 21. Farm Vehicles Involved in Commercial Enterprises

Sec. 1. A motor vehicle, trailer, or semitrailer and tractor may be operated primarily as a farm truck, farm trailer, or farm semitrailer and tractor if the vehicle meets the specifications set forth in IC 9-29-5-13(b).

Sec. 2. A farm truck described in section 1 of this chapter may be used for personal purposes if the vehicle otherwise qualifies for that class of registration.

Sec. 3. Except as provided in section 4 of this chapter, if the owner of a farm truck, farm trailer, or farm semitrailer and tractor described in section 1 of this chapter begins to operate the farm truck, farm trailer, or farm semitrailer and tractor or permits the farm truck, farm trailer, or farm semitrailer and tractor to be operated:

(1) in the conduct of a commercial enterprise; or

(2) for the transportation of farm products after the commodities have entered the channels of commerce during a registration year for which the license fee under IC 9-29-5-13 has been paid;

the owner shall pay the amount computed under IC 9-29-5-13.5(c) due for the remainder of the registration year for the license fee.

Sec. 4. Notwithstanding section 3 of this chapter and IC 9-18-2-4, the owner of a farm truck, farm trailer, or farm semitrailer and tractor described in section 1 of this chapter or an employee or family member of the owner may operate the truck, trailer, or semitrailer and tractor intrastate for the transportation of seasonal, perishable fruit or vegetables to the first point of processing for a period of not more than one (1) thirty (30) day period in a registration year established by IC 9-18-2-7. Before a vehicle may be operated as provided in this subsection, the owner shall pay to the bureau:

(1) the license fee due under IC 9-29-5-13(b); and

(2) eight and one-half percent (8.5%) of the license fee paid under IC 9-29-5-13(b);

for the farm truck, farm trailer, or farm semitrailer and tractor. The bureau shall adopt rules under IC 4-22-2 to authorize the operation of a farm truck, farm trailer, or farm semitrailer and tractor in the manner provided in this subsection.

Sec. 5. In addition to the penalty provided in section 7 of this chapter, a person that operates a vehicle or allows a vehicle that the person owns to be operated when the vehicle is:

(1) registered under this chapter as a farm truck, farm trailer, or farm semitrailer and tractor; and

(2) operated as set forth in section 3 of this chapter;

commits a Class C infraction. However, the offense is a Class B infraction if, within the three (3) years preceding the commission of the offense, the person had a prior unrelated judgment under this section.

Sec. 6. For purposes of this chapter, the operation of a vehicle in violation of section 3 of this chapter is a continuing offense and the venue for prosecution lies in a county in which the unlawful operation occurred. However, a:

(1) judgment against; or

(2) finding by the court for;

the owner or operator bars a prosecution in another county.

Sec. 7. (a) Except as provided in subsection (b), a police officer who discovers a vehicle registered under this chapter as a farm truck, farm trailer, or farm semitrailer and tractor that is being operated as set forth in section 3 of this chapter:

(1) may take the vehicle into the police officer's custody; and

(2) may cause the vehicle to be taken to and stored in a suitable place until:

(A) the legal owner of the vehicle can be found; or

(B) the proper certificate of registration and license plates have been procured and the amount computed under IC 9-29-5-13.5 has been paid.

(b) A vehicle being operated in violation of section 3 of this chapter that is carrying perishable fruits or vegetables or livestock may not be impounded, and the operator may proceed to the point of destination after having been stopped by a police officer under subsection (a).

SECTION 37. IC 9-23-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) A license issued under this chapter may be denied, suspended, or revoked for any of the following:

(1) Material misrepresentation in the application for the license or other information filed with the commissioner.

(2) Lack of fitness under the standards set forth in this article or a rule adopted by the commissioner under this article.

(3) Willful failure to comply with the provisions of this article or a rule adopted by the commissioner under this article.

(4) Willful violation of a federal or state law relating to the sale, distribution, financing, or insuring of motor vehicles.

(5) Engaging in an unfair practice as set forth in this article or a rule adopted by the commissioner under this article.

(6) Violating IC 23-2-2.7.

~~(b)~~ Except as provided in subsection (d), the procedures set forth in IC 4-21.5 govern the denial, suspension, or revocation of a license and a judicial review. ~~However,~~ **A denial, suspension, or**

revocation of a license takes effect after the commissioner makes a determination and notice of the determination has been served upon the affected person.

(b) If the bureau denies, suspends, or revokes a license issued or sought under this article, the affected person may file an action in the circuit court of Marion County, Indiana, or the circuit court of the Indiana county in which the person's principal place of business is located, seeking a judicial determination as to whether the action is proper. ~~An action may not take effect until thirty (30) days after the commissioner's determination has been made and a notice of the determination served upon the affected person.~~ The filing of an action as described in this section within the thirty (30) day period is an automatic stay of the commissioner's determination.

(c) Revocation or suspension of a license of a manufacturer, a distributor, a factory branch, a distributor branch, a dealer, or an automobile auctioneer may be limited to one (1) or more locations, to one (1) or more defined areas, or only to certain aspects of the business.

(d) A license may be denied, suspended, or revoked for violating IC 9-19-1. IC 4-21.5-4 governs the denial, suspension, or revocation of a license under this subsection. The bureau may issue a temporary order to enforce this subsection.

SECTION 38. IC 9-24-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. Sections 1 through 5 of this chapter do not apply to the following individuals:

(1) An individual in the service of the armed forces of the United States while operating an official motor vehicle in that service.

(2) An individual while operating: ~~a.~~

(A) **a** road roller;

(B) road construction or maintenance machinery, except where the road roller or machinery is required to be registered under Indiana law;

(C) **a** ditch digging apparatus;

(D) **a** well drilling apparatus;

(E) **a** concrete mixer; or

(F) **a** farm tractor or **an** implement of ~~husbandry,~~ **agriculture designed to be operated primarily in a farm field or on farm premises;**

that is being temporarily drawn, moved, or propelled on an Indiana public highway.

(3) A nonresident who:

(A) is at least sixteen (16) years and one (1) month of age; and

(B) has in the nonresident's immediate possession a valid operator's license that was issued to the nonresident in the nonresident's home state or country;

while operating a motor vehicle in Indiana only as an operator.

(4) A nonresident who:

(A) is at least eighteen (18) years of age; and

(B) has in the nonresident's immediate possession a valid chauffeur's license that was issued to the nonresident in the nonresident's home state or country;

while operating a motor vehicle upon a public highway, either as an operator or a chauffeur.

(5) A nonresident who:

(A) is at least eighteen (18) years of age; and

(B) has in the nonresident's immediate possession a valid license issued by the nonresident's home state for the operation of any motor vehicle upon a public highway when in use as a public passenger carrying vehicle;

while operating a motor vehicle upon a public highway.

(6) A nonresident whose home state or country does not require the licensing of operators or chauffeurs and who has not been licensed as an operator or a chauffeur in the nonresident's home state or country as an operator if the nonresident is at least sixteen (16) years and thirty (30) days of age and less than eighteen (18) years of age or as a chauffeur if the nonresident is at least eighteen (18) years of age, for not more than sixty (60) days in any one (1) year if the following conditions exist:

(A) The unlicensed nonresident is the owner of the motor vehicle or the authorized driver of the vehicle.

(B) The vehicle has been registered for the current year in the state or country of which the owner is a resident.

(C) The motor vehicle at all times displays a registration plate issued in the home state or country of the owner.

(D) The nonresident owner or driver has in the owner's or driver's immediate possession a registration card evidencing ownership and registration in the owner's or driver's home state or country or is able at any required time or place to do the following:

(i) Prove lawful possession or the right to operate the motor vehicle.

(ii) Establish the nonresident's proper identity.

(7) An individual who is legally licensed to operate a motor vehicle in the state of the individual's residence and who is employed in Indiana, subject to the restrictions imposed by the state of the individual's residence.

(8) A new resident of Indiana who possesses an unexpired driver's license issued by the resident's former state of residence, for a period of sixty (60) days after becoming a resident of Indiana.

(9) An individual who is an engineer, a conductor, a brakeman, or another member of the crew of a locomotive or a train that is being operated upon rails, including the operation of the locomotive or the train on a crossing over a street or a highway. An individual described in this subdivision is not required to display a license to a law enforcement officer in connection with the operation of a locomotive or a train in Indiana.

SECTION 39. IC 9-24-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Examinations shall be held in the ~~city or town~~ **county** where the license branch office in which the application was made is located, within a reasonable length of time following the date of the application.

SECTION 40. IC 9-24-10-7 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) If the bureau has good cause to believe that a licensed ~~operator or chauffeur~~ **driver** is:

(1) incompetent; or

(2) otherwise not qualified to be licensed;

the bureau may, upon written notice of at least five (5) days, require the licensed ~~operator or chauffeur~~ **driver** to submit to an examination. **The bureau also may conduct a reasonable investigation of the driver's continued fitness to operate a motor vehicle safely, including requesting medical information from the driver or the driver's health care sources.**

(b) Upon the conclusion of an examination **or investigation** under this section, the bureau:

(1) shall take appropriate action; and

(2) may:

(A) suspend or revoke the license of the licensed ~~operator or chauffeur;~~ **driver;**

(B) permit the licensed ~~operator or chauffeur~~ **driver** to retain the license of the licensed ~~operator or chauffeur;~~ **driver;** or

(C) issue a **restricted** license subject to restrictions considered necessary in the interest of public safety.

(c) If a licensed ~~operator or chauffeur~~ **driver** refuses or neglects to submit to an examination under this section, the bureau may suspend or revoke the license of the licensed ~~operator or chauffeur.~~ **driver. The bureau may not suspend or revoke the license of the licensed driver until a reasonable investigation of the driver's continued fitness to operate a motor vehicle safely has been made by the bureau.**

(d) A licensed ~~operator or chauffeur~~ **driver** may appeal an action taken by the bureau under this section to the circuit court or superior court of the county in which the licensed ~~operator or chauffeur~~ **driver** resides.

SECTION 41. IC 9-24-10-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7.5. A physician licensed to practice medicine under IC 25-22.5, an optometrist licensed to practice optometry under IC 25-24, or an advanced practice nurse licensed under IC 25-23 who has personally examined the patient not more than thirty (30) days before making a report concerning the patient's fitness to operate a motor vehicle is not civilly or criminally liable for a report made in good faith to the:**

(1) bureau;

(2) commission; or

(3) driver licensing medical advisory board;

concerning the fitness of a patient of the physician, optometrist, or advanced practice nurse to operate a motor vehicle in a manner that does not jeopardize the safety of individuals or property.

SECTION 42. IC 9-24-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Except as provided in subsection (b) **and section 10 of this chapter,** an operator's license issued under this article after December 31, 1996, **and before January 1, 2006,** expires at midnight of the birthday of the holder that occurs four (4) years following the date of issuance.

(b) **Except as provided in section 10 of this chapter,** an operator's license issued after December 31, 1996, to an applicant who is at least seventy-five (75) years of age expires at midnight of the birthday of the holder that occurs three (3) years following the date of issuance. **(c) Except as provided in subsection (b) and section 10 of this chapter, after December 31, 2005, an operator's license issued under this article expires at midnight of the birthday of the holder that occurs six (6) years following the date of issuance.**

SECTION 43. IC 9-24-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. **(a) Except as provided in section 10 of this chapter,** a chauffeur's license issued under this article after December 31, 1996, **and before January 1, 2006,** expires at midnight of the birthday of the holder that occurs four (4) years following the date of issuance.

(b) After December 31, 2005, and except as provided in section 10 of this chapter, a chauffeur's license issued under this article expires at midnight of the birthday of the holder that occurs six (6) years following the date of issuance.

SECTION 44. IC 9-24-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. ~~(a)~~ An individual ~~who applies~~ **applying** for renewal of an operator's, a motorcycle operator's, a chauffeur's, or a public passenger chauffeur's license **must apply** in person at a license branch ~~must~~ **and** do the following:

(1) Pass an eyesight examination.

(2) Pass a written examination if:

(A) the applicant has at least six (6) active points on the applicant's driving record maintained by the bureau; or

(B) the applicant holds a valid operator's license but has not reached the applicant's twenty-first birthday.

~~(b) An individual may apply for renewal of an operator's, a motorcycle operator's, a chauffeur's, or a public passenger chauffeur's license by mail or by electronic service if the following conditions are met:~~

~~(1) A valid computerized image of the individual exists within the records of the bureau.~~

~~(2) The previous renewal of the operator's, motorcycle operator's, chauffeur's, or public passenger chauffeur's license was not made by mail or by electronic service.~~

~~(3) The previous renewal included a test approved by the bureau of the applicant's eyesight.~~

~~(4) The applicant, if applying for the renewal in person at a license branch, would not be required under subsection (a)(2) to submit to a written examination.~~

~~(c) An individual applying for the renewal of an operator's, a motorcycle operator's, a chauffeur's, or a public passenger chauffeur's license must apply in person at a license branch under subsection (a) if the individual is not entitled to apply by mail or by electronic service under subsection (b).~~

SECTION 45. IC 9-24-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Except as

provided in subsection (b) **and section 10 of this chapter,** a motorcycle operator's license issued after December 31, 1996, **and before January 1, 2006,** expires at midnight of the birthday of the holder that occurs four (4) years following the date of issuance.

(b) **Except as provided in section 10 of this chapter,** a motorcycle operator's license issued after December 31, 1996, to an applicant who is at least seventy-five (75) years of age expires at midnight of the birthday of the holder that occurs three (3) years following the date of issuance.

(c) After December 31, 2005, except as provided in subsection (b), a motorcycle operator's license issued under this article expires at midnight of the birthday of the holder that occurs six (6) years following the date of issuance.

~~(c)~~ **(d)** A motorcycle operator endorsement remains in effect for the same term as the license being endorsed and is subject to renewal at and after the expiration of the license in accordance with this chapter.

~~(d)~~ **(e)** A temporary motorcycle learner's permit is valid for twelve (12) months from date of issuance.

SECTION 46. IC 9-24-12-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 10. After June 30, 2005:**

(1) an operator's;

(2) a chauffeur's; or

(3) a motorcycle operator's;

license issued to or renewed by a driver who is at least eighty-five (85) years of age expires at midnight of the birthday of the holder that occurs two (2) years following the date of issuance.

SECTION 47. IC 9-24-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. An identification card **issued:**

(1) before January 1, 2006, expires on the fourth birthday of the applicant following the date of issue; **and**

(2) after December 31, 2005, expires at midnight of the birthday of the holder that occurs six (6) years following the date of issuance.

SECTION 48. IC 9-24-16-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) An application for renewal of an identification card may be made not more than six (6) months before the expiration date of the card. A renewal application received after the date of expiration is considered to be a new application.

(b) A renewed card **issued:**

(1) before January 1, 2006, becomes valid on the birth date of the holder and remains valid for four (4) years; **and**

(2) after December 31, 2005, is valid on the birth date of the holder and remains valid for six (6) years.

(c) If renewal has not been made within six (6) months after expiration, the bureau shall destroy all records pertaining to the former cardholder.

(d) Renewal may not be granted if the cardholder was issued a driver's license subsequent to the last issuance of an identification card.

~~(e) An individual may apply for renewal of an identification card by mail or by electronic service if the following conditions are met:~~

~~(1) A valid computerized image of the individual exists within the records of the bureau.~~

~~(2) The previous renewal of the identification card was not made by mail or by electronic service.~~

SECTION 49. IC 9-25-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) The bureau shall reinstate the current driving license or vehicle registration, or both:

(1) subject to section 15 of this chapter, after ninety (90) days of suspension:

(A) except as provided in sections 19, 20, and 21(b) of this chapter, if the person has furnished the bureau with a certificate of compliance showing that financial responsibility is in effect with respect to the vehicle; or

(B) if the person is no longer an owner of the vehicle or the registration of the vehicle has been canceled or has expired;

(2) if the person is subject to section 21(b) of this chapter and to ~~IC 9-29-13-1,~~ **IC 9-29-10-1,** after thirty (30) days of suspension;

(3) subject to section 15 of this chapter, when the person furnishes the bureau with a certificate of compliance showing that financial responsibility is in effect with respect to the vehicle if:

(A) subdivision (1)(B) does not apply; and

(B) the person fails to furnish the bureau with a certificate of compliance as described in subdivision (1)(A) within ninety (90) days after the current driving license of the person is suspended; or

(4) if financial responsibility was in effect with respect to a vehicle on the date of the accident but the person does not provide the bureau with a certificate of compliance indicating this fact until after the person's current driving license is suspended under this chapter, the person's current driving license shall be reinstated when the person provides the certificate of compliance to the bureau and complies with section 15 of this chapter.

(b) Upon receipt of a certificate of compliance under this section, the bureau shall expunge from the bureau's data base the administrative suspension caused by the failure to notify the bureau that the person had financial responsibility in effect on the date of the violation.

SECTION 50. IC 9-26-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The driver of a vehicle involved in an accident that results in the injury or death of a person shall do the following:

(1) Immediately stop the vehicle at the scene of the accident or as close to the accident as possible in a manner that does not obstruct traffic more than is necessary.

(2) Immediately return to and remain at the scene of the accident until the driver does the following:

(A) Gives the driver's name and address and the

registration number of the vehicle the driver was driving.

(B) Upon request, exhibits the driver's license of the driver to the following:

(i) The person struck.

(ii) The driver or occupant of or person attending each vehicle involved in the accident.

(C) Determines the need for and renders reasonable assistance to each person injured in the accident, including the removal or the making of arrangements for the removal of each injured person to a physician or hospital for medical treatment.

(3) Immediately give notice of the accident by the quickest means of communication to one (1) of the following:

(A) The local police department if the accident occurs within a municipality.

(B) The office of the county sheriff or the nearest state police post if the accident occurs outside a municipality.

(4) Within ten (10) days after the accident, forward a written report of the accident to the:

(A) state police department, **if the accident occurs before January 1, 2006; or**

(B) bureau, if the accident occurs after December 31, 2005.

SECTION 51. IC 9-26-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The driver of a vehicle involved in an accident that does not result in injury or death of a person but that does result in damage to a vehicle that is driven or attended by a person shall do the following:

(1) Immediately stop the vehicle at the scene of the accident or as close to the accident as possible in a manner that does not obstruct traffic more than is necessary.

(2) Immediately return to and remain at the scene of the accident until the driver does the following:

(A) Gives the driver's name and address and the registration number of the vehicle the driver was driving.

(B) Upon request, exhibits the driver's license of the driver to the driver or occupant of or person attending each vehicle involved in the accident.

(3) If the accident results in total property damage to an apparent extent of at least one thousand dollars ($1,000), forward a written report of the accident to the:

(A) state police department, **if the accident occurs before January 1, 2006; or**

(B) bureau, if the accident occurs after December 31, 2005;

within ten (10) days after the accident.

SECTION 52. IC 9-26-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The state police department may ~~do the following:~~

~~(1) Require a driver who is required to file a report under this chapter to file supplemental reports if the original report is insufficient in the opinion of the state police department.~~

~~(2)~~ require witnesses of accidents to submit reports to the state police department.

SECTION 53. IC 9-26-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) A city or town may by ordinance require that the driver of a vehicle involved in an accident file with a designated city or town department:

(1) a report of the accident; or

(2) a copy of a report required in this article to be filed with the:

(A) state police department; **or**

(B) bureau.

(b) An accident report required to be filed under subsection (a) is for the confidential use of the designated city or town department and subject to IC 9-26-3-4.

SECTION 54. IC 9-27-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The office shall do the following to carry out this chapter:

(1) Develop, plan, and conduct programs and activities designed to prevent and reduce traffic accidents and to facilitate the control of traffic on Indiana streets and highways.

(2) Advise, recommend, and consult with state departments, divisions, boards, commissions, and agencies concerning traffic safety, accident prevention, and traffic facilitation programs and activities and coordinate these programs and activities on an effective statewide basis.

(3) Organize and conduct, in cooperation with state departments and agencies, programs, services, and activities designed to aid political subdivisions in the control of traffic and prevention of traffic accidents.

(4) Develop informational, educational, and promotional material on traffic control and traffic accident prevention, disseminate the material through all possible means of public information, and serve as a clearinghouse for information and publicity on traffic control and accident prevention programs and activities of state departments and agencies. **These activities must include materials and information designed to make senior citizens aware of the effect of age on driving ability.**

(5) Cooperate with public and private agencies interested in traffic control and traffic accident prevention in the development and conduct of public informational and educational activities designed to promote traffic safety or to support the official traffic safety program of Indiana.

(6) Study and determine the merits of proposals affecting traffic control, traffic safety, or traffic accident prevention activities in Indiana and recommend to the governor and the general assembly the measures that will serve to further control and reduce traffic accidents.

(7) Study proposed revisions and amendments to the motor vehicle laws and all other laws concerning traffic safety and make recommendations relative to those laws to the governor and general assembly.

(8) Develop and conduct a program of effective alcohol and drug countermeasures to protect and conserve life and property on Indiana streets and highways.

(9) Administer the operation lifesaver program referred to in section 12 of this chapter to promote and coordinate public education concerning railroad grade crossing safety.

SECTION 55. IC 9-27-4-5.5, AS AMENDED BY HEA 1288-2005, SEC. 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.5. (a) To ~~receive~~ **be eligible for** an instructor's license under subsection (d), an individual must complete at least sixty (60) semester hours at a college. The individual must:

(1) complete at least ~~twelve (12)~~ **nine (9)** semester hours in driver education courses; ~~of which three (3) semester hours must consist of supervised student teaching experience under the direction of an individual who has:~~

~~(1) a driver and traffic safety education endorsement issued by the professional standards board established by IC 20-28-2-1;~~ and

(2) **be** at least ~~five (5)~~ **twenty-one (21)** years of ~~teaching experience in driver education.~~ **age upon completion of the driver education courses required by subdivision (1).**

(b) The ~~three (3) semester hours of supervised student teaching experience required under subsection (a) may only be undertaken by an individual who will be at least twenty-one (21) years of age upon completion and may only be performed at a high school, a commercial driving school, or the college providing the courses for the individual to become an instructor. The remaining nine (9)~~ **number of semester** hours of driver education courses required under subsection ~~(a)~~ **(a)(1)** must include a combination of theoretical and behind-the-wheel instruction that is consistent with nationally accepted standards in traffic safety.

(c) The driver education semester hours ~~required~~ **completed** under subsection ~~(a)~~ **(a)(1)** do not satisfy the requirements of subsection (d) or (e) unless the driver education curriculum is approved by the commission for higher education.

(d) The bureau shall issue an instructor's license to an individual who satisfies all of the following:

(1) The individual meets the requirements of subsection (a).

(2) The individual 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.

(3) The individual has a good moral character, physical condition, knowledge of the rules of the road, and work history. The bureau shall adopt rules under IC 4-22-2 that specify the requirements, including requirements about criminal convictions, necessary to satisfy the conditions of this subdivision.

(e) The bureau shall issue an instructor's license to an individual who:

(1) during 1995, held an instructor's license;

(2) meets the requirements of subsection (d)(2) and (d)(3); and

(3) ~~completes~~ **completed** the ~~twelve (12)~~ **number of** semester hours of driver education courses **that were then** required under subsection ~~(a)~~ **(a)(1)** not later than July 1, 1999. However, an individual who has acted as an instructor for at least two (2) years before January 1, 1996, is not required to complete the requirements of subdivision (3) in order to receive an instructor's license under this subsection.

(f) The bureau shall issue an instructor's license to an individual who:

(1) holds a driver and traffic safety education endorsement issued by the professional standards board established by IC 20-28-2-1; and

(2) meets the requirements of subsection (d)(2) and (d)(3).

(g) Only an individual who holds an instructor's license issued by the bureau under subsection (d), (e), or (f) may act as an instructor.

SECTION 56. IC 9-29-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The fee to obtain information ~~on~~ **regarding vehicle** titles ~~registrations, and driver's licenses~~ under IC 9-14-3-5 is:

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

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

plus any service fee charged by the intelenet commission.

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

(1) in writing; or

(2) electronically through the computer gateway administered by the intelenet commission under IC 5-21;

plus any service fee charged by the intelenet commission.

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

SECTION 57. IC 9-29-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The service charge for each of the first two thousand (2,000) operator's licenses, including motorcycle operator's licenses, issued at a license branch each year is two dollars ($2). **This subsection expires December 31, 2005.**

(b) The service charge for each additional operator's license or motorcycle operator's license issued at that license branch each year is one dollar and fifty cents ($1.50). **This subsection expires December 31, 2005.**

(c) Fifty cents ($0.50) of each service charge collected under this section shall be deposited in the state motor vehicle technology fund established by IC 9-29-16-1.

(d) After December 31, 2005, the service charge for an operator's license is three dollars ($3).

SECTION 58. IC 9-29-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The service charge for each learner's permit, chauffeur's license, or public passenger chauffeur's license is two dollars ($2). **This subsection**

expires December 31, 2005.

(b) Fifty cents ($0.50) of each service charge collected under ~~subsection (a)~~ **this section** shall be deposited in the state motor vehicle technology fund established by IC 9-29-16-1.

(c) After December 31, 2005, the service charge for a learner's permit, public passenger chauffeur's license, or chauffeur's license issued to or renewed for an individual who is at least seventy-five (75) years of age is two dollars ($2). After December 31, 2005, the service charge for a chauffeur's license issued to or renewed for an individual less than seventy-five (75) years of age is three dollars ($3).

SECTION 59. IC 9-29-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) The service charge for each temporary motorcycle learner's permit, motorcycle learner's permit, or motorcycle endorsement of an operator's license is one dollar and fifty cents ($1.50). **This subsection expires December 31, 2005.**

(b) Fifty cents ($0.50) of each service charge collected under ~~subsection (a)~~ **this section** shall be deposited in the state motor vehicle technology fund established by IC 9-29-16-1.

(c) After December 31, 2005, the service charge for a temporary motorcycle learner's permit, motorcycle learner's permit, or motorcycle endorsement of an operator's license issued to or renewed for an individual who is at least seventy-five (75) years of age is one dollar and fifty cents ($1.50). After December 31, 2005, the service charge for a motorcycle endorsement of an operator's license issued to or renewed for an individual less than seventy-five (75) years of age is two dollars and twenty-five cents ($2.25).

SECTION 60. IC 9-29-3-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) The service charge for an identification card issued under IC 9-24 is fifty cents ($0.50) and one-half (1/2) of each fee collected as set forth in IC 9-29-9-15. **This subsection expires December 31, 2005.**

(b) Fifty cents ($0.50) of each service charge collected under ~~subsection (a)~~ **this section** shall be deposited in the state motor vehicle technology fund established by IC 9-29-16-1.

(c) After December 31, 2005, the service charge for an identification card issued under IC 9-24 is seventy-five cents ($0.75) and one-half (1/2) of each fee collected as set forth in IC 9-29-9-15.

SECTION 61. IC 9-29-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) This section does not apply to a vehicle or person exempted from registration under IC 9-18.

(b) The license fee for a ~~motor vehicle that has: (1) a corn sheller; (2) a well driller; (3) a hay press; (4) a clover huller; (5) a farm wagon type liquid fertilizer tank trailer; or (6) farm machinery; that is permanently mounted on the motor vehicle and used solely for transporting the equipment~~ **piece of special machinery** is five dollars ($5). The motor vehicle is exempt from other fees provided under IC 9-18 or this article.

~~(c) The license fee for a farm wagon used for transporting farm products and farm supplies in connection with a farming operation is five dollars ($5). The farm wagon is exempt from other fees provided under IC 9-18 or this article.~~

~~(d) The license fee for a farm type dry or liquid fertilizer tank trailer or spreader or implement of husbandry used to transport bulk fertilizer between distribution point and farm and return is five dollars ($5). The trailer, spreader, or implement is exempt from the other fees provided under IC 9-18 or this article.~~

~~(e)~~ **(c)** The owner of a vehicle listed in this section is not entitled to a reduction in the five dollar ($5) license fee because the license is granted at a time that the license period is less than a year.

SECTION 62. IC 9-29-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. A farm wagon or farm type dry or liquid fertilizer tank trailer or spreader used to transport bulk fertilizer between distribution point and farm and return is exempt from all license fees when the wagon, trailer, or spreader is drawn or towed on a highway by a:

(1) farm tractor; **or**

(2) properly registered motor vehicle.

~~that is registered as a farm tractor used in transportation.~~

SECTION 63. IC 9-29-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) This section does not apply to a vehicle or person exempt from registration under IC 9-18.

(b) The license fee for a motor vehicle, trailer, or semitrailer and tractor operated primarily as a farm truck, farm trailer, or farm semitrailer and tractor:

(1) having a declared gross weight of at least eleven thousand (11,000) pounds; and

(2) used by the owner or guest occupant in connection with agricultural pursuits usual and normal to the user's farming operation;

is fifty percent (50%) of the amount listed in this chapter for a truck, trailer, or semitrailer and tractor of the same declared gross weight.

~~(c) A farm truck, farm trailer, or farm semitrailer and tractor described in subsection (b) may not be operated either part time or incidentally in the conduct of a commercial enterprise or for the transportation of farm products after the commodities have entered the channels of commerce.~~

~~(d) A farm truck described in subsection (b) may be used for personal purposes if the vehicle otherwise qualifies for that class of registration.~~

SECTION 64. IC 9-29-5-13.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13.5. (a) This section applies to a truck, trailer, or semitrailer and tractor for which a license fee provided in section 13(b) of this chapter has been paid.

(b) **Except as provided in subsection (d),** if the owner of a truck, trailer, or semitrailer and tractor described in subsection (a) begins to operate the truck, trailer, or semitrailer and tractor in the conduct of a commercial enterprise or for the transportation of farm products after the commodities have entered the channels of commerce during a registration year for which the license fee under section 13(b) of this chapter has been paid, the owner shall pay the amount listed in this chapter for a truck, trailer, or semitrailer and tractor of the same declared gross weight reduced by a credit

determined under subsection (c) to license the truck, trailer, or semitrailer and tractor.

(c) The credit provided in subsection (b) equals:

(1) the license fee paid under section 13(b) of this chapter; reduced by

(2) ten percent (10%) for each full or partial calendar month that has elapsed in the registration year for which the license fee has been paid.

~~(d) A~~ **The** credit ~~determined under subsection (c)~~ may not exceed ninety percent (90%) of the license fee paid under section 13(b) of this chapter.

(d) Notwithstanding subsection (b) and IC 9-18-2-4, the owner of a truck, trailer, or semitrailer and tractor described in subsection (a) or an employee or family member of the owner may operate the truck, trailer, or semitrailer and tractor intrastate for the transportation of seasonal, perishable fruit or vegetables to the first point of processing for a period that consists of not more than a thirty (30) day period in a registration year as provided by IC 9-21-21-4. Before a vehicle may be operated as provided in this subsection, the owner shall pay to the bureau:

(1) any license fee due under section 13(b) of this chapter; and

(2) eight and one-half percent (8.5%) of the license fee paid under section 13(b) of this chapter.

SECTION 65. IC 9-29-5-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 42. (a) Except as provided in subsection (c), vehicles not subject to IC 9-18-2-8 shall be registered at one-half (1/2) of the regular rate, subject to IC 9-18-2-7, if the vehicle is registered after July 31 of any year. This subsection does not apply to the following:

~~(1) A farm tractor. used in transportation.~~

~~(2)~~ **(1)** Special ~~farm~~ machinery.

~~(3)~~ **(2)** Semitrailers registered on a five (5) year or permanent basis under IC 9-18-10-2.

(3) An implement of agriculture designed to be operated primarily on a highway.

(b) Except as provided in subsection (c), subsection (a) and IC 9-18-2-7 determine the registration fee for the registration of a vehicle subject to registration under IC 9-18-2-8(c), IC 9-18-2-8(d), and IC 9-18-2-8(e) and acquired by an owner subsequent to the date required for the annual registration of vehicles by an owner set forth in IC 9-18-2-8.

(c) Subject to subsection (d), a vehicle subject to the International Registration Plan that is registered after September 30 shall be registered at a rate determined by the following formula:

STEP ONE: Determine the number of months before April 1 of the following year beginning with the date of registration. A partial month shall be rounded to one (1) month.

STEP TWO: Multiply the STEP ONE result by one-twelfth (1/12).

STEP THREE: Multiply the annual registration fee for the vehicle by the STEP TWO result.

(d) If the department of state revenue adopts rules under IC 9-18-2-7 to implement staggered registration for motor vehicles subject to the International Registration Plan, a motor vehicle subject to the International Registration Plan that is registered after the date designated for registration of the motor vehicle in rules adopted under ~~IC 9-17-2-7~~ **IC 9-18-2-7** shall be registered at a rate determined by the following formula:

STEP ONE: Determine the number of months before the motor vehicle must be re-registered. A partial month shall be rounded to one (1) month.

STEP TWO: Multiply the STEP ONE result by one-twelfth (1/12).

STEP THREE: Multiply the annual registration fee for the vehicle by the STEP TWO result.

SECTION 66. IC 9-29-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. **(a)** The fee for a four (4) year operator's license issued under IC 9-24-3 is six dollars ($6). **This subsection expires December 31, 2005.**

(b) After December 31, 2005, the fee for an operator's license issued under IC 9-24-3 or renewed under IC 9-24-12 to an individual who is:

(1) less than seventy-five (75) years of age is nine dollars ($9); and

(2) at least seventy-five (75) years of age is six dollars ($6).

SECTION 67. IC 9-29-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. **(a)** The fee for a chauffeur's license issued under IC 9-24-4 is eight dollars ($8). **This subsection expires December 31, 2005.**

(b) After December 31, 2005, the fee for a chauffeur's license issued under IC 9-24-4 or renewed under IC 9-24-12 to an individual who is:

(1) at least seventy-five (75) years of age is eight dollars ($8); and

(2) less than seventy-five (75) years of age is twelve dollars ($12).

SECTION 68. IC 9-29-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. **(a)** The fee for a four (4) year motorcycle operator's license issued under IC 9-24-8 is six dollars ($6). **This subsection expires December 31, 2005.**

(b) After December 31, 2005, the fee for a motorcycle operator's license issued under IC 9-24-8 or renewed under IC 9-24-12 to an individual who is:

(1) at least seventy-five (75) years of age is six dollars ($6); and

(2) less than seventy-five (75) years of age is nine dollars ($9).

SECTION 69. IC 9-29-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. **(a)** The fee for a motorcycle operator endorsement of an operator's license is three dollars ($3). **This subsection expires December 31, 2005.**

(b) After December 31, 2005, the fee for validation of a motorcycle operator endorsement under IC 9-24-8-4 and IC 9-24-12-7(c) of an operator's license issued to an individual who is:

(1) at least seventy-five (75) years of age is three dollars

($3); and

(2) less than seventy-five (75) years of age is four dollars and fifty cents ($4.50).

SECTION 70. IC 9-29-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. **(a)** The fee for a motorcycle operator endorsement of a chauffeur's license is three dollars ($3). **This subsection expires December 31, 2005.**

(b) After December 31, 2005, the fee for validation of a motorcycle operator endorsement under IC 9-24-8-4 and IC 9-24-12-7(c) of a chauffeur's license issued to an individual who is:

(1) at least seventy-five (75) years of age is three dollars ($3); and

(2) less than seventy-five (75) years of age is four dollars and fifty cents ($4.50).

SECTION 71. IC 9-29-9-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. **(a)** The fees for the issuance, renewal, or duplication of identification cards under IC 9-24-16 are as follows:

(1) For a person at least sixty-five (65) years of age or a person with a physical disability and not entitled to obtain a ~~driving~~ **driver's** license, two dollars ($2).

(2) For any other eligible person, four dollars ($4).

This subsection expires December 31, 2005.

(b) After December 31, 2005, the fees for the issuance, the renewal, or a duplicate of an identification card under IC 9-24-16 are as follows:

(1) For an individual at least sixty-five (65) years of age or an individual with a physical disability and not entitled to obtain a driver's license, three dollars and fifty cents ($3.50).

(2) For any other individual, six dollars ($6).

SECTION 72. IC 10-11-2-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. (a) The superintendent may assign qualified persons who are not state police officers to supervise or operate permanent or portable weigh stations. A person assigned under this section may stop, inspect, and issue citations to operators of trucks and trailers having a declared gross weight of at least eleven thousand (11,000) pounds and buses at a permanent or portable weigh station or while operating a clearly marked Indiana state police vehicle for violations of the following:

(1) IC 6-1.1-7-10.

(2) IC 6-6-1.1-1202.

(3) IC 6-6-2.5.

(4) IC 6-6-4.1-12.

(5) IC 8-2.1.

(6) IC 9-18.

(7) IC 9-19.

(8) IC 9-20.

(9) IC 9-21-7-2 through IC 9-21-7-11.

(10) IC 9-21-8-41 pertaining to the duty to obey an official traffic control device for a weigh station.

(11) IC 9-21-8-45 through IC 9-21-8-48.

(12) IC 9-21-9.

(13) IC 9-21-15.

(14) IC 9-21-21.

~~(14)~~ **(15)** IC 9-24-1-1 through IC 9-24-1-3.

~~(15)~~ **(16)** IC 9-24-1-7.

~~(16)~~ **(17)** Except as provided in subsection (c), IC 9-24-1-6, IC 9-24-6-16, IC 9-24-6-17, and IC 9-24-6-18, commercial driver's license.

~~(17)~~ **(18)** IC 9-24-4.

~~(18)~~ **(19)** IC 9-24-5.

~~(19)~~ **(20)** IC 9-24-11-4.

~~(20)~~ **(21)** IC 9-24-13-3.

~~(21)~~ **(22)** IC 9-24-18-1 through IC 9-24-18-2.

~~(22)~~ **(23)** IC 9-25-4-3.

~~(23)~~ **(24)** IC 9-28-4.

~~(24)~~ **(25)** IC 9-28-5.

~~(25)~~ **(26)** IC 9-28-6.

~~(26)~~ **(27)** IC 9-29-5-11 through IC 9-29-5-13.

~~(27)~~ **(28)** IC 9-29-5-42.

~~(28)~~ **(29)** IC 9-29-6-1.

~~(29)~~ **(30)** IC 13-17-5-1, IC 13-17-5-2, IC 13-17-5-3, or IC 13-17-5-4.

~~(30)~~ **(31)** IC 13-30-2-1.

(b) For the purpose of enforcing this section, a person assigned under this section may detain a person in the same manner as a law enforcement officer under IC 34-28-5-3.

(c) A person assigned under this section may not enforce IC 9-24-6-14 or IC 9-24-6-15.

SECTION 73. IC 13-11-2-245 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 245. (a) "Vehicle", for purposes of IC 13-17-5, refers to a vehicle required to be registered with the bureau of motor vehicles and required to have brakes. The term does not include the following:

~~(1) Farm tractors.~~

~~(2) Implements of husbandry.~~

~~(3) Farm tractors used in transportation.~~

~~(4)~~ **(1)** Mobile homes (house trailers).

~~(5)~~ **(2)** Trailers weighing not more than three thousand (3,000) pounds.

~~(6)~~ **(3)** Antique motor vehicles.

(4) Special machinery (as defined in IC 9-13-2-170.3).

(b) "Vehicle", for purposes of IC 13-18-12, means a device used to transport a tank.

(c) "Vehicle", for purposes of IC 13-20-4, refers to a municipal waste collection and transportation vehicle.

(d) "Vehicle", for purposes of IC 13-20-13-7, means a motor vehicle and types of equipment, machinery, implements, or other devices used in transportation, manufacturing, agriculture, construction, or mining. The term does not include the following:

(1) A lawn and garden tractor that is propelled by a motor of not more than ~~twenty (20)~~ **twenty-five (25)** horsepower.

(2) A semitrailer.

(e) "Vehicle", for purposes of IC 13-20-14, has the meaning set forth in IC 9-13-2-196.

SECTION 74. IC 26-1-9.1-311 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 311. (a) Except as otherwise provided in subsection (d), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) a statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt IC 26-1-9.1-310(a);

(2) any Indiana certificate-of-title statute covering automobiles, trailers, mobile homes, **or** boats, ~~farm tractors or the like,~~ which provides for a security interest to be indicated on the certificate as a condition or result of perfection; or

(3) a certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(b) Compliance with the requirements of a statute, regulation, or treaty described in subsection (a) for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under IC 26-1-9.1. Except as otherwise provided in subsection (d), IC 26-1-9.1-313, IC 26-1-9.1-316(d), and IC 26-1-9.1-316(e) for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (a) may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(c) Except as otherwise provided in subsection (d), IC 26-1-9.1-316(d), and IC 26-1-9.1-316(e), duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (a) are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to IC 26-1-9.1.

(d) During any period in which collateral, subject to a statute specified in subsection (a)(2), is inventory held for sale or lease by a person or leased by that person as lessor, and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person, but instead, the filing provisions of IC 26-1-9.1-501 through IC 26-1-9.1-527 apply.

SECTION 75. IC 34-30-2-30.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 30.5. IC 9-24-10-7.5 (Concerning physicians, optometrists, or advanced practice nurses making reports concerning driver impairment).**

SECTION 76. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 6-6-2.5-11; IC 9-13-2-55; IC 9-13-2-57; IC 9-13-2-169; IC 9-29-5-19; IC 9-29-13-1.

SECTION 77. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 9-13-2-77, as amended by this act, the bureau of motor vehicles shall carry out the duties imposed on it under IC 9-13-2-77, as amended by this act, under interim written guidelines approved by the commissioner of motor vehicles.**

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

(1) The date rules are adopted under IC 9-13-2-77, as amended by this act.

(2) December 31, 2006.

SECTION 78. [EFFECTIVE UPON PASSAGE] **(a) The bureau of motor vehicles shall adopt rules under IC 4-22-2 to identify and define "farm truck", "farm trailer", and "farm semitrailer and tractor", as required by IC 9-13-2-58.**

(b) Notwithstanding subsection (a), the bureau of motor vehicles shall carry out the duties imposed on it by IC 9-13-2-58 and by this SECTION under interim written guidelines approved by the commissioner of motor vehicles.

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

(1) The date rules are adopted under IC 9-13-2-58.

(2) December 31, 2006.

SECTION 79. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "common carrier" has the meaning set forth in IC 8-2.1-17-4.**

(b) As used in this SECTION, "contract carrier" has the meaning set forth in IC 8-2.1-17-5.

(c) As used in this SECTION, "person" includes an employee or a family member of a farmer.

(d) Notwithstanding IC 9-24-6-2(c), the bureau of motor vehicles shall adopt rules under IC 4-22-2 to exempt a person who operates a farm vehicle:

(1) that is controlled by a farmer;

(2) that is used to transport:

(A) agricultural products;

(B) farm machinery; or

(C) farm supplies;

to or from a farm;

(3) that is not used in the operations of a common or contract carrier; and

(4) that is used within one hundred fifty (150) miles of the farmer's farm;

from regulation as a person required to hold a commercial driver's license in order to operate a farm vehicle.

(e) The bureau of motor vehicles shall carry out the duties imposed on it by IC 9-24-6-2(c) and by this SECTION under interim written guidelines approved by the commissioner of motor vehicles.

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

(1) The date rules are adopted under IC 9-24-6-2(c).

(2) December 31, 2006.

SECTION 80. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 9-21-21-4, as added by this act, the bureau of motor vehicles shall carry out the duties imposed on it under IC 9-21-21-4, as added by this act, under interim written guidelines approved by the commissioner of the bureau of motor vehicles.**

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

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

(2) December 31, 2006.

SECTION 81. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding IC 9-29-2-2, as amended by this act, the fee charged before January 1, 2006, for a record of a vehicle title that is requested electronically through the computer gateway administered by the intelenet commission under IC 5-21 is four dollars ($4). The intelenet commission may also charge a service fee.**

(b) This SECTION expires January 1, 2006.

SECTION 82. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 9-29-3-8, IC 9-29-3-9, IC 9-29-3-10, and IC 9-29-3-14, all as amended by this act, and in accordance with IC 9-29-3-19(d)(2), the bureau of motor vehicles shall adopt rules under IC 4-22-2 to increase the service charges in effect on July 1, 2005, under 140 IAC 8-3-9, 140 IAC 8-3-18, and 140 IAC 8-3-20 concerning service charges for an operator's license, a motorcycle license, a chauffeur's license, or a motorcycle endorsement of an operator's or a chauffeur's license for an individual who is less than seventy-five (75) years of age at the time of the issuance or renewal of the license or endorsement. The rules must:**

(1) provide that the applicable service charge is increased by fifty percent (50%) over the charge in effect on July 1, 2005; and

(2) be effective January 1, 2006.

(b) Before the effective date of the rules adopted under subsection (a), the bureau of motor vehicles shall carry out the duties imposed on it under this SECTION under interim written guidelines approved by the commissioner of the bureau of motor vehicles. Interim guidelines approved under this subsection expire on the earlier of:

(1) the effective date of the rules adopted under subsection (a); or

(2) January 1, 2007.

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

(1) The date rules are adopted in accordance with this SECTION.

(2) January 1, 2007.

SECTION 83. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 9-29-9-2, IC 9-29-9-4, IC 9-29-9-6, IC 9-29-9-7, and IC 9-29-9-8, all as amended by this act, and in accordance with IC 9-29-1-2(b), the bureau of motor vehicles shall adopt rules under IC 4-22-2 to increase the license fee and motorcycle endorsement fee in effect on July 1, 2005, under 140 IAC 8-4-25 and 140 IAC 8-4-26 concerning license fee increases and motorcycle endorsement fee increases for certain operator's licenses, motorcycle licenses, or chauffeur's licenses or a motorcycle endorsement of an operator's or a chauffeur's license for an individual who is less than seventy-five (75) years of age at the time of the issuance of or renewal of the license or endorsement. The rules must:**

(1) provide that the applicable license fee or motorcycle endorsement fee increase is increased by fifty percent (50%) over the charge in effect on July 1, 2005; and

(2) be effective January 1, 2006.

(b) Before the effective date of the rules adopted under subsection (a), the bureau of motor vehicles shall carry out the duties imposed on it under this SECTION under interim written guidelines approved by the commissioner of the bureau of motor vehicles. Interim guidelines approved under this subsection expire on the earlier of:

(1) the effective date of the rules adopted under subsection (a); or

(2) January 1, 2007.

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

(1) The date rules are adopted in accordance with this SECTION.

(2) January 1, 2007.

SECTION 84. **An emergency is declared for this act.**

(Reference is to EHB 1073 as reprinted March 29, 2005.)

Lehe, Chair	Riegsecker
Tincher	Broden
House Conferees	Senate Conferees

Roll Call 560: yeas 47, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 508–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 508 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 22-3-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Every employer and every employee, except as stated in IC 22-3-2 through IC 22-3-6, shall comply with the provisions of IC 22-3-2 through IC 22-3-6 respectively to pay and accept compensation for personal injury or death by accident arising out of and in the course of the employment, and shall be bound thereby.

(b) IC 22-3-2 through IC 22-3-6 does not apply to railroad employees engaged in train service as:

(1) engineers;

(2) firemen;

(3) conductors;

(4) brakemen;

(5) flagmen;

(6) baggagemen; or

(7) foremen in charge of yard engines and helpers assigned thereto.

(c) IC 22-3-2 through IC 22-3-6 does not apply to employees of municipal corporations in Indiana who are members of:

(1) the fire department or police department of any such

municipality; and

(2) a firefighters' pension fund or of a police officers' pension fund.

However, if the common council elects to purchase and procure worker's compensation insurance to insure said employees with respect to medical benefits under IC 22-3-2 through IC 22-3-6, the medical provisions of IC 22-3-2 through IC 22-3-6 apply to members of the fire department or police department of any such municipal corporation who are also members of a firefighters' pension fund or a police officers' pension fund.

(d) IC 22-3-2 through IC 22-3-6 do not apply to the following:

(1) A person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis.

(2) A nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

~~(d)~~ **(e)** When any municipal corporation purchases or procures worker's compensation insurance covering members of the fire department or police department who are also members of a firefighters' pension fund or a police officers' pension fund, and pays the premium or premiums for such insurance, the payment of such premiums is a legal and allowable expenditure of funds of any municipal corporation.

~~(e)~~ **(f)** Except as provided in ~~subsection (f),~~ **subsection (g),** where the common council has procured worker's compensation insurance under this section, any member of such fire department or police department employed in the city carrying such worker's compensation insurance under this section is limited to recovery of medical and surgical care, medicines, laboratory, curative and palliative agents and means, x-ray, diagnostic and therapeutic services to the extent that such services are provided for in the worker's compensation policy procured by such city, and shall not also recover in addition to that policy for such same benefits provided in IC 36-8-4.

~~(f)~~ **(g)** If the medical benefits provided under a worker's compensation policy procured by the common council terminate for any reason before the police officer or firefighter is fully recovered, the common council shall provide medical benefits that are necessary until the police officer or firefighter is no longer in need of medical care.

~~(g)~~ **(h)** The provisions of IC 22-3-2 through IC 22-3-6 apply to:

(1) members of the Indiana general assembly; and

(2) field examiners of the state board of accounts.

SECTION 2. IC 22-3-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) IC 22-3-2 through IC 22-3-6 shall not apply to:

(1) casual laborers (as defined in IC 22-3-6-1); ~~nor to~~

(2) farm or agricultural employees; ~~nor to~~

(3) household employees; ~~nor to~~ **or**

(4) a person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis.

IC 22-3-2 through IC 22-3-6 do not apply to the employers **or contractors** of ~~such~~ **the** persons **listed in this subsection.**

(b) An employer who is exempt under this section from the operation of the compensation provisions of this chapter may at any time waive such exemption and thereby accept the provisions of this chapter by giving notice as provided in subsection (c).

(c) The notice of acceptance referred to in subsection (b) shall be given thirty (30) days prior to any accident resulting in injury or death, provided that if any such injury occurred less than thirty (30) days after the date of employment, notice of acceptance given at the time of employment shall be sufficient notice thereof. The notice shall be in writing or print in a substantial form prescribed by the worker's compensation board and shall be given by the employer by posting the same in a conspicuous place in the plant, shop, office, room, or place where the employee is employed, or by serving it personally upon ~~him;~~ **the employee;** and shall be given by the employee by sending the same in registered letter addressed to the employer at ~~his~~ **the employer's** last known residence or place of business, or by giving it personally to the employer, or any of ~~his~~ **the employer's** agents upon whom a summons in civil actions may be served under the laws of the state.

(d) A copy of the notice in prescribed form shall also be filed with the worker's compensation board, within five (5) days after its service in such manner upon the employee or employer.

SECTION 3. IC 22-3-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) As used in this section, "person" does not include:

(1) an owner who contracts for performance of work on the owner's owner occupied residential property; **or**

(2) a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

(b) The state, any political division thereof, any municipal corporation, any corporation, limited liability company, partnership, or person, contracting for the performance of any work exceeding one thousand dollars ($1,000) in value by a contractor subject to the compensation provisions of IC 22-3-2 through IC 22-3-6, without exacting from such contractor a certificate from the worker's compensation board showing that such contractor has complied with section 5 of this chapter, IC 22-3-5-1, and IC 22-3-5-2, shall be liable to the same extent as the contractor for compensation, physician's fees, hospital fees, nurse's charges, and burial expenses on account of the injury or death of any employee of such contractor, due to an accident arising out of and in the course of the

performance of the work covered by such contract.

(c) Any contractor who shall sublet any contract for the performance of any work, to a subcontractor subject to the compensation provisions of IC 22-3-2 through IC 22-3-6, without obtaining a certificate from the worker's compensation board showing that such subcontractor has complied with section 5 of this chapter, IC 22-3-5-1, and IC 22-3-5-2, shall be liable to the same extent as such subcontractor for the payment of compensation, physician's fees, hospital fees, nurse's charges, and burial expenses on account of the injury or death of any employee of such subcontractor due to an accident arising out of and in the course of the performance of the work covered by such subcontract.

(d) The state, any political division thereof, any municipal corporation, any corporation, limited liability company, partnership, person, or contractor paying compensation, physician's fees, hospital fees, nurse's charges, or burial expenses under this section may recover the amount paid or to be paid from any person who, independently of such provisions, would have been liable for the payment thereof and may, in addition, recover the litigation expenses and attorney's fees incurred in the action before the worker's compensation board as well as the litigation expenses and attorney's fees incurred in an action to collect the compensation, medical expenses, and burial expenses.

(e) Every claim filed with the worker's compensation board under this section shall be instituted against all parties liable for payment. The worker's compensation board, in an award under subsection (b), shall fix the order in which said parties shall be exhausted, beginning with the immediate employer, and, in an award under subsection (c), shall determine whether the subcontractor has the financial ability to pay the compensation and medical expenses when due and, if not, shall order the contractor to pay the compensation and medical expenses.

SECTION 4. IC 22-3-3-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. In ~~all~~ cases of the death of an employee from an injury by an accident arising out of and in the course of the employee's employment under ~~such~~ circumstances that the employee would have been entitled to compensation if death had not resulted, the employer shall pay the burial expenses of such employee, not exceeding ~~six~~ **seven** thousand **five hundred** dollars ~~($6,000).~~ **($7,500).**

SECTION 5. IC 22-3-6-1, AS AMENDED BY HEA1288-2005, SECTION 182, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the context otherwise requires:

(a) "Employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, or corporation or the receiver or trustee of the same, using the services of another for pay. A parent corporation and its subsidiaries shall each be considered joint employers of the corporation's, the parent's, or the subsidiaries' employees for purposes of IC 22-3-2-6 and IC 22-3-3-31. Both a lessor and a lessee of employees shall each be considered joint employers of the employees provided by the lessor to the lessee for purposes of IC 22-3-2-6 and IC 22-3-3-31. If the employer is insured, the term includes the employer's insurer so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer. The term also includes an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in IC 22-3-2-2.5. **The term does not include a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.**

(b) "Employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship, written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer.

(1) An executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation, other than a municipal corporation or governmental subdivision or a charitable, religious, educational, or other nonprofit corporation, is an employee of the corporation under IC 22-3-2 through IC 22-3-6.

(2) An executive officer of a municipal corporation or other governmental subdivision or of a charitable, religious, educational, or other nonprofit corporation may, notwithstanding any other provision of IC 22-3-2 through IC 22-3-6, be brought within the coverage of its insurance contract by the corporation by specifically including the executive officer in the contract of insurance. The election to bring the executive officer within the coverage shall continue for the period the contract of insurance is in effect, and during this period, the executive officers thus brought within the coverage of the insurance contract are employees of the corporation under IC 22-3-2 through IC 22-3-6.

(3) Any reference to an employee who has been injured, when the employee is dead, also includes the employee's legal representatives, dependents, and other persons to whom compensation may be payable.

(4) An owner of a sole proprietorship may elect to include the owner as an employee under IC 22-3-2 through IC 22-3-6 if the owner is actually engaged in the proprietorship business. If the owner makes this election, the owner must serve upon the owner's insurance carrier and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received. If the owner of a sole proprietorship is an independent contractor in the construction trades and does not make the election provided under this subdivision, the owner must obtain an affidavit of exemption under IC 22-3-2-14.5.

(5) A partner in a partnership may elect to include the partner

as an employee under IC 22-3-2 through IC 22-3-6 if the partner is actually engaged in the partnership business. If a partner makes this election, the partner must serve upon the partner's insurance carrier and upon the board written notice of the election. No partner may be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received. If a partner in a partnership is an independent contractor in the construction trades and does not make the election provided under this subdivision, the partner must obtain an affidavit of exemption under IC 22-3-2-14.5.

(6) Real estate professionals are not employees under IC 22-3-2 through IC 22-3-6 if:

(A) they are licensed real estate agents;

(B) substantially all their remuneration is directly related to sales volume and not the number of hours worked; and

(C) they have written agreements with real estate brokers stating that they are not to be treated as employees for tax purposes.

(7) A person is an independent contractor in the construction trades and not an employee under IC 22-3-2 through IC 22-3-6 if the person is an independent contractor under the guidelines of the United States Internal Revenue Service.

(8) 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 1057, to a motor carrier is not an employee of the motor carrier for purposes of IC 22-3-2 through IC 22-3-6. The owner-operator may elect to be covered and have the owner-operator's drivers covered under a worker's compensation insurance policy or authorized self-insurance that insures the motor carrier if the owner-operator pays the premiums as requested by the motor carrier. An election by an owner-operator under this subdivision does not terminate the independent contractor status of the owner-operator for any purpose other than the purpose of this subdivision.

(9) A member or manager in a limited liability company may elect to include the member or manager as an employee under IC 22-3-2 through IC 22-3-6 if the member or manager is actually engaged in the limited liability company business. If a member or manager makes this election, the member or manager must serve upon the member's or manager's insurance carrier and upon the board written notice of the election. A member or manager may not be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received.

(10) An unpaid participant under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the extent set forth in IC 22-3-2-2.5.

(11) A person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis is not an employee for purposes of IC 22-3-2 through IC 22-3-6.

(c) "Minor" means an individual who has not reached seventeen (17) years of age.

(1) Unless otherwise provided in this subsection, a minor employee shall be considered as being of full age for all purposes of IC 22-3-2 through IC 22-3-6.

(2) If the employee is a minor who, at the time of the accident, is employed, required, suffered, or permitted to work in violation of IC 20-33-3-35, the amount of compensation and death benefits, as provided in IC 22-3-2 through IC 22-3-6, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (1/2) of the compensation or benefits that may be payable on account of the injury or death of the minor, and the employer shall be liable for the other one-half (1/2) of the compensation or benefits. If the employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age and who at the time of the accident is employed, suffered, or permitted to work at any occupation which is not prohibited by law, this subdivision does not apply.

(3) A minor employee who, at the time of the accident, is a student performing services for an employer as part of an approved program under IC 20-37-2-7 shall be considered a full-time employee for the purpose of computing compensation for permanent impairment under IC 22-3-3-10. The average weekly wages for such a student shall be calculated as provided in subsection (d)(4).

(4) The rights and remedies granted in this subsection to a minor under IC 22-3-2 through IC 22-3-6 on account of personal injury or death by accident shall exclude all rights and remedies of the minor, the minor's parents, or the minor's personal representatives, dependents, or next of kin at common law, statutory or otherwise, on account of the injury or death. This subsection does not apply to minors who have reached seventeen (17) years of age.

(d) "Average weekly wages" means the earnings of the injured employee in the employment in which the employee was working at the time of the injury during the period of fifty-two (52) weeks immediately preceding the date of injury, divided by fifty-two (52), except as follows:

(1) If the injured employee lost seven (7) or more calendar days during this period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts thereof remaining after the time lost has been deducted.

(2) Where the employment prior to the injury extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employee's employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly

wages, as defined in this subsection, regard shall be had to the average weekly amount which during the fifty-two (52) weeks previous to the injury was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in the same class of employment in the same district.

(3) Wherever allowances of any character made to an employee in lieu of wages are a specified part of the wage contract, they shall be deemed a part of ~~his~~ **the employee's** earnings.

(4) In computing the average weekly wages to be used in calculating an award for permanent impairment under IC 22-3-3-10 for a student employee in an approved training program under IC 20-37-2-7, the following formula shall be used. Calculate the product of:

(A) the student employee's hourly wage rate; multiplied by

(B) forty (40) hours.

The result obtained is the amount of the average weekly wages for the student employee.

(e) "Injury" and "personal injury" mean only injury by accident arising out of and in the course of the employment and do not include a disease in any form except as it results from the injury.

(f) "Billing review service" refers to a person or an entity that reviews a medical service provider's bills or statements for the purpose of determining pecuniary liability. The term includes an employer's worker's compensation insurance carrier if the insurance carrier performs such a review.

(g) "Billing review standard" means the data used by a billing review service to determine pecuniary liability.

(h) "Community" means a geographic service area based on zip code districts defined by the United States Postal Service according to the following groupings:

(1) The geographic service area served by zip codes with the first three (3) digits 463 and 464.

(2) The geographic service area served by zip codes with the first three (3) digits 465 and 466.

(3) The geographic service area served by zip codes with the first three (3) digits 467 and 468.

(4) The geographic service area served by zip codes with the first three (3) digits 469 and 479.

(5) The geographic service area served by zip codes with the first three (3) digits 460, 461 (except 46107), and 473.

(6) The geographic service area served by the 46107 zip code and zip codes with the first three (3) digits 462.

(7) The geographic service area served by zip codes with the first three (3) digits 470, 471, 472, 474, and 478.

(8) The geographic service area served by zip codes with the first three (3) digits 475, 476, and 477.

(i) "Medical service provider" refers to a person or an entity that provides medical services, treatment, or supplies to an employee under IC 22-3-2 through IC 22-3-6.

(j) "Pecuniary liability" means the responsibility of an employer or the employer's insurance carrier for the payment of the charges for each specific service or product for human medical treatment provided under IC 22-3-2 through IC 22-3-6 in a defined community, equal to or less than the charges made by medical service providers at the eightieth percentile in the same community for like services or products.

SECTION 6. IC 22-3-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Every employer and every employee, except as stated in this chapter, shall comply with this chapter, requiring the employer and employee to pay and accept compensation for disablement or death by occupational disease arising out of and in the course of the employment, and shall be bound thereby.

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

(1) A person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis.

(2) A nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

~~(b)~~ **(c)** This chapter does not apply to employees of municipal corporations in Indiana who are members of:

(1) the fire department or police department of any such municipality; and

(2) a firefighters' pension fund or a police officers' pension fund.

However, if the common council elects to purchase and procure worker's occupational disease insurance to insure said employees with respect to medical benefits under this chapter, the medical provisions apply to members of the fire department or police department of any such municipal corporation who are also members of a firefighters' pension fund or a police officers' pension fund.

~~(c)~~ **(d)** When any municipal corporation purchases or procures worker's occupational disease insurance covering members of the fire department or police department who are also members of a firefighters' pension fund or a police officers' pension fund and pays the premium or premiums for the insurance, the payment of the premiums is a legal and allowable expenditure of funds of any municipal corporation.

~~(d)~~ **(e)** Except as provided in ~~subsection (c),~~ **subsection (f),** where the common council has procured worker's occupational disease insurance as provided under this section, any member of the fire department or police department employed in the city carrying the worker's occupational disease insurance under this section is limited to recovery of medical and surgical care, medicines, laboratory, curative and palliative agents and means, x-ray, diagnostic and therapeutic services to the extent that the services are provided for in the worker's occupational disease policy so procured by the city, and may not also recover in addition to that policy for

the same benefits provided in IC 36-8-4.

~~(c)~~ **(f)** If the medical benefits provided under a worker's occupational disease policy procured by the common council terminate for any reason before the police officer or firefighter is fully recovered, the common council shall provide medical benefits that are necessary until the police officer or firefighter is no longer in need of medical care.

~~(f)~~ **(g)** Nothing in this section affects the rights and liabilities of employees and employers had by them prior to April 1, 1963, under this chapter.

SECTION 7. IC 22-3-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) As used in this chapter, "employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, or corporation or the receiver or trustee of the same, using the services of another for pay. A parent corporation and its subsidiaries shall each be considered joint employers of the corporation's, the parent's, or the subsidiaries' employees for purposes of sections 6 and 33 of this chapter. Both a lessor and a lessee of employees shall each be considered joint employers of the employees provided by the lessor to the lessee for purposes of sections 6 and 33 of this chapter. The term also includes an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth under section 2.5 of this chapter. If the employer is insured, the term includes ~~his~~ **the employer's** insurer so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer. **The term does not include a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.**

(b) As used in this chapter, "employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer. For purposes of this chapter the following apply:

(1) Any reference to an employee who has suffered disablement, when the employee is dead, also includes ~~his~~ **the employee's** legal representative, dependents, and other persons to whom compensation may be payable.

(2) An owner of a sole proprietorship may elect to include ~~himself~~ **the owner** as an employee under this chapter if ~~he~~ **the owner** is actually engaged in the proprietorship business. If the owner makes this election, ~~he~~ **the owner** must serve upon ~~his~~ **the owner's** insurance carrier and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under this chapter unless the notice has been received. If the owner of a sole proprietorship is an independent contractor in the construction trades and does not make the election provided under this subdivision, the owner must obtain an affidavit of exemption under section 34.5 of this chapter.

(3) A partner in a partnership may elect to include ~~himself~~ **the partner** as an employee under this chapter if ~~he~~ **the partner** is actually engaged in the partnership business. If a partner makes this election, ~~he~~ **the partner** must serve upon ~~his~~ **the partner's** insurance carrier and upon the board written notice of the election. No partner may be considered an employee under this chapter until the notice has been received. If a partner in a partnership is an independent contractor in the construction trades and does not make the election provided under this subdivision, the partner must obtain an affidavit of exemption under section 34.5 of this chapter.

(4) Real estate professionals are not employees under this chapter if:

(A) they are licensed real estate agents;

(B) substantially all their remuneration is directly related to sales volume and not the number of hours worked; and

(C) they have written agreements with real estate brokers stating that they are not to be treated as employees for tax purposes.

(5) A person is an independent contractor in the construction trades and not an employee under this chapter if the person is an independent contractor under the guidelines of the United States Internal Revenue Service.

(6) 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 1057, to a motor carrier is not an employee of the motor carrier for purposes of this chapter. The owner-operator may elect to be covered and have the owner-operator's drivers covered under a worker's compensation insurance policy or authorized self-insurance that insures the motor carrier if the owner-operator pays the premiums as requested by the motor carrier. An election by an owner-operator under this subdivision does not terminate the independent contractor status of the owner-operator for any purpose other than the purpose of this subdivision.

(7) An unpaid participant under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the extent set forth under section 2.5 of this chapter.

(8) A person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis is not an employee for purposes of this chapter.

(c) As used in this chapter, "minor" means an individual who has not reached seventeen (17) years of age. A minor employee shall be considered as being of full age for all purposes of this chapter. However, if the employee is a minor who, at the time of the last exposure, is employed, required, suffered, or permitted to work in violation of the child labor laws of this state, the amount of

compensation and death benefits, as provided in this chapter, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (1/2) of the compensation or benefits that may be payable on account of the disability or death of the minor, and the employer shall be wholly liable for the other one-half (1/2) of the compensation or benefits. If the employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age, and who at the time of the last exposure is employed, suffered, or permitted to work at any occupation which is not prohibited by law, the provisions of this subsection prescribing double the amount otherwise recoverable do not apply. The rights and remedies granted to a minor under this chapter on account of disease shall exclude all rights and remedies of the minor, his parents, his personal representatives, dependents, or next of kin at common law, statutory or otherwise, on account of any disease.

(d) This chapter does not apply to casual laborers as defined in subsection (b), nor to farm or agricultural employees, nor to household employees, nor to railroad employees engaged in train service as engineers, firemen, conductors, brakemen, flagmen, baggagemen, or foremen in charge of yard engines and helpers assigned thereto, nor to their employers with respect to these employees. Also, this chapter does not apply to employees or their employers with respect to employments in which the laws of the United States provide for compensation or liability for injury to the health, disability, or death by reason of diseases suffered by these employees.

(e) As used in this chapter, "disablement" means the event of becoming disabled from earning full wages at the work in which the employee was engaged when last exposed to the hazards of the occupational disease by the employer from whom ~~he~~ **the employee** claims compensation or equal wages in other suitable employment, and "disability" means the state of being so incapacitated.

(f) For the purposes of this chapter, no compensation shall be payable for or on account of any occupational diseases unless disablement, as defined in subsection (e), occurs within two (2) years after the last day of the last exposure to the hazards of the disease except for the following:

(1) In all cases of occupational diseases caused by the inhalation of silica dust or coal dust, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within three (3) years after the last day of the last exposure to the hazards of the disease.

(2) In all cases of occupational disease caused by the exposure to radiation, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within two (2) years from the date on which the employee had knowledge of the nature of ~~his~~ **the employee's** occupational disease or, by exercise of reasonable diligence, should have known of the existence of such disease and its causal relationship to ~~his~~ **the employee's** employment.

(3) In all cases of occupational diseases caused by the inhalation of asbestos dust, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within three (3) years after the last day of the last exposure to the hazards of the disease if the last day of the last exposure was before July 1, 1985.

(4) In all cases of occupational disease caused by the inhalation of asbestos dust in which the last date of the last exposure occurs on or after July 1, 1985, and before July 1, 1988, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within twenty (20) years after the last day of the last exposure.

(5) In all cases of occupational disease caused by the inhalation of asbestos dust in which the last date of the last exposure occurs on or after July 1, 1988, no compensation shall be payable unless disablement (as defined in subsection (e)) occurs within thirty-five (35) years after the last day of the last exposure.

(g) For the purposes of this chapter, no compensation shall be payable for or on account of death resulting from any occupational disease unless death occurs within two (2) years after the date of disablement. However, this subsection does not bar compensation for death:

(1) where death occurs during the pendency of a claim filed by an employee within two (2) years after the date of disablement and which claim has not resulted in a decision or has resulted in a decision which is in process of review or appeal; or

(2) where, by agreement filed or decision rendered, a compensable period of disability has been fixed and death occurs within two (2) years after the end of such fixed period, but in no event later than three hundred (300) weeks after the date of disablement.

(h) As used in this chapter, "billing review service" refers to a person or an entity that reviews a medical service provider's bills or statements for the purpose of determining pecuniary liability. The term includes an employer's worker's compensation insurance carrier if the insurance carrier performs such a review.

(i) As used in this chapter, "billing review standard" means the data used by a billing review service to determine pecuniary liability.

(j) As used in this chapter, "community" means a geographic service area based on zip code districts defined by the United States Postal Service according to the following groupings:

(1) The geographic service area served by zip codes with the first three (3) digits 463 and 464.

(2) The geographic service area served by zip codes with the first three (3) digits 465 and 466.

(3) The geographic service area served by zip codes with the first three (3) digits 467 and 468.

(4) The geographic service area served by zip codes with the first three (3) digits 469 and 479.

(5) The geographic service area served by zip codes with the first three (3) digits 460, 461 (except 46107), and 473.

(6) The geographic service area served by the 46107 zip code and zip codes with the first three (3) digits 462.

(7) The geographic service area served by zip codes with the

first three (3) digits 470, 471, 472, 474, and 478.

(8) The geographic service area served by zip codes with the first three (3) digits 475, 476, and 477.

(k) As used in this chapter, "medical service provider" refers to a person or an entity that provides medical services, treatment, or supplies to an employee under this chapter.

(l) As used in this chapter, "pecuniary liability" means the responsibility of an employer or the employer's insurance carrier for the payment of the charges for each specific service or product for human medical treatment provided under this chapter in a defined community, equal to or less than the charges made by medical service providers at the eightieth percentile in the same community for like services or products.

SECTION 8. IC 22-3-7-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. In ~~all~~ cases of the death of an employee from an occupational disease arising out of and in the course of the employee's employment under ~~such~~ circumstances that the employee would have been entitled to compensation if death had not resulted, the employer shall pay the burial expenses of such employee, not exceeding ~~six~~ **seven** thousand **five hundred** dollars ~~($6,000).~~ **($7,500).**

SECTION 9. IC 22-3-7-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 34. (a) As used in this section, "person" does not include:

(1) an owner who contracts for performance of work on the owner's owner occupied residential property; **or**

(2) a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

(b) Every employer bound by the compensation provisions of this chapter, except the state, counties, townships, cities, towns, school cities, school towns, school townships, other municipal corporations, state institutions, state boards, and state commissions, shall insure the payment of compensation to the employer's employees and their dependents in the manner provided in this chapter, or procure from the worker's compensation board a certificate authorizing the employer to carry such risk without insurance. While that insurance or certificate remains in force, the employer, or those conducting the employer's business, and the employer's occupational disease insurance carrier shall be liable to any employee and the employee's dependents for disablement or death from occupational disease arising out of and in the course of employment only to the extent and in the manner specified in this chapter.

(c) Every employer who, by election, is bound by the compensation provisions of this chapter, except those exempted from the provisions by subsection (b), shall:

(1) insure and keep insured the employer's liability under this chapter in some corporation, association, or organization authorized to transact the business of worker's compensation insurance in this state; or

(2) furnish to the worker's compensation board satisfactory proof of the employer's financial ability to pay the compensation in the amount and manner and when due as provided for in this chapter.

In the latter case the board may require the deposit of an acceptable security, indemnity, or bond to secure the payment of compensation liabilities as they are incurred.

(d) Every employer required to carry insurance under this section shall file with the worker's compensation board in the form prescribed by it, within ten (10) days after the termination of the employer's insurance by expiration or cancellation, evidence of the employer's compliance with subsection (c) and other provisions relating to the insurance under this chapter. The venue of all criminal actions under this section lies in the county in which the employee was last exposed to the occupational disease causing disablement. The prosecuting attorney of the county shall prosecute all violations upon written request of the board. The violations shall be prosecuted in the name of the state.

(e) Whenever an employer has complied with subsection (c) relating to self-insurance, the worker's compensation board shall issue to the employer a certificate which shall remain in force for a period fixed by the board, but the board may, upon at least thirty (30) days notice, and a hearing to the employer, revoke the certificate, upon presentation of satisfactory evidence for the revocation. After the revocation, the board may grant a new certificate to the employer upon the employer's petition, and satisfactory proof of the employer's financial ability.

(f)(1) Subject to the approval of the worker's compensation board, any employer may enter into or continue any agreement with the employer's employees to provide a system of compensation, benefit, or insurance in lieu of the compensation and insurance provided by this chapter. A substitute system may not be approved unless it confers benefits upon employees and their dependents at least equivalent to the benefits provided by this chapter. It may not be approved if it requires contributions from the employees unless it confers benefits in addition to those provided under this chapter, which are at least commensurate with such contributions.

(f)(2) The substitute system may be terminated by the worker's compensation board on reasonable notice and hearing to the interested parties, if it appears that the same is not fairly administered or if its operation shall disclose latent defects threatening its solvency, or if for any substantial reason it fails to accomplish the purpose of this chapter. On termination, the board shall determine the proper distribution of all remaining assets, if any, subject to the right of any party in interest to take an appeal to the court of appeals.

(g)(1) No insurer shall enter into or issue any policy of insurance under this chapter until its policy form has been submitted to and approved by the worker's compensation board. The board shall not approve the policy form of any insurance company until the company shall file with it the certificate of the insurance commissioner showing that the company is authorized to transact the business of worker's compensation insurance in Indiana. The filing of a policy form by any insurance company or reciprocal

insurance association with the board for approval constitutes on the part of the company or association a conclusive and unqualified acceptance of each of the compensation provisions of this chapter, and an agreement by it to be bound by the compensation provisions of this chapter.

(g)(2) All policies of insurance companies and of reciprocal insurance associations, insuring the payment of compensation under this chapter, shall be conclusively presumed to cover all the employees and the entire compensation liability of the insured under this chapter in all cases in which the last day of the exposure rendering the employer liable is within the effective period of such policy.

(g)(3) Any provision in any such policy attempting to limit or modify the liability of the company or association insuring the same shall be wholly void.

(g)(4) Every policy of any company or association shall be deemed to include the following provisions:

"(A) The insurer assumes in full all the obligations to pay physician's fees, nurse's charges, hospital supplies, burial expenses, compensation or death benefits imposed upon or accepted by the insured under this chapter.

(B) This policy is subject to the provisions of this chapter relative to the liability of the insured to pay physician's fees, nurse's charges, hospital services, hospital supplies, burial expenses, compensation or death benefits to and for such employees, the acceptance of such liability by the insured, the adjustment, trial and adjudication of claims for such physician's fees, nurse's charges, hospital services, hospital supplies, burial expenses, compensation, or death benefits.

(C) Between this insurer and the employee, notice to or knowledge of the occurrence of the disablement on the part of the insured (the employer) shall be notice or knowledge thereof, on the part of the insurer. The jurisdiction of the insured (the employer) for the purpose of this chapter is the jurisdiction of this insurer, and this insurer shall in all things be bound by and shall be subject to the awards, judgments and decrees rendered against the insured (the employer) under this chapter.

(D) This insurer will promptly pay to the person entitled to the same all benefits conferred by this chapter, including all physician's fees, nurse's charges, hospital services, hospital supplies, burial expenses, and all installments of compensation or death benefits that may be awarded or agreed upon under this chapter. The obligation of this insurer shall not be affected by any default of the insured (the employer) after disablement or by any default in giving of any notice required by this policy, or otherwise. This policy is a direct promise by this insurer to the person entitled to physician's fees, nurse's charges, fees for hospital services, charges for hospital services, charges for hospital supplies, charges for burial, compensation, or death benefits, and shall be enforceable in the name of the person.

(E) Any termination of this policy by cancellation shall not be effective as to employees of the insured covered hereby unless at least thirty (30) days prior to the taking effect of such cancellation, a written notice giving the date upon which such termination is to become effective has been received by the worker's compensation board of Indiana at its office in Indianapolis, Indiana.

(F) This policy shall automatically expire one (1) year from the effective date of the policy, unless the policy covers a period of three (3) years, in which event, it shall automatically expire three (3) years from the effective date of the policy. The termination either of a one (1) year or a three (3) year policy, is effective as to the employees of the insured covered by the policy.".

(g)(5) All claims for compensation, nurse's charges, hospital services, hospital supplies, physician's fees, or burial expenses may be made directly against either the employer or the insurer or both, and the award of the worker's compensation board may be made against either the employer or the insurer or both.

(g)(6) If any insurer shall fail to pay any final award or judgment (except during the pendency of an appeal) rendered against it, or its insured, or, if it shall fail to comply with this chapter, the worker's compensation board shall revoke the approval of its policy forms, and shall not accept any further proofs of insurance from it until it shall have paid the award or judgment or complied with this chapter, and shall have resubmitted its policy form and received the approval of the policy by the industrial board.

(h) No policy of insurance covering the liability of an employer for worker's compensation shall be construed to cover the liability of the employer under this chapter for any occupational disease unless the liability is expressly accepted by the insurance carrier issuing the policy and is endorsed in that policy. The insurance or security in force to cover compensation liability under this chapter shall be separate from the insurance or security under IC 22-3-2 through IC 22-3-6. Any insurance contract covering liability under either part of this article need not cover any liability under the other.

(i) For the purpose of complying with subsection (c), groups of employers are authorized to form mutual insurance associations or reciprocal or interinsurance exchanges subject to any reasonable conditions and restrictions fixed by the department of insurance. This subsection does not apply to mutual insurance associations and reciprocal or interinsurance exchanges formed and operating on or before January 1, 1991, which shall continue to operate subject to the provisions of this chapter and to such reasonable conditions and restrictions as may be fixed by the worker's compensation board.

(j) Membership in a mutual insurance association or a reciprocal or interinsurance exchange so proved, together with evidence of the payment of premiums due, is evidence of compliance with subsection (c).

(k) Any person bound under the compensation provisions of this chapter, contracting for the performance of any work exceeding one thousand dollars ($1,000) in value, in which the hazard of an occupational disease exists, by a contractor subject to the compensation provisions of this chapter without exacting from the contractor a certificate from the worker's compensation board showing that the contractor has complied with subsections (b), (c),

and (d), shall be liable to the same extent as the contractor for compensation, physician's fees, hospital fees, nurse's charges, and burial expenses on account of the injury or death of any employee of such contractor, due to occupational disease arising out of and in the course of the performance of the work covered by such contract.

(l) Any contractor who sublets any contract for the performance of any work to a subcontractor subject to the compensation provisions of this chapter, without obtaining a certificate from the worker's compensation board showing that the subcontractor has complied with subsections (b), (c), and (d), is liable to the same extent as the subcontractor for the payment of compensation, physician's fees, hospital fees, nurse's charges, and burial expense on account of the injury or death of any employee of the subcontractor due to occupational disease arising out of and in the course of the performance of the work covered by the subcontract.

(m) A person paying compensation, physician's fees, hospital fees, nurse's charges, or burial expenses, under subsection (k) or (l), may recover the amount paid or to be paid from any person who would otherwise have been liable for the payment thereof and may, in addition, recover the litigation expenses and attorney's fees incurred in the action before the worker's compensation board as well as the litigation expenses and attorney's fees incurred in an action to collect the compensation, medical expenses, and burial expenses.

(n) Every claim filed with the worker's compensation board under this section shall be instituted against all parties liable for payment. The worker's compensation board, in an award under subsection (k), shall fix the order in which such parties shall be exhausted, beginning with the immediate employer and, in an award under subsection (l), shall determine whether the subcontractor has the financial ability to pay the compensation and medical expenses when due and, if not, shall order the contractor to pay the compensation and medical expenses.

(Reference is to ESB 508 as reprinted April 8, 2005.)

Clark, Chair	Torr
Lewis	Cheney
Senate Conferees	House Conferees

Roll Call 561: yeas 49, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

EHB 1120–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill 1120 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete the title and insert the following:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-4-11-15.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 15.6. In addition to the powers listed in section 15 of this chapter, the authority may:**

(1) issue bonds under terms and conditions determined by the authority and use the proceeds of the bonds to acquire obligations issued by any entity authorized to acquire, finance, construct, or lease capital improvements under IC 5-1-17; and

(2) Issue bonds under terms and conditions determined by the authority and use the proceeds of the bonds to acquire any obligations issued by the northwest Indiana regional development authority established by IC 36-7.5-2-1.

SECTION 2. IC 4-4-11-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16. (a) There is created an industrial development project guaranty fund which shall be used by the authority as a nonlapsing, revolving fund for carrying out the provisions of the guaranty program. The industrial development project guaranty fund shall consist of such money as may be appropriated by the general assembly. To this sum shall be charged those expenses of the authority attributable and allocated by the authority to the authority's guaranty program, including interest, principal, and lease payments required by loan or lease defaults under the authority's guaranty program, and to the sum shall be credited that income of the authority attributable and allocated by the authority to the authority's guaranty program, including guarantee premiums.

(b) If the authority makes a written finding that the guarantee of a particular loan secured by, or lease of, real property or tangible or intangible personal property to or for the benefit of any industrial development project, mining operation, or agricultural operation that involves the processing of agricultural products would tend to accomplish the purposes of this chapter, including the creation or retention of employment in Indiana through the guarantee of the loan or lease, and if the authority shall further find that the proposed borrower or lessee cannot obtain the loan or lease upon reasonable terms, the authority may, under its guaranty program, guarantee the loan or lease upon such terms and conditions as the authority may prescribe. No new or additional guarantee of a loan or lease under this subsection or subsection (c) or (h) may be entered into if the guarantee would cause the outstanding aggregate guarantee obligations with respect to all loans and leases guaranteed under this subsection and subsections (c) and (h) to exceed eight (8) times the amount of money in the industrial development project guaranty fund. The amount of all guarantees by the authority of loans or leases to or for the benefit of any single industrial development project, mining operation, or agricultural operation that involves the processing of agricultural products shall not exceed two million dollars ($2,000,000), less the outstanding aggregate principal balance under any loans made and owed to the authority under subsection (h) to or for the benefit of the project or operation. A guarantee of either a loan secured by real estate or a real estate lease

shall not exceed ninety percent (90%) of the unpaid principal balance of the loan from time to time outstanding or ninety percent (90%) of the amount of any lease payment, as applicable, or ninety percent (90%) of the appraised fair market value of the real estate, whichever is less. A guarantee of a loan secured by personal property or of a personal property lease shall not exceed seventy-five percent (75%) of the unpaid principal balance of the loan from time to time outstanding or seventy-five percent (75%) of the amount of any lease payment, as applicable, or seventy-five percent (75%) of the fair market value of the personal property, whichever is less. A guarantee involving both real estate and personal property may not exceed the percentage proportionate to each type of property. To be eligible for a guarantee under this ~~section,~~ **subsection,** a loan or lease must:

(1) be one which is to be made to and held by a lender or lessor approved by the authority as responsible and able to service the loan or lease properly;

(2) involve a principal obligation or lease payments, as applicable, which may include initial service charges and appraisal, inspection, and other fees approved by the authority;

(3) have a maturity or term satisfactory to the authority but in no case later than twenty (20) years from the date of the guaranty;

(4) contain payment terms satisfactory to the authority requiring periodic payments by the developer or user which shall include principal and interest payments, cost of local property taxes and assessments, land lease rentals, if any, insurance on the property, as applicable, and such guarantee premiums as may be fixed by the authority; and

(5) contain such terms and provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens, and other matters as the authority may prescribe.

(c) The authority may guarantee an unsecured loan for:

(1) working capital purposes, if the authority determines, under criteria that it establishes, that the loan for working capital:

(A) is for an industrial development project, a mining operation, or an agricultural operation that involves the processing of agricultural products; and

(B) will lead directly to increased production or job creation or retention through sales of products or provision of services to federal, state, or local government, private businesses, or individuals, or through exports to foreign markets; or

(2) capital expenditures, if the authority determines, under criteria that the authority establishes, that the loan is for an industrial development project described in IC 4-4-10.9-11(b)(7).

The loan guarantee may not exceed five hundred thousand dollars ($500,000) for any single project or operation, and may be in addition to any other guarantees of the authority under this section. The guarantee terms must include a time limit for working capital loan guarantees that may not exceed eighteen (18) months. However, the guarantees are renewable. A loan guarantee may not exceed eighty percent (80%) of the unpaid principal balance from time to time outstanding of the loan being guaranteed. The authority may impose such additional terms as it considers appropriate for any particular project or operation.

(d) The authority is authorized to fix guarantee premiums for the guarantee under this section of any loan or lease outstanding at the beginning of each year or at the time the guarantee is entered into, and the authority is authorized to fix loan application, placement, origination, commitment, administrative, processing, or other fees or charges in connection with the authority's powers under subsection (h). These premiums, fees, or charges shall be payable in amounts or based upon formulas established by the authority and may be payable, at the election of the authority, in whole or in part, in the form of cash, shares of stock, warrants for the purchase of shares of stock, or other securities, property, or rights acceptable to the authority. These premiums, fees, or charges shall be payable by the developer or user to the authority in a manner prescribed by the authority.

(e) Notwithstanding section 19(a)(1) of this chapter, any guarantee made by the authority under subsection (b), (c), or (h) may be effected or enhanced, in whole or in part, through the provision by the authority of a letter of credit or an equivalent form of credit enhancement instrument. However, the maximum principal payment obligations of the authority under the credit instrument, as the same may be effective from time to time, is the amount of the guarantee or portion of the guarantee made under subsection (b), (c), or (h), and for purposes of the limitations on the amount of guarantees under subsection (b), (c), or (h), and the term of any letter of credit may not exceed the respective terms established for guarantees or loans under subsections (b), (c), and (h).

(f) Notwithstanding the provisions of any other law, loans or leases guaranteed or made by the authority are legal investments for all insurance companies, trust companies, banks, investment companies, savings banks, executors, trustees and other fiduciaries, and pension or retirement funds, as well as the board for depositories.

(g) To further the purposes of this chapter, and subject to this chapter, the authority may also use any part of the industrial development project guaranty fund to guarantee any bonds issued by the authority under this chapter or by any authorized issuer under IC 36-7-12. With regard to direct obligations of the authority that are also guaranteed by the authority, the authority may permit a subordination of any valid security agreement, mortgage, combinations thereof, or other appropriate documents securing the direct obligations if the authority in its discretion determines that the subordination is reasonably necessary to accomplish the objectives of the industrial development project undertaken by the authority.

(h) To further the purposes of this chapter, and in addition to the authority's other powers under this chapter, the authority may, upon a written finding as described in subsection (b), make direct loans,

from money in the industrial project guaranty fund, to or for the benefit of any industrial development project, mining operation, or agricultural operation that involves the processing of agricultural products, upon the terms and conditions that the authority may prescribe. No new or additional loan may be made if the loan would cause the then outstanding aggregate guarantee obligations with respect to all loans and leases guaranteed under this subsection and subsections (b) and (c) to exceed eight (8) times the amount of money then in the industrial development project guaranty fund, or would cause the then outstanding aggregate principal balance of all loans made under this subsection and then owing to the authority to exceed twenty percent (20%) of the amount of money then in the industrial development project guaranty fund. The principal amount of such a loan to or for the benefit of a project or operation may not exceed one million dollars ($1,000,000), less the then outstanding aggregate guarantee obligations with respect to any loans or leases guaranteed under this subsection and subsections (b) and (c) to or for the benefit of that project or operation. With respect to any loan made under this subsection, a loan agreement with the authority must contain the following terms:

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

(2) The term of the loan, which must not be later than twenty (20) years from the date of the loan.

(3) The repayment schedule.

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

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

In addition, a loan agreement with the authority under this subsection may also contain a requirement that the loan be insured directly or indirectly by a loan insurer or be guaranteed by a loan guarantor, and a requirement of any other type or types of security or collateral that the authority may consider to be reasonable or necessary. A loan made under this subsection may be sold by the authority, and the authority may permit other lenders to participate in a loan made under this subsection, at the time or times and upon the terms and conditions as the authority considers reasonable or necessary. A loan sold or in which other lenders participate may be guaranteed by the authority, upon terms and conditions established by the authority.

(i) All proceeds received by the authority from the disposal by sale or in some other manner of property it may have acquired in accordance with section 15 of this chapter and in connection with its guaranty program or otherwise under this section shall be credited to the industrial development project guaranty fund.

(j) Upon the issuance of a loan or a guarantee of a loan or lease, any expenses incurred by the authority in connection with the loan or guarantee or the projects or operations for which the loan or guarantee is being made shall be reimbursed to the authority by the borrower, in the case of a loan (to the extent not provided for under subsection (d)), or by the borrower, lender, lessee, or lessor, in the case of a guarantee of a loan or lease, from the proceeds of the loan or the payments under the lease or otherwise.

SECTION 3. IC 4-4-30-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The center for coal technology research is established to perform the following duties:

(1) Develop technologies that can use Indiana coal in an environmentally and economically sound manner.

(2) Investigate the reuse of clean coal technology byproducts, including fly ash.

(3) Generate innovative research in the field of coal use.

(4) Develop new, efficient, and economical sorbents for effective control of emissions.

(5) Investigate ways to increase coal combustion efficiency.

(6) Develop materials that withstand higher combustion temperatures.

(7) Carry out any other matter concerning coal technology research, including public education, as determined by the center.

(8) Administer the Indiana coal research grant fund under IC 4-23-5.5-16.

(9) Determine whether a building is a qualified building for purposes of a property tax deduction under IC 6-1.1-12-34.5.

SECTION 4. IC 4-13-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: 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.

(F) Information services.

(G) Telecommunication services.

The department may require state agencies to use these general services in the interests of economy and efficiency. The general services rotary fund, the telephone rotary fund, and the data processing rotary fund are established through which these services may be rendered to state agencies. The

budget agency shall determine the amount for each 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 policies and standards for making state owned property reasonably available to be used free of charge as locations for making motion pictures.

SECTION 5. IC 4-33-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 12.5. Distribution of Admissions Tax Revenue to Certain Municipalities

Sec. 1. As used in this chapter, "construction" has the meaning set forth in IC 8-14-1-1(4).

Sec. 2. As used in this chapter, "eligible municipalities" means the following cities and towns located in Lake County:

(1) Cedar Lake.

(2) Crown Point.

(3) Dyer.

(4) Griffith.

(5) Highland.

(6) Hobart.

(7) Lake Station.

(8) Lowell.

(9) Merrillville.

(10) Munster.

(11) New Chicago.

(12) St. John.

(13) Schererville.

(14) Schneider.

(15) Winfield.

(16) Whiting.

Sec. 3. As used in this chapter, "highways" has the meaning set forth in IC 8-14-1-1(3).

Sec. 4. As used in this chapter, "maintenance" has the meaning set forth in IC 8-14-1-1(6).

Sec. 5. As used in this chapter, "reconstruction" has the meaning set forth in IC 8-14-1-1(5).

Sec. 6. (a) The county described in IC 4-33-12-6(d) shall distribute twenty-five percent (25%) of the:

(1) admissions tax revenue received by the county under IC 4-33-12-6(d)(2); and

(2) supplemental distributions received under IC 4-33-13-5(g);

to the eligible municipalities.

(b) The amount that shall be distributed by the county to each eligible municipality under subsection (a) is based on the eligible municipality's proportionate share of the total population of all eligible municipalities. The most current certified census information available shall be used to determine an eligible municipality's proportionate share under this subsection. The determination of proportionate shares under this subsection shall be modified under the following

conditions:

(1) The certification from any decennial census completed by the United States Bureau of the Census.

(2) Submission by one (1) or more eligible municipalities of a certified special census commissioned by an eligible municipality and performed by the United States Bureau of the Census.

(c) If proportionate shares are modified under subsection (b), distribution to eligible municipalities shall change with the:

(1) payments beginning April 1 of the year following the certification of a special census under subsection (b)(2); and

(2) the next quarterly payment following the certification of a decennial census under subsection (b)(1).

Sec. 7. The county shall make payments under this chapter directly to each eligible municipality. The county shall make payments to the eligible municipalities not more than thirty (30) days after the county receives the quarterly distribution of admission tax revenue under IC 4-33-12-6 or the supplemental distributions received under IC 4-33-13-5(g) from the state.

Sec. 8. An eligible municipality may use money received from the county under this chapter only for the following infrastructure improvements:

(1) Construction, reconstruction, repair, maintenance, oiling, and sprinkling of highways and curbs.

(2) Separation of the grades of crossing of highways and railroads.

(3) Engineering, land acquisition, construction, resurfacing, maintenance, restoration, and rehabilitation of both local and arterial road and street systems.

(4) Payment of principal and interest on bonds sold primarily to finance road, street, or thoroughfare projects.

(5) Local costs required to undertake a recreational or reservoir road project under IC 8-23-5.

(6) Construction, equipment, remodeling, extension, repair, and betterment of structures, including the following:

(A) Sanitary sewers and sanitary sewer tap-ins.

(B) Sidewalks.

(C) Curbs.

(D) Streets.

(E) Alleys.

(F) Pedestrian-ways or malls set aside entirely, partly, or during restricted hours, for pedestrian traffic rather than vehicular traffic.

(G) Other paved public places.

(H) Parking facilities.

(I) Lighting.

(J) Electric signals.

(K) Landscaping, including trees, shrubbery, flowers, grass, fountains, benches, statues, floodlighting, gas lighting, and structures of a decorative, an educational, or a historical nature.

(7) Sewage works, including the following:

(A) Sewage treatment plants.

(B) Intercepting sewers.

(C) Main sewers.

(D) Submain sewers.

(E) Local sewers.

(F) Lateral sewers.

(G) Outfall sewers.

(H) Storm sewers.

(I) Force mains.

(J) Pumping stations.

(K) Ejector stations.

(L) Any other structures necessary or useful for the collection, treatment, purification, and sanitary disposal of the liquid waste, solid waste, sewage, storm drainage, and other drainage of a municipality.

SECTION 6. IC 5-1-17 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]:

Chapter 17. Indiana Stadium and Convention Building Authority

Sec. 1. As used in this chapter, "authority" refers to the Indiana stadium and convention building authority created by this chapter.

Sec. 2. As used in this chapter, "board" refers to the board of directors of the authority.

Sec. 3. As used in this chapter, "bonds" means bonds, notes, commercial paper, or other evidences of indebtedness. The term includes obligations (as defined in IC 8-9.5-9-3) and swap agreements (as defined in IC 8-9.5-9-4).

Sec. 4. As used in this chapter, "capital improvement board" refers to a capital improvement board of managers created by IC 36-10-8 or IC 36-10-9.

Sec. 5. As used in this chapter, "state agency" has the meaning set forth in IC 4-13.5-1-1.

Sec. 6. An Indiana stadium and convention building authority is created in Indiana as a separate body corporate and politic as an instrumentality of the state to acquire, construct, equip, own, lease, and finance facilities for lease to or for the benefit of a capital improvement board.

Sec. 7. (a) The board is composed of the following seven (7) members, who must be residents of Indiana:

(1) Four (4) members appointed by the governor. The president pro tempore of the senate and the speaker of the house of representatives may each make one (1) recommendation to the governor concerning the appointment of a member under this subdivision.

(2) Two (2) members appointed by the executive of a county having a consolidated city.

(3) One (1) member appointed by the governor, who has been nominated by the county fiscal body of a county that is contiguous to a county having a consolidated city, determined as follows:

(A) The member nominated for the initial term shall be

nominated by the contiguous county that has the largest population of all the contiguous counties that have adopted an ordinance to impose a food and beverage tax under IC 6-9-35.

(B) The member nominated for each successive term shall be nominated by the contiguous county that:

(i) contributed the most revenues from the tax imposed by IC 6-9-35 to the capital improvement board of managers created by IC 36-10-9-3 in the immediately previous calendar year; and

(ii) has not previously made a nomination to the governor or, if all the contributing counties have previously made such a nomination, is the one whose then most recent nomination occurred before those of all the other contributing counties.

(b) A member appointed under subsection (a)(1) through (a)(2) is entitled to serve a three (3) year term. A member appointed under subsection (a)(3) is entitled to serve a one (1) year term. A member may be reappointed to subsequent terms.

(c) If a vacancy occurs on the board, the governor shall fill the vacancy by appointing a new member for the remainder of the vacated term. If the vacated member was appointed under subsection (a)(2) or (a)(3), the governor shall appoint a new member who has been nominated by the person or body who made the nomination of the vacated member.

(d) A member may be removed for cause by the appointing authority.

(e) Each member, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the board.

(f) The governor shall nominate an executive director for the authority, subject to the veto authority of the executive of a county having a consolidated city.

Sec. 8. (a) The board shall hold an initial organizational meeting on or before June 30, 2005. Immediately after January 15 of each year, the board shall hold its annual organizational meeting.

(b) The governor shall appoint a member of the board to serve as chair of the board.

(c) The board shall elect one (1) of the members vice chair and another secretary-treasurer to perform the duties of those offices. These officers serve from the date of their election and until their successors are elected and qualified. The board may elect an assistant secretary-treasurer.

(d) Special meetings may be called by the chair of the board or any three (3) members of the board.

(e) A majority of the members constitutes a quorum, and the concurrence of a majority of the members is necessary to authorize any action.

Sec. 9. (a) The board may adopt the bylaws and rules it considers necessary for the proper conduct of its duties and the safeguarding of the funds and property entrusted to its care.

(b) The board shall, without complying with IC 4-22-2, adopt the code of ethics in executive order 05-12 for its members and employees.

Sec. 10. The authority is organized for the following purposes:

(1) Acquiring, financing, constructing, and leasing land and capital improvements to or for the benefit of a capital improvement board.

(2) Financing and constructing additional improvements to capital improvements owned by the authority and leasing them to or for the benefit of a capital improvement board.

(3) Acquiring land or all or a portion of one (1) or more capital improvements from a capital improvement board by purchase or lease and leasing the land or these capital improvements back to the capital improvement board, with any additional improvements that may be made to them.

(4) Acquiring all or a portion of one (1) or more capital improvements from a capital improvement board by purchase or lease to fund or refund indebtedness incurred on account of those capital improvements to enable the capital improvement board to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the capital improvement board considers to be unduly burdensome.

Sec. 11. (a) The authority may also:

(1) finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip land and capital improvements;

(2) lease the land or those capital improvements to a capital improvement board;

(3) sue, be sued, plead, and be impleaded;

(4) condemn, appropriate, lease, rent, purchase, and hold any real or personal property needed or considered useful in connection with capital improvements;

(5) acquire real or personal property by gift, devise, or bequest and hold, use, or dispose of that property for the purposes authorized by this chapter;

(6) after giving notice, enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a capital improvement;

(7) design, order, contract for, and construct, reconstruct, and renovate any capital improvements or improvements thereto;

(8) employ managers, superintendents, architects, engineers, attorneys, auditors, clerks, construction managers, and other employees;

(9) make and enter into all contracts and agreements, including agreements to arbitrate, that are necessary or incidental to the performance of its duties and the execution of its powers under this chapter;

(10) acquire in the name of the authority by the exercise of the right of condemnation, in the manner provided in subsection (c), public or private lands, or rights in lands,

rights-of-way, property, rights, easements, and interests, as it considers necessary for carrying out this chapter; and

(11) take any other action necessary to implement its purposes as set forth in section 10 of this chapter.

(b) The authority is subject to the provisions of 25 IAC 5 concerning equal opportunities for minority business enterprises and women's business enterprises to participate in procurement and contracting processes. In addition, the authority shall set a goal for participation by minority business enterprises of fifteen percent (15%) and women's business enterprises of five percent (5%), consistent with the goals of delivering the project on time and within the budgeted amount and, insofar as possible, using Indiana businesses for employees, goods, and services. In fulfilling the goal, the authority shall take into account historical precedents in the same market.

(c) If the authority is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this chapter, the authority may proceed to procure the condemnation of the property under IC 32-24-1. The authority may not institute a proceeding until the authority has adopted a resolution that:

(1) describes the real property sought to be acquired and the purpose for which the real property is to be used;

(2) declares that the public interest and necessity require the acquisition by the authority of the property involved; and

(3) sets out any other facts that the authority considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition and shall be referred to the attorney general for action, in the name of the authority, in the circuit or superior court of the county in which the real property is located.

Sec. 12. (a) Bonds issued under IC 36-10-8 or IC 36-10-9 or prior law may be refunded as provided in this section.

(b) A capital improvement board may:

(1) lease all or a portion of land or a capital improvement or improvements to the authority, which may be at a nominal lease rental with a lease back to the capital improvement board, conditioned upon the authority assuming bonds issued under IC 36-10-8 or IC 36-10-9 or prior law and issuing its bonds to refund those bonds; and

(2) sell all or a portion of land or a capital improvement or improvements to the authority for a price sufficient to provide for the refunding of those bonds and lease back the land or capital improvement or improvements from the authority.

Sec. 13. (a) Before a lease may be entered into by a capital improvement board under this chapter, the capital improvement board must find that the lease rental provided for is fair and reasonable.

(b) A lease or sublease of land or capital improvements from the authority, or from a state agency under section 26 of this chapter, to a capital improvement board:

(1) may not have a term exceeding forty (40) years;

(2) may not require payment of lease rentals for a newly constructed capital improvement or for improvements to an existing capital improvement until the capital improvement or improvements thereto have been completed and are ready for occupancy;

(3) may contain provisions:

(A) allowing the capital improvement board to continue to operate an existing capital improvement until completion of the improvements, reconstruction, or renovation of that capital improvement or any other capital improvement; and

(B) requiring payment of lease rentals for land, for an existing capital improvement being used, reconstructed, or renovated, or for any other existing capital improvement;

(4) may contain an option to renew the lease for the same or shorter term on the conditions provided in the lease;

(5) must contain an option for the capital improvement board to purchase the capital improvement upon the terms stated in the lease:

(A) during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the capital improvement, including indebtedness incurred for the refunding of that indebtedness; or

(B) for one dollar ($1) after the term of the lease, if all indebtedness incurred on account of the capital improvement, including indebtedness incurred for the refunding of that indebtedness, is no longer outstanding;

(6) may be entered into before acquisition or construction of a capital improvement;

(7) may provide that the capital improvement board shall agree to:

(A) pay all taxes and assessments thereon;

(B) maintain insurance thereon for the benefit of the authority;

(C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and

(D) pay a deposit or series of deposits to the authority from any funds legally available to the capital improvement board before the commencement of the lease to secure the performance of the capital improvement board's obligations under the lease;

(8) subject to IC 36-10-8-13 and IC 36-10-9-11, may provide that the lease rental payments by the capital improvement board shall be made from:

(A) proceeds of one (1) or more of the excise taxes as defined in IC 36-10-8 or IC 36-10-9;

(B) proceeds of the county supplemental auto rental excise tax imposed under IC 6-6-9.7;

(C) that part of the proceeds of the county food and beverage tax imposed under IC 6-9-35, which the

capital improvement board or its designee receives pursuant thereto;

(D) revenue captured under IC 36-7-31;

(E) net revenues of the capital improvement;

(F) any other funds available to the capital improvement board; or

(G) any combination of the sources described in clauses (A) through (F);

(9) subject to subdivision (10), must provide that the capital improvement board is solely responsible for the operation and maintenance of the capital improvement upon completion of construction, including the negotiation and maintenance of agreements with tenants or users of the capital improvement;

(10) must provide that, during the term of the lease, the authority retains the right to approve any lease agreements and amendments to any lease agreements between the capital improvement board and any National Football League franchised professional football team that will use the capital improvement;

(11) must provide that:

(A) subject to the terms of the lease, the capital improvement board will retain all revenues from operation of the capital improvement; and

(B) the authority has no responsibility to fund the ongoing maintenance and operations of the capital improvement; and

(12) with respect to a capital improvement that is subject to the county admissions tax imposed by IC 6-9-13, must provide that upon request of the authority the capital improvement board will impose a fee:

(A) not to exceed three dollars ($3), as determined by the authority, for each admission to a professional sporting event described in IC 6-9-13-1; and

(B) not to exceed one dollar ($1), as determined by the authority, for each admission to any other event described in IC 6-9-13-1;

and, so long as there are any current or future obligations owed by the capital improvement board to the authority or any state agency pursuant to a lease or other agreement entered into between the capital improvement board and the authority or any state agency under section 26 of this chapter, the capital improvement board or its designee shall deposit the revenues received from the fee imposed under this subdivision in a special fund, which may be used only for the payment of the obligations described in this subdivision.

(c) A capital improvement board may designate the authority as its agent to receive on behalf of the capital improvement board any of the revenues identified in subsection (b)(8).

(d) All information prepared by the capital improvement board or a political subdivision served by the capital improvement board with respect to a capital improvement proposed to be financed under this chapter, including a construction budget and timeline, must be provided to the budget director. Any information described in this subsection that was prepared before May 15, 2005, must be provided to the budget director not later than May 15, 2005.

Sec. 14. This chapter contains full and complete authority for leases between the authority and a capital improvement board. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the board or the capital improvement board or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any lease, except as prescribed in this chapter.

Sec. 15. If the lease provides for a capital improvement or improvements thereto to be constructed by the authority, the plans and specifications shall be submitted to and approved by all agencies designated by law to pass on plans and specifications for public buildings.

Sec. 16. The authority and a capital improvement board may enter into common wall (party wall) agreements or other agreements concerning easements or licenses. These agreements shall be recorded with the recorder of the county in which the capital improvement is located.

Sec. 17. (a) A capital improvement board may lease for a nominal lease rental, or sell to the authority, one (1) or more capital improvements or portions thereof or land upon which a capital improvement is located or is to be constructed.

(b) Any lease of all or a portion of a capital improvement by a capital improvement board to the authority must be for a term equal to the term of the lease of that capital improvement back to the capital improvement board.

(c) A capital improvement board may sell property to the authority.

Sec. 18. (a) Subject to subsection (h), the authority may issue bonds for the purpose of obtaining money to pay the cost of:

(1) acquiring real or personal property, including existing capital improvements;

(2) constructing, improving, reconstructing, or renovating one (1) or more capital improvements; or

(3) funding or refunding bonds issued under IC 36-10-8 or IC 36-10-9 or prior law.

(b) The bonds are payable from the lease rentals from the lease of the capital improvements for which the bonds were issued, insurance proceeds, and any other funds pledged or available.

(c) The bonds shall be authorized by a resolution of the board.

(d) The terms and form of the bonds shall either be set out in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds shall mature within forty (40) years.

(f) The board shall sell the bonds at public or private sale upon the terms determined by the board.

(g) All money received from any bonds issued under this

chapter shall be applied to the payment of the cost of the acquisition or construction, or both, of capital improvements, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

(1) planning and development of the facility and all buildings, facilities, structures, and improvements related to it;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the capital improvement suitable for use and operations;

(4) architectural, engineering, consultant, and attorney's fees;

(5) incidental expenses in connection with the issuance and sale of bonds;

(6) reserves for principal and interest;

(7) interest during construction;

(8) financial advisory fees;

(9) insurance during construction;

(10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and

(11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (if any) for, and interest on, the bonds being refunded or refinanced.

(h) The authority may not issue bonds under this chapter unless the authority first finds that the following conditions are met:

(1) Each contract or subcontract for the construction of a facility and all buildings, facilities, structures, and improvements related to that facility to be financed in whole or in part through the issuance of the bonds:

(A) requires payment of the common construction wage required by IC 5-16-7; and

(B) requires the contractor or subcontractor to enter into a project labor agreement as a condition of being awarded and performing work on the contract.

(2) The capital improvement board and the authority have entered into a written agreement concerning the terms of the financing of the facility. This agreement must include the following provisions:

(A) Notwithstanding any other law, if the capital improvement board selected a construction manager and an architect for a facility before May 15, 2005, the authority will contract with that construction manager and architect and use plans as developed by that construction manager and architect. In addition, any other agreements entered into by the capital improvement board or a political subdivision served by the capital improvement board with respect to the design and construction of the facility will be reviewed by a selection committee consisting of:

(i) two (2) of the members appointed to the board of directors of the authority under section 7(a)(1) of this chapter, as designated by the governor;

(ii) the two (2) members appointed to the board of directors of the authority under section 7(a)(2) of this chapter; and

(iii) the executive director of the authority.

The selection committee is not bound by any prior commitments of the capital improvement board or the political subdivision, other than the general project design, and will approve all contracts necessary for the design and construction of the facility.

(B) If before May 15, 2005, the capital improvement board acquired any land, plans, or other information necessary for the facility and the board had budgeted for these items, the capital improvement board will transfer the land, plans, or other information useful to the authority for a price not to exceed the lesser of:

(i) the actual cost to the capital improvement board; or

(ii) three million five hundred thousand dollars ($3,500,000).

(C) The capital improvement board agrees to take any legal action that the authority considers necessary to facilitate the financing of the facility, including entering into agreements during the design and construction of the facility or a sublease of a capital improvement to any state agency that is then leased by the authority to any state agency under section 26 of this chapter.

(D) The capital improvement board is prohibited from taking any other action with respect to the financing of the facility without the prior approval of the authority. The authority is not bound by the terms of any agreement entered into by the capital improvement board with respect to the financing of the facility without the prior approval of the authority.

(E) As the project financier, the Indiana development finance authority (or its successor agency) and the public finance director will be responsible for selecting all investment bankers, bond counsel, trustees, and financial advisors.

(F) The capital improvement board agrees to deliver to the authority the one hundred million dollars ($100,000,000) that is owed to the capital improvement board, the consolidated city, or the county having a consolidated city pursuant to an agreement between the National Football League franchised professional football team and the capital improvement board, the consolidated city, or the county. This amount shall be applied to the cost of construction for the stadium part of the facility. This amount does not have to be delivered until a lease is entered into for the stadium between the authority and the capital improvement board.

(G) The authority agrees to consult with the staff of the capital improvement board on an as needed basis during the design and construction of the facility, and the capital improvement board agrees to make its staff available for this purpose.

(H) The authority, the county, the consolidated city, the capital improvement board and the National Football League franchised professional football team must commit to using their best efforts to assist and cooperate with one another to design and construct the facility on time and on budget.

(3) The capital improvement board and the National Football League franchised professional football team have entered into a lease for the stadium part of the facility that has been approved by the authority and has a term of at least thirty (30) years.

Sec. 19. This chapter contains full and complete authority for the issuance of bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the board or any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds, except as prescribed in this chapter.

Sec. 20. Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.

Sec. 21. (a) The authority may secure bonds issued under this chapter by a trust indenture between the authority and a corporate trustee, which may be any trust company or national or state bank within Indiana that has trust powers.

(b) The trust indenture may:

(1) pledge or assign lease rentals, receipts, and income from leased capital improvements, but may not mortgage land or capital improvements;

(2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the authority and board;

(3) set forth the rights and remedies of bondholders and trustee; and

(4) restrict the individual right of action of bondholders.

(c) Any pledge or assignment made by the authority under this section is valid and binding from the time that the pledge or assignment is made, against all persons whether or not they have notice of the lien. Any trust indenture by which a pledge is created or an assignment made need not be filed or recorded. The lien is perfected against third parties by filing the trust indenture in the records of the board.

Sec. 22. If a capital improvement board exercises its option to purchase leased property, it may issue its bonds as authorized by statute.

Sec. 23. All:

(1) property owned by the authority;

(2) revenues of the authority; and

(3) bonds issued by the authority, the interest on the bonds, the proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of interest in proceeds;

are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

Sec. 24. Any action to contest the validity of bonds to be issued under this chapter may not be brought after the fifteenth day following:

(1) the receipt of bids for the bonds, if the bonds are sold at public sale; or

(2) the publication one (1) time in a newspaper of general circulation published in the county of notice of the execution and delivery of the contract for the sale of bonds;

whichever occurs first.

Sec. 25. The authority shall not issue bonds in a principal amount exceeding five hundred million dollars ($500,000,000) to finance any capital improvement in a county having a consolidated first class city unless:

(1) on or before June 30, 2005, the county fiscal body:

(A) increases the rate of the tax authorized by IC 6-6-9.7 by the maximum amount authorized by IC 6-6-9.7-7(c);

(B) increases the rate of the tax authorized by IC 6-9-8 by the maximum amount authorized by IC 6-9-8-3(d);

(C) increases the rate of tax authorized by IC 6-9-12 by the maximum amount authorized by IC 6-9-12-5(b); and

(D) increases the rate of the tax authorized by IC 6-9-13 by the maximum amount authorized by IC 6-9-13-2(b); and

(2) on or before October 1, 2005, the budget director makes a determination under IC 36-7-31-14.1 to increase the amount of money captured in a tax area established under IC 36-7-31 by up to eleven million dollars ($11,000,000) per year, commencing July 1, 2007.

Sec. 26. (a) Notwithstanding any other law, any capital improvement that may be leased by the authority to a capital improvement board under this chapter may also be leased by the authority to any state agency to accomplish the purposes of this chapter. Any lease between the authority and a state agency under this chapter:

(1) must set forth the terms and conditions of the use and occupancy under the lease;

(2) must set forth the amounts agreed to be paid at stated intervals for the use and occupancy under the lease;

(3) must provide that the state agency is not obligated to continue to pay for the use and occupancy under the lease but is instead required to vacate the facility if it is shown that the terms and conditions of the use and occupancy and the amount to be paid for the use and occupancy are unjust and unreasonable considering the value of the services and facilities thereby afforded;

(4) must provide that the state agency is required to vacate the facility if funds have not been appropriated or are not available to pay any sum agreed to be paid for use and occupancy when due;

(5) may provide for such costs as maintenance, operations, taxes, and insurance to be paid by the state agency;

(6) may contain an option to renew the lease;

(7) may contain an option to purchase the facility for an amount equal to the amount required to pay the principal and interest of indebtedness of the authority incurred on account of the facility and expenses of the authority attributable to the facility;

(8) may provide for payment of sums for use and occupancy of an existing capital improvement being used by the state agency, but may not provide for payment of sums for use and occupancy of a new capital improvement until the construction of the capital improvement or portion thereof has been completed and the new capital improvement or a portion thereof is available for use and occupancy by the state agency; and

(9) may contain any other provisions agreeable to the authority and the state agency.

(b) Any state agency that leases a capital improvement from the authority under this chapter may sublease the capital improvement to a capital improvement board under the terms and conditions set forth in section 13(a) of this chapter, section 13(b)(1) through 13(b)(4) of this chapter, section 13(b)(6) through 13(b)(8) of this chapter, and section 13(c) of this chapter.

(c) Notwithstanding any other law, in anticipation of the construction of any capital improvement and the lease of that capital improvement by the authority to a state agency, the authority may acquire an existing facility owned by the state agency and then lease the facility to the state agency. A lease made under this subsection shall describe the capital improvement to be constructed and may provide for the payment of rent by the state agency for the use of the existing facility. If such rent is to be paid pursuant to the lease, the lease shall provide that upon completion of the construction of the capital improvement, the capital improvement shall be substituted for the existing facility under the lease. The rent required to be paid by the state agency pursuant to the lease shall not constitute a debt of the state for purposes of the Constitution of the State of Indiana. A lease entered into under this subsection is subject to the same requirements for a lease entered into under subsection (a) with respect to both the existing facility and the capital improvement anticipated to be constructed.

(d) This chapter contains full and complete authority for leases between the authority and a state agency and subleases between a state agency and a capital improvement board. No laws, procedures, proceedings, publications, notices, consents, approvals, orders, or acts by the board, the governing body of any state agency or the capital improvement board or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any such lease or sublease, except as prescribed in this chapter.

Sec. 27. In order to enable the authority to lease a capital improvement or existing facility to a state agency under section 26 of this chapter, the governor may convey, transfer, or sell, with or without consideration, real property (including the buildings, structures, and improvements), title to which is held in the name of the state, to the authority, without being required to advertise or solicit bids or proposals, in order to accomplish the governmental purposes of this chapter.

Sec. 28. If the authority enters into a lease with a capital improvement board under section 13 of this chapter or a state agency under section 26 of this chapter, which then enters into a sublease with a capital improvement board under section 26(b) of this chapter, and the rental payments owed by the capital improvement board to the authority under the lease or to the state agency under the sublease are payable from the taxes described in section 25 of this chapter or from the taxes authorized under IC 6-9-35, the budget director may choose the designee of the capital improvement board, which shall receive and deposit the revenues derived from such taxes. The designee shall hold the revenues on behalf of the capital improvement board pursuant to an agreement between the authority and the capital improvement board or between a state agency and the capital improvement board. The agreement shall provide for the application of the revenues in a manner that does not adversely affect the validity of the lease or the sublease, as applicable.

SECTION 7. IC 5-28-15-3, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. As used in this chapter, "zone business" means an entity that accesses at least one (1) tax credit, **deduction,** or exemption incentive available under this chapter, IC 6-1.1-20.8, ~~or~~ **IC 6-1.1-45,** IC 6-3-3-10, **IC 6-3.1-7, or IC 6-3.1-10.**

SECTION 8. IC 5-28-15-5, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The board has the following powers, in addition to other powers that are contained in this chapter:

(1) To review and approve or reject all applicants for enterprise zone designation, according to the criteria for designation that this chapter provides.

(2) To waive or modify rules as provided in this chapter.

(3) To provide a procedure by which enterprise zones may be monitored and evaluated on an annual basis.

(4) To adopt rules for the disqualification of a zone business from eligibility for any or all incentives available to zone businesses, if that zone business does not do one (1) of the following:

(A) If all its incentives, as contained in the summary required under section 7 of this chapter, exceed one thousand dollars ($1,000) in any year, pay a registration fee to the board in an amount equal to one percent (1%) of all its incentives.

(B) Use all its incentives, except for the amount of the registration fee, for its property or employees in the zone.

(C) Remain open and operating as a zone business for twelve (12) months of the assessment year for which the incentive is claimed.

(5) To disqualify a zone business from eligibility for any or all incentives available to zone businesses in accordance with the procedures set forth in the board's rules.

(6) After a recommendation from a U.E.A., to modify an enterprise zone boundary if the board determines that the modification:

(A) is in the best interests of the zone; and

(B) meets the threshold criteria and factors set forth in section 9 of this chapter.

(7) To employ staff and contract for services.

(8) To receive funds from any source and expend the funds for the administration and promotion of the enterprise zone program.

(9) To make determinations under IC 6-3.1-11 concerning the designation of locations as industrial recovery sites and the availability of the credit provided by IC 6-1.1-20.7 to persons owning inventory located on an industrial recovery site.

(10) To make determinations under IC 6-1.1-20.7 and IC 6-3.1-11 concerning the disqualification of persons from claiming credits provided by those chapters in appropriate cases.

(11) To make determinations under IC 6-3.1-11.5 concerning the designation of locations as military base recovery sites and the availability of the credit provided by IC 6-3.1-11.5 to persons making qualified investments in military base recovery sites.

(12) To make determinations under IC 6-3.1-11.5 concerning the disqualification of persons from claiming the credit provided by IC 6-3.1-11.5 in appropriate cases.

(b) In addition to a registration fee paid under subsection (a)(4)(A), each zone business that receives ~~a credit under~~ **an incentive described in section 3 of** this chapter shall assist the zone U.E.A. in an amount determined by the legislative body of the municipality in which the zone is located. If a zone business does not assist a U.E.A., the legislative body of the municipality in which the zone is located may pass an ordinance disqualifying a zone business from eligibility for all credits or incentives available to zone businesses. If a legislative body disqualifies a zone business under this subsection, the legislative body shall notify the board, the department of local government finance, and the department of state revenue in writing not more than thirty (30) days after the passage of the ordinance disqualifying the zone business. Disqualification of a zone business under this section is effective beginning with the taxable year in which the ordinance disqualifying the zone business is adopted.

SECTION 9. IC 5-28-15-6, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The enterprise zone fund is established within the state treasury.

(b) The fund consists of:

(1) the revenue from the registration fee required under section 5 of this chapter; and

(2) appropriations from the general assembly.

(c) The corporation shall administer the fund. The fund may be used to:

(1) pay the expenses of administering the fund;

(2) pay nonrecurring administrative expenses of the enterprise zone program; ~~and~~

(3) provide grants to U.E.A.s for brownfield remediation in enterprise zones; **and**

(4) pay administrative expenses of urban enterprise associations.

However, money in the fund may not be expended unless it has been appropriated by the general assembly and allotted by the budget agency.

(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 funds may be invested. Interest that accrues from these investments shall be deposited in the state general fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund. The corporation shall develop appropriate applications and may develop grant allocation guidelines, without complying with IC 4-22-2, for awarding grants under this subsection. The grant allocation guidelines must take into consideration the competitive impact of brownfield redevelopment plans on existing zone businesses.

SECTION 10. IC 6-1.1-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 11. (a) Subject to the limitation contained in subsection (b), "personal property" means:

(1) nursery stock that has been severed from the ground;

(2) florists' stock of growing crops which are ready for sale as pot plants on benches;

(3) billboards and other advertising devices which are located on real property that is not owned by the owner of the devices;

(4) motor vehicles, mobile houses, airplanes, boats not subject to the boat excise tax under IC 6-6-11, and trailers not subject to the trailer tax under IC 6-6-5;

(5) foundations (other than foundations which support a building or structure) on which machinery or equipment is installed; and

(6) all other tangible property (other than real property) which

is being:

(A) held for sale in the ordinary course of a trade or business;

(B) held, used, or consumed in connection with the production of income; or

(C) held as an investment.

(b) Personal property does not include **the following:**

(1) Commercially planted and growing crops while they are in the ground.

(2) Computer application software that is not held as inventory (as defined in IC 6-1.1-3-11).

SECTION 11. IC 6-1.1-12-34.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 34.5. (a) As used in this section, "coal combustion product" has the meaning set forth in IC 6-1.1-44-1.**

(b) As used in this section, "qualified building" means a building designed and constructed to systematically use qualified materials throughout the building.

(c) For purposes of this section, building materials are "qualified materials" if at least sixty percent (60%) of the materials' dry weight consists of coal combustion products.

(d) The owner of a qualified building, as determined by the center for coal technology research, is entitled to a property tax deduction for not more than three (3) years. The amount of the deduction equals the product of:

(1) the assessed value of the qualified building; multiplied by

(2) five percent (5%).

SECTION 12. IC 6-1.1-12-35.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 35.5. (a) Except as provided in section 36 of this chapter, a person who desires to claim the deduction provided by section 31, 33, ~~or~~ 34, **or 34.5** of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, and proof of certification under subsection (b) **or (f)** with the auditor of the county in which the property for which the deduction is claimed is subject to assessment. Except as provided in subsection (e), with respect to property that is not assessed under IC 6-1.1-7, the person must file the statement between March 1 and May 10, inclusive, of the assessment year. The person must file the statement in each year for which ~~he~~ **the person** desires to obtain the deduction. With respect to a property which is assessed under IC 6-1.1-7, the person must file the statement between January 15 and March 31, inclusive, of each year for which ~~he~~ **the person** desires to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. On verification of the statement by the assessor of the township in which the property for which the deduction is claimed is subject to assessment, the county auditor shall allow the deduction.

(b) **This subsection does not apply to an application for a deduction under section 34.5 of this chapter.** The department of environmental management, upon application by a property owner, shall determine whether a system or device qualifies for a deduction provided by section 31, 33, or 34 of this chapter. If the department determines that a system or device qualifies for a deduction, it shall certify the system or device and provide proof of the certification to the property owner. The department shall prescribe the form and manner of the certification process required by this subsection.

(c) **This subsection does not apply to an application for a deduction under section 34.5 of this chapter.** If the department of environmental management receives an application for certification before April 10 of the assessment year, the department shall determine whether the system or device qualifies for a deduction before May 10 of the assessment year. If the department fails to make a determination under this subsection before May 10 of the assessment year, the system or device is considered certified.

(d) A denial of a deduction claimed under section 31, 33, ~~or~~ 34, **or 34.5** of this chapter may be appealed as provided in IC 6-1.1-15. The appeal is limited to a review of a determination made by the township assessor, county property tax assessment board of appeals, or department of local government finance.

(e) A person who timely files a personal property return under IC 6-1.1-3-7(a) for an assessment year and who desires to claim the deduction provided in section 31 of this chapter for property that is not assessed under IC 6-1.1-7 must file the statement described in subsection (a) between March 1 and May 15, inclusive, of that year. A person who obtains a filing extension under IC 6-1.1-3-7(b) for an assessment year must file the application between March 1 and the extended due date for that year.

(f) This subsection applies only to an application for a deduction under section 34.5 of this chapter. The center for coal technology research established by IC 4-4-30-5, upon receiving an application from the owner of a building, shall determine whether the building qualifies for a deduction under section 34.5 of this chapter. If the center determines that a building qualifies for a deduction, the center shall certify the building and provide proof of the certification to the owner of the building. The center shall prescribe the form and procedure for certification of buildings under this subsection. If the center receives an application for certification of a building under section 34.5 of this chapter before April 10 of an assessment year:

(1) the center shall determine whether the building qualifies for a deduction before May 10 of the assessment year; and

(2) if the center fails to make a determination before May 10 of the assessment year, the building is considered certified.

SECTION 13. IC 6-1.1-12-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 36. (a) A person who receives a deduction provided under section 26, 29, 33, 34, **34.5,** or 38 of this chapter for a particular year and who remains eligible for the deduction for the following year is not required to file a statement to apply for the deduction for the following year.

(b) A person who receives a deduction provided under section 26, 29, 33, 34, **34.5,** or 38 of this chapter for a particular year and

who becomes ineligible for the deduction for the following year shall notify the auditor of the county in which the real property or mobile home for which ~~he~~ **the person** received the deduction is located of ~~his~~ **the person's** ineligibility before March 31 of the year for which ~~he~~ **the person** becomes ineligible.

(c) The auditor of each county shall, in a particular year, apply a deduction provided under section 26, 29, 33, 34, **34.5,** or 38 of this chapter to each person who received the deduction in the preceding year unless the auditor determines that the person is no longer eligible for the deduction.

SECTION 14. IC 6-1.1-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) Annually, after November 10th but ~~prior to~~ **before** August 1st of the succeeding year, each county treasurer shall serve a written demand upon each county resident who is delinquent in the payment of personal property taxes. **Annually, after May 10 but before October 31 of the same year, each county treasurer may serve a written demand upon a county resident who is delinquent in the payment of personal property taxes.** The written demand may be served upon the taxpayer:

(1) by registered or certified mail;

(2) in person by the county treasurer or the county treasurer's agent; or

(3) by proof of certificate of mailing.

(b) The written demand required by this section shall contain:

(1) a statement that the taxpayer is delinquent in the payment of personal property taxes;

(2) the amount of the delinquent taxes;

(3) the penalties due on the delinquent taxes;

(4) the collection expenses which the taxpayer owes; and

(5) a statement that if the sum of the delinquent taxes, penalties, and collection expenses are not paid within thirty (30) days from the date the demand is made then:

(A) sufficient personal property of the taxpayer shall be sold to satisfy the total amount due plus the additional collection expenses incurred; or

(B) a judgment may be entered against the taxpayer in the circuit court of the county.

(c) Subsections (d) through (g) apply only to personal property that:

(1) is subject to a lien of a creditor imposed under an agreement entered into between the debtor and the creditor after June 30, 2005;

(2) comes into the possession of the creditor or the creditor's agent after May 10, 2006, to satisfy all or part of the debt arising from the agreement described in subdivision (1); and

(3) has an assessed value of at least three thousand two hundred dollars ($3,200).

(d) For the purpose of satisfying a creditor's lien on personal property, the creditor of a taxpayer that comes into possession of personal property on which the taxpayer is adjudicated delinquent in the payment of personal property taxes must pay in full to the county treasurer the amount of the delinquent personal property taxes determined under STEP SEVEN of the following formula from the proceeds of any transfer of the personal property made by the creditor or the creditor's agent before applying the proceeds to the creditor's lien on the personal property:

STEP ONE: Determine the amount realized from any transfer of the personal property made by the creditor or the creditor's agent after the payment of the direct costs of the transfer.

STEP TWO: Determine the amount of the delinquent taxes, including penalties and interest accrued on the delinquent taxes as identified on the form described in subsection (f) by the county treasurer.

STEP THREE: Determine the amount of the total of the unpaid debt that is a lien on the transferred property that was perfected before the assessment date on which the delinquent taxes became a lien on the transferred property.

STEP FOUR: Determine the sum of the STEP TWO amount and the STEP THREE amount.

STEP FIVE: Determine the result of dividing the STEP TWO amount by the STEP FOUR amount.

STEP SIX: Multiply the STEP ONE amount by the STEP FIVE amount.

STEP SEVEN: Determine the lesser of the following:

(A) The STEP TWO amount.

(B) The STEP SIX amount.

(e) This subsection applies to transfers made by a creditor after May 10, 2006. As soon as practicable after a creditor comes into possession of the personal property described in subsection (c), the creditor shall request the form described in subsection (f) from the county treasurer. Before a creditor transfers personal property described in subsection (d) on which delinquent personal property taxes are owed, the creditor must obtain from the county treasurer a delinquent personal property tax form and file the delinquent personal property tax form with the county treasurer. The creditor shall provide the county treasurer with:

(1) the name and address of the debtor; and

(2) a specific description of the personal property described in subsection (d);

when requesting a delinquent personal property tax form.

(f) The delinquent personal property tax form must be in a form prescribed by the state board of accounts under IC 5-11 and must require the following information:

(1) The name and address of the debtor as identified by the creditor.

(2) A description of the personal property identified by the creditor and now in the creditor's possession.

(3) The assessed value of the personal property identified by the creditor and now in the creditor's possession, as determined under subsection (g).

(4) The amount of delinquent personal property taxes owed on the personal property identified by the creditor

and now in the creditor's possession, as determined under subsection (g).

(5) A statement notifying the creditor that IC 6-1.1-23-1 requires that a creditor, upon the liquidation of personal property for the satisfaction of the creditor's lien, must pay in full the amount of delinquent personal property taxes owed as determined under subsection (d) on the personal property in the amount identified on this form from the proceeds of the liquidation before the proceeds of the liquidation may be applied to the creditor's lien on the personal property.

(g) The county treasurer shall provide the delinquent personal property tax form described in subsection (f) to the creditor not later than fourteen (14) days after the date the creditor requests the delinquent personal property tax form. The county and township assessors shall assist the county treasurer in determining the appropriate assessed value of the personal property and the amount of delinquent personal property taxes owed on the personal property. Assistance provided by the county and township assessors must include providing the county treasurer with relevant personal property forms filed with the assessors and providing the county treasurer with any other assistance necessary to accomplish the purposes of this section.

SECTION 15. IC 6-1.1-31-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. (a) With respect to the assessment of personal property, the rules of the department of local government finance shall provide for the classification of personal property on the basis of:

(1) date of purchase;

(2) location;

(3) use;

(4) depreciation, obsolescence, and condition; and

(5) any other factor that the department determines by rule is just and proper.

(b) With respect to the assessment of personal property, the rules of the department of local government finance shall include instructions for determining:

(1) the proper classification of personal property;

(2) the effect that location has on the value of personal property;

(3) the cost of reproducing personal property;

(4) the depreciation, including physical deterioration and obsolescence, of personal property;

(5) the productivity or earning capacity of mobile homes regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more;

(6) **the true tax value of mobile homes assessed under IC 6-1.1-7 (other than mobile homes subject to the preferred valuation method under IC 6-1.1-4-39(b)) as the least of the values determined using the following:**

(A) The National Automobile Dealers Association Guide.

(B) The purchase price of a mobile home if:

(i) the sale is of a commercial enterprise nature; and

(ii) the buyer and seller are not related by blood or marriage.

(C) Sales data for generally comparable mobile homes; ~~and~~

(7) the true tax value at the time of acquisition of computer application software, for the purpose of deducting the value of computer application software from the acquisition cost of tangible personal property whenever the value of the tangible personal property that is recorded on the taxpayer's books and records reflects the value of the computer application software; and

~~(7)~~ **(8)** the true tax value of personal property based on the factors listed in this subsection and any other factor that the department determines by rule is just and proper.

(c) In providing for the classification of personal property and the instructions for determining the items listed in subsection (b), the department of local government finance shall not include the value of land as a cost of producing tangible personal property subject to assessment.

(d) With respect to the assessment of personal property, true tax value does not mean fair market value. Subject to this article, true tax value is the value determined under rules of the department of local government finance.

SECTION 16. IC 6-1.1-45 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]:

Chapter 45. Enterprise Zone Investment Deduction

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

Sec. 2. "Base year assessed value" equals the total assessed value of the real and personal property assessed at an enterprise zone location on the assessment date in the calendar year immediately preceding the calendar year in which a taxpayer makes a qualified investment with respect to the enterprise zone location.

Sec. 3. "Corporation" refers to the Indiana economic development corporation established under IC 5-28-3-1.

Sec. 4. "Enterprise zone" refers to an enterprise zone created under IC 5-28-15.

Sec. 5. "Enterprise zone location" means a lot, parcel, or tract of land located in an enterprise zone.

Sec. 6. "Enterprise zone property" refers to real and tangible personal property that is located within an enterprise zone on an assessment date.

Sec. 7. As used in this chapter, "qualified investment" means any of the following expenditures relating to an enterprise zone location on which a taxpayer's zone business is located:

(1) The purchase of a building.

(2) The purchase of new manufacturing or production equipment.

(3) Costs associated with the repair, rehabilitation, or modernization of an existing building and related improvements.

(4) Onsite infrastructure improvements.

(5) The construction of a new building.

(6) Costs associated with retooling existing machinery.

Sec. 8. "Zone business" has the meaning set forth in IC 5-28-15-3.

Sec. 9. (a) A taxpayer that makes a qualified investment is entitled to a deduction from the assessed value of the taxpayer's enterprise zone property located at the enterprise zone location for which the taxpayer made the qualified investment. The amount of the deduction is equal to the remainder of:

(1) the total amount of the assessed value of the taxpayer's enterprise zone property assessed at the enterprise zone location on a particular assessment date; minus

(2) the total amount of the base year assessed value for the enterprise zone location.

(b) To receive the deduction allowed under subsection (a) for a particular year, a taxpayer must comply with the conditions set forth in this chapter.

Sec. 10. (a) A taxpayer that desires to claim the deduction provided by section 9 of this chapter for a particular year shall file a certified application, on forms prescribed by the department of local government finance, with the auditor of the county where the property for which the deduction is claimed was located on the assessment date. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The application must be filed before May 10 of the assessment year to obtain the deduction.

(b) A taxpayer shall include on an application filed under this section all information that the department of local government finance and the corporation require to determine eligibility for the deduction provided under this chapter.

Sec. 11. (a) The county auditor shall determine the eligibility of each applicant under this chapter and shall notify the applicant of the determination before August 15 of the year in which the application is made.

(b) A person may appeal the determination of the county auditor under subsection (a) by filing a complaint in the office of the clerk of the circuit or superior court not later than forty-five (45) days after the county auditor gives the person notice of the determination.

Sec. 12. A taxpayer may not claim a deduction under this chapter for more than ten (10) years.

SECTION 17. IC 6-3.1-7-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. The department shall annually compile and report to the Indiana economic development corporation the following information:**

(1) The number of tax credits claimed under this chapter for returns processed during the preceding state fiscal year.

(2) The total amount of the claims for tax credits described in subdivision (1).

(3) For each enterprise zone, the number and amount of the claims for tax credits described in subdivision (1) that are attributable to loans made to businesses located in the enterprise zone.

SECTION 18. IC 6-3.5-6-27 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 27. (a) This section applies only to Miami County. Miami County possesses unique economic development challenges due to:**

(1) underemployment in relation to similarly situated counties; and

(2) the presence of a United States government military base or other military installation that is completely or partially inactive or closed.

Maintaining low property tax rates is essential to economic development, and the use of county option income tax revenues as provided in this chapter to pay any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described under subsection (c), rather than use of property taxes, promotes that purpose.

(b) In addition to the rates permitted by sections 8 and 9 of this chapter, the county council may impose the county option income tax at a rate of twenty-five hundredths percent (0.25%) on the adjusted gross income of resident county taxpayers if the county council makes the finding and determination set forth in subsection (c). Section 8(e) of this chapter applies to the application of the additional rate to nonresident taxpayers.

(c) In order to impose the county option income tax as provided in this section, the county council must adopt an ordinance finding and determining that revenues from the county option income tax are needed to pay the costs of financing, constructing, acquiring, renovating, and equipping a county jail, including the repayment of bonds issued, or leases entered into, for financing, constructing, acquiring, renovating, and equipping a county jail.

(d) If the county council makes a determination under subsection (c), the county council may adopt a tax rate under subsection (b). The tax rate may not be imposed at a rate or for a time greater than is necessary to pay the costs of financing, constructing, acquiring, renovating, and equipping a county jail.

(e) The county treasurer shall establish a county jail revenue fund to be used only for the purposes described in this section. County option income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before making a certified distribution under section 18 of this chapter.

(f) County option income tax revenues derived from the tax rate imposed under this section:

(1) may only be used for the purposes described in this section;

(2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5;

and

(3) may be pledged to the repayment of bonds issued, or leases entered into, for the purposes described in subsection (c).

(g) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for an increased distribution of taxes in the immediately following calendar year after the county adopts an increased tax rate under this section and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in section 17(a)(1) through 17(a)(2) of this chapter in the manner provided in section 17(c) of this chapter.

SECTION 19. IC 6-3.5-6-28 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 28. (a) This section applies only to Howard County.**

(b) Maintaining low property tax rates is essential to economic development, and the use of county option income tax revenues as provided in this chapter and as needed in the county to fund the operation and maintenance of a jail and juvenile detention center, rather than the use of property taxes, promotes that purpose.

(c) In addition to the rates permitted by sections 8 and 9 of this chapter, the county fiscal body may impose the county option income tax at a rate of twenty-five hundredths percent (0.25%) on the adjusted gross income of resident county taxpayers if the county fiscal body makes the finding and determination set forth in subsection (d). Section 8(e) of this chapter applies to the application of the additional rate to nonresident taxpayers.

(d) In order to impose the county option income tax as provided in this section, the county fiscal body must adopt an ordinance:

(1) finding and determining that revenues from the county option income tax are needed in the county to fund the operation and maintenance of a jail, a juvenile detention center, or both; and

(2) agreeing to freeze the part of any property tax levy imposed in the county for the operation of the jail or juvenile detention center, or both, covered by the ordinance at the rate imposed in the year preceding the year in which a full year of additional county option income tax is certified for distribution to the county under this section for the term in which an ordinance is in effect under this section.

(e) If the county fiscal body makes a determination under subsection (d), the county fiscal body may adopt a tax rate under subsection (c). Subject to the limitations in subsection (c), the county fiscal body may amend an ordinance adopted under this section to increase, decrease, or rescind the additional tax rate imposed under this section. As soon as practicable after the adoption of an ordinance under this section, the county fiscal body shall send a certified copy of the ordinance to the county auditor, the department of local government finance, and the department of state revenue. An ordinance adopted under this section before April 1 in a year applies to the imposition of county income taxes after June 30 in that year. An ordinance adopted under this section after March 31 of a year initially applies to the imposition of county option income taxes after June 30 of the immediately following year.

(f) The county treasurer shall establish a county jail revenue fund to be used only for the purposes described in this section. County option income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before making a certified distribution under section 18 of this chapter.

(g) County option income tax revenues derived from the tax rate imposed under this section:

(1) may only be used for the purposes described in this section; and

(2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5.

(h) The department of local government finance shall enforce an agreement under subsection (d)(2).

(i) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for an increased distribution of taxes in the immediately following calendar year after the county adopts an increased tax rate under this section and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in section 17(a)(1) through 17(a)(2) of this chapter in the manner provided in section 17(c) of this chapter.

SECTION 20. IC 6-3.5-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers. The entity that may impose the tax is:

(1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on January 1 of the year the county economic development income tax is imposed;

(2) the county council if the county adjusted gross income tax is in effect on January 1 of the year the county economic development tax is imposed; or

(3) the county income tax council or the county council, whichever acts first, for a county not covered by subdivision (1) or (2).

To impose the county economic development income tax, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.

(b) Except as provided in subsections (c), (g), (k), (p), and (r) the county economic development income tax may be imposed at a rate of:

(1) one-tenth percent (0.1%);

(2) two-tenths percent (0.2%);

(3) twenty-five hundredths percent (0.25%);

(4) three-tenths percent (0.3%);

(5) thirty-five hundredths percent (0.35%);

(6) four-tenths percent (0.4%);

(7) forty-five hundredths percent (0.45%); or

(8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), (i), (j), (k), (l), (m), (n), (o), ~~or~~ (p), **or (s),** the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g), ~~or~~ (p), **(r), or (t),** the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose, increase, decrease, or rescind the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance to impose the tax must substantially state the following:

"The _____ County _____ imposes the county economic development income tax on the county taxpayers of _____ County. The county economic development income tax is imposed at a rate of _____ percent (____%) on the county taxpayers of the county. This tax takes effect July 1 of this year.".

(e) Any ordinance adopted under this chapter takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this chapter and shall, not more than ten (10) days after the vote, send a certified copy of the results to the commissioner of the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000). Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of:

(A) fifteen-hundredths percent (0.15%);

(B) two-tenths percent (0.2%); or

(C) twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%) if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a county having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand (14,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

(j) For a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred (71,400), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(k) This subsection applies to a county having a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-seven thousand five hundred (27,500). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(l) For a county having a population of more than twenty-nine thousand (29,000) but less than thirty thousand (30,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(m) For:

(1) a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000); or

(2) a county having a population of more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900);

except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(n) For a county having a population of more than six thousand (6,000) but less than eight thousand (8,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(o) This subsection applies to a county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and:

(A) the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%); or

(B) the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 24 of this chapter.

(p) In addition:

(1) the county economic development income tax may be imposed at a rate that exceeds by not more than twenty-five hundredths percent (0.25%) the maximum rate that would otherwise apply under this section; and

(2) the:

(A) county economic development income tax; and

(B) county option income tax or county adjusted gross income tax;

may be imposed at combined rates that exceed by not more than twenty-five hundredths percent (0.25%) the maximum combined rates that would otherwise apply under this section. However, the additional rate imposed under this subsection may not exceed the amount necessary to mitigate the increased ad valorem property taxes on homesteads (as defined in IC 6-1.1-20.9-1) resulting from the deduction of the assessed value of inventory in the county under IC 6-1.1-12-41 or IC 6-1.1-12-42.

(q) If the county economic development income tax is imposed as authorized under subsection (p) at a rate that exceeds the maximum rate that would otherwise apply under this section, the certified distribution must be used for the purpose provided in section 25(e) or 26 of this chapter to the extent that the certified distribution results from the difference between:

(1) the actual county economic development tax rate; and

(2) the maximum rate that would otherwise apply under this section.

(r) This subsection applies only to a county described in section 27 of this chapter. Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 27 of this chapter.

(s) Except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%) if the county has imposed the county adjusted gross income tax under IC 6-3.5-1.1-3.3.

(t) This subsection applies to Howard County. Except as provided in subsection (p), the sum of the county economic development income tax rate and the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%).

SECTION 21. IC 6-3.5-7-13.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13.1. (a) The fiscal officer of each county, city, or town for a county in which the county economic development tax is imposed shall establish an economic development income tax fund. Except as provided in sections 23, 25, 26, and 27 of this chapter, the revenue received by a county, city, or town under this chapter shall be deposited in the unit's economic development income tax fund.

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

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

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

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

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

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

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

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

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

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

(3) By a city or county described in IC 36-7.5-2-3(b) for making transfers required by IC 36-7.5-4-2. If the county

economic development income tax rate is increased after April 30, 2005, in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), the first three million five hundred thousand dollars ($3,500,000) of the tax revenue that results each year from the tax rate increase shall be used by the county only to make the county's transfer required by IC 36-7.5-4-2. The first three million five hundred thousand dollars ($3,500,000) of the tax revenue that results each year from the tax rate increase shall be paid by the county treasurer to the treasurer of the northwest Indiana regional development authority under IC 36-7.5-4-2 before certified distributions are made to the county or any cities or towns in the county under this chapter from the tax revenue that results each year from the tax rate increase. In a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), all of the tax revenue that results each year from the tax rate increase that is in excess of the first three million five hundred thousand dollars ($3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for additional homestead credits under subdivision (4).

(4) This subdivision applies only in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). Except as otherwise provided, the procedures and definitions in IC 6-1.1-20.9 apply to this subdivision. All of the tax revenue that results each year from a tax rate increase described in subdivision (3) that is in excess of the first three million five hundred thousand dollars ($3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for additional homestead credits under this subdivision. The following apply to additional homestead credits provided under this subdivision:

(A) The additional homestead credits must be applied uniformly to increase the homestead credit under IC 6-1.1-20.9 for homesteads in the county, city, or town.

(B) The additional homestead credits shall be treated for all purposes as property tax levies. The additional homestead credits do not reduce the basis for determining the state property tax replacement credit under IC 6-1.1-21 or the state homestead credit under IC 6-1.1-20.9.

(C) The additional homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(D) The department of local government finance shall determine the additional homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to provide additional homestead credits in that year.

(5) This subdivision applies only in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). Except as otherwise provided, the procedures and definitions in IC 6-1.1-20.9 apply to this subdivision. A county or a city or town in the county may use county economic development income tax revenue to provide additional homestead credits in the county, city, or town. The following apply to additional homestead credits provided under this subdivision:

(A) The county, city, or town fiscal body must adopt an ordinance authorizing the additional homestead credits. The ordinance must:

(i) be adopted before September 1 of a year to apply to property taxes first due and payable in the following year; and

(ii) specify the amount of county economic development income tax revenue that will be used to provide additional homestead credits in the following year.

(B) A county, city, or town fiscal body that adopts an ordinance under this subdivision must forward a copy of the ordinance to the county auditor and the department of local government finance not more than thirty (30) days after the ordinance is adopted.

(C) The additional homestead credits must be applied uniformly to increase the homestead credit under IC 6-1.1-20.9 for homesteads in the county, city, or town.

(D) The additional homestead credits shall be treated for all purposes as property tax levies. The additional homestead credits do not reduce the basis for determining the state property tax replacement credit under IC 6-1.1-21 or the state homestead credit under IC 6-1.1-20.9.

(E) The additional homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(F) The department of local government finance shall determine the additional homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to provide additional homestead credits in that year.

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

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

(A) promote significant opportunities for the gainful

employment of its citizens;

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

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

(2) involves an expenditure for:

(A) the acquisition of land;

(B) interests in land;

(C) site improvements;

(D) infrastructure improvements;

(E) buildings;

(F) structures;

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

(H) machinery;

(I) equipment;

(J) furnishings;

(K) facilities;

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

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

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

or any combination of these.

SECTION 22. IC 6-6-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 9.5. Vanderburgh County Supplemental Auto Rental Excise Tax

Sec. 1. This chapter applies to Vanderburgh County.

Sec. 2. As used in this chapter, "department" refers to the department of state revenue.

Sec. 3. As used in this chapter, "gross retail income" has the meaning set forth in IC 6-2.5-1-5.

Sec. 4. As used in this chapter, "passenger motor vehicle" has the meaning set forth in IC 9-13-2-123(a).

Sec. 5. As used in this chapter, "person" has the meaning set forth in IC 6-2.5-1-3.

Sec. 6. As used in this chapter, "retail merchant" has the meaning set forth in IC 6-2.5-1-8.

Sec. 7. (a) The legislative body of the most populous city in the county may adopt an ordinance to impose an excise tax, known as the county supplemental auto rental excise tax, upon the rental of passenger motor vehicles in the county for periods of less than thirty (30) days. The ordinance must specify that the tax expires December 31, 2036.

(b) The county supplemental auto rental excise tax that may be imposed upon the rental of a passenger motor vehicle is two percent (2%) of the gross retail income received by the retail merchant for the rental.

(c) If the city legislative body adopts an ordinance under subsection (a), the city legislative body shall immediately send a certified copy of the ordinance to the commissioner of the department.

(d) If the city legislative body adopts an ordinance under subsection (a) before June 1 of a year, the county supplemental auto rental excise tax applies to auto rentals after June 30 of the year in which the ordinance is adopted. If the city legislative body adopts an ordinance under subsection (a) on or after June 1 of a year, the county supplemental auto rental excise tax applies to auto rentals after the last day of the month in which the ordinance is adopted.

Sec. 8. (a) The rental of a passenger motor vehicle by a funeral director licensed under IC 25-15 is exempt from the county supplemental auto rental excise tax if the rental is part of the services provided by the funeral director for a funeral.

(b) The temporary rental of a passenger motor vehicle is exempt from the county supplemental auto rental excise tax if the rental is:

(1) made or reimbursed under a contract or agreement:

(A) between a provider and a person;

(B) given for consideration over and above the lease or purchase price of a motor vehicle; and

(C) that undertakes to perform or provide repair or replacement service, or indemnification for that service, for the operational or structural failure of a motor vehicle due to a defect in materials or skill of work or normal wear and tear;

(2) made or reimbursed under a contract for mechanical breakdown insurance;

(3) made or reimbursed under a contract for automobile collision insurance or automobile comprehensive insurance that covers the temporary lease of a vehicle to a person after the person's vehicle is damaged or destroyed in a collision; or

(4) otherwise provided to a person as a replacement vehicle:

(A) while the person's vehicle is repaired or serviced due to a defect in materials or skill of work, normal wear and tear, or other damage; or

(B) until the person permanently replaces a vehicle that has been destroyed.

Sec. 9. A person that rents a passenger motor vehicle is liable for the county supplemental auto rental excise tax. The person shall pay the tax to the retail merchant as a separate amount added to the consideration for the rental. The retail merchant shall collect the tax as an agent for the state.

Sec. 10. (a) Except as otherwise provided in this section, the county supplemental auto rental excise tax shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

(b) Each retail merchant filing a return for the county supplemental auto rental excise tax shall indicate in the return:

(1) all locations in the county where the retail merchant collected county supplemental auto rental excise taxes; and

(2) the amount of county supplemental auto rental excise

taxes collected at each location.

(c) The return to be filed for the payment of the county supplemental auto rental excise tax may be:

(1) a separate return;

(2) combined with the return filed for the payment of the auto rental excise tax under IC 6-6-9; or

(3) combined with the return filed for the payment of the state gross retail tax;

as prescribed by the department.

Sec. 11. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the fiscal officer of the most populous city in the county upon warrants issued by the auditor of state.

Sec. 12. (a) If a tax is imposed under section 7 of this chapter, the fiscal officer of the most populous city in the county shall establish a supplemental auto rental excise tax fund.

(b) The city fiscal officer shall deposit in the supplemental auto rental excise tax fund all amounts received under this chapter.

(c) Any money earned from the investment of money in the supplemental auto rental excise tax fund becomes a part of the fund.

(d) Money in the supplemental auto rental excise tax fund shall be used by the city legislative body for capital improvements in the city that promote conventions, tourism, or recreation.

Sec. 13. This chapter expires January 1, 2036.

SECTION 23. IC 6-6-9.7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. (a) The city-county council of a county that contains a consolidated city may adopt an ordinance to impose an excise tax, known as the county supplemental auto rental excise tax, upon the rental of passenger motor vehicles and trucks in the county for periods of less than thirty (30) days. The ordinance must specify that the tax expires December 31, 2027.

(b) **Except as provided in subsection (c),** the county supplemental auto rental excise tax that may be imposed upon the rental of a passenger motor vehicle or truck equals two percent (2%) of the gross retail income received by the retail merchant for the rental.

(c) On or before June 30, 2005, the city-county council may, by ordinance adopted by a majority of the members elected to the city-county council, increase the tax imposed under subsection (a) from two percent (2%) to four percent (4%). The ordinance must specify that:

(1) if on December 31, 2027, there are obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the original two percent (2%) rate imposed under subsection (a) continues to be levied after its original expiration date set forth in subsection (a) and through December 31, 2040; and

(2) the additional rate authorized under this subsection expires on:

(A) January 1, 2041;

(B) January 1, 2010, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under IC 5-1-17-26; or

(C) October 1, 2005, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under a lease or a sublease of an existing capital improvement entered into under IC 5-1-17, unless waived by the budget director.

(d) The amount collected from that portion of county supplemental auto rental excise tax imposed under:

(1) subsection (b) and collected after December 31, 2027; and

(2) under subsection (c);

shall, in the manner provided by section 11 of this chapter, be distributed to the capital improvement board of managers operating in a consolidated city or its designee. So long as there are any current or future obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board of managers and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the capital improvement board of managers or its designee shall deposit the revenues received under this subsection in a special fund, which may be used only for the payment of the obligations described in this subsection.

~~(c)~~ **(e)** If a city-county council adopts an ordinance under subsection (a) **or (c),** the city-county council shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

~~(d)~~ **(f)** If a city-county council adopts an ordinance under subsection (a) **or (c)** prior to June 1, the county supplemental auto rental excise tax applies to auto rentals after June 30 of the year in which the ordinance is adopted. If the city-county council adopts an ordinance under subsection (a) **or (c)** on or after June 1, the county supplemental auto rental excise tax applies to auto rentals after the last day of the month in which the ordinance is adopted.

SECTION 24. IC 6-6-9.7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 12. This chapter expires January 1, ~~2028.~~ **2041.**

SECTION 25. IC 6-8.1-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the river boat admissions tax (IC 4-33-12); the river boat wagering tax (IC 4-33-13); the gross income tax (IC 6-2.1) (repealed); the utility receipts tax (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the county

adjusted gross income tax (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); the municipal option income tax (IC 6-3.5-8); the auto rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various ~~county~~ food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or administer.

SECTION 26. IC 6-9-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The county council may levy a tax on every person engaged in the business of renting or furnishing, for periods of less than thirty (30) days, any room or rooms, lodgings, or accommodations in any commercial hotel, motel, inn, university memorial union, university residence hall, tourist camp, or tourist cabin located in a county described in section 1 of this chapter. The county treasurer shall allocate and distribute the tax revenues as provided in ~~section~~ **sections** 7 **and 9** of this chapter.

(b) The tax may not exceed the rate of ~~five~~ **six** percent ~~(5%)~~ **(6%)** on the gross retail income derived from lodging income only and shall be in addition to the state gross retail tax imposed under IC 6-2.5.

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

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

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

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

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

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

SECTION 27. IC 6-9-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The county treasurer shall establish an innkeeper's tax fund. The treasurer shall deposit in that fund all money received under section 6 of this chapter **that is attributable to an innkeeper's tax rate that is not more than five percent (5%).**

(b) Money in the innkeeper's tax fund shall be expended in the following order:

(1) Through July 1999, not more than the revenue needed to service bonds issued under IC 36-10-3-40 through IC 36-10-3-45 and outstanding on January 1, 1993, may be used to service bonds. The county auditor shall make a semiannual distribution, at the same time property tax revenue is distributed, to a park and recreation district that has issued bonds payable from a county innkeeper's tax. Each semiannual distribution must be equal to one-half (1/2) of the annual principal and interest obligations on the bonds. Money received by a park and recreation district under this subdivision shall be deposited in a special fund to be used to service the bonds. During August 1999 the money that had been set aside to cover bond payments that remains after the bonds have been retired plus sixty percent (60%) of the tax revenue during August 1999 through December 1999 shall be distributed to the county treasurer to be used by the county park board, subject to appropriation by the county fiscal body.

(2) To the commission for its general use in paying operating expenses and to carry out the purposes set forth in section 3(a)(6) of this chapter. However, the amount that may be distributed under this subdivision during any particular year may not exceed the proceeds derived from an innkeeper's tax of two percent (2%) through December 1999 and fifty percent (50%) of the tax revenue beginning January 2000 and continuing through December 2014.

(3) For the period beginning July 1, 2002, through December 2014, fifty percent (50%) of the revenue to the county treasurer to be credited by the treasurer to a special account. The county treasurer shall distribute money in the special account as follows:

(A) Seventy-five percent (75%) of the money in the special account shall be distributed to the department of

natural resources for the development of projects in the state park on the county's largest river, including its tributaries.

(B) Twenty-five percent (25%) of the money in the special account shall be distributed to a community development corporation that serves a metropolitan area in the county that includes:

(i) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000); and

(ii) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);

for the community development corporation's use in tourism, recreation, and economic development activities. For the period beginning July 1, 2002, and continuing through December 2006, the community development corporation shall provide not less than forty percent (40%) of the money received from the special account under this clause as a grant to a nonprofit corporation that leases land in the state park described in this subdivision for the nonprofit corporation's use in noncapital projects in the state park.

Money in the special account may not be used for any other purpose. The money credited to the account that has not been used as specified in this subdivision by January 1, 2015, shall be transferred to the commission to be used to make grants as provided in subsection (c)(2).

(c) Money in the innkeeper's tax fund subject to appropriation by the county council shall be allocated and distributed after December 2014 as follows:

(1) Fifty percent (50%) of the revenue to the commission for the commission's general use in paying operating expenses and to carry out the purposes set forth in section 3(a)(6) of this chapter.

(2) The remainder to the commission to be used solely to make grants for the development of recreation and tourism projects. The commission shall establish and make public the criteria that will be used in analyzing and awarding grants. At least ten percent (10%) but not more than fifteen percent (15%) of the grants may be awarded for noncapital projects. Grants may be made only to the following entities upon application by the executive of the entity:

(A) The county for deposit in a special account.

(B) The most populated city in the county for deposit in a special account.

(C) The second most populated city in the county for deposit in a special account.

(D) The Tippecanoe County Wabash River parkway commission, but only so long as the interlocal agreement among the political subdivisions listed in clauses (A) through (C) is in effect. Money received by the parkway commission shall be segregated in a special account.

(d) Money credited to special accounts under subsection (c)(2) shall be used only for recreation or tourism projects, or both.

SECTION 28. IC 6-9-7-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9. (a) If the county fiscal body adopts an ordinance to increase the county's innkeeper's tax rate to a rate that exceeds five percent (5%), the county treasurer shall establish a supplemental innkeeper's tax fund. The treasurer shall deposit in the fund all money received under section 6 of this chapter that is attributable to an innkeeper's tax rate that exceeds five percent (5%).**

(b) Money in the fund may be used for any purpose that in the discretion of the county fiscal body promotes economic development in the county.

SECTION 29. IC 6-9-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. (a) ~~Except as provided in subsection (b),~~ The tax imposed by section 2 of this chapter shall be at the rate of:

(1) before January 1, 2028, five percent (5%) on the gross income derived from lodging income only, **plus an additional one percent (1%)** if the fiscal body ~~does not adopt~~ **adopts** an ordinance under subsection (b), ~~and six percent (6%)~~ **plus an additional three percent (3%)** if the fiscal body adopts an ordinance under subsection ~~(b), and~~ **(d);**

(2) after December 31, 2027, **and before January 1, 2041, five percent (5%), plus an additional one percent (1%) if the fiscal body adopts an ordinance under subsection (b), plus an additional three percent (3%) if the fiscal body adopts an ordinance under subsection (d); and**

(3) after December 31, 2040, five percent (5%).

(b) In any year subsequent to the initial year in which a tax is imposed under section 2 of this chapter, the fiscal body may, by ordinance adopted by at least two-thirds (2/3) of the members elected to the fiscal body, increase the tax imposed by section 2 of this chapter from five percent (5%) to six percent (6%). The ordinance must specify that the increase in the tax authorized under this subsection expires January 1, 2028.

(c) The amount collected from an increase adopted under subsection (b) shall be transferred to the capital improvement board of managers established by IC 36-10-9-3. The board shall deposit the revenues received under this subsection in a special fund. Money in the special fund may be used only for the payment of obligations incurred to expand a convention center, including:

(1) principal and interest on bonds issued to finance or refinance the expansion of a convention center; and

(2) lease agreements entered into to expand a convention center.

(d) On or before June 30, 2005, the fiscal body may, by ordinance adopted by a majority of the members elected to the fiscal body, increase the tax imposed by section 2 of this chapter by an additional three percent (3%) to a total rate of eight percent (8%) (or nine percent (9%) if the fiscal body has adopted an ordinance under subsection (b) and that rate remains in effect). The ordinance must specify that the increase in the tax authorized under this subsection expires on:

(1) January 1, 2041;

(2) January 1, 2010, if on that date there are no obligations owed by the capital improvement board of managers to the authority created by IC 5-1-17 or to any state agency under IC 5-1-17-26; or

(3) October 1, 2005, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under a lease or a sublease of an existing capital improvement entered into under IC 5-1-17, unless waived by the budget director.

If the fiscal body adopts an ordinance under this subsection, it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue, and the increase in the tax imposed under this chapter applies to transactions that occur after June 30, 2005.

(e) The amount collected from an increase adopted under:

(1) subsection (b) and collected after December 31, 2027; and

(2) subsection (d);

shall be transferred to the capital improvement board of managers established by IC 36-10-9-3 or its designee. So long as there are any current or future obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board of managers and the Indiana stadium and convention building authority or any state agency pursuant to IC 5-1-17-26, the capital improvement board of managers or its designee shall deposit the revenues received under this subsection in a special fund, which may be used only for the payment of the obligations described in this subsection.

SECTION 30. IC 6-9-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 5. **(a) Subject to subsection (b),** the county food and beverage tax imposed on a food or beverage transaction described in section 3 of this chapter equals one percent (1%) of the gross retail income received by the retail merchant from the transaction. **The tax authorized under this subsection expires January 1, 2041.**

(b) On or before June 30, 2005, the city-county council of a county may, by a majority vote of the members elected to the city-county council, adopt an ordinance that increases the tax imposed under this chapter by an additional rate of one percent (1%) to a total rate of two percent (2%). The ordinance must specify that the increase in the tax authorized under this subsection expires on:

(1) January 1, 2041;

(2) January 1, 2010, if on that date there are no obligations owed by the capital improvement board of managers to the authority created by IC 5-1-17 or to any state agency under IC 5-1-17-26; or

(3) October 1, 2005, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under a lease or a sublease of an existing capital improvement entered into under IC 5-1-17, unless waived by the budget director.

If a city-county council adopts an ordinance under this subsection, it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue, and the increase in the tax imposed under this chapter applies to transactions that occur after June 30, 2005.

(c) For purposes of this chapter, the gross retail income received by the retail merchant from ~~such~~ a transaction **that is subject to the tax imposed by this chapter** does not include the amount of tax imposed on the transaction under IC 6-2.5.

SECTION 31. IC 6-9-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. The amounts received from the county food and beverage tax shall be paid monthly by the treasurer of the state to the treasurer of the capital improvement board of managers of the county **or its designee** upon warrants issued by the auditor of state. **So long as there are any current or future obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board of managers and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the capital improvement board of managers or its designee shall deposit the revenues received from that portion of the county food and beverage tax imposed under:**

(1) section 5(a) of this chapter for revenue received after December 31, 2027; and

(2) section 5(b) of this chapter;

in a special fund, which may be used only for the payment of the obligations described in this section.

SECTION 32. IC 6-9-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. (a) Except as provided in subsection (b), the city-county council of a county that contains a consolidated first class city may adopt an ordinance to impose an excise tax, known as the county admissions tax, for the privilege of attending, before January 1, ~~2028,~~ **2041,** any event and, after December 31, ~~2027,~~ **2040,** any professional sporting event:

(1) held in a facility financed in whole or in part by:

(A) bonds or notes issued under IC 18-4-17 (before its repeal on September 1, 1981), IC 36-10-9, or IC 36-10-9.1; **or**

(B) a lease or other agreement under IC 5-1-17; and

(2) to which tickets are offered for sale to the public by:

(A) the box office of the facility; or

(B) an authorized agent of the facility.

(b) The excise tax imposed under subsection (a) does not apply to the following:

(1) An event sponsored by an educational institution or an association representing an educational institution.

(2) An event sponsored by a religious organization.

(3) An event sponsored by an organization that is considered a charitable organization by the Internal Revenue Service for federal tax purposes.

(4) An event sponsored by a political organization.

(c) If a city-county council adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(d) If a city-county council adopts an ordinance under subsection (a) **or section 2 of this chapter** prior to June 1, the county admissions tax applies to admission charges collected after June 30 of the year in which the ordinance is adopted. If the city-county council adopts an ordinance under subsection (a) **or section 2 of this chapter** on or after June 1, the county admissions tax applies to admission charges collected after the last day of the month in which the ordinance is adopted.

SECTION 33. IC 6-9-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. **(a) Except as provided in subsection (b),** the county admissions tax equals five percent (5%) of the price for admission to any event described in section 1 of this chapter.

(b) On or before June 30, 2005, the city-county council may, by ordinance adopted by a majority of the members elected to the city-county council, increase the county admissions tax from five percent (5%) to six percent (6%) of the price for admission to any event described in section 1 of this chapter.

(c) The amount collected from that portion of the county admissions tax imposed under:

(1) subsection (a) and collected after December 31, 2027; and

(2) subsection (b);

shall be distributed to the capital improvement board of managers or its designee. So long as there are any current or future obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board of managers and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the capital improvement board of managers or its designee shall deposit the revenues received from that portion of the county admissions tax imposed under subsection (b) in a special fund, which may be used only for the payment of the obligations described in this subsection.

SECTION 34. IC 6-9-27-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This chapter applies to the following:

(1) A town:

(A) located in a county having a population of more than sixty-five thousand (65,000) but less than seventy thousand (70,000); and

(B) having a population of more than nine thousand (9,000).

(2) A town:

(A) located in a county having a population of more than thirty-four thousand nine hundred (34,900) but less than thirty-four thousand nine hundred fifty (34,950); and

(B) having a population of less than one thousand (1,000).

(3) A town:

(A) located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000); and

(B) having a population of more than fifteen thousand (15,000).

(4) A town:

(A) located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000); and

(B) having a population of more than ten thousand (10,000) but less than fifteen thousand (15,000).

(5) A town:

(A) located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000); and

(B) having a population of more than five thousand (5,000) but less than six thousand three hundred (6,300).

(6) A city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

SECTION 35. IC 6-9-27-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The fiscal body of the ~~town~~ **municipality** may adopt an ordinance to impose an excise tax, known as the ~~town~~ **municipal** food and beverage tax, on transactions described in section 4 of this chapter.

(b) If a fiscal body adopts an ordinance under subsection (a), the fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.

(c) If a fiscal body adopts an ordinance under subsection (a), the ~~town~~ **municipal** food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance was adopted.

SECTION 36. IC 6-9-27-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which food or beverage is furnished, prepared, or served:

(1) for consumption at a location or on equipment provided by a retail merchant;

(2) in the **city or** town in which the tax is imposed; and

(3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

(1) served by a retail merchant off the merchant's premises;

(2) food sold in a heated state or heated by a retail merchant;

(3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal

foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

(4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

(c) The ~~town~~ **municipal** food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

SECTION 37. IC 6-9-27-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The ~~town~~ **municipal** food and beverage tax imposed on a food or beverage transaction described in section 4 of this chapter equals one percent (1%) of the gross retail income received by the merchant from the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

SECTION 38. IC 6-9-27-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the **city or** town fiscal officer upon warrants issued by the auditor of state.

SECTION 39. IC 6-9-27-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) If a tax is imposed under section 3 of this chapter **by a town described in section 1 of this chapter,** the town fiscal officer shall establish a food and beverage tax receipts fund.

(b) The town fiscal officer shall deposit in this fund all amounts received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

SECTION 40. IC 6-9-27-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 8.5. (a) If a tax is imposed under section 3 of this chapter by a city described in section 1(6) of this chapter, the city fiscal officer shall establish a food and beverage tax receipts fund.**

(b) The city fiscal officer shall deposit in this fund all amounts received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

SECTION 41. IC 6-9-27-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Except as provided in subsection (b), money in the fund **established under section 8 of this chapter** shall be used by the town for the financing, construction, operation, or maintenance of the following:

(1) Sanitary sewers or wastewater treatment facilities.

(2) Park or recreational facilities.

(3) Drainage or flood control facilities.

(4) Water treatment, storage, or distribution facilities.

(b) The fiscal body of the town may pledge money in the fund to pay bonds issued, loans obtained, and lease payments or other obligations incurred by or on behalf of the town or a special taxing district in the town to provide the facilities described in subsection (a).

(c) Subsection (b) applies only to bonds, loans, lease payments, or obligations that are issued, obtained, or incurred after the date on which the tax is imposed under section 3 of this chapter.

(d) A pledge under subsection (a) is enforceable under IC 5-1-14-4.

SECTION 42. IC 6-9-27-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9.5. (a) A city shall use money in the fund established under section 8.5 of this chapter for only the following:**

(1) Renovating the city hall.

(2) Constructing new police or fire stations, or both.

(3) Improving the city's sanitary sewers or wastewater treatment facilities, or both.

(4) Improving the city's storm water drainage systems.

(5) Other projects involving the city's water system or protecting the city's well fields, as determined by the city fiscal body.

Money in the fund may not be used for the operating costs of a project. In addition, the city may not initiate a project under this chapter after December 31, 2010.

(b) The fiscal body of the city may pledge money in the fund to pay bonds issued, loans obtained, and lease payments or other obligations incurred by or on behalf of the city or a special taxing district in the city to provide the projects described in subsection (a).

(c) Subsection (b) applies only to bonds, loans, lease payments, or obligations that are issued, obtained, or incurred after the date on which the tax is imposed under section 3 of this chapter.

(d) A pledge under subsection (b) is enforceable under IC 5-1-14-4.

SECTION 43. IC 6-9-27-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. With respect to obligations for which a pledge has been made under section 9(b) **or 9.5(b)** of this chapter, the general assembly covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding.

SECTION 44. IC 6-9-35 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]:

Chapter 35. Stadium and Convention Building Food and Beverage Tax Funding

Sec. 1. This chapter applies to Boone, Johnson, Hamilton, Hancock, Hendricks, Morgan, and Shelby counties (referred to as counties in this chapter) and to the cities or towns of Carmel, Fishers, Greenfield, Lebanon, Noblesville, Westfield, and

Zionsville that are located in those counties (referred to as municipalities in this chapter).

Sec. 2. The definitions in IC 6-9-12-1 and IC 36-1-2 apply throughout this chapter.

Sec. 3. As used in this chapter, "authority" refers to the Indiana stadium and convention building authority created by IC 5-1-17.

Sec. 4. As used in this chapter, "capital improvement board" means the capital improvement board of managers created by IC 36-10-9-3.

Sec. 5. (a) Except as provided in subsection (d), the fiscal body of a county may adopt an ordinance not later than June 30, 2005, to impose an excise tax, known as the food and beverage tax, on those transactions described in sections 8 and 9 of this chapter that occur anywhere within the county.

(b) Except as provided in subsection (d), if the county in which the municipality is located has adopted an ordinance imposing an excise tax under subsection (a), the fiscal body of a municipality may adopt an ordinance not later than September 30, 2005, to impose an excise tax, known as the food and beverage tax, on those transactions described in sections 8 and 9 of this chapter that occur anywhere within the municipality.

(c) The rate of the tax imposed under this chapter equals one percent (1%) of the gross retail income on the transaction. With respect to an excise tax in the municipalities set forth in IC 6-9-27-1(1) (Mooresville), IC 6-9-27-1(3) (Plainfield), IC 6-9-27-1(4) (Brownsburg), IC 6-9-27-1(5) (Avon), and IC 6-9-27-1(6) (Martinsville), the excise tax imposed by the county is in addition to the food and beverage tax imposed by those municipalities. With respect to an excise tax imposed by a county under subsection (a), the excise tax imposed by a municipality under subsection (b) is in addition to the food and beverage tax imposed by the county in which the municipality is located. For purposes of this chapter, the gross retail income received by the retail merchant from such a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5, IC 6-9-27, or this chapter.

(d) If the Marion County city-county council does not adopt all the ordinances required to be adopted by it under IC 5-1-17-25 on or before June 30, 2005, the counties and municipalities described in section 1 of this chapter are no longer subject to the provisions of this chapter. In that event, the fiscal body of the county or municipality may not adopt an ordinance to impose the excise tax authorized by this chapter, and any ordinance adopted by the fiscal body under subsection (a) or (b) is no longer effective.

Sec. 6. If a fiscal body adopts an ordinance under section 5 of this chapter, the clerk shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

Sec. 7. If a fiscal body adopts an ordinance under section 5 of this chapter, the food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance was adopted.

Sec. 8. Except as provided in section 10 of this chapter, a tax imposed under section 5 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

(1) for consumption at a location, or on equipment, provided by a retail merchant;

(2) in the county or municipality, or both, in which the tax is imposed; and

(3) by a retail merchant for consideration.

Sec. 9. Transactions described in section 8(1) of this chapter include transactions in which food or beverage is:

(1) served by a retail merchant off the merchant's premises;

(2) food sold in a heated state or heated by a retail merchant;

(3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

(4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

Sec. 10. The food and beverage tax under this chapter does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 11. The county fiscal body may adopt an ordinance requiring that any tax imposed under this chapter be reported on forms approved by the county treasurer and that the tax be paid monthly to the county treasurer. If such an ordinance is adopted, the tax shall be paid to the county treasurer not more than twenty (20) days after the end of the month the tax is collected, and the county treasurer is responsible for collecting the tax and enforcing any of the provisions of IC 6-2.5 with respect to the tax. If such an ordinance is not adopted, the tax shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the taxes may be made on separate returns or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 12. (a) As long as there are any current or future obligations owed by the capital improvement board to the authority or any state agency under a lease or other agreement entered into between the capital improvement board and the authority or any state agency pursuant to IC 5-1-17-26, fifty percent (50%) of the amounts received from the taxes imposed

under this chapter by counties shall be paid monthly by the county treasurer, if the tax is being paid to the county treasurer, to the treasurer of state. This amount plus fifty percent (50%) of the amounts received by the state from the taxes imposed under this chapter by counties shall be paid monthly by the treasurer of state to the treasurer of the capital improvement board or its designee upon warrants issued by the auditor of state. The remainder that is received by the state shall be paid monthly by the treasurer of state to the county fiscal officer upon warrants issued by the auditor of state. In any state fiscal year, if the total amount of the taxes imposed under this chapter by all the counties and paid to the treasurer of the capital improvement board or its designee under this subsection equals five million dollars ($5,000,000), the entire remainder of the taxes imposed by a county under this chapter during that state fiscal year shall be retained by the county treasurer or paid by the treasurer of state to the fiscal officer of the county, upon warrants issued by the auditor of state.

(b) If there are then existing no obligations of the capital improvement board described in subsection (a), the entire amount received from the taxes imposed by a county under this chapter shall be paid monthly by the treasurer of state to the county fiscal officer upon warrants issued by the auditor of state.

(c) The entire amount of the taxes paid to the treasurer of the capital improvement board or its designee under subsection (a) shall be deposited in a special fund and used only for the payment or to secure the payment of obligations of the capital improvement board described in subsection (a). If the taxes are not used for the payment or to secure the payment of obligations of the capital improvement board described in subsection (a), the taxes shall be returned by the capital improvement board to the treasurer of state who shall return the taxes to the respective counties that contributed the taxes.

(d) The entire amount received from the taxes imposed by a municipality under this chapter shall be paid monthly by the treasurer of state to the municipality's fiscal officer upon warrants issued by the auditor of state.

Sec. 13. (a) If a tax is imposed under section 5 of this chapter, the county's or municipality's fiscal officer, or both, shall establish a food and beverage tax fund.

(b) The fiscal officer shall deposit in the fund all amounts received by the fiscal officer under this chapter.

(c) Any money earned from the investment of money in the fund becomes a part of the fund.

Sec. 14. Money in the food and beverage tax fund shall be used by the county or municipality:

(1) to reduce the county's or municipality's property tax levy for a particular year at the discretion of the county or municipality, but this use does not reduce the maximum permissible levy under IC 6-1.1-18.5 for the county or municipality; or

(2) for any legal or corporate purpose of the county or municipality, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4.

Revenue derived from the imposition of a tax under this chapter may be treated by a county or municipality as additional revenue for the purpose of fixing its budget for the budget year during which the revenues are to be distributed to the county or municipality.

Sec. 15. (a) If there are no obligations of the capital improvement board described in section 12(a) of this chapter then outstanding and there are no bonds, leases, or other obligations then outstanding for which a pledge has been made under section 14 of this chapter, the fiscal body may adopt an ordinance, after December 31, 2009, and before December 1, 2010, or any year thereafter, that repeals the ordinance adopted under section 5 of this chapter.

(b) An ordinance adopted under subsection (a) takes effect January 1 immediately following the date of its adoption. If the fiscal body adopts such an ordinance, the clerk shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(c) A tax imposed under this chapter terminates on January 1 of the year immediately following the year in which the last payment obligation of the capital improvement board is made with respect to any bond, lease, or other obligation described in section 12(a) of this chapter that existed on July 1, 2006.

Sec. 16. With respect to obligations of the capital improvement board described in section 12(a) of this chapter and bonds, leases, or other obligations for which a pledge has been made under section 14 of this chapter, the general assembly covenants with the holders of these obligations that:

(1) this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of the tax imposed under this chapter; and

(2) this chapter will not be amended in any manner that will change the purpose for which revenues from the tax imposed under this chapter may be used;

as long as the payment of any of those obligations is outstanding.

SECTION 45. IC 6-9-36 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]:

Chapter 36. Lake County and Porter County Food and Beverage Tax

Sec. 1. This chapter applies to the following:

(1) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(2) A county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000).

Sec. 2. The definitions in IC 6-9-12-1 and IC 36-1-2 apply throughout this chapter.

Sec. 3. (a) The fiscal body of a county described in section 1 of this chapter may adopt an ordinance to impose an excise tax, known as the food and beverage tax, on those transactions

described in sections 4 and 5 of this chapter that occur anywhere within the county.

(b) The following apply if the fiscal body of the county imposes a tax under this chapter:

(1) The rate of the tax equals one percent (1%) of the gross retail income on the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from such a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5 or this chapter.

(2) The fiscal body shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(3) The tax applies to transactions that occur after the last day of the month that follows the month in which the ordinance was adopted.

(4) The fiscal body may adopt an ordinance to rescind the tax. The rescission of the tax takes effect after the last day of the month that follows the month in which the ordinance to rescind the tax is adopted. However, the fiscal body may not rescind the tax if there are bonds outstanding or leases or other obligations for which the tax has been pledged under IC 36-7.5.

Sec. 4. Except as provided in section 6 of this chapter, a tax imposed under section 3 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

(1) for consumption at a location, or on equipment, provided by a retail merchant;

(2) in the county or political subdivision, or both, in which the tax is imposed; and

(3) by a retail merchant for consideration.

Sec. 5. Transactions described in section 4(1) of this chapter include transactions in which food or beverage is:

(1) served by a retail merchant off the merchant's premises;

(2) food sold in a heated state or heated by a retail merchant;

(3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

(4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

Sec. 6. The food and beverage tax under this chapter does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 7. The tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the taxes may be made on separate returns or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 8. (a) The entire amount received from the taxes imposed by a county under this chapter shall be paid monthly by the treasurer of state to the treasurer of the northwest Indiana regional development authority established by IC 36-7.5-2-1.

(b) The taxes paid to the treasurer of the development authority under this section shall be deposited in the development authority fund established under IC 36-7.5-4-1.

SECTION 46. IC 6-9-37 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 37. Hendricks County Innkeeper's Tax

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

(b) The:

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

(2) convention and visitor commission;

(3) innkeeper's tax rate; and

(4) tax collection procedures;

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

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

Sec. 2. As used in this chapter:

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

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

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

(1) hotel;

(2) motel;

(3) boat motel;

(4) inn;

(5) college or university memorial union;

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

(7) tourist cabin;

located in the county.

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

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

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

(c) The tax may not exceed the rate of eight percent (8%) on the gross retail income derived from lodging income only and is in addition to the state gross retail tax imposed under IC 6-2.5.

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

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

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

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

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

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

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

(2) for the development of a county park, a county fairground, or a county promotion.

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

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

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

Sec. 5. (a) The county executive shall create a commission to promote the development and growth of the convention, visitor, and tourism industry in the county. If two (2) or more adjoining counties desire to establish a joint commission, the counties shall enter into an agreement under IC 36-1-7.

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

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

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

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

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

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

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

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

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

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

Sec. 6. (a) The commission may:

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

(2) sue and be sued;

(3) enter into contracts and agreements;

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

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

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

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

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

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

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

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

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

commits a Class D felony.

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

SECTION 47. IC 6-9-38 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 38. Food and Beverage Taxes in Wayne County

Sec. 1. This chapter applies to a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred (71,400).

Sec. 2. Except as otherwise provided in this chapter, the definitions in IC 36-1-2 apply throughout this chapter.

Sec. 3. As used in this chapter, "beverage" includes an alcoholic beverage.

Sec. 4. As used in this chapter, "bonds" has the meaning set forth in IC 5-1-11-1.

Sec. 5. As used in this chapter, "department" means the department of state revenue.

Sec. 6. As used in this chapter, "economic development project" has the meaning set forth in IC 6-3.5-7-13.1.

Sec. 7. As used in this chapter, "food" includes any food product.

Sec. 8. As used in this chapter, "gross retail income" has the meaning set forth in IC 6-2.5-1-5.

Sec. 9. As used in this chapter, "obligations" has the meaning set forth in IC 5-1-3-1(b).

Sec. 10. As used in this chapter, "person" has the meaning set forth in IC 6-2.5-1-3.

Sec. 11. As used in this chapter, "retail merchant" has the meaning set forth in IC 6-2.5-1-8.

Sec. 12. As used in this chapter, "unit" means:

(1) a county described in section 1 of this chapter; or

(2) a city or town located in the county described in section 1 of this chapter.

Sec. 13. (a) After January 1 but before August 1, the fiscal body of a unit may adopt an ordinance to impose an excise tax known as the unit's food and beverage tax on transactions described in section 14 of this chapter. The fiscal body of a unit other than a county may not adopt an ordinance under this chapter until after July 31, 2006, unless the fiscal body of the county adopts a resolution to relinquish its exclusive authority to adopt an ordinance under this chapter before August 1, 2006. If a county fiscal body adopts a resolution under this subsection, the county fiscal body shall send a certified copy of the resolution to the executive of each city and town located in the county.

(b) Before a fiscal body may adopt an ordinance imposing a food and beverage tax, the fiscal body must hold a public hearing on the proposed ordinance, with notice of the time,

date, and place of the public hearing given in accordance with IC 5-3-1.

(c) If the fiscal body of a county adopts an ordinance to impose a food and beverage tax under this chapter, the county executive must also adopt a substantially similar ordinance to impose the tax.

(d) If an ordinance is adopted under subsection (c), the county executive shall immediately send a certified copy of the ordinance to the department.

(e) If a unit other than a county adopts an ordinance under this section, the unit's executive shall immediately send a certified copy of the ordinance to the department.

Sec. 14. (a) Except as provided in subsection (c), a food and beverage tax imposed under section 13 of this chapter applies to any transaction in which food or a beverage is furnished, prepared, or served:

(1) for consumption at a location, or on equipment, provided by a retail merchant;

(2) in the unit in which the tax is imposed; and

(3) by the retail merchant for consideration.

If both a county and another unit located in the county impose a tax under this chapter, the tax imposed by the county does not apply within the territory of the other unit imposing the tax.

(b) Transactions described in subsection (a)(1) include transactions in which food or a beverage is:

(1) served by a retail merchant off the merchant's premises;

(2) sold by a retail merchant who ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises, including food or beverages sold on a "take out" or "to go" basis; or

(3) sold by a street vendor.

(c) A food and beverage tax imposed under this chapter does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed under IC 6-2.5.

Sec. 15. The food and beverage tax imposed on a food or beverage transaction described in section 14 of this chapter is equal to one percent (1%) of the gross retail income received by the retail merchant from the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from such a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

Sec. 16. (a) If no bonds, leases, obligations, or other evidences of indebtedness of a unit that are payable from a food and beverage tax imposed under this chapter are outstanding, the unit's fiscal body may adopt an ordinance to repeal the unit's food and beverage tax.

(b) An ordinance described in subsection (a) must be adopted after January 1 but before September 1 of a year. The fiscal body shall send a certified copy of the ordinance adopted under this section to the department.

Sec. 17. If a fiscal body adopts an ordinance under this chapter, the ordinance takes effect January 1 of the year following the year in which the ordinance is adopted.

Sec. 18. A food and beverage tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return that is filed for the payment of the tax may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax as prescribed by the department.

Sec. 19. (a) The department shall notify the county auditor of a county containing a unit that imposes a food and beverage tax under this chapter of the amount of tax paid in the unit.

(b) The amounts received from a food and beverage tax imposed under this chapter shall be paid monthly by the treasurer of state on warrants issued by the auditor of state to the county auditor of the county in which the unit that imposed the tax is located.

Sec. 20. A county auditor shall establish for each unit in the county that imposes a tax under this chapter a local food and beverage tax revenue fund into which all amounts received monthly from the treasurer of state under this chapter shall be deposited.

Sec. 21. Revenue derived from a tax imposed under this chapter may be treated by a unit as additional revenue for the purpose of fixing its budget for the budget year during which the revenues are to be distributed to the unit.

Sec. 22. A unit may use revenues from a tax imposed under this chapter for one (1) or more of the following purposes:

(1) To promote and encourage conventions, visitors, and tourism within the unit.

(2) To promote and encourage economic development within the unit.

(3) Paying debt service or lease rentals on:

(A) bonds;

(B) leases;

(C) obligations; or

(D) any other evidence of indebtedness of the unit;

for a project described in subdivisions (1) and (2).

Sec. 23. The department of local government finance may not reduce a unit's property tax levy by the amount of revenue received from a tax imposed under this chapter.

Sec. 24. (a) The food and beverage tax revenue committee is established to make recommendations concerning the use of money in the funds established under section 20 of this chapter. The committee consists of the following members:

(1) One (1) resident of the county representing each of the three (3) commissioner districts, appointed by the county executive. Not more than two (2) of the members appointed under this subdivision may be from the same political party.

(2) Two (2) residents of the county, appointed by the county fiscal body. The two (2) appointees may not be from the same political party.

(3) Two (2) residents of the largest city in the county, appointed by the city executive. The two (2) appointees under this subdivision may not be from the same political party. One (1) appointee must be interested in economic development.

(4) Two (2) residents of the largest city in the county, appointed by the city fiscal body. The two (2) appointees under this subdivision may not be from the same political party. One (1) appointee must be interested in tourism.

(b) Except as provided in subsection (c), the term of a member appointed to the food and beverage tax revenue committee under this section is four (4) years.

(c) The initial terms of office for the members appointed to the food and beverage tax revenue committee under subsection (a) are as follows:

(1) Of the members appointed under subsection (a)(1), one (1) member shall be appointed for a term of two (2) years, one (1) member shall be appointed for three (3) years, and one (1) member shall be appointed for four (4) years.

(2) Of the members appointed under subsection (a)(2), one (1) member shall be appointed for two (2) years and one (1) member shall be appointed for three (3) years.

(3) Of the members appointed under subsection (a)(3), one (1) member shall be appointed for two (2) years and one (1) member shall be appointed for three (3) years.

(4) Of the members appointed under subsection (a)(4), one (1) member shall be appointed for three (3) years and one (1) member shall be appointed for four (4) years.

(d) At the expiration of a term under subsection (c), the member whose term expired shall be reappointed to the food and beverage tax revenue committee to fill the vacancy caused by the expiration.

(e) The food and beverage tax revenue committee is abolished on the date that the county fiscal body adopts a resolution abolishing the food and beverage tax revenue committee. A county fiscal body may adopt a resolution under this subsection if the county fiscal body determines that each unit in the county that had imposed a tax under this chapter has adopted an ordinance to rescind the tax.

Sec. 25. The general assembly covenants with each unit subject to this chapter and the purchasers and owners of bonds, leases, obligations, or any other evidences of indebtedness of the county payable from a tax imposed under this chapter that this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of a tax imposed under this chapter so long as the principal, interest, or lease rentals due under those bonds, leases, obligations, or other evidences of indebtedness of a unit that are payable from a tax imposed under this chapter remain unpaid.

Sec. 26. If a unit incurs indebtedness payable from a tax imposed by the unit under this chapter, the unit's food and beverage tax terminates two (2) years after the retirement of the debt financed by the food and beverage tax.

SECTION 48. IC 7.1-3-20-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) A permit that is authorized by this section may be issued without regard to the quota provisions of IC 7.1-3-22.

(b) The commission may issue a three-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant facility in the passenger terminal complex of a publicly owned airport which is served by a scheduled commercial passenger airline certified to enplane and deplane passengers on a scheduled basis by a federal aviation agency. A permit issued under this subsection shall not be transferred to a location off the airport premises.

(c) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a redevelopment project consisting of a building or group of buildings that:

(1) was formerly used as part of a union railway station;

(2) has been listed in or is within a district that has been listed in the federal National Register of Historic Places maintained pursuant to the National Historic Preservation Act of 1966, as amended; and

(3) has been redeveloped or renovated, with the redevelopment or renovation being funded in part with grants from the federal, state, or local government.

A permit issued under this subsection shall not be transferred to a location outside of the redevelopment project.

(d) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant:

(1) on land; or

(2) in a historic river vessel;

within a municipal riverfront development project funded in part with state and city money. A permit issued under this subsection may not be transferred.

(e) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a renovation project consisting of a building that:

(1) was formerly used as part of a passenger and freight railway station; and

(2) was built before 1900.

The permit authorized by this subsection may be issued without regard to the proximity provisions of IC 7.1-3-21-11.

(f) The commission may issue a three-way permit for the sale of alcoholic beverages for on-premises consumption at a cultural center for the visual and performing arts to a town that:

(1) is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and

(2) has a population of more than twenty thousand (20,000) but less than twenty-three thousand (23,000).

(g) After June 30, 2005, the commission may issue not more

than ten (10) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than five hundred (500) feet from a district, that meets the following requirements:

(1) The district has been listed in the National Register of Historic Places maintained under the National Historic Preservation Act of 1966, as amended.

(2) A county courthouse is located within the district.

(3) A historic opera house listed on the National Register of Historic Places is located within the district.

(4) A historic jail and sheriff's house listed on the National Register of Historic Places is located within the district.

The legislative body of the municipality in which the district is located shall recommend to the commission sites that are eligible to be permit premises. The commission shall consider, but is not required to follow, the municipal legislative body's recommendation in issuing a permit under this subsection. An applicant is not eligible for a permit if, less than two (2) years before the date of the application, the applicant sold a retailer's permit that was subject to IC 7.1-3-22 and that was for premises located within the district described in this section or within five hundred (500) feet of the district. A permit issued under this subsection shall not be transferred. The cost of an initial permit issued under this subsection is six thousand dollars ($6,000).

SECTION 49. IC 7.1-3-20-16.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16.1. (a) This section applies to a municipal riverfront development project authorized under section 16(d) of this chapter.

(b) In order to qualify for a permit, an applicant must demonstrate that the municipal riverfront development project area where the permit is to be located meets the following criteria:

(1) The project boundaries must border on at least one (1) side of a river.

(2) The proposed permit premises may not be located more than:

(A) one thousand five hundred (1,500) feet; or

(B) three (3) city blocks;

from the river, whichever is greater. However, if the area adjacent to the river is incapable of being developed because the area is in a floodplain, or for any other reason that prevents the area from being developed, the distances described in clauses (A) and (B) are measured from the city blocks located nearest to the river that are capable of being developed.

(3) The permit premises are located within:

(A) an economic development area, a blighted area, an urban renewal area, or a redevelopment area established under IC 36-7-14, IC 36-7-14.5, or IC 36-7-15.1; ~~or~~

(B) an economic development project district under IC 36-7-15.2 or IC 36-7-26; **or**

(C) a community revitalization enhancement district designated under IC 36-7-13-12.1.

(4) The project must be funded in part with state and city money.

(5) The boundaries of the municipal riverfront development project must be designated by ordinance or resolution by the legislative body (as defined in IC 36-1-2-9(3) or IC 36-1-2-9(4)) of the city in which the project is located.

(c) Proof of compliance with subsection (b) must consist of the following documentation, which is required at the time the permit application is filed with the commission:

(1) A detailed map showing:

(A) definite boundaries of the entire municipal riverfront development project; and

(B) the location of the proposed permit within the project.

(2) A copy of the local ordinance or resolution of the local governing body authorizing the municipal riverfront development project.

(3) Detailed information concerning the expenditures of state and city funds on the municipal riverfront development project.

(d) Notwithstanding subsection (b), the commission may issue a permit for premises, the location of which does not meet the criteria of subsection (b)(2), if all the following requirements are met:

(1) All other requirements of this section and section 16(d) of this chapter are satisfied.

(2) The proposed premises is located not more than:

(A) three thousand (3,000) feet; or

(B) six (6) blocks;

from the river, whichever is greater. However, if the area adjacent to the river is incapable of being developed because the area is in a floodplain, or for any other reason that prevents the area from being developed, the distances described in clauses (A) and (B) are measured from the city blocks located nearest to the river that are capable of being developed.

(3) The permit applicant satisfies the criteria established by the commission by rule adopted under IC 4-22-2. The criteria established by the commission may require that the proposed premises be located in an area or district set forth in subsection (b)(3).

(4) The permit premises may not be located less than two hundred (200) feet from facilities owned by a state educational institution (as defined in IC 20-12-0.5-1).

(e) A permit may not be issued if the proposed permit premises is the location of an existing three-way permit subject to IC 7.1-3-22-3.

SECTION 50. IC 8-9.5-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. As used in this chapter, "authority" means:

(1) an authority or agency established under IC 8-1-2.2 or IC 8-9.5 through IC 8-23;

(2) the commission established under IC 4-13.5;

(3) only in connection with a program established under

IC 13-18-13 or IC 13-18-21, the bank established under IC 5-1.5; ~~or~~

(4) a fund or program established under IC 13-18-13 or IC 13-18-21;

(5) the authority established under IC 4-4-11; or

(6) the authority established under IC 5-1-17.

SECTION 51. IC 8-15-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) In order to remove the handicaps and hazards on the congested highways in Indiana, to facilitate vehicular traffic throughout the state, to promote the agricultural and industrial development of the state, and to provide for the general welfare by the construction of modern express highways embodying safety devices, including center division, ample shoulder widths, long sight distances, multiple lanes in each direction, and grade separations at intersections with other highways and railroads, the authority may:

(1) construct, reconstruct, maintain, repair, and operate toll road projects at such locations as shall be approved by the governor;

(2) in accordance with such alignment and design standards as shall be approved by the authority and subject to IC 8-9.5-8-10, issue toll road revenue bonds of the state payable solely from funds pledged for their payment, as authorized by this chapter, to pay the cost of such projects;

(3) finance, develop, construct, reconstruct, improve, or maintain ~~public~~ improvements ~~such as roads and streets, sewerlines, waterlines, and sidewalks~~ for manufacturing, ~~or~~ commercial, **or public transportation** activities within a county through which a toll road passes; ~~if these improvements are within the county and are within an area that is located:~~

~~(A) ten (10) miles on either side of the center line of a toll road project; or~~

~~(B) two (2) miles on either side of the center line of any limited access highway that interchanges with a toll road project;~~

(4) in cooperation with the Indiana department of transportation or a political subdivision, construct, reconstruct, or finance the construction or reconstruction of an arterial highway or an arterial street that is located within ~~ten (10) miles of the center line of~~ a **county through which a** toll road ~~project~~ **passes** and that:

(A) interchanges with a toll road project; or

(B) intersects with a road or a street that interchanges with a toll road project;

(5) ~~assist in~~ **finance improvements necessary for** developing ~~existing~~ transportation corridors in northwestern Indiana; and

(6) exercise these powers in participation with any governmental entity or with any individual, partnership, limited liability company, or corporation.

(b) Notwithstanding subsection (a), the authority shall not construct, maintain, operate, nor contract for the construction, maintenance, or operation of transient lodging facilities on, or adjacent to, such toll road projects.

SECTION 52. IC 8-15-2-14.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14.5. Subject to the provisions and requirements of any trust agreement providing for the issuance of toll road revenue bonds and only to the extent permitted by such trust agreement, the authority shall fix the tolls for any toll road under its jurisdiction. ~~so that, to the extent feasible, the tolls for any class of traffic shall be substantially uniform according to the mileage between interchanges. No reduced rate of toll shall be allowed within any such class except through the use of commutation or other tickets or privileges based upon frequency or volume of use.~~

SECTION 53. IC 8-15-2-14.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 14.7. (a) As used in this section, "development authority" refers to the development authority established under IC 36-7.5-2-1.**

(b) Subject to the trust agreement of any outstanding bonds and subject to the requirements of subsection (d), the authority shall distribute to the development authority in calendar year 2006 and calendar year 2007 from revenues accruing to the authority from the toll road at least five million dollars ($5,000,000) and not more than ten million dollars ($10,000,000) each year. The amount of the distribution for a year shall be determined by the authority. The amount to be distributed each year shall be distributed in equal quarterly amounts before the last business day of January, April, July, and October of 2006 and 2007. The amounts distributed under this subsection shall be deposited in the development authority fund established under IC 36-7.5-4-1.

(c) Subject to the trust agreement of any outstanding bonds and subject to the requirements of subsections (d) and (e), after 2007 the authority may distribute to the development authority amounts from revenues accruing to the authority from the toll road. The amount of any distribution for a year shall be determined by the authority. Any amounts to be distributed for the year under this subsection shall be distributed in equal quarterly amounts before the last business day of January, April, July, and October of the year. Any amounts distributed under this subsection shall be deposited in the development authority fund established under IC 36-7.5-4-1.

(d) A distribution may be made by the authority to the development authority under subsection (b) or (c) only if all transfers required from cities and counties to the development authority under IC 36-7.5-4-2 have been made.

(e) A distribution may be made by the authority to the development authority under subsection (c) only after the budget committee has reviewed the development authority's comprehensive strategic development plan under IC 36-7.5-3-4 and the director of the office of management and budget has approved the comprehensive strategic development plan.

(f) If the Indiana Toll Road is sold or leased before January 1, 2008 (other than a lease to the department), and the sale or lease agreement does not require the purchaser or lessee to continue making the distributions required by subsection (b),

the treasurer of state shall pay an amount equal to the greater of zero (0) or the result of:

(1) twenty million dollars ($20,000,000); minus

(2) any amounts transferred to the development authority under this subsection before the sale or lease;

from the state general fund to the development authority fund established under IC 36-7.5-4-1.

(g) Amounts distributed or paid to the development authority under this section may be used for any purpose of the development authorized under IC 36-7.5.

(h) The amounts necessary to make any distributions or payments required or authorized by this section are appropriated.

SECTION 54. IC 9-13-2-170 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 170. "Special group" means:

(1) a class or group of persons that the bureau finds:

~~(1) that:~~

(A) have made significant contributions to the United States, Indiana, or the group's community or

~~(B)~~ are descendants of native or pioneer residents of Indiana;

~~(2)~~ **(B)** are organized as a nonprofit organization (as defined under Section 501(c) of the Internal Revenue Code);

~~(3)~~ **(C)** are organized for nonrecreational purposes; and

~~(4)~~ **(D)** are organized as a separate, unique organization or as a coalition of separate, unique organizations; **or**

(2) a National Football League franchised professional football team.

SECTION 55. IC 9-18-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. (a) A person who is the registered owner or lessee of a:

(1) passenger motor vehicle;

(2) motorcycle;

(3) recreational vehicle; or

(4) vehicle registered as a truck with a declared gross weight of not more than:

(A) eleven thousand (11,000) pounds;

(B) nine thousand (9,000) pounds; or

(C) seven thousand (7,000) pounds;

registered with the bureau or who makes an application for an original registration or renewal registration of a vehicle may apply to the bureau for a personalized license plate to be affixed to the vehicle for which registration is sought instead of the regular license plate.

(b) A person who:

(1) is the registered owner or lessee of a vehicle described in subsection (a); and

(2) is eligible to receive a license plate for the vehicle under:

(A) IC 9-18-17 (prisoner of war license plates);

(B) IC 9-18-18 (disabled veteran license plates);

(C) IC 9-18-19 (purple heart license plates);

(D) IC 9-18-20 (Indiana National Guard license plates);

(E) IC 9-18-21 (Indiana Guard Reserve license plates);

(F) IC 9-18-22 (license plates for persons with disabilities);

(G) IC 9-18-23 (amateur radio operator license plates);

(H) IC 9-18-24 (civic event license plates);

(I) IC 9-18-25 (special group recognition license plates);

(J) IC 9-18-29 (environmental license plates);

(K) IC 9-18-30 (kids first trust license plates);

(L) IC 9-18-31 (education license plates);

(M) IC 9-18-32.2 (drug free Indiana trust license plates);

(N) IC 9-18-33 (Indiana FFA trust license plates);

(O) IC 9-18-34 (Indiana firefighter license plates);

(P) IC 9-18-35 (Indiana food bank trust license plates);

(Q) IC 9-18-36 (Indiana girl scouts trust license plates);

(R) IC 9-18-37 (Indiana boy scouts trust license plates);

(S) IC 9-18-38 (Indiana retired armed forces member license plates);

(T) IC 9-18-39 (Indiana antique car museum trust license plates);

(U) IC 9-18-40 (D.A.R.E. Indiana trust license plates);

(V) IC 9-18-41 (Indiana arts trust license plates);

(W) IC 9-18-42 (Indiana health trust license plates);

(X) IC 9-18-43 (Indiana mental health trust license plates);

(Y) IC 9-18-44 (Indiana Native American Trust license plates);

(Z) IC 9-18-45.8 (Pearl Harbor survivor license plates);

(AA) IC 9-18-46.2 (Indiana state educational institution trust license plates);

(BB) IC 9-18-47 (Lewis and Clark bicentennial license plates); ~~or~~

(CC) IC 9-18-48 (Riley Children's Foundation license plates); **or**

(DD) IC 9-18-49 (National Football League franchised professional football team license plates);

may apply to the bureau for a personalized license plate to be affixed to the vehicle for which registration is sought instead of the regular special recognition license plate.

SECTION 56. IC 9-18-49 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]:

Chapter 49. National Football League Franchised Professional Football Team License Plates

Sec. 1. The bureau shall design and issue a National Football League franchised football team license plate for a National Football League franchised football team from which the bureau secures an agreement for the production and sale of license plates. A National Football League franchised football team license plate shall be designed and issued as a special group recognition license plate under IC 9-18-25.

Sec. 2. The bureau shall:

(1) negotiate for the purpose of entering; or

(2) delegate the authority to enter;

into license agreements with a professional sports franchise in order to design and issue a National Football League franchised

football team license plate authorized under section 1 of this chapter.

Sec. 3. After December 31, 2005, a person who is eligible to register a motor vehicle under this title is eligible to receive a specified National Football League franchised football team license plate issued under a licensing agreement entered into under section 2 of this chapter with a specified National Football League franchised football team upon doing the following:

(1) Completing an application for a specified National Football League franchised football team license plate.

(2) Paying the fees under section 4 of this chapter.

Sec. 4. (a) The fees for a National Football League franchised football team license plate are as follows:

(1) The appropriate fees under IC 9-29-5-38(d)(1), IC 9-29-5-38(d)(2), and IC 9-29-5-38(d)(3).

(2) An annual fee of twenty dollars ($20).

(b) The annual fee described in subsection (a)(2) shall be:

(1) collected by the bureau; and

(2) deposited in the capital projects fund established by section 5 of this chapter.

Sec. 5. (a) The capital projects fund is established.

(b) The treasurer of state shall invest the money in the capital projects fund not currently needed to meet the obligations of the capital projects fund in the same manner as other public funds are invested. Money in the fund is continuously appropriated for the purposes of this section.

(c) The budget director shall administer the capital projects fund. Expenses of administering the capital projects fund shall be paid from money in the capital projects fund.

(d) On:

(1) June 30 of every year after June 30, 2006; or

(2) any other date designated by the budget director;

an amount designated by the budget director shall be transferred from the fund to the state general fund, a capital improvement board of managers created by IC 36-10-9, or the designee chosen by the budget director under IC 5-1-17-28.

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

Sec. 6. The budget agency shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 57. IC 9-29-5-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 38. (a) Except as provided in ~~subsection~~ **subsections** (c) **and (d),** vehicles registered under IC 9-18-25 are subject to the following:

(1) An appropriate annual registration fee.

(2) An annual supplemental fee of ten dollars ($10).

(3) Any other fee or tax required of a person registering a vehicle under this title.

(b) The bureau shall distribute all money collected under the annual supplemental fee under subsection (a)(2) **or (d)(2)** as follows:

(1) Five dollars ($5) from each registration is appropriated to the bureau of motor vehicles for the purpose of administering IC 9-18-25.

(2) Five dollars ($5) from each registration shall be deposited in the state license branch fund under IC 9-29-14.

(c) A vehicle registered under IC 9-18-25 that is owned by a former prisoner of war or by the prisoner's surviving spouse is exempt from the annual registration fee and the annual supplemental fee.

(d) A motor vehicle that is registered and for which is issued a special group recognition license plate under IC 9-18-25 and IC 9-18-49 is subject to the following:

(1) An appropriate annual registration fee.

(2) An annual supplemental fee of ten dollars ($10).

(3) Any other fee or tax required of a person registering a vehicle under this title.

(4) The annual fee of twenty dollars ($20) imposed by IC 9-18-49-4(a)(2).

SECTION 58. IC 13-21-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) A controller selected under section 9 of this chapter shall do the following:

(1) Be the official custodian of all district money **and, subject to the terms of any resolution or trust indenture under which bonds are issued under this article, deposit and invest all district money in the same manner as other county money is deposited and invested under IC 5-13.**

(2) Be responsible to the board for the fiscal management of the district.

(3) Be responsible for the proper safeguarding and accounting of the district's money.

(4) Subject to subsection (c), issue warrants approved by the board after a properly itemized and verified claim has been presented to the board on a claim docket.

(5) Make financial reports of district money and present the reports to the board for the board's approval.

(6) Prepare the district's annual budget.

(7) Perform any other duties:

(A) prescribed by the board; and

(B) consistent with this chapter.

(b) A controller selected under section 9 of this chapter:

(1) does not exercise any sovereign authority of the state; and

(2) does not hold a lucrative office for purposes of Article 2, Section 9 of the Constitution of the State of Indiana.

(c) The board may, by resolution, authorize the controller to make claim payments for:

(1) payroll;

(2) the state solid waste management fee imposed by IC 13-20-22-1; and

(3) certain specific vendors identified in the resolution;

without the claims being first approved by the board if before payment the claims are approved in writing by the chairperson of the board or in the absence of the chairperson another member of the board designated by the chairperson. The claims shall be reviewed and allowed by the board at the board's next regular or special meeting.

SECTION 59. IC 13-21-13-2 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A board that has imposed fees under section 1 of this chapter shall establish and continuously maintain a separate fund under this section to be known as the "_____ district solid waste management fund".

(b) All fees remitted to the district under section 1 of this chapter shall be deposited in the fund.

(c) Money in the fund may be used only for the following purposes:

(1) To pay expenses of administering the fund.

(2) To pay costs associated with the development and implementation of the district plan.

(d) The controller of the district shall administer a fund established under this section. Money in the fund that is not currently needed for the purposes set forth in subsection (c) ~~may~~ **shall** be **deposited and** invested in the same manner as other county money ~~may be~~ **is deposited and** invested **under IC 5-13.** Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a district's fiscal year does not revert to:

(1) a county general fund; or

(2) any other fund.

(e) The controller of a district shall:

(1) file an individual surety bond; or

(2) revise an existing bond;

in a sufficient amount determined under IC 5-4-1-18 to reflect the liability associated with the handling of the district's money.

SECTION 60. IC 16-44-2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) Except as provided in subsection (b), fees for the inspection of gasoline or kerosene shall be at the rate of ~~forty~~ **fifty** cents ~~($0.40)~~ **($0.50)** per barrel (fifty (50) gallons) on all gasoline or kerosene received in Indiana less deductions provided in this section.

(b) A fee for inspection of gasoline or kerosene may not be charged for the following:

(1) On transport or tank car shipments direct to the federal government.

(2) On gasoline or kerosene received and subsequently exported from Indiana or returned to refineries or marine or pipeline terminals in Indiana.

(c) Fees shall be paid to the state department by the person receiving gasoline or kerosene in Indiana at the time gasoline or kerosene products are received, unless the person receiving the gasoline or kerosene is licensed as a distributor under the gasoline tax law (IC 6-6-1.1). In that case, the person in receipt of the gasoline or kerosene shall do the following:

(1) Include in the person's monthly gasoline tax report a statement of all gasoline and kerosene received during the preceding calendar month on which inspection fees are due.

(2) Remit the amount of the inspection fees at the same time the monthly motor fuel tax report is due.

(d) A refiner or other person supplying gasoline or kerosene to the first receiver in Indiana may elect to pay the fees monthly on all gasoline or kerosene supplied to persons in Indiana not licensed as distributors under the gasoline tax law (IC 6-6-1.1). If the supplier is not licensed as a distributor under the gasoline tax law of Indiana (IC 6-6-1.1), the supplier shall, as a condition precedent to such election, file with the state department a corporate surety bond that meets the following conditions:

(1) Is in the form and amount that the state department determines, not to exceed two thousand dollars ($2,000).

(2) Is conditioned that the supplier does the following:

(A) Reports all gasoline and kerosene supplied by the supplier to persons in Indiana not licensed as distributors under the gasoline tax law (IC 6-6-1.1).

(B) Pays inspection fees monthly on or before the twenty-fifth day of each calendar month for the preceding calendar month.

(e) A person taking credit for gasoline or kerosene exported or returned to a refinery or terminal shall substantiate that credit in the manner that the state department reasonably requires by rule.

(f) A distributor who fails to file a monthly report and pay the tax due as required by this chapter is subject to a penalty of five percent (5%) of the amount of unpaid tax due and interest on the unpaid tax and penalty at the rate of eight percent (8%) annually. However, if a delay not exceeding ten (10) days is due to a mistake, an accident, or an oversight without intent to avoid payment, the administrator may waive the penalty and interest.

SECTION 61. IC 16-44-2-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 18.5. (a) As used in this section, "special fuel" has the meaning set forth in IC 6-6-2.5-22, except that the term does not include kerosene.**

(b) Except as provided in subsection (c), fees for the inspection of special fuel shall be at the rate of fifty cents ($0.50) per barrel (fifty (50) gallons) on all special fuel sold or used in producing or generating power for propelling motor vehicles in Indiana less deductions provided in this section.

(c) A fee for the inspection of special fuel may not be charged with respect to special fuel that is exempt from the special fuel tax under IC 6-6-2.5-30.

(d) The fee imposed by this chapter on special fuel sold or used in producing or generating power for propelling motor vehicles in Indiana shall be collected and remitted to the state at the same time, by the same person, and in accordance with the same requirements for collection and remittance of the special fuels tax under IC 6-6-2.5-35.

(e) Fees collected under this section shall be deposited by the department in the underground petroleum storage tank excess liability trust fund established by IC 13-23-7-1.

(f) A person who receives a refund of special fuel tax under IC 6-6-2.5 is also entitled to a refund of fees paid under this section if:

(1) the fees were paid with respect to special fuel that was used for an exempt purpose described in IC 6-6-2.5-30; and

(2) the person submits to the state department of revenue a claim for a refund, in the form prescribed by the state of

department of revenue, that includes the following information:

(A) Any evidence requested by the state department of revenue concerning the person's:

(i) payment of the fee imposed by this section; and

(ii) receipt of a refund of special fuel taxes from the state department of revenue under IC 6-6-2.5.

(B) Any other information reasonably requested by the state department of revenue.

The state department of revenue may make any investigation it considers necessary before refunding fees to a person.

SECTION 62. IC 21-2-21-1.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.8. (a) For purposes of this section, "retirement or severance liability" means the payments anticipated to be required to be made to employees of a school corporation upon or after termination of the employment of the employees by the school corporation under an existing or previous employment agreement.**

(b) This section applies to each school corporation that:

(1) did not issue bonds under IC 20-5-4-1.7 before its repeal; or

(2) issued bonds under IC 20-5-4-1.7 before April 14, 2003.

(c) In addition to the purposes set forth in section 1 of this chapter, a school corporation described in subsection (b) may issue bonds to implement solutions to contractual retirement or severance liability. The issuance of bonds for this purpose is subject to the following conditions:

(1) The school corporation may issue bonds under this section only one (1) time.

(2) The school corporation must issue the bonds before July 1, 2006.

(3) The solution to which the bonds are contributing must be reasonably expected to reduce the school corporation's unfunded contractual liability for retirement or severance payments as it existed on June 30, 2001.

(4) The amount of the bonds that may be issued for the purpose described in this section may not exceed:

(A) two percent (2%) of the true tax value of property in the school corporation, for a school corporation that did not issue bonds under IC 20-5-4-1.7 before its repeal; or

(B) the remainder of:

(i) two percent (2%) of the true tax value of property in the school corporation as of the date that the school corporation issued bonds under IC 20-5-4-1.7; minus

(ii) the amount of bonds that the school corporation issued under IC 20-5-4-1.7;

for a school corporation that issued bonds under IC 20-5-4-1.7 before April 14, 2003.

(5) Each year that a debt service levy is needed under this section, the school corporation shall reduce the total property tax levy for the school corporation's transportation, school bus replacement, capital projects, or art association and historical society funds in an amount equal to the property tax levy needed for the debt service under this section. The property tax rate for each of these funds shall be reduced each year until the bonds are retired.

(6) The school corporation shall establish a separate debt service fund for repayment of the bonds issued under this section.

(d) Bonds issued for the purpose described in this section shall be issued in the same manner as other bonds of the school corporation.

(e) Bonds issued under this section are not subject to the petition and remonstrance process under IC 6-1.1-20 or to the limitations contained in IC 36-1-15.

SECTION 63. IC 20-12-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. (a) The Ball State University board of trustees, Indiana State University board of trustees, the trustees of Indiana University, the trustees of Purdue University, and the University of Southern Indiana board of trustees, each as to its respective institution, shall have the power and duty:

(1) to govern the disposition and method and purpose of use of the property owned, used, or occupied by the institution, including the governance of travel over and the assembly upon the property;

(2) to govern, by specific regulation and other lawful means, the conduct of students, faculty, employees, and others while upon the property owned, used, or occupied by the institutions;

(3) to govern, by lawful means, the conduct of its students, faculty, and employees, wherever the conduct might occur, to the end of preventing unlawful or objectionable acts that seriously threaten the ability of the institution to maintain its facilities available for performance of its educational activities or that are in violation of the reasonable rules and standards of the institution designed to protect the academic community from unlawful conduct or conduct presenting a serious threat to person or property of the academic community;

(4) to dismiss, suspend, or otherwise punish any student, faculty member, or employee of the institution who violates the institution's rules or standards of conduct, after determination of guilt by lawful proceedings;

(5) to prescribe the fees, tuition, and charges necessary or convenient to the furthering of the purposes of the institution and to collect the prescribed fees, tuition, and charges;

(6) to prescribe the conditions and standards of admission of students upon the bases as are in its opinion in the best interests of the state and the institution;

(7) to prescribe the curricula and courses of study offered by the institution and define the standards of proficiency and satisfaction within the curricula and courses established by the institution;

(8) to award financial aid to students and groups of students out of the available resources of the institution through scholarships, fellowships, loans, remissions of fees, tuitions, charges, or other funds on the basis of financial need, excellence of academic achievement, or potential achievement or any other basis as the governing board may find to be reasonably related to the educational purposes and objectives of the institution and in the best interest of the institution and the state;

(9) to cooperate with other institutions to the end of better assuring the availability and utilization of its total resources and opportunities to provide excellent educational opportunity for all persons;

(10) to establish and carry out written policies for the investment of the funds of the institution in the manner provided by IC 30-4-3-3; ~~and~~

(11) to lease to any corporation, limited liability company, partnership, association, or individual real estate title to which is in the name of an institution or in the name of the state for the use and benefit of the leasing institution; **and**

(12) to adopt policies and standards for making property owned by the institution reasonably available to be used free of charge as locations for the production of motion pictures.

(b) A lease may be for such term and for such rental, either nominal or otherwise, as the board determines to be in the best interest of the institution. No lease shall be executed under this section for a term exceeding four (4) years unless the execution is approved by the governor and by the ~~state~~ budget agency. The universities shall be exempt from all property taxes on any real estate leased under this section, and the lessee shall be liable for property taxes on the leased real estate as if the real estate were owned by the lessee in fee simple, unless the lessee is a student living in university-owned facilities.

(c) This section shall not be construed to deny any tax exemption that a lessee would have under other laws if the lessee were the owner in fee simple of the real estate.

SECTION 64. IC 20-26-5-22.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 22.5. (a) A school corporation may participate in the establishment of a public school foundation.**

(b) The governing body of a school corporation may receive the proceeds of a grant, a restricted gift, an unrestricted gift, a donation, an endowment, a bequest, a trust, an agreement to share tax revenue received by a city or county under IC 4-33-12-6 or IC 4-33-13, or other funds not generated from taxes levied by the school corporation to create a foundation under the following conditions:

(1) The foundation is:

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

(B) organized as an Indiana nonprofit corporation for the purposes of providing educational funds for scholarships, teacher education, capital programs, and special programs for school corporations.

(2) Except as provided in subdivision (3), the foundation retains all rights to a donation, including investment powers. The foundation may hold a donation as a permanent endowment.

(3) The foundation agrees to do the following:

(A) Distribute the income from a donation only to the school corporation.

(B) Return a donation to the general fund of the school corporation if the foundation:

(i) loses the foundation's status as a foundation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;

(ii) is liquidated; or

(iii) violates any condition set forth in this subdivision.

(c) A school corporation may use the proceeds received under this section from a foundation only for educational purposes of the school corporation described in subsection (b)(1)(B).

(d) The governing body of the school corporation may appoint members to the foundation.

(e) The treasurer of the governing body of the school corporation may serve as the treasurer of the foundation.

SECTION 65. IC 22-4-37-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Should the Congress of the United States ~~either~~ amend, ~~or~~ repeal, **or authorize the implementation of a demonstration project under** 29 U.S.C. 49 et seq., 26 U.S.C. 3301 through 3311, 42 U.S.C. 301 et seq., or 26 U.S.C. 3101 through 3504, or any statute or statutes supplemental to or in lieu thereof or any part or parts of ~~either or all of~~ said statutes, or should ~~either~~ **any** or all of said statutes or any part or parts thereof be held invalid, to the end and with such effect that appropriations of funds by the said Congress and grants thereof to the state for the payment of costs of administration of the department of workforce development are or no longer shall be available for such purposes, **or should the primary responsibility for the administration of 26 U.S.C. 3301 through 26 U.S.C. 3311 be transferred to the state as a demonstration project authorized by Congress,** or should employers in Indiana subject to the payment of tax under 26 U.S.C. 3301 through 3311 be granted full credit upon such tax for contributions or taxes paid to the department of workforce development, then, ~~and in such case~~ beginning with the effective date of such change in liability for payment of such federal tax and for each year thereafter, the normal contribution rate under this article shall be **established by the department of workforce development and may not exceed** three and ~~one-tenth~~ **one-half** percent ~~(3.1%)~~ **(3.5%)** per year of each ~~such~~ employer's payroll subject to contribution. With respect to each employer having a rate of contribution for such year pursuant to terms of IC 22-4-11-2(b)(2)(A), IC 22-4-11-2(b)(2)(B), ~~and~~ IC 22-4-11-3, **and IC 22-4-11-3.3,** to the rate of contribution, as determined for such year in which such change occurs, shall be

added ~~four-tenths of one~~ **not more than eight-tenths** percent ~~(0.4%).~~ **(0.8%) as prescribed by the department of workforce development.**

(b) The amount of the excess of tax for which such employer is or may become liable by reason of this section over the amount which such employer would pay or become liable for except for the provisions of this section, together with any interest or earnings thereon, shall be paid and transferred into the employment and training services administration fund to be disbursed and paid out under the same conditions and for the same purposes as is other money provided to be paid into such fund. If the commissioner shall determine that as of January 1 of any year there is an excess in said fund over the money and funds required to be disbursed therefrom for the purposes thereof for such year, then and in such cases an amount equal to such excess, as determined by the commissioner, shall be transferred to and become part of the unemployment insurance benefit fund, and such funds shall be deemed to be and are hereby appropriated for the purposes set out in this section.

SECTION 66. IC 36-7-31-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. A commission may establish as part of a professional sports development area any facility:

(1) that is used in the training of a team engaged in professional sporting events; or

(2) that is:

(A) financed in whole or in part by:

(i) notes or bonds issued by a political subdivision or issued under IC 36-10-9 or IC 36-10-9.1; **or**

(ii) a lease or other agreement under IC 5-1-17; and

(B) used to hold a professional sporting event.

The tax area may include a facility described in this section and any parcel of land on which the facility is located. An area may contain noncontiguous tracts of land within the county.

SECTION 67. IC 36-7-31-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. (a) A tax area must be initially established before July 1, 1999, according to the procedures set forth for the establishment of an economic development area under IC 36-7-15.1. A tax area may be changed **(including to the exclusion or inclusion of a facility described in this chapter)** or the terms governing the tax area **may be** revised in the same manner as the establishment of the initial tax area. **However, after May 14, 2005:**

(1) a tax area may be changed only to include the site or future site of a facility that is or will be the subject of a lease or other agreement entered into between the capital improvement board and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26; and

(2) the terms governing a tax area may be revised only with respect to a facility described in subdivision (1).

(b) In establishing **or changing the tax area or revising the terms governing** the tax area, the commission must make the following findings instead of the findings required for the establishment of economic development areas:

(1) That a project to be undertaken or that has been undertaken in the tax area is for a facility at which a professional sporting event **or a convention or similar event** will be held.

(2) That the project to be undertaken or that has been undertaken in the tax area will benefit the public health and welfare and will be of public utility and benefit.

(3) That the project to be undertaken or that has been undertaken in the tax area will protect or increase state and local tax bases and tax revenues.

(c) The tax area established by the commission under this chapter is a special taxing district authorized by the general assembly to enable the county to provide special benefits to taxpayers in the tax area by promoting economic development that is of public use and benefit.

SECTION 68. IC 36-7-31-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 14. (a) A tax area must be established by resolution. A resolution establishing a tax area must provide for the allocation of covered taxes attributable to a taxable event or covered taxes earned in the tax area to the professional sports development area fund established for the county. The allocation provision must apply to the entire tax area. The resolution must provide that the tax area terminates not later than December 31, 2027.

(b) All of the salary, wages, bonuses, and other compensation that are:

(1) paid during a taxable year to a professional athlete for professional athletic services;

(2) taxable in Indiana; and

(3) earned in the tax area;

shall be allocated to the tax area if the professional athlete is a member of a team that plays the majority of the professional athletic events that the team plays in Indiana in the tax area.

(c) **Except as provided by section 14.1 of this chapter,** the total amount of state revenue captured by the tax area may not exceed five million dollars ($5,000,000) per year for twenty (20) consecutive years.

(d) The resolution establishing the tax area must designate the facility and the facility site for which the tax area is established and covered taxes will be used.

(e) The department may adopt rules under IC 4-22-2 and guidelines to govern the allocation of covered taxes to a tax area.

SECTION 69. IC 36-7-31-14.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 14.1. (a) The budget director appointed under IC 4-12-1-3 may determine that, commencing July 1, 2007, there may be captured in the tax area up to eleven million dollars ($11,000,000) per year in addition to the up to five million dollars ($5,000,000) of state revenue to be captured by the tax area under section 14 of this chapter, for up to thirty-four (34) consecutive years. The budget director's determination must specify that the termination date of the tax area for purposes of the collection of the additional eleven million dollars ($11,000,000) per year is extended to not later**

than:

(1) January 1, 2041; or

(2) January 1, 2010, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under IC 5-1-17-26.

Following the budget director's determination, and commencing July 1, 2007, the maximum total amount of revenue captured by the tax area for years ending before January 1, 2041, shall be sixteen million dollars ($16,000,000) per year.

(b) The additional revenue captured pursuant to a determination under subsection (a) shall be distributed to the capital improvement board or its designee. So long as there are any current or future obligations owed by the capital improvement board to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency under a lease or another agreement entered into between the capital improvement board and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the capital improvement board or its designee shall deposit the additional revenue received under this subsection in a special fund, which may be used only for the payment of the obligations described in this subsection.

SECTION 70. IC 36-7-31-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 21. **Except as provided in section 14.1 of this chapter,** the capital improvement board may use money distributed from the fund only to construct and equip a capital improvement that is used for a professional sporting event, including the financing or refinancing of a capital improvement or the payment of lease payments for a capital improvement.

SECTION 71. IC 36-7-31-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 23. This chapter expires December 31, ~~2027.~~ **2040.**

SECTION 72. IC 36-7-31.3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 9. (a) A tax area must be initially established by resolution:

(1) except as provided in subdivision (2) before July 1, 1999; or

(2) before January 1, 2005, **in the case of:**

(A) ~~in the case of~~ a second class city; or

(B) the city of Marion;

according to the procedures set forth for the establishment of an economic development area under IC 36-7-14. **Before May 15, 2005,** a tax area may be changed or the terms governing the tax area revised in the same manner as the establishment of the initial tax area. **After May 14, 2005, a tax area may not be changed and the terms governing a tax area may not be revised.** Only one (1) tax area may be created in each county.

(b) In establishing the tax area, the designating body must make the following findings instead of the findings required for the establishment of economic development areas:

(1) Except for a tax area in a city having a population of:

(A) more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000); or

(B) more than ninety thousand (90,000) but less than one hundred five thousand (105,000);

there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used by a professional sports franchise for practice or competitive sporting events. A tax area to which this subdivision applies may also include a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.

(2) For a tax area in a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a) of this chapter.

(3) For a tax area in a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.

(4) The capital improvement that will be undertaken or that has been undertaken in the tax area will benefit the public health and welfare and will be of public utility and benefit.

(5) The capital improvement that will be undertaken or that has been undertaken in the tax area will protect or increase state and local tax bases and tax revenues.

(c) The tax area established under this chapter is a special taxing district authorized by the general assembly to enable the designating body to provide special benefits to taxpayers in the tax area by promoting economic development that is of public use and benefit.

SECTION 73. IC 36-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

ARTICLE 7.5. NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

Chapter 1. Definitions

Sec. 1. Except as otherwise provided, the definitions in this chapter apply throughout this article.

Sec. 2. "Airport authority" refers to an airport authority established under IC 8-22-3 in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

Sec. 3. "Airport authority project" means a project that can be financed with the proceeds of bonds issued by an airport authority under IC 8-22-3.

Sec. 4. "Airport development authority" refers to an airport development authority established under IC 8-22-3.7 in a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).

Sec. 5. "Bonds" means bonds, notes, or other evidences of

indebtedness issued by the development authority.

Sec. 6. "Commuter transportation district" refers to a commuter transportation district that:

(1) is established under IC 8-5-15; and

(2) has among its purposes the maintenance, operation, and improvement of passenger service over the Chicago, South Shore, and South Bend Railroad and any extension of that railroad.

Sec. 7. "Commuter transportation district project" means a project that can be financed with the proceeds of bonds issued by a commuter transportation district under IC 8-5-15.

Sec. 8. "Development authority" refers to the northwest Indiana regional development authority established by IC 36-7.5-2-1.

Sec. 9. "Development board" refers to the governing body appointed under IC 36-7.5-2-3 for a development authority.

Sec. 10. "Economic development project" means the following:

(1) An economic development project described in IC 6-3.5-7-13.1(c).

(2) A dredging, sediment removal, or channel improvement project.

Sec. 11. "Eligible county" refers to the following counties:

(1) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(2) A county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000).

Sec. 12. "Eligible political subdivision" means the following:

(1) An airport authority.

(2) A commuter transportation district.

(3) A regional bus authority under IC 36-9-3-2(c).

(4) A shoreline development commission under IC 36-7-13.5.

Sec. 13. "Project" means an airport authority project, a commuter transportation district project, an economic development project, a regional bus authority project, or a shoreline development commission project.

Sec. 14. "Regional bus authority" means a regional transportation authority operating as a regional bus authority under IC 36-9-3-2(c).

Sec. 15. "Regional bus authority project" means a project that can be financed with the proceeds of bonds issued by a regional bus authority under IC 36-9-3.

Sec. 16. "Shoreline development commission" means the commission established by IC 36-7-13.5-2.

Sec. 17. "Shoreline development commission project" means a project that can be financed with the proceeds of bonds issued by a shoreline development commission.

Chapter 2. Development Authority and Board

Sec. 1. The northwest Indiana regional development authority is established as a separate body corporate and politic to carry out the purposes of this article by:

(1) acquiring, constructing, equipping, owning, leasing, and financing projects and facilities for lease to or for the benefit of eligible political subdivisions under this article; and

(2) funding and developing the Gary/Chicago International Airport expansion and other airport authority projects, commuter transportation district and other rail projects and services, regional bus authority projects and services, shoreline development projects and activities, and economic development projects in northwestern Indiana.

Sec. 2. The development authority may carry out its powers and duties under this article in an eligible county.

Sec. 3. (a) The development authority is governed by the development board appointed under this section.

(b) The development board is composed of the following seven (7) members:

(1) Two (2) members appointed by the governor. One (1) of the members appointed by the governor under this subdivision must be an individual nominated under subsection (d). The members appointed by the governor under this subdivision serve at the pleasure of the governor.

(2) The following members from a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) One (1) member appointed by the mayor of the largest city in the county in which a riverboat is located.

(B) One (1) member appointed by the mayor of the second largest city in the county in which a riverboat is located.

(C) One (1) member appointed by the mayor of the third largest city in the county in which a riverboat is located.

(D) One (1) member appointed jointly by the county executive and the county fiscal body. A member appointed under this clause may not reside in a city described in clause (A), (B), or (C).

(3) One (1) member appointed jointly by the county executive and county fiscal body of a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000).

(c) A member appointed to the development board must have knowledge and at least five (5) years professional work experience in at least one (1) of the following:

(1) Rail transportation or air transportation.

(2) Regional economic development.

(3) Business or finance.

(d) The mayor of the largest city in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000) shall nominate three (3) residents of the county for

appointment to the development board. One (1) of the governor's initial appointments under subsection (b)(1) must be an individual nominated by the mayor. At the expiration of the member's term, the mayor of the second largest city in the county shall nominate three (3) residents of the county for appointment to the development board. One (1) of the governor's appointments under subsection (b)(1) must be an individual nominated by the mayor. Thereafter, the authority to nominate the three (3) members from which the governor shall make an appointment under subsection (b)(1) shall alternate between the mayors of the largest and the second largest city in the county at the expiration of a member's term.

(e) An individual or entity required to make an appointment under subsection (b) or nominations under subsection (d) must make the initial appointment before September 1, 2005, or the initial nomination before August 15, 2005. If an individual or entity does not make an initial appointment under subsection (b) before September 1, 2005, or the initial nominations required under subsection (d) before September 1, 2005, the governor shall instead make the initial appointment.

Sec. 4. (a) Except as provided in subsection (b) for the initial appointments to the development board, a member appointed to the development board serves a four (4) year term. However, a member serves at the pleasure of the appointing authority. A member may be reappointed to subsequent terms.

(b) The terms of the initial members appointed to the development board are as follows:

(1) The initial member appointed by the governor who is not nominated under section 3(d) of this chapter shall serve a term of four (4) years.

(2) The initial member appointed by the governor who is nominated under section 3(d) of this chapter shall serve a term of two (2) years.

(3) The initial member appointed under section 3(b)(2)(D) of this chapter shall serve a term of three (3) years.

(4) The initial member appointed under section 3(b)(3) of this chapter shall serve a term of three (3) years.

(5) The initial members appointed under section 3(b)(2)(A) through 3(b)(2)(C) of this chapter shall serve a term of two (2) years.

(c) If a vacancy occurs on the development board, the appointing authority that made the original appointment shall fill the vacancy by appointing a new member for the remainder of the vacated term.

(d) Each member appointed to the development board, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the development board.

(e) A member appointed to the development board is not entitled to receive any compensation for performance of the member's duties. However, a member is entitled to a per diem from the development authority for the member's participation in development board meetings. The amount of the per diem is equal to the amount of the per diem provided under IC 4-10-11-2.1(b).

Sec. 5. (a) The member appointed by the governor under section 3(b)(1) of this chapter but not nominated under section 3(d) of this chapter shall serve as chair of the development board until January 2013. At the election under subsection (b) in 2013 and each year thereafter, the chair shall be elected from among the members of the development board.

(b) In January of each year, the development board shall hold an organizational meeting at which the development board shall elect the following officers from the members of the development board:

(1) After December 31, 2012, a chair.

(2) A vice chair.

(3) A secretary-treasurer.

(c) Not more than two (2) members from any particular county may serve as an officer described in subsection (a) or elected under subsection (b). The affirmative vote of at least five (5) members of the development board is necessary to elect an officer under subsection (b).

(d) An officer elected under subsection (b) serves from the date of the officer's election until the officer's successor is elected and qualified.

Sec. 6. (a) The development board shall meet at least quarterly.

(b) The chair of the development board or any two (2) members of the development board may call a special meeting of the development board.

(c) Five (5) members of the development board constitute a quorum.

(d) The affirmative votes of at least five (5) members of the development board are necessary to authorize any action of the development authority.

(e) Notwithstanding any other provision of this article, the minimum of at least five (5) affirmative votes required under subsection (d) to take any of the following actions must include the affirmative vote of the member appointed by the governor who is not nominated under section 3(d) of this chapter:

(1) Making loans, loan guarantees, or grants or providing any other funding or financial assistance for projects.

(2) Acquiring or condemning property.

(3) Entering into contracts.

(4) Employing an executive director or any consultants or technical experts.

(5) Issuing bonds or entering into a lease of a project.

Sec. 7. The development board may adopt the bylaws and rules that the development board considers necessary for the proper conduct of the development board's duties and the safeguarding of the development authority's funds and property.

Sec. 8. (a) The development authority must comply with IC 5-16-7 (common construction wage), IC 5-22 (public purchasing), IC 36-1-12 (public work projects), and any applicable federal bidding statutes and regulations. An eligible

political subdivision that receives a loan, a grant, or other financial assistance from the development authority or enters into a lease with the development authority must comply with applicable federal, state, and local public purchasing and bidding law and regulations. However, a purchasing agency (as defined in IC 5-22-2-25) of an eligible political subdivision may:

(1) assign or sell a lease for property to the development authority; or

(2) enter into a lease for property with the development authority;

at any price and under any other terms and conditions as may be determined by the eligible political subdivision and the development authority. However, before making an assignment or sale of a lease or entering into a lease under this section that would otherwise be subject to IC 5-22, the eligible political subdivision or its purchasing agent must obtain or cause to be obtained a purchase price for the property to be subject to the lease from the lowest responsible and responsive bidder in accordance with the requirements for the purchase of supplies under IC 5-22.

(b) In addition to the provisions of subsection (a), with respect to projects undertaken by the authority, the authority shall set a goal for participation by minority business enterprises of fifteen percent (15%) and women's business enterprises of five percent (5%), consistent with the goals of delivering the project on time and within the budgeted amount and, insofar as possible, using Indiana businesses for employees, goods, and services. In fulfilling the goal, the authority shall take into account historical precedents in the same market.

Sec. 9. The office of management and budget shall contract with a certified public accountant for an annual financial audit of the development authority. The certified public accountant may not have a significant financial interest, as determined by the office of management and budget, in a project, facility, or service funded by or leased by or to the development authority. The certified public accountant shall present an audit report not later than four (4) months after the end of the development authority's fiscal year and shall make recommendations to improve the efficiency of development authority operations. The certified public accountant shall also perform a study and evaluation of internal accounting controls and shall express an opinion on the controls that were in effect during the audit period. The development authority shall pay the cost of the annual financial audit. In addition, the state board of accounts may at any time conduct an audit of any phase of the operations of the development authority. The development authority shall pay the cost of any audit by the state board of accounts.

Chapter 3. Development Authority Powers and Duties

Sec. 1. The development authority shall do the following:

(1) Assist in the coordination of local efforts concerning projects.

(2) Assist a commuter transportation district, an airport authority, a shoreline development commission, and a regional bus authority in coordinating regional transportation and economic development efforts.

(3) Fund projects as provided in this article.

(4) Fund bus services (including fixed route services and flexible or demand-responsive services) and projects related to bus services and bus terminals, stations, or facilities.

Sec. 2. (a) The development authority may do any of the following:

(1) Finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip land and projects located in an eligible county.

(2) Lease land or a project to an eligible political subdivision.

(3) Finance and construct additional improvements to projects or other capital improvements owned by the development authority and lease them to or for the benefit of an eligible political subdivision.

(4) Acquire land or all or a portion of one (1) or more projects from an eligible political subdivision by purchase or lease and lease the land or projects back to the eligible political subdivision, with any additional improvements that may be made to the land or projects.

(5) Acquire all or a portion of one (1) or more projects from an eligible political subdivision by purchase or lease to fund or refund indebtedness incurred on account of the projects to enable the eligible political subdivision to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the eligible political subdivision considers to be unduly burdensome.

(6) Make loans, loan guarantees, and grants or provide other financial assistance to or on behalf of the following:

(A) A commuter transportation district.

(B) An airport authority or airport development authority.

(C) A shoreline development commission.

(D) A regional bus authority. A loan, loan guarantee, grant, or other financial assistance under this clause may be used by a regional bus authority for acquiring, improving, operating, maintaining, financing, and supporting the following:

(i) Bus services (including fixed route services and flexible or demand-responsive services) that are a component of a public transportation system.

(ii) Bus terminals, stations, or facilities or other regional bus authority projects.

(7) Provide funding to assist a railroad that is providing commuter transportation services in an eligible county.

(8) Provide funding to assist an airport authority located in an eligible county in the construction, reconstruction, renovation, purchase, lease, acquisition, and equipping of an airport facility or airport project.

(9) Provide funding to assist a shoreline development commission in carrying out the purposes of IC 36-7-13.5.

(10) Provide funding for economic development projects in an eligible county.

(11) Hold, use, lease, rent, purchase, acquire, and dispose of by purchase, exchange, gift, bequest, grant, condemnation, lease, or sublease, on the terms and conditions determined by the development authority, any real or personal property located in an eligible county.

(12) After giving notice, enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a project.

(13) Make or enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this article.

(14) Sue, be sued, plead, and be impleaded.

(15) Design, order, contract for, and construct, reconstruct, and renovate a project or improvements to a project.

(16) Appoint an executive director and employ appraisers, real estate experts, engineers, architects, surveyors, attorneys, accountants, auditors, clerks, construction managers and any consultants or employees that are necessary or desired by the development authority in exercising its powers or carrying out its duties under this article.

(17) Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a political subdivision, or any other public or private source.

(18) Use the development authority's funds to match federal grants or make loans, loan guarantees, or grants to carry out the development authority's powers and duties under this article.

(19) Except as prohibited by law, take any action necessary to carry out this article.

(b) If the development authority is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this article, the development authority may proceed under IC 32-24-1 to procure the condemnation of the property. The development authority may not institute a proceeding until it has adopted a resolution that:

(1) describes the real property sought to be acquired and the purpose for which the real property is to be used;

(2) declares that the public interest and necessity require the acquisition by the development authority of the property involved; and

(3) sets out any other facts that the development authority considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition.

Sec. 3. The development authority shall before November 1 of each year issue a report to the legislative council, the budget committee, and the governor concerning the operations and activities of the development authority during the preceding state fiscal year. The report to the legislative council must be in an electronic format under IC 5-14-6.

Sec. 4. (a) The development authority shall prepare a comprehensive strategic development plan that includes detailed information concerning the following:

(1) The proposed projects to be undertaken or financed by the development authority.

(2) The following information for each project included under subdivision (1):

(A) Timeline and budget.

(B) The return on investment.

(C) The projected or expected need for an ongoing subsidy.

(D) Any projected or expected federal matching funds.

(b) The development authority shall before January 1, 2008, submit the comprehensive strategic development plan for review by the budget committee and approval by the director of the office of management and budget.

Chapter 4. Financing; Issuance of Bonds; Leases

Sec. 1. (a) The development board shall establish and administer a development authority fund.

(b) The development authority fund consists of the following:

(1) Riverboat admissions tax revenue, riverboat wagering tax revenue, or riverboat incentive payments received by a city or county described in IC 36-7.5-2-3(b) and transferred by the county or city to the fund.

(2) County economic development income tax revenue received under IC 6-3.5-7 by a county or city and transferred by the county or city to the fund.

(3) Amounts distributed under IC 8-15-2-14.7.

(4) Food and beverage tax revenue deposited in the fund under IC 6-9-36-8.

(5) Funds received from the federal government.

(6) Appropriations to the fund by the general assembly.

(7) Other local revenue appropriated to the fund by a political subdivision.

(8) Gifts, donations, and grants to the fund.

(c) On the date the development authority issues bonds for any purpose under this article, which are secured in whole or in part by the development authority fund, the development board shall establish and administer two (2) accounts within the development authority fund. The accounts shall be the general account and the lease rental account. After the accounts are established, all money transferred to the development authority fund under subsections (b)(1), (b)(2), and (b)(4) shall be deposited in the lease rental account and used only for the payment of or to secure the payment of obligations of an eligible political subdivision under a lease entered into by an eligible political subdivision and the development authority under this chapter. However, any money deposited in the lease rental account and not used for the purposes of this subsection shall be returned by the treasurer of the development authority to the respective counties and cities that contributed the money to the development authority.

(d) Notwithstanding subsection (c), if the amount of all money transferred to the development authority fund under subsections (b)(1), (b)(2), and (b)(4) for deposit in the lease rental account in any one (1) calendar year is greater than an amount equal to:

(1) one and twenty-five hundredths (1.25); multiplied by

(2) the total of the highest annual debt service on any bonds then outstanding to their final maturity date, which have been issued under this article and are not secured by a lease, plus the highest annual lease payments on any leases to their final maturity, which are then in effect under this article;

then all or a portion of the excess may instead be deposited in the general account.

(e) All other money and revenues of the development authority may be deposited in the general account or the lease rental account at the discretion of the development board. Money on deposit in the lease rental account may be used only to make rental payments on leases entered into by the development authority under this article. Money on deposit in the general account may be used for any purpose authorized by this article.

(f) The development authority fund shall be administered by the development authority.

(g) Money in the development authority fund shall be used by the development authority to carry out this article and does not revert to any other fund.

Sec. 2. (a) Beginning in 2006, the fiscal officer of each city and county described in IC 36-7.5-2-3(b) (other than the two (2) largest cities in a county described in IC 36-7.5-2-3(b)(1)) shall each transfer three million five hundred thousand dollars ($3,500,000) each year to the development authority for deposit in the development authority fund established under section 1 of this chapter.

(b) The following apply to the transfers required by subsection (a):

(1) The transfers shall be made without appropriation by the city or county fiscal body or approval by any other entity.

(2) After December 31, 2005, each fiscal officer shall transfer eight hundred seventy-five thousand dollars ($875,000) to the development authority fund before the last business day of January, April, July, and October of each year. Food and beverage tax revenue deposited in the fund under IC 6-9-36-8 is in addition to the transfers required by this section.

(3) The transfers shall be made from one (1) or more of the following:

(A) Riverboat admissions tax revenue received by the city or county, riverboat wagering tax revenue received by the city or county, or riverboat incentive payments received from a riverboat licensee by the city or county.

(B) Any county economic development income tax revenue received under IC 6-3.5-7 by the city or county.

(C) Any other local revenue other than property tax revenue received by the city or county.

Sec. 3. (a) Subject to subsection (h), the development authority may issue bonds for the purpose of obtaining money to pay the cost of:

(1) acquiring real or personal property, including existing capital improvements;

(2) acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects; or

(3) funding or refunding bonds issued under this chapter or IC 8-5-15, IC 8-22-3, IC 36-7-13.5, or IC 36-9-3 or prior law.

(b) The bonds are payable solely from:

(1) the lease rentals from the lease of the projects for which the bonds were issued, insurance proceeds, and any other funds pledged or available; and

(2) except as otherwise provided by law, revenue received by the development authority and amounts deposited in the development authority fund.

(c) The bonds shall be authorized by a resolution of the development board.

(d) The terms and form of the bonds shall either be set out in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds shall mature within forty (40) years.

(f) The board shall sell the bonds only to the Indiana development finance authority established by IC 4-4-11-4 upon the terms determined by the development board and the Indiana development finance authority.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

(1) planning and development of equipment or a facility and all buildings, facilities, structures, equipment, and improvements related to the facility;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the project suitable for use and operations;

(4) architectural, engineering, consultant, and attorney's fees;

(5) incidental expenses in connection with the issuance and sale of bonds;

(6) reserves for principal and interest;

(7) interest during construction;

(8) financial advisory fees;

(9) insurance during construction;

(10) municipal bond insurance, debt service reserve

insurance, letters of credit, or other credit enhancement; and

(11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (if any) for, and interest on, the bonds being refunded or refinanced.

(h) The development authority may not issue bonds under this article unless the development authority first finds that each contract for the construction of a facility and all buildings, facilities, structures, and improvements related to that facility to be financed in whole or in part through the issuance of the bonds requires payment of the common construction wage required by IC 5-16-7.

Sec. 4. This chapter contains full and complete authority for the issuance of bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the development board or any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds, except as prescribed in this article.

Sec. 5. (a) The development authority may secure bonds issued under this chapter by a trust indenture between the development authority and a corporate trustee, which may be any trust company or national or state bank within Indiana that has trust powers.

(b) The trust indenture may:

(1) pledge or assign revenue received by the development authority, amounts deposited in the development authority fund, and lease rentals, receipts, and income from leased projects, but may not mortgage land or projects;

(2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the development authority and development board;

(3) set forth the rights and remedies of bondholders and trustees; and

(4) restrict the individual right of action of bondholders.

(c) Any pledge or assignment made by the development authority under this section is valid and binding in accordance with IC 5-1-14-4 from the time that the pledge or assignment is made, against all persons whether they have notice of the lien or not. Any trust indenture by which a pledge is created or an assignment made need not be filed or recorded. The lien is perfected against third parties in accordance with IC 5-1-14-4.

Sec. 6. (a) Bonds issued under IC 8-5-15, IC 8-22-3, IC 36-7-13.5, or IC 36-9-3 or prior law may be refunded as provided in this section.

(b) An eligible political subdivision may:

(1) lease all or a portion of land or a project or projects to the development authority, which may be at a nominal lease rental with a lease back to the eligible political subdivision, conditioned upon the development authority assuming bonds issued under IC 8-5-15, IC 8-22-3, IC 36-7-13.5, or IC 36-9-3 or prior law and issuing its bonds to refund those bonds; and

(2) sell all or a portion of land or a project or projects to the development authority for a price sufficient to provide for the refunding of those bonds and lease back the land or project or projects from the development authority.

Sec. 7. (a) Before a lease may be entered into by an eligible political subdivision under this chapter, the eligible political subdivision must find that the lease rental provided for is fair and reasonable.

(b) A lease of land or a project from the development authority to an eligible political subdivision:

(1) may not have a term exceeding forty (40) years;

(2) may not require payment of lease rentals for a newly constructed project or for improvements to an existing project until the project or improvements to the project have been completed and are ready for occupancy or use;

(3) may contain provisions:

(A) allowing the eligible political subdivision to continue to operate an existing project until completion of the acquisition, improvements, reconstruction, or renovation of that project or any other project; and

(B) requiring payment of lease rentals for land, for an existing project being used, reconstructed, or renovated, or for any other existing project;

(4) may contain an option to renew the lease for the same or shorter term on the conditions provided in the lease;

(5) must contain an option for the eligible political subdivision to purchase the project upon the terms stated in the lease during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the project, including indebtedness incurred for the refunding of that indebtedness;

(6) may be entered into before acquisition or construction of a project;

(7) may provide that the eligible political subdivision shall agree to:

(A) pay any taxes and assessments on the project;

(B) maintain insurance on the project for the benefit of the development authority;

(C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and

(D) pay a deposit or series of deposits to the development authority from any funds legally available to the eligible political subdivision before the commencement of the lease to secure the performance of the eligible political subdivision's obligations under the lease; and

(8) shall provide that the lease rental payments by the eligible political subdivision shall be made from the development authority fund established by section 1 of this chapter and may provide that the lease rental payments by the eligible political subdivision shall be made from:

(A) net revenues of the project;

(B) any other funds available to the eligible political

subdivision; or

(C) both sources described in clauses (A) and (B).

Sec. 8. This chapter contains full and complete authority for leases between the development authority and an eligible political subdivision. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the development authority or the eligible political subdivision or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any lease, except as prescribed in this article.

Sec. 9. If the lease provides for a project or improvements to a project to be constructed by the development authority, the plans and specifications shall be submitted to and approved by all agencies designated by law to pass on plans and specifications for public buildings.

Sec. 10. The development authority and an eligible political subdivision may enter into common wall (party wall) agreements or other agreements concerning easements or licenses. These agreements shall be recorded with the recorder of the county in which the project is located.

Sec. 11. (a) An eligible political subdivision may lease for a nominal lease rental, or sell to the development authority, one (1) or more projects or portions of a project or land upon which a project is located or is to be constructed.

(b) Any lease of all or a portion of a project by an eligible political subdivision to the development authority must be for a term equal to the term of the lease of that project back to the eligible political subdivision.

(c) An eligible political subdivision may sell property to the development authority for the amount the eligible political subdivision determines to be in the best interest of the eligible political subdivision. The development authority may pay that amount from the proceeds of bonds of the development authority.

Sec. 12. If an eligible political subdivision exercises its option to purchase leased property, the eligible political subdivision may issue its bonds as authorized by statute.

Sec. 13. (a) All:

(1) property owned by the development authority;

(2) revenues of the development authority; and

(3) bonds issued by the development authority, the interest on the bonds, the proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of interest in proceeds;

are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(b) All securities issued under this chapter are exempt from the registration requirements of IC 23-2-1 and other securities registration statutes.

Sec. 14. Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associates, credit unions, savings banks, private banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.

Sec. 15. An action to contest the validity of bonds to be issued under this chapter may not be brought after the time limitations set forth in IC 5-1-14-13.

Sec. 16. (a) This section applies if:

(1) a city or county described in IC 36-7.5-2-3 fails to make a transfer or a part of a transfer required by section 2 of this chapter; and

(2) the development authority has bonds or other debt or lease obligations outstanding.

(b) The treasurer of state shall do the following:

(1) Deduct from amounts otherwise payable to the city or town under IC 4-33-12 or IC 4-33-13 an amount equal to the amount of the transfer or part of the transfer under section 2 of this chapter that the city or county failed to make.

(2) Pay the amount deducted under subdivision (1) to the development authority.

Sec. 17. (a) If there are bonds outstanding that have been issued under this article and are not secured by a lease, or if there are leases in effect under this article, the general assembly also covenants that it will not reduce the amount required to be transferred from the counties and cities to the development authority under section 2 of this chapter below an amount that would produce one and twenty-five hundredths (1.25) multiplied by the total of the highest annual debt service on the bonds to their final maturity plus the highest annual lease payments on the leases to their final termination date.

(b) The general assembly also covenants that it will not:

(1) repeal or amend this article in a manner that would adversely affect owners of outstanding bonds, or the payment of lease rentals, secured by the amounts pledged under this chapter; or

(2) in any way impair the rights of owners of bonds of the development authority, or the owners of bonds secured by lease rentals, secured by a pledge of revenues under this chapter;

except as otherwise set forth in subsection (a).

SECTION 74. IC 36-9-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A fiscal body of a county or municipality may, by ordinance, establish a regional transportation authority (referred to as "the authority" in this chapter) for the purpose of acquiring, improving, operating, maintaining, financing, and generally supporting a public transportation system that operates within the boundaries of an area designated as a transportation planning district by the Indiana department of transportation. However, only one (1) public transportation authority may be established within an area

designated as a transportation planning district by the Indiana department of transportation.

(b) The ordinance establishing the authority must include an effective date and a name for the authority. **Except as provided in subsection (c),** the words "regional transportation authority" must be included in the name of the authority.

(c) The words "regional bus authority" must be included in the name of an authority that includes a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

SECTION 75. IC 36-10-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 6. The board may, acting under the title "capital improvement board of managers of _____ County", do the following:

(1) Acquire by grant, purchase, gift, devise, lease, condemnation, or otherwise, and hold, use, sell, lease, or dispose of, real and personal property and all property rights and interests necessary or convenient for the exercise of its powers under this chapter.

(2) Construct, reconstruct, repair, remodel, enlarge, extend, or add to any capital improvement built or acquired by the board under this chapter.

(3) Control and operate a capital improvement, including letting concessions and leasing all or part of the capital improvement.

(4) Fix charges and establish rules governing the use of a capital improvement.

(5) Accept gifts or contributions from individuals, corporations, limited liability companies, partnerships, associations, trusts, or political subdivisions, foundations, and funds, loans, or advances on the terms that the board considers necessary or desirable from the United States, the state, and any political subdivision or department of either, including entering into and carrying out contracts and agreements in connection with this subdivision.

(6) Exercise within and in the name of the county the power of eminent domain under general statutes governing the exercise of the power for a public purpose.

(7) Receive and collect money due for the use or leasing of a capital improvement and from concessions and other contracts, and expend the money for proper purposes.

(8) Receive excise taxes, income taxes, and ad valorem property taxes and expend the money for operating expenses, payments of principal or interest of bonds or notes issued under this chapter, and for all or part of the cost of a capital improvement.

(9) Retain the services of architects, engineers, accountants, attorneys, and consultants and hire employees upon terms and conditions established by the board, so long as any employees or members of the board authorized to receive, collect, and expend money are covered by a fidelity bond, the amount of which shall be fixed by the board. Funds may not be disbursed by an employee or member of the board without prior specific approval by the board.

(10) Provide coverage for its employees under IC 22-3 and IC 22-4.

(11) Purchase public liability and other insurance considered desirable.

(12) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including the enforcement of them.

(13) Sue and be sued in the name and style of "capital improvement board of managers of _____ County" (including the name of the county), service of process being had by leaving a copy at the board's office.

(14) Prepare and publish descriptive material and literature relating to the facilities and advantages of a capital improvement and do all other acts that the board considers necessary to promote and publicize the capital improvement, including the convention and visitor industry, and serve the commercial, industrial, and cultural interests of Indiana and its citizens. The board may assist, cooperate, and fund governmental, public, and private agencies and groups for these purposes.

(15) Enter into leases of capital improvements and sell or lease property under **IC 5-1-17 or** IC 36-10-9.1.

SECTION 76. IC 36-12-7-8, AS ADDED BY HEA 1288-2005, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) ~~For~~ **As used in this section:**

(1) "county fiscal body" means the fiscal body of a county in which a private donation library is located;

(2) "library board" means a library board established under IC 20-14 in a county in which a private donation library is located; and

(3) "private donation library" means a public library: ~~established.~~

~~(1)~~ **(A) established** by private donation;

~~(2)~~ **(B) located** in a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

~~(3)~~ **(C)** that contains at least twenty-five thousand (25,000) volumes;

~~(4)~~ **(D)** that has real property valued at at least one hundred thousand dollars ($100,000); and

~~(5)~~ **(E)** that is open and free to the residents of the city.

~~a tax shall be levied and collected annually by the city according to IC 6-1.1.~~

(b) The ~~city legislative body~~ **library board** shall:

(1) levy ~~the~~ **a** tax ~~required~~ under ~~subsection (a)~~ **IC 6-1.1** in an amount not less than sixty-seven hundredths of one cent ($0.0067) and not more than one and sixty-seven hundredths cents ($0.0167) on each one hundred dollars ($100) of the assessed valuation of all the real and personal property in the ~~city. When the city levies the tax, the library under subsection (a) shall be treated as if the library were a public library for purposes of IC 6-1.1-18.5-13, and the legislative body may~~

~~increase the legislative body's levy to the same extent as a public library under IC 6-1.1-18.5-13.~~ **county;**

(2) keep the tax levied under subdivision (1) separate from all other funds of the library board; and

(3) use the tax levied under subdivision (1):

(A) if the membership of the trustees of the private donation library includes at least one (1) member or appointee of the library board and at least one (1) appointee of the county fiscal body, for distributions of the full amounts of the tax received to the trustees of the private donation library at the time the tax is received by the library board; or

(B) if the membership of the trustees of the private donation library does not include at least one (1) member or appointee of the library board and at least one (1) appointee of the county fiscal body, at the discretion of the library board for:

(i) library board purposes; or

(ii) quarterly distributions to the trustees of the private donation library.

(c) If requested by the trustees of the private donation library, the library board shall designate a member of the library board or appoint an individual to serve as a trustee of the private donation library. If requested by the trustees of the private donation library, the county fiscal body shall appoint an individual to serve as a trustee of the private donation library.

(d) The trustees of the private donation library shall annually submit a budget to the library board.

~~(c)~~ **(e)** The ~~tax shall be paid to the~~ trustees of the **private donation** library ~~The trustees~~ shall expend ~~the tax~~ **amounts received under subsection (b)(3)(A) or (b)(3)(B)(ii)** for the support, operation, and maintenance of the **private donation** library. The trustees shall:

(1) keep the ~~tax~~ **money** separate from all other funds; ~~The trustees shall~~

(2) record:

~~(1)~~ **(A)** the amount of ~~taxes~~ **money** received;

~~(2)~~ **(B)** to whom and when **the money is** paid out; and

~~(3)~~ **(C)** for what purpose **the money is used;**

in a book kept by the trustees; ~~The trustees shall~~ **and**

(3) make an annual report of the matters ~~under this subsection~~ **referred to in subdivision (2)** to the ~~legislative body of the city.~~ **library board.**

(f) For purposes of the property tax levy limits under IC 6-1.1-18.5, the tax levied by the library board under subsection (b)(1) is not included in the calculation of the maximum permissible property tax levy for the public library.

SECTION 77. IC 6-9-12-9 IS REPEALED [EFFECTIVE MAY 15, 2005].

SECTION 78. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding the effective dates included in HEA 1003-2005, the following provisions take effect February 9, 2005, and not July 1, 2005:**

(1) SECTIONS 66 through 85 of HEA 1003-2005.

(2) SECTIONS 102 through 110 of HEA 1003-2005.

(3) SECTION 112 of HEA 1003-2005.

(b) The actions taken by the Indiana economic development corporation to administer IC 6-3.1-13 and IC 6-3.1-26, both as amended by HEA 1003-2005, after February 8, 2005, and before the effective date of this act, are legalized and validated.

SECTION 79. [EFFECTIVE JULY 1, 2005] **(a) The Indiana department of administration shall, before January 1, 2006, adopt policies and standards under IC 4-13-1-4(16), as added by this act, for using state owned property as locations for making motion pictures.**

(b) This SECTION expires January 2, 2006.

SECTION 80. [EFFECTIVE JULY 1, 2005] **(a) IC 6-1.1-12-34.5, as added by this act, applies to property tax assessments made after December 31, 2005.**

(b) IC 6-1.1-12-35.5 and IC 6-1.1-12-36, both as amended by this act, apply to property tax assessments made after December 31, 2005.

SECTION 81. [EFFECTIVE JANUARY 1, 2006] **IC 6-1.1-23-1, as amended by this act, applies only to property taxes first due and payable after December 31, 2005.**

SECTION 82. [EFFECTIVE JANUARY 1, 2006] **IC 6-1.1-1-11 and IC 6-1.1-31-7, both as amended by this act, apply only to property taxes first due and payable after December 31, 2006.**

SECTION 83. [EFFECTIVE JANUARY 1, 2006] **IC 6-1.1-45, as added by this act, applies to assessment dates occurring after February 28, 2006, for property taxes first due and payable after December 31, 2006.**

SECTION 84. [EFFECTIVE JULY 1, 2005] **IC 36-12-7-8, as amended by this act, applies only to property taxes first due and payable after December 31, 2005.**

SECTION 85. [EFFECTIVE UPON PASSAGE] **Notwithstanding the provisions in IC 6-3.5-6 that indicate that an ordinance establishing or increasing the rate of a county option income tax in 2005 must be adopted before April 1, 2005, an ordinance adopted in 2005 to establish an additional rate under IC 6-3.5-6-27, as added by this act, may be adopted before June 1, 2005. An ordinance under this SECTION must be adopted in the same manner as an ordinance under IC 6-3.5-6. An ordinance adopted under this SECTION is effective on the later of the following:**

(1) July 1, 2005.

(2) Fifteen (15) regular business days after the department of state revenue receives a certified copy of the ordinance from the county auditor.

SECTION 86. [EFFECTIVE UPON PASSAGE] **Notwithstanding the provisions in IC 6-3.5-6 that indicate that an ordinance establishing or increasing the rate of a county option income tax in 2005 must be adopted before April 1, 2005, an ordinance adopted in 2005 to establish an additional rate under IC 6-3.5-6-28, as added by this act, may be adopted before June 1, 2005. An ordinance under this SECTION must be adopted in the same manner as an ordinance under**

IC 6-3.5-6. An ordinance adopted under this SECTION is effective on the later of the following:

(1) July 1, 2005.

(2) Fifteen (15) regular business days after the department of state revenue receives a certified copy of the ordinance from the county auditor.

SECTION 87. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding any other law, the legislative body of each unit (as defined in IC 36-1-2-23) that contains the geographic area of an enterprise zone shall, before December 1, 2005, adopt and forward to the enterprise zone board a resolution containing the legislative body's recommendation as to whether the zone should:**

(1) continue in existence, subject to the renewal schedule set forth in IC 4-4-6.1-3 of this chapter; or

(2) be terminated effective December 31, 2005.

A legislative body that fails to adopt a resolution under this subsection is considered to have adopted a resolution recommending the termination of the zone for purposes of subsection (b).

(b) Notwithstanding any other law, if the legislative body of a unit adopts a resolution recommending the termination of an enterprise zone under subsection (a)(2), that enterprise zone is terminated effective December 31, 2005.

(c) This SECTION expires July 1, 2006.

SECTION 88. [EFFECTIVE JULY 1, 2005] **Not later than June 30, 2007, Ivy Tech State College shall enter into a lease, after review by the state budget committee and approval by the budget agency, with the owners of the Fort Wayne Regional Public Safety Center to be constructed after July 1, 2005, in the Southtown Community Revitalization Enhancement District to use the Fort Wayne Regional Public Safety Center to further its partnership with the Northeast Indiana Workforce Investment Board, the Regional Anthis Career Center, the Indiana National Guard, Indiana University-Purdue University at Fort Wayne, and other area institutions to allow the Fort Wayne Regional Public Safety Center to offer public safety related degree programs. The lease may not exceed a term that ends before July 1, 2022, or provide for a lease rental payment, excluding a reasonable allowance for maintenance and repair services, that exceeds one million dollars ($1,000,000) in any state fiscal year covered by the lease.**

SECTION 89. [EFFECTIVE JULY 1, 2005] **The general assembly finds the following:**

(1) The eligible counties (as defined in IC 36-7.5-1-11, as added by this act) face unique and distinct challenges and opportunities related to transportation and economic development that are different in scope and type than those faced by other units of local government in Indiana.

(2) A unique approach is required to fully take advantage of the economic development potential of the Chicago, South Shore, and South Bend Railway and the Gary/Chicago International Airport and the Lake Michigan shoreline.

(3) The powers and responsibilities provided to the northwest Indiana regional development authority established by IC 36-7.5-2-1, as added by this act, are appropriate and necessary to carry out the public purposes of encouraging economic development and further facilitating the provision of air, rail, and bus transportation services, projects, and facilities, shoreline development projects, and economic development projects in the eligible counties.

SECTION 90. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "commission" refers to the Indiana gaming commission established under IC 4-33.**

(b) The commission shall study alternative forms of gaming to determine if other forms of gaming would be beneficial for Indiana. The commission may include the following in the study:

(1) New games or trends in gaming that might be compatible with Indiana's existing gaming industry.

(2) Estimates of the amount of revenue that could be generated from different gaming alternatives.

(3) The estimated impact that gaming alternatives would have on existing gaming revenues.

(c) The commission shall report its findings to the director of the office of management and budget on or before October 1, 2005. The commission shall also provide its report to the general assembly in an electronic format under IC 5-14-6.

(d) This SECTION expires January 1, 2006.

SECTION 91. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 6-3.5-7-5 and IC 6-3.5-7-6, the county council of an eligible county (as defined in IC 36-7.5-1-11, as added by this act) may after the effective date of this act but before July 1, 2005, adopt an ordinance to impose or increase the county economic development income tax under IC 6-3.5-7, with the imposition of the tax or the increase in the tax rate to take effect July 1, 2005.**

(b) If the county council of a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000) adopts an ordinance under this SECTION before July 1, 2005, to increase the county's economic development income tax rate, then notwithstanding IC 6-3.5-7-11 or any other provision of IC 6-3.5-7 the initial certified distribution of the tax revenue that results from the tax rate increase shall be distributed to the county treasurer from the account established for the county under IC 6-3.5-7 according to the following schedule during the eighteen (18) month period beginning on July 1 of the year in which the county adopts the ordinance to increase the tax rate:

(1) One-fourth (1/4) on October 1 of the year in which the ordinance to increase the tax rate was adopted.

(2) One-fourth (1/4) on January 1 of the calendar year following the year in which the ordinance to increase the tax rate was adopted.

(3) One-fourth (1/4) on May 1 of the calendar year following the year in which the ordinance was adopted.

(4) One-fourth (1/4) on November 1 of the calendar year following the year in which the ordinance was adopted.

(c) This SECTION expires January 1, 2007.

SECTION 92. [EFFECTIVE MAY 15, 2005] **(a) If a member of the board of directors of the Indiana stadium and convention building authority to be appointed under IC 5-1-17-7(a)(3) is not appointed for the initial term on or before June 30, 2005, the governor shall appoint that member for the initial term.**

(b) This SECTION expires July 1, 2006.

SECTION 93. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 9-18-49-6, as added by this act, the budget agency shall carry out the duties imposed upon it by IC 9-18-49-6, as added by this act, under interim written guidelines approved by the director of the budget agency.**

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

(1) The date rules are adopted under IC 9-18-49-6.

(2) December 31, 2006.

SECTION 94. [EFFECTIVE MAY 15, 2005] **The general assembly finds the following:**

(1) Marion, Boone, Johnson, Hamilton, Hancock, Hendricks, Morgan, and Shelby counties, and certain municipalities located in those counties, face unique and distinct challenges and opportunities related to the economic development issues associated with the construction and maintenance of a world-class convention center and stadium facility in Indianapolis.

(2) A unique approach is required to ensure that these counties have sufficient revenue sources to allow them to meet these challenges and opportunities.

(3) The powers and responsibilities provided to these counties and to the Indiana stadium and convention building authority created by this act are appropriate and necessary to carry out the public purposes of encouraging and fostering economic development in central Indiana and constructing a world-class convention center and stadium facility in Indianapolis.

(4) The retention of a National Football League franchised professional football team in Indianapolis poses unique challenges due to the need for development of a world-class football stadium and related infrastructure that would not be needed apart from the needs related to the retention of a National Football League franchised professional football team in Indianapolis.

(5) The retention of a National Football League franchised professional football team in Indianapolis is critical to successful economic development in Indianapolis and is a public purpose.

(6) Encouragement of economic development in Indianapolis will:

(A) generate significant economic activity, a substantial portion of which results from persons residing outside Indiana, which may attract new businesses and encourage existing businesses to remain or expand in Indianapolis;

(B) promote the consolidated city to residents outside Indiana, which may attract residents outside Indiana and new businesses to relocate to the Indianapolis;

(C) protect and increase state and local tax revenues; and

(D) encourage overall economic growth in Indianapolis and in Indiana.

(7) Indianapolis faces unique challenges in the development of infrastructure and other facilities necessary to promote economic development as a result of its need to rely on sources of revenue other than property taxes, due to the large number of tax exempt properties located in Indianapolis because Indianapolis is the seat of government, the home to multiple institutions of higher education, and the site of numerous state and regional nonprofit corporations.

(8) Economic development benefits the health and welfare of the people of Indiana, is a public use and purpose for which public money may be spent, and is of public utility and benefit.

SECTION 95. [EFFECTIVE JULY 1, 2005] **There is appropriated to Ivy Tech State College three hundred thousand dollars ($300,000) from the state general fund for its use for A&E expenses for planning of the Logansport campus during the biennium beginning July 1, 2005, and ending June 30, 2007.**

SECTION 96. [EFFECTIVE UPON PASSAGE] **(a) The following definitions apply throughout this SECTION:**

(1) "2002 liability" means the amount of property taxes imposed on a homestead first due and payable in 2002.

(2) "2003 increase" means the amount by which the 2003 liability exceeds the 2002 liability.

(3) "2003 liability" means the amount of property taxes imposed on a homestead first due and payable in 2003.

(4) "Fiscal body" has the meaning set forth in IC 36-1-2-6.

(5) "Homestead" has the meaning set forth in IC 6-1.1-20.9-1.

(6) "Liability" means liability for the taxes imposed on a homestead under IC 6-1.1 determined after application of all credits and deductions under IC 6-1.1 but does not include any interest or penalty imposed under IC 6-1.1.

(7) "Qualifying homestead" means a homestead with respect to which the 2003 increase:

(A) exceeds the 2002 liability; and

(B) is at least five hundred dollars ($500).

(b) If the county fiscal body adopts an ordinance before July 1, 2005, to authorize the application of the credit under this SECTION, a person is entitled to a credit against the person's liability with respect to the person's qualifying homestead located in the county for property taxes first due and payable in each of the years listed in subdivision (2) in the amount of the product of:

(1) the 2003 increase; multiplied by

(2) the percentage from the following table corresponding to the year in which property taxes are first due and

payable:

YEAR	PERCENTAGE
2005	80%
2006	60%
2007	40%
2008	20%

(c) A person is not required to file an application for the credit under this SECTION. The county auditor shall:

(1) identify homesteads in the county eligible for the credit under this SECTION; and

(2) apply the credit under this SECTION to the liability.

(d) The county auditor and county treasurer may apply the credit under this SECTION for property taxes first due and payable in 2005 by adjustment of the statement for the property tax installment due November 10, 2005.

(e) A political subdivision may use any source of revenue available to the political subdivision to offset a revenue loss that would otherwise result from the application of credits under this SECTION.

(f) A political subdivision may not appeal for an excessive levy in a year succeeding a year in which a credit under this SECTION applies to make up for a revenue loss that results from the application of the credit.

(g) A county fiscal body may not provide a credit under this SECTION in the same year that the county fiscal body also provides a property tax credit for homesteads under IC 6-1.1-20.4 or IC 6-1.1-20.6.

(h) A county auditor or county treasurer may not apply the credit under this SECTION in the same year that a credit for homesteads is applied under IC 6-1.1-20.4 or IC 6-1.1-20.6.

SECTION 97. **An emergency is declared for this act.**

(Reference is to EHB 1120 as reprinted April 7, 2005.)

Espich, Chair	Kenley
Bauer	Hume
House Conferees	Senate Conferees

Roll Call 562: yeas 46, nays 3. Report adopted.

SENATE MOTION

Madam President: I move that Senators Merritt and Breaux be appointed as a committee of two members of the Senate to confer with the Governor for the purpose of ascertaining if the Governor has any further communications to make to the Senate.

GARTON

Motion prevailed.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: Your Committee appointed to confer with the Governor to ascertain whether or not he has any further communications to make to the Senate hereby reports that your Committee has waited upon the Governor and that the Governor has no further communications to make to the Senate.

MERRITT
BREAUX

Report adopted.

SENATE MOTION

Madam President: I move that Senators Riegsecker and Skinner be appointed as a committee of two members of the Senate to confer with the House of Representatives for the purpose of ascertaining if the House of Representatives has any further legislative business to transact with the Senate.

GARTON

Motion prevailed.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: Your Committee appointed to ascertain whether the House of Representatives has any further legislative business to transact hereby reports that your Committee has conferred with the House of Representatives and the House of Representatives has no further business to transact with the Senate.

RIEGSECKER
SKINNER

Report adopted.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT

ESB 307–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 307 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-4-6.1-2.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.6. (a) This section applies to records and other information, including records and information that are otherwise confidential, maintained by the following:

(1) The board.

(2) An urban enterprise association.

(3) The department of state revenue.

(4) The department of commerce.

(5) The department of local government finance.

(6) A county auditor.

(7) A controller for a consolidated city.

~~(7)~~ **(8)** A township assessor.

(b) A person listed in subsection (a) may request a second person described in subsection (a) to provide any records or other information maintained by the second person that concern an individual or business that is receiving a tax deduction, exemption, or credit related to an enterprise zone. Notwithstanding any other law, the person to whom the request is made under this section must comply with the request. A person receiving records or information under this section that are confidential must also keep the records or information confidential.

(c) A person who receives confidential records or information under this section and knowingly or intentionally discloses the records or information to an unauthorized person commits a Class A misdemeanor.

SECTION 2. IC 5-2-1-9, AS AMENDED BY P.L.62-2004, SECTION 1, AND AS AMENDED BY P.L.85-2004, SECTION 40, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. Such rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.

(2) Minimum standards for law enforcement training schools administered by towns, cities, counties, the northwest Indiana law enforcement training center, agencies, or departments of the state.

(3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity awareness that must be required for each person accepted for training at a law enforcement training school or academy.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the law enforcement training board.

(b) Except as provided in subsection (l), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which in such cases shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e) and (l), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy, *at the southwest Indiana law enforcement training academy under section 10.5 of this chapter,* or at the northwest Indiana law enforcement training center under section 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

(1) law enforcement officers;

(2) police reserve officers (as described in IC 36-8-3-20); and

(3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, use of force, and firearm qualification. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of forty (40) hours of course work. The board may prepare a pre-basic course on videotape that must be used in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including colleges and universities.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed the basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes a minimum of sixteen (16) hours each year of inservice training in any subject area included in the law enforcement academy's basic training course or other job related subjects that are approved by the board as determined by the law enforcement department's or agency's needs. *Inservice training must include training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the law enforcement training board.* In addition, a certified academy staff may develop and make available inservice training programs on a regional or local basis. The board may approve courses offered by other public or private training entities, including colleges and universities, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to any of the following:

(1) An emergency situation.

(2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

(1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.

(2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.

(3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having ~~no~~ **not** more than one (1) marshal and two (2) deputies.

(4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.

(5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(i) The board shall adopt rules under IC 4-22-2 to establish a police chief executive training program. The program must include training in the following areas:

(1) Liability.

(2) Media relations.

(3) Accounting and administration.

(4) Discipline.

(5) Department policy making.

(6) Firearm policies.

(7) Department programs.

(j) A police chief shall apply for admission to the police chief executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the police chief executive training program within six (6) months of the date the police chief initially takes office. However, if space in the program is not available at a time that will allow the police chief to complete the program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available program that is offered to the police chief after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not serve as the police chief until the police chief has completed the police chief executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

(1) the police chief of any city; ~~and~~

(2) the police chief of any town having a metropolitan police department; **and**

(3) the chief of a consolidated law enforcement department established under IC 36-3-1-5.1.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the police chief executive training program.

(l) An investigator in the arson division of the office of the state fire marshal appointed:

(1) before January 1, 1994, is not required; or

(2) after December 31, 1993, is required;

to comply with the basic training standards established under this section.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

SECTION 3. IC 5-10-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. As used in this chapter, "public safety officer" means any of the following:

(1) A state police officer.

(2) A county sheriff.

(3) A county police officer.

(4) A correctional officer.

(5) An excise police officer.

(6) A county police reserve officer.

(7) A city police reserve officer.

(8) A conservation enforcement officer.

(9) A town marshal.

(10) A deputy town marshal.

(11) A probation officer.

(12) A state university police officer appointed under IC 20-12-3.5.

(13) An emergency medical services provider (as defined in IC 16-41-10-1) who is:

(A) employed by a political subdivision (as defined in IC 36-1-2-13); and

(B) not eligible for a special death benefit under IC 36-8-6-20, IC 36-8-7-26, IC 36-8-7.5-22, or IC 36-8-8-20.

(14) A firefighter who is employed by the fire department of a state university.

(15) A member of a consolidated law enforcement department established under IC 36-3-1-5.1.

SECTION 4. IC 5-10-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "employee" means an individual who:

(1) is employed full time by the state or a political subdivision of the state as:

(A) a member of a fire department (as defined in IC 36-8-1-8);

(B) an emergency medical services provider (as defined in IC 16-41-10-1);

(C) a member of a police department (as defined in IC 36-8-1-9);

(D) a correctional officer (as defined in IC 5-10-10-1.5);

(E) a state police officer;

(F) a county police officer;

(G) a county sheriff;

(H) an excise police officer;

(I) a conservation enforcement officer;

(J) a town marshal; ~~or~~

(K) a deputy town marshal; **or**

(L) a member of a consolidated law enforcement department established under IC 36-3-1-5.1;

(2) in the course of the individual's employment is at high risk for occupational exposure to an exposure risk disease; and

(3) is not employed elsewhere in a similar capacity.

SECTION 5. IC 6-1.1-17-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. (a) This section applies:

(1) to each governing body of a taxing unit that is not comprised of a majority of officials who are elected to serve on the governing body; and

(2) if the proposed property tax levy for the taxing unit for the ensuing calendar year is more than five percent (5%) greater than the property tax levy for the taxing unit for the current calendar year.

(b) As used in this section, "taxing unit" has the meaning set forth in IC 6-1.1-1-21, except that the term does not include:

(1) a school corporation; **or**

(2) an entity whose tax levies are subject to review and modification by a city-county legislative body under IC 36-3-6-9.

(c) If:

(1) the assessed valuation of a taxing unit is entirely contained within a city or town; or

(2) the assessed valuation of a taxing unit is not entirely contained within a city or town but the taxing unit was originally established by the city or town;

the governing body shall submit its proposed budget and property tax levy to the city or town fiscal body. The proposed budget and levy shall be submitted at least fourteen (14) days before the city or town fiscal body is required to hold budget approval hearings under this chapter.

(d) If subsection (c) does not apply, the governing body of the taxing unit shall submit its proposed budget and property tax levy to the county fiscal body in the county where the taxing unit has the most assessed valuation. The proposed budget and levy shall be submitted at least fourteen (14) days before the county fiscal body is required to hold budget approval hearings under this chapter.

(e) The fiscal body of the city, town, or county (whichever applies) shall review each budget and proposed tax levy and adopt a final budget and tax levy for the taxing unit. The fiscal body may reduce or modify but not increase the proposed budget or tax levy.

SECTION 6. IC 6-1.1-17-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 21. Notwithstanding any other law, in a county having a consolidated city, the city controller of the consolidated city has all the powers and shall perform all the duties assigned to county auditors under this chapter related to the fixing and reviewing of budgets, tax rates, and tax levies.**

SECTION 7. IC 8-22-3-11.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11.6. (a) This section applies only to an airport authority established for a county having a consolidated city.**

(b) The legislative body of the consolidated city and the governing body of the airport authority may adopt substantially similar ordinances providing that the fire department of the airport authority is consolidated into the fire department of the consolidated city, and that the fire department of the consolidated city shall provide fire protection services for the airport authority. If ordinances are adopted under this section, the consolidation shall take effect on the date agreed to by the legislative body of the consolidated city and the governing body of the airport authority in the ordinances.

(c) The legislative body of the consolidated city and the governing body of the airport authority may adopt substantially similar ordinances providing that the law enforcement services of the airport authority are consolidated

into the consolidated law enforcement department of the consolidated city, and that the law enforcement department of the consolidated city shall provide law enforcement services for the airport authority. If ordinances are adopted under this section, the consolidation shall take effect on the date agreed to by the legislative body of the consolidated city and the governing body of the airport authority in the ordinances.

SECTION 8. IC 9-13-2-92 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 92. (a) "Law enforcement officer", except as provided in subsection (b), includes the following:

(1) A state police officer.

(2) A city, town, or county police officer.

(3) A sheriff.

(4) A county coroner.

(5) A conservation officer.

(6) A member of a consolidated law enforcement department established under IC 36-3-1-5.1.

(b) "Law enforcement officer", for purposes of IC 9-30-5, IC 9-30-6, IC 9-30-7, IC 9-30-8, and IC 9-30-9, has the meaning set forth in IC 35-41-1.

SECTION 9. IC 10-14-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) For purposes of this section, "member of the military or public safety officer" means an individual who is:

(1) a member of a fire department (as defined in IC 36-8-1-8);

(2) an emergency medical service provider (as defined in IC 16-41-10-1);

(3) a member of a police department (as defined in IC 36-8-1-9);

(4) a correctional officer (as defined in IC 5-10-10-1.5);

(5) a state police officer;

(6) a county police officer;

(7) a police reserve officer;

(8) a county sheriff;

(9) a deputy sheriff;

(10) an excise police officer;

(11) a conservation enforcement officer;

(12) a town marshal;

(13) a deputy town marshal;

(14) a university policy officer appointed under IC 20-12-3.5;

(15) a probation officer;

(16) a paramedic;

(17) a volunteer firefighter (as defined in IC 36-8-12-2);

(18) an emergency medical technician or a paramedic working in a volunteer capacity;

(19) a member of the armed forces of the United States;

(20) a member of the Indiana Air National Guard; ~~or~~

(21) a member of the Indiana Army National Guard; **or**

(22) a member of a consolidated law enforcement department established under IC 36-3-1-5.1.

(b) For purposes of this section, "dies in the line of duty" refers to a death that occurs as a direct result of personal injury or illness resulting from any action that a member of the military or public safety officer, in the member of the military's or public safety officer's official capacity, is obligated or authorized by rule, regulation, condition of employment or services, or law to perform in the course of performing the member of the military's or public safety officer's duty.

(c) If a member of the military or public safety officer dies in the line of duty, a state flag shall be presented to:

(1) the surviving spouse;

(2) the surviving children if there is no surviving spouse; or

(3) the surviving parent or parents if there is no surviving spouse and there are no surviving children.

(d) The state emergency management agency shall administer this section and may adopt rules under IC 4-22-2 to implement this section.

SECTION 10. IC 33-24-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a) Except as provided in subsection (b),** the sheriff of the supreme court or a county police officer shall:

(1) attend the court in term time;

(2) execute the orders of the court;

(3) preserve order within the court; and

(4) execute all process issued out of the court.

(3) execute all civil process issued out of the court.

(b) This subsection applies only if a consolidated law enforcement department is established under IC 36-3-1-5.1. The ordinance adopted by the legislative body of the consolidated city shall determine whether:

(1) the orders of the court; and

(2) all criminal process issued out of the court;

shall be executed by an officer of the sheriff's department or an officer of the consolidated law enforcement department.

SECTION 11. IC 35-47-4.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, "public safety officer" means:

(1) a state police officer;

(2) a county sheriff;

(3) a county police officer;

(4) a correctional officer;

(5) an excise police officer;

(6) a county police reserve officer;

(7) a city police officer;

(8) a city police reserve officer;

(9) a conservation enforcement officer;

(10) a town marshal;

(11) a deputy town marshal;

(12) a state university police officer appointed under IC 20-12-3.5;

(13) a probation officer;

(14) a firefighter (as defined in IC 9-18-34-1);

(15) an emergency medical technician; ~~or~~

(16) a paramedic; **or**

(17) a member of a consolidated law enforcement department established under IC 36-3-1-5.1.

SECTION 12. IC 36-1-2-7 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. "Fiscal officer" means:

(1) auditor, for a county **not having a consolidated city;**

(2) controller, for a:

(A) consolidated city;

(B) county having a consolidated city, except as otherwise provided; or

(C) second class city;

(3) clerk-treasurer, for a third class city;

(4) clerk-treasurer, for a town; or

(5) trustee, for a township.

SECTION 13. IC 36-2-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This chapter applies to all counties **except a county having a consolidated city.**

SECTION 14. IC 36-2-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. ~~(a) This section does not apply to a county having a consolidated city.~~

~~(b)~~ **(a)** The auditor shall perform the duties of clerk of the county executive under IC 36-2-2-11.

~~(c)~~ **(b)** If the auditor cannot perform the duties of clerk during a meeting of the county executive, and ~~he~~ **the auditor** does not have a deputy or ~~his~~ **the auditor's** deputy cannot attend the meeting, the executive may deputize a person to perform those duties during the meeting.

SECTION 15. IC 36-2-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. ~~(a) This section does not apply to a county having a consolidated city.~~

~~(b)~~ The auditor shall perform the duties of clerk of the county fiscal body under IC 36-2-3-6(b).

SECTION 16. IC 36-2-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 9.5. County Auditor of Marion County

Sec. 1. This chapter applies to a county having a consolidated city.

Sec. 2. (a) The county auditor must reside within the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The auditor forfeits office if the auditor ceases to be a resident of the county.

(b) The term of office of the county auditor under Article 6, Section 2 of the Constitution of the State of Indiana is four (4) years and continues until a successor is elected and qualified.

Sec. 3. The county auditor shall keep an office in a building provided at the county seat by the county executive. The auditor shall keep the office open for business during regular business hours on every day of the year except:

(1) Sundays;

(2) legal holidays; and

(3) days specified by the county executive according to the custom and practice of the county.

Sec. 4. A legal action required to be taken in the county auditor's office on a day when the auditor's office is closed under section 3 of this chapter may be taken on the next day the office is open.

Sec. 5. The county auditor shall furnish standard forms for use in the transaction of business under this article and for use in the performance of services for which the auditor receives a specific fee.

Sec. 6. The county auditor may administer the following:

(1) An oath necessary in the performance of the auditor's duties.

(2) The oath of office to an officer who receives the officer's certificate of appointment or election from the auditor.

(3) An oath relating to the duty of an officer who receives the officer's certificate of appointment or election from the auditor.

(4) The oath of office to a member of the board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).

Sec. 7. (a) The county auditor shall:

(1) keep a separate account for each item of appropriation made by the legislative body of the consolidated city; and

(2) in each warrant the county auditor draws on the county or city treasury, specifically indicate the item of appropriation the warrant is drawn against.

(b) The county auditor may not permit an item of appropriation to be:

(1) overdrawn; or

(2) drawn on for a purpose other than the specific purpose for which the appropriation was made.

(c) A county auditor who knowingly violates this section commits a Class A misdemeanor.

Sec. 8. The county auditor shall keep an accurate account current with the county treasurer. When a receipt given by the treasurer for money paid into the county or city treasury is deposited with the county auditor, the county auditor shall:

(1) file the treasurer's receipt;

(2) charge the treasurer with the amount of the treasurer's receipt; and

(3) issue the county auditor's receipt to the person presenting the treasurer's receipt.

Sec. 9. (a) This section does not apply to:

(1) funds received from the state or the federal government for:

(A) township assistance;

(B) unemployment relief; or

(C) old age pensions; or

(2) other funds available under:

(A) the federal Social Security Act; or

(B) another federal statute providing for civil and public works projects.

(b) Except for money that by statute is due and payable from the county or city treasury to:

(1) the state; or

(2) a township or municipality in the county;

money may be paid from the county or city treasury only upon a warrant drawn by the county auditor.

(c) A warrant may be drawn on the county or city treasury only if:

(1) the legislative body of the consolidated city made an appropriation of the money for the calendar year in which the warrant is drawn; and

(2) the appropriation is not exhausted.

(d) Notwithstanding subsection (c), an appropriation by the legislative body is not necessary to authorize the drawing of a warrant on and payment from the county or city treasury for:

(1) money that:

(A) belongs to the state; and

(B) is required by statute to be paid into the state treasury;

(2) money that belongs to a school fund, whether principal or interest;

(3) money that:

(A) belongs to a township or municipality in the county; and

(B) is required by statute to be paid to the township or municipality;

(4) money that:

(A) is due a person;

(B) is paid into the county or city treasury under an assessment on persons or property of the county in territory less than that of the whole county; and

(C) is paid for construction, maintenance, or purchase of a public improvement;

(5) money that is due a person and is paid into the county treasury to redeem property from a tax sale or other forced sale;

(6) money that is due a person and is paid to the county or city under law as a tender or payment to the person;

(7) taxes erroneously paid;

(8) money paid to a cemetery board under IC 23-14-65-22;

(9) money distributed under IC 23-14-70-3; or

(10) payments under a statute that expressly provides for payments from the county or city treasury without appropriation by the legislative body.

(e) A county auditor who knowingly violates this section commits a Class A misdemeanor.

Sec. 10. (a) The county auditor shall examine and settle all accounts and demands that are:

(1) chargeable against the county or city; and

(2) not otherwise provided for by statute.

(b) The county auditor shall issue warrants on the county or city treasury for:

(1) sums of money settled and allowed by the county auditor;

(2) sums of money settled and allowed by another official; or

(3) settlements and allowances fixed by statute;

and shall make the warrants payable to the person entitled to payment. The warrants shall be numbered progressively, and the controller shall record the number, date, amount, payee, and purpose of issue of each warrant at the time of issuance.

Sec. 11. Whenever:

(1) a judgment or an order is issued by a court in a case in which the county was a party and was served with process for the payment of a claim;

(2) a certified copy of the judgment or order is filed with the auditor; and

(3) the claim is allowed by the county executive;

the auditor shall issue his warrant for the claim.

Sec. 12. (a) At the semiannual settlement under IC 6-1.1-27, the auditor shall issue calls for the redemption of outstanding county warrants if there is any money available in the county treasury for redemption of those warrants.

(b) A warrant included in a call under this section ceases to bear interest upon the date of the call. The county treasurer shall redeem warrants included in the call when they are presented to the county treasurer.

(c) An auditor who violates this section is liable for the interest on all money used for redemption.

Sec. 13. (a) The county auditor is responsible for the issuance of warrants for payments from county and city funds.

(b) The county auditor is responsible for:

(1) accounting;

(2) payroll, accounts payable, and accounts receivable;

(3) revenue and tax distributions; and

(4) maintenance of property records;

for all city and county departments, offices, and agencies.

Sec. 14. The county auditor has all the powers and duties assigned to county auditors under IC 6-1.1, except for the powers and duties related to the fixing and reviewing of budgets, tax rates, and tax levies.

Sec. 15. The county auditor does not have powers and duties concerning the fixing and reviewing of budgets, tax rates, and tax levies.

Sec. 16. The county auditor has the powers and duties set forth in IC 36-2-9-18 and IC 36-2-9-20.

Sec. 17. If a county auditor is held personally liable for penalties and interest assessed by the Internal Revenue Service, the county treasurer shall reimburse the county auditor in an amount equal to the penalties and interest. However, the county treasurer may not reimburse the county auditor if the county auditor willfully or intentionally failed or refused to file a return or make a required deposit on the date the return or deposit was due.

SECTION 17. IC 36-3-1-5.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE] **Sec. 5.1. (a) Except for those duties that are reserved by law to the county sheriff in this section, the city-county legislative body may by majority vote adopt an ordinance, approved by the mayor, to consolidate the police department of the consolidated city and the county sheriff's department.**

(b) The city-county legislative body may not adopt an ordinance under this section unless it first:

(1) holds a public hearing on the proposed consolidation; and

(2) determines that:

(A) reasonable and adequate police protection can be provided through the consolidation; and

(B) the consolidation is in the public interest.

(c) If an ordinance is adopted under this section, the consolidation shall take effect on the date specified in the ordinance.

(d) Notwithstanding any other law, an ordinance adopted under this section must provide that the county sheriff's department shall be responsible for all the following for the consolidated city and the county under the direction and control of the sheriff:

(1) County jail operations and facilities.

(2) Emergency communications.

(3) Security for buildings and property owned by:

(A) the consolidated city;

(B) the county; or

(C) both the consolidated city and county.

(4) Service of civil process and collection of taxes under tax warrants.

(5) Sex offender registration.

(e) The following apply if an ordinance is adopted under this section:

(1) The department of local government finance, on recommendation from the local government tax control board, shall adjust the maximum permissible ad valorem property tax levy of the consolidated city and the county for property taxes first due and payable in the year a consolidation takes effect under this section. When added together, the adjustments under this subdivision must total zero (0).

(2) The ordinance must specify which law enforcement officers of the police department and which law enforcement officers of the county sheriff's department shall be law enforcement officers of the consolidated law enforcement department.

(3) The ordinance may not prohibit the providing of law enforcement services for an excluded city under an interlocal agreement under IC 36-1-7.

(4) A member of the county police force who:

(A) was an employee beneficiary of the sheriff's pension trust before the consolidation of the law enforcement departments; and

(B) after the consolidation becomes a law enforcement officer of the consolidated law enforcement department;

remains an employee beneficiary of the sheriff's pension trust. The member retains, after the consolidation, credit in the sheriff's pension trust for service earned while a member of the county police force and continues to earn service credit in the sheriff's pension trust as a member of the consolidated law enforcement department for purposes of determining the member's benefits from the sheriff's pension trust.

(5) A member of the police department of the consolidated city who:

(A) was a member of the 1953 fund or the 1977 fund before the consolidation of the law enforcement departments; and

(B) after the consolidation becomes a law enforcement officer of the consolidated law enforcement department;

remains a member of the 1953 fund or the 1977 fund. The member retains, after the consolidation, credit in the 1953 fund or the 1977 fund for service earned while a member of the police department of the consolidated city and continues to earn service credit in the 1953 fund or the 1977 fund as a member of the consolidated law enforcement department for purposes of determining the member's benefits from the 1953 fund or the 1977 fund.

(6) The ordinance must designate the merit system that shall apply to the law enforcement officers of the consolidated law enforcement department.

(7) The ordinance must designate who shall serve as a coapplicant for a warrant or an extension of a warrant under IC 35-33.5-2.

(8) The consolidated city may levy property taxes within the consolidated city's maximum permissible ad valorem property tax levy limit to provide for the payment of the expenses for the operation of the consolidated law enforcement department. The police special service district established under IC 36-3-1-6 may levy property taxes to provide for the payment of expenses for the operation of the consolidated law enforcement department within the territory of the police special service district. Property taxes to fund the pension obligation under IC 36-8-7.5 may be levied only by the police special service district within the police special service district. The consolidated city may not levy property taxes to fund the pension obligation under IC 36-8-7.5. Property taxes to fund the pension obligation under IC 36-8-8 for members of the 1977 police officers' and firefighters pension and disability fund who were members of the police department of the consolidated city on the effective date of the consolidation may be levied only by the police special service district within the police special service district. Property taxes to fund the pension obligation under IC 36-8-8 for members of the sheriff's pension trust and members of the 1977 police officers' and firefighters pension and disability fund who were not members of the police department of the consolidated city on the effective date of the consolidation may be levied by the consolidated city within the consolidated city's maximum permissible ad valorem property tax levy. The assets of the consolidated city's 1953 fund and the assets of the sheriff's pension trust may not be pledged after the effective date

of the consolidation as collateral for any loan.

(9) The executive of the consolidated city shall provide for an independent evaluation and performance audit, due before March 1 of the year following the adoption of the consolidation ordinance and for the following two (2) years, to determine:

(A) the amount of any cost savings, operational efficiencies, or improved service levels; and

(B) any tax shifts among taxpayers;

that result from the consolidation. The independent evaluation and performance audit must be provided to the legislative council in an electronic format under IC 5-14-6 and to the state budget committee.

SECTION 18. IC 36-3-1-6.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.1. (a) This section applies only in a county containing a consolidated city. If the requirements of subsection (g) are satisfied, the fire departments of the following are consolidated into the fire department of a consolidated city (referred to as "the consolidated fire department"):**

(1) A township for which the consolidation is approved by the township legislative body and trustee and the legislative body and mayor of the consolidated city.

(2) Any fire protection territory established under IC 36-8-19 that is located in a township described in subdivision (1).

(b) If the requirements of subsection (g) are satisfied, the consolidated fire department shall provide fire protection services within an entity described in subsection (a)(1) or (a)(2) in which the requirements of subsection (g) are satisfied on the date agreed to in the resolution of the township legislative body and the ordinance of the legislative body of the consolidated city.

(c) If the requirements of subsection (g) are satisfied and the fire department of an entity listed in subsection (a) is consolidated into the fire department of the consolidated city, all of the property, equipment, records, rights, and contracts of the department consolidated into the fire department of the consolidated city are:

(1) transferred to; or

(2) assumed by;

the consolidated city on the effective date of the consolidation. However, real property other than real property used as a fire station may be transferred only on terms mutually agreed to by the legislative body and mayor of the consolidated city and the trustee and legislative body of the township in which that real property is located.

(d) If the requirements of subsection (g) are satisfied and the fire department of an entity listed in subsection (a) is consolidated into the fire department of the consolidated city, the employees of the fire department consolidated into the fire department of the consolidated city cease employment with the department of the entity listed in subsection (a) and become employees of the consolidated fire department on the effective date of the consolidation. The consolidated city shall assume all agreements with labor organizations that:

(1) are in effect on the effective date of the consolidation; and

(2) apply to employees of the department consolidated into the fire department of the consolidated city who become employees of the consolidated fire department.

(e) If the requirements of subsection (g) are satisfied and the fire department of an entity listed in subsection (a) is consolidated into the fire department of a consolidated city, the indebtedness related to fire protection services incurred before the effective date of the consolidation by the entity or a building, holding, or leasing corporation on behalf of the entity whose fire department is consolidated into the consolidated fire department under subsection (a) shall remain the debt of the entity and does not become and may not be assumed by the consolidated city. Indebtedness related to fire protection services that is incurred by the consolidated city before the effective date of the consolidation shall remain the debt of the consolidated city and property taxes levied to pay the debt may only be levied by the fire special service district.

(f) If the requirements of subsection (g) are satisfied and the fire department of an entity listed in subsection (a) is consolidated into the fire department of a consolidated the merit board and the merit system of the fire department that is consolidated are dissolved on the effective date of the consolidation, and the duties of the merit boards are transferred to and assumed by the merit board for the consolidated fire department on the effective date of the consolidation.

(g) A township legislative body, after approval by the township trustee, may adopt a resolution approving the consolidation of the township's fire department with the fire department of the consolidated city. A township legislative body may adopt a resolution under this subsection only after the township legislative body has held a public hearing concerning the proposed consolidation. The township legislative body shall hold the hearing not earlier than thirty (30) days after the date the resolution is introduced. The hearing shall be conducted in accordance with IC 5-14-1.5 and notice of the hearing shall be published in accordance with IC 5-3-1. If the township legislative body has adopted a resolution under this subsection, the township legislative body shall, after approval from the township trustee, forward the resolution to the legislative body of the consolidated city. If such a resolution is forwarded to the legislative body of the consolidated city, the legislative body of the consolidated city may adopt an ordinance, approved by the mayor of the consolidated city, approving the consolidation of the fire department of the township into the fire department of the consolidated city and the requirements of this subsection are satisfied. The consolidation shall take effect on the date agreed to by the township legislative body in its resolution and by the legislative body of the consolidated city in its ordinance

approving the consolidation.

(h) The following apply if the requirements of subsection (g) are satisfied:

(1) The consolidation of the fire department of that township is effective on the date agreed to by the township legislative body in the resolution and by the legislative body of the consolidated city in its ordinance approving the consolidation.

(2) Notwithstanding any other provision, a firefighter:

(A) who is a member of the 1977 fund before the effective date of a consolidation under this section; and

(B) who, after the consolidation, becomes an employee of the fire department of a consolidated city under this section;

remains a member of the 1977 fund without being required to meet the requirements under IC 36-8-8-19 and IC 36-8-8-21. The firefighter shall receive credit for any service as a member of the 1977 fund before the consolidation to determine the firefighter's eligibility for benefits under IC 36-8-8.

(3) Notwithstanding any other provision, a firefighter:

(A) who is a member of the 1937 fund before the effective date of a consolidation under this section; and

(B) who, after the consolidation, becomes an employee of the fire department of a consolidated city under this section;

remains a member of the 1937 fund. The firefighter shall receive credit for any service as a member of the 1937 fund before the consolidation to determine the firefighter's eligibility for benefits under IC 36-8-7.

(4) For property taxes first due and payable in the year in which the consolidation is effective, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5:

(A) is increased for the consolidated city by an amount equal to the maximum permissible ad valorem property tax levy in the year preceding the year in which the consolidation is effective for fire protection and related services by the township whose fire department is consolidated into the fire department of the consolidated city under this section; and

(B) is reduced for the township whose fire department is consolidated into the fire department of the consolidated city under this section by the amount equal to the maximum permissible ad valorem property tax levy in the year preceding the year in which the consolidation is effective for fire protection and related services for the township.

(5) The amount levied in the year preceding the year in which the consolidation is effective by the township whose fire department is consolidated into the fire department of the consolidated city for the township's cumulative building and equipment fund for fire protection and related services is transferred on the effective date of the consolidation to the consolidated city's cumulative building and equipment fund for fire protection and related services, which is hereby established. The consolidated city is exempted from the requirements of IC 36-8-14 and IC 6-1.1-41 regarding establishment of the cumulative building and equipment fund for fire protection and related services.

(6) The local boards for the 1937 firefighters' pension fund and the 1977 police officers' and firefighters' pension and disability fund of the township are dissolved, and their services are terminated not later than the effective date of the consolidation. The duties performed by the local boards under IC 36-8-7 and IC 36-8-8, respectively, are assumed by the consolidated city's local board for the 1937 firefighters' pension fund and local board for the 1977 police officers' and firefighters' pension and disability fund, respectively. Notwithstanding any other provision, the legislative body of the consolidated city may adopt an ordinance to adjust the membership of the consolidated city's local board to reflect the consolidation.

(7) The consolidated city may levy property taxes within the consolidated city's maximum permissible ad valorem property tax levy limit to provide for the payment of the expenses for the operation of the consolidated fire department. However, property taxes to fund the pension obligation under IC 36-8-7 for members of the 1937 firefighters fund who were employees of the consolidated city at the time of the consolidation may be levied only by the fire special service district within the fire special service district. The fire special service district established under IC 36-3-1-6 may levy property taxes to provide for the payment of expenses for the operation of the consolidated fire department within the territory of the police special service district. Property taxes to fund the pension obligation under IC 36-8-8 for members of the 1977 police officers' and firefighters pension and disability fund who were members of the fire department of the consolidated city on the effective date of the consolidation may be levied only by the fire special service district within the fire special service district. Property taxes to fund the pension obligation for members of the 1937 firefighters fund who were not members of the fire department of the consolidated city on the effective date of the consolidation and members of the 1977 police officers' and firefighters pension and disability fund who were not members of the fire department of the consolidated city on the effective date of the consolidation may be levied by the consolidated city within the city's maximum permissible ad valorem property tax levy. However, these taxes may be levied only within the fire special service district and any townships that have consolidated fire departments under this section.

(8) The executive of the consolidated city shall provide for an independent evaluation and performance audit, due

before March 1 of the year in which the consolidation is effective and for the following two (2) years, to determine:

(A) the amount of any cost savings, operational efficiencies, or improved service levels; and

(B) any tax shifts among taxpayers;

that result from the consolidation. The independent evaluation and performance audit must be provided to the legislative council in an electronic format under IC 5-14-6 and to the state budget committee.

SECTION 19. IC 36-3-1-6.2 IS ADDED TO INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.2. (a) If a consolidated fire department is established under section 6.1 of this chapter, the consolidated city, through the consolidated fire department, shall after the consolidation establish, operate, and maintain emergency ambulance services (as defined in IC 16-18-2-107) in the fire special service district and in those townships in the county that are consolidated under section 6.1 of this chapter.**

(b) This section does not prohibit the providing of emergency ambulance services under an interlocal agreement under IC 36-1-7.

SECTION 20. IC 36-3-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A special service district of the consolidated city:

(1) may sue and be sued;

(2) may exercise powers of the consolidated city to the extent that those powers are delegated to it by law, but may not issue bonds; and

(3) shall provide services to property owners only in the district, unless a law provides otherwise.

(b) A special service district or special taxing district shall be administered under the jurisdiction of a department of the consolidated city **or the county.** The territory of a special service district or special taxing district may be expanded, in the manner prescribed by law, to include territory inside the county that is not originally included in the district.

(c) The city-county legislative body may, by ordinance, expand the territory of a ~~special service~~ **solid waste collection** district ~~subject to the following conditions:~~ **as follows:**

~~(1) In the case of the fire district, the ordinance may not be considered unless a petition to include additional territory in the district is first submitted to the metropolitan development commission for study and recommendation. The petition must be signed by a majority of the landowners, or by owners of land amounting to seventy-five percent (75%) in assessed valuation, in the proposed additional territory. After receiving the petition, the metropolitan development commission shall make findings of fact and recommendations and serve copies of these on the fire chief, the executive of each township affected, and the petitioners at least thirty (30) days before a public hearing before the legislative body. After the public hearing, the legislative body may pass the ordinance only if it determines:~~

~~(A) that reasonable and adequate fire protection service can be provided within the additional territory by the consolidated city; and~~

~~(B) that expansion of the district is in the public interest.~~

~~(2) In the case of the police district, the legislative body must hold a public hearing and then may pass the ordinance only if it determines:~~

~~(A) that reasonable and adequate police protection can be provided within the additional territory by the consolidated city; and~~

~~(B) that expansion of the district is in the public interest.~~

~~(3) In the case of the solid waste collection district,~~

(1) The ordinance may not be considered unless a petition to include additional territory in the district is first submitted to the works board for study and recommendation.

(2) The petition must be signed by at least ten (10) interested residents in the proposed additional territory.

(3) After receiving the petition, the works board shall:

(A) set a date for a public hearing;

(B) publish notice of the hearing in accordance with IC 5-3-1; and

(C) upon hearing the matter, determine whether the territory should be added to the district.

(4) If the works board recommends that the territory should be added to the district, the legislative body must hold a public hearing and then may pass the ordinance.

(5) Territory in the solid waste collection district may also be removed from the district in the manner prescribed by this ~~subdivision.~~ **section.**

SECTION 21. IC 36-3-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The executive shall, subject to the approval of the city-county legislative body, appoint each of ~~his~~ **the executive's** deputies and the director of each department of the consolidated city. A deputy or director is appointed for a term of one (1) year and until ~~his~~ **a** successor is appointed and qualified, but serves at the pleasure of the executive.

(b) When making an appointment under subsection (a), the executive shall submit the name of an appointee to an office to the legislative body for its approval as follows:

(1) When the office has an incumbent, not more than forty-five (45) days before the expiration of the incumbent's one (1) year term.

(2) When the office has been vacated, not more than forty-five (45) days after the vacancy occurs.

(c) The executive may appoint an acting deputy or acting director whenever the incumbent is incapacitated or the office has been vacated. An acting deputy or acting director has all the powers of the office.

(d) The executive shall appoint:

(1) a controller;

(2) two (2) deputy controllers, only one (1) of whom may be from the same political party as the executive; and

(3) a corporation counsel;

each of whom serves at the pleasure of the executive.

(e) The corporation counsel and every attorney who is a city employee working for the corporation counsel must be a resident of the county and admitted to the practice of law in Indiana.

SECTION 22. IC 36-3-5-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.5. **(a)** The controller appointed under section 2 of this chapter is:

(1) the fiscal officer of:

(A) the consolidated city; ~~but~~ **and**

(B) the county; and

(2) the director of the office of finance and management under section 2.7 of this chapter.

(b) The county treasurer ~~shall serve~~ **serves** ex officio as the treasurer of the consolidated city.

SECTION 23. IC 36-3-5-2.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.6. The:

(1) controller is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the controller's duty as a fiscal officer of:

(A) the consolidated city; **and**

(B) the county; and

(2) deputy controller is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the deputy controller's duty;

unless the act or omission constitutes gross negligence or an intentional disregard of the controller's **or the deputy controller's** duty.

SECTION 24. IC 36-3-5-2.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2.7. (a) The office of finance and management is established and is responsible for:**

(1) budgeting, except as provided in subsection (c);

(2) financial reporting and audits;

(3) purchasing; and

(4) fixed assets;

for all city and county departments, offices, and agencies.

(b) The controller:

(1) serves as the director of; and

(2) may organize into divisions;

the office of finance and management.

(c) The office of finance and management is not responsible for the issuance of warrants for payments from county and city funds.

SECTION 25. IC 36-3-5-2.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2.8. (a) Except as provided in subsections (b) and (c), the controller:**

(1) has all the powers; and

(2) performs all the duties;

of the county auditor under law.

(b) The controller:

(1) does not have the powers; and

(2) may not perform the duties;

of the county auditor under IC 36-2-9.5 and IC 36-3-6, or as a member of the board of commissioners of the county under IC 36-3-3-10.

(c) Notwithstanding subsection (a) or any other law, the executive, with the approval of the legislative body, may allocate the duties of the county auditor, except the duties referred to in subsection (b), among:

(1) the controller;

(2) the county assessor;

(3) the county auditor; or

(4) other appropriate city or county officials.

SECTION 26. IC 36-3-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The following executive departments of the consolidated city are established, subject to IC 36-3-4-23:

(1) Department of administration **and equal opportunity.**

(2) Department of metropolitan development.

(3) Department of public safety.

(4) Department of public works.

(5) Department of transportation.

(6) Department of parks and recreation.

These departments and their divisions have all the powers, duties, functions, and obligations prescribed by law for them as of August 31, 1981, subject to IC 36-3-4-23.

(b) The department of public utilities established under IC 8-1-11.1 continues as an agency of the consolidated city, which is the successor trustee of a public charitable trust created under Acts 1929, c. 78. The department of public utilities is governed under IC 8-1-11.1 and is not subject to this article.

SECTION 27. IC 36-3-5-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9. The controller shall furnish standard forms for use in the:**

(1) transaction of business; and

(2) performance of services for which the consolidated city or county receives a specific fee.

SECTION 28. IC 36-3-5-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 10. The controller, in the name of the state and on behalf of any fund of the county or consolidated city, may sue principals or sureties on any obligation, whether the obligation is in the name of the state or another person.**

SECTION 29. IC 36-3-5-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 11. The controller shall:**

(1) immediately file the original of the county treasurer's monthly report under IC 36-2-10-16 with the records of the county board of finance;

(2) present one (1) copy of the report to the legislative body of the consolidated city at its next regular meeting; and

(3) immediately transmit one (1) copy of the report to the state board of accounts.

SECTION 30. IC 36-3-5-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2005]: **Sec. 12. (a) Except as provided in subsection (b), if the controller is held personally liable for penalties and interest assessed by the Internal Revenue Service, the county treasurer shall reimburse the controller in an amount equal to the penalties and interest.**

(b) The county treasurer may not reimburse the controller under subsection (a) if the controller willfully or intentionally fails or refuses to file a return or make a required deposit on the date the return or deposit is due.

SECTION 31. IC 36-3-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Before the Wednesday after the first Monday in July each year, the consolidated city and county shall prepare budget estimates for the ensuing budget year under this section.

(b) The following officers shall prepare for their respective departments, offices, agencies, or courts an estimate of the amount of money required for the ensuing budget year, stating in detail each category and item of expenditure they anticipate:

(1) The director of each department of the consolidated city.

(2) Each township assessor, elected county officer, or head of a county agency.

(3) The county clerk, for each court of which he is clerk.

(c) In addition to the estimates required by subsection (b), the county clerk shall prepare an estimate of the amount of money that is, under law, taxable against the county for the expenses of cases tried in other counties on changes of venue.

(d) Each officer listed in subsection (b)(2) or (b)(3) shall append a certificate to each estimate ~~he~~ **the officer** prepares stating that in ~~his~~ **the officer's** opinion the amount fixed in each item will be required for the purpose indicated. The certificate must be verified by the oath of the officer.

(e) An estimate for a court or division of a court is subject to modification and approval by the judge of the court or division.

(f) All of the estimates prepared by city officers **and county officers** shall be submitted to the ~~city fiscal officer, and all of the estimates prepared by county officers shall be submitted to the county fiscal officer.~~ **controller.**

(g) The ~~city fiscal officer~~ **controller** shall also prepare an itemized estimate of city **and county** expenditures for other purposes above the money proposed to be used by the city departments **and county officers and agencies.**

SECTION 32. IC 36-3-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The ~~consolidated city fiscal officer~~ **controller** shall review and revise the estimates of ~~city~~ expenditures ~~prepared~~ **submitted** under section 4 of this chapter. Then ~~he~~ **the controller** shall prepare for the executive a report of the estimated ~~department~~ budgets, miscellaneous expenses, and revenues necessary or available to finance the estimates, along with ~~his~~ **the controller's** recommendations.

(b) The executive shall determine the amounts to be included in the proposed appropriations ordinance by the ~~city fiscal officer~~ **controller** and advise ~~him~~ **the controller** of those amounts.

SECTION 33. IC 36-3-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The ~~consolidated city fiscal officer and the county fiscal officer~~ **controller** shall, with the assistance of the corporation counsel, prepare:

(1) proposed appropriations ordinances for the city and county and each special service district; and

(2) proposed ordinances fixing the rate of taxation for the taxes to be levied for all city and county departments, offices, and agencies.

The proposed appropriations ordinances must contain all the amounts necessary for the operation of consolidated government, listed in major classifications.

(b) The ~~fiscal officers~~ **controller** shall submit the proposed ordinances **prepared under subsection (a)** along with appropriation detail accounts for each city and county department, office, and agency, to the city clerk not later than the first meeting of the city-county legislative body in August.

SECTION 34. IC 36-3-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. After the passage of an appropriations ordinance, a legislative body may, on the recommendation of

~~(1)~~ the ~~consolidated city fiscal officer as to city matters; or~~

~~(2) the county fiscal officer~~ **controller,** as to **all city and** county matters,

make further or additional appropriations, unless their result is to increase a tax levy set by ordinance.

SECTION 35. IC 36-3-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The city-county legislative body ~~may~~ **shall** review ~~and modify~~ the **proposed** operating and maintenance budgets and ~~the~~ tax levies ~~of~~ **and adopt final operating and maintenance budgets and tax levies for each of** the following entities in the county:

(1) An airport authority operating under IC 8-22-3.

~~(2) A health and hospital corporation operating under IC 16-22-8.~~

~~(3)~~ **(2)** A public library operating under IC 20-14.

~~(4)~~ **(3)** A capital improvement board of managers operating under IC 36-10.

~~(5)~~ **(4)** A public transportation corporation operating under IC 36-9-4.

Except as provided in subsection (c), the city-county legislative body may reduce or modify but not increase a proposed operating and maintenance budget or tax levy under this section.

(b) The board of each entity listed in subsection (a) shall, after adoption of its **proposed** budget and tax levies, submit them, along with detailed accounts, to the city clerk before the first day of September of each year.

(c) The city-county legislative body may review the issuance of bonds of an entity listed in subsection (a), but approval of the city-county legislative body is not required for the issuance of bonds. **The city-county legislative body may not reduce or**

modify a budget or tax levy of an entity listed in subsection (a) in a manner that would:

(1) limit or restrict the rights vested in the entity to fulfill the terms of any agreement made with the holders of the entity's bonds; or

(2) in any way impair the rights or remedies of the holders of the entity's bonds.

(d) If the assessed valuation of a taxing unit is entirely contained within an excluded city or town (as described in IC 36-3-1-7) that is located in a county having a consolidated city, the governing body of the taxing unit shall submit its proposed operating and maintenance budget and tax levies to the city or town fiscal body for approval.

(e) The city-county legislative body may review and modify the operating and maintenance budgets and the tax levies of a health and hospital corporation operating under IC 16-22-8. If the total of all proposed property tax levies for the health and hospital corporation for the ensuing calendar year is more than five percent (5%) greater than the total of all property tax levies for the health and hospital corporation for the current calendar year, the city-county legislative body shall review the proposed budget and the tax levies of the health and hospital corporation and shall adopt the final budget and tax levies for the health and hospital corporation. Except as provided in subsection (c), the city-county legislative body may reduce or modify but not increase the health and hospital corporation's proposed operating and maintenance budget or tax levy under this section. The board of the health and hospital corporation shall, after adoption of its proposed budget and tax levies, submit them, along with detailed accounts, to the city clerk before the first day of September of each year.

SECTION 36. IC 36-6-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The executive shall do the following:

(1) Keep a written record of official proceedings.

(2) Manage all township property interests.

(3) Keep township records open for public inspection.

(4) Attend all meetings of the township legislative body.

(5) Receive and pay out township funds.

(6) Examine and settle all accounts and demands chargeable against the township.

(7) Administer poor relief under IC 12-20 and IC 12-30-4.

(8) Perform the duties of fence viewer under IC 32-26.

(9) Act as township assessor when required by IC 36-6-5.

(10) Provide and maintain cemeteries under IC 23-14.

(11) Provide fire protection under IC 36-8, **except in a township that:**

(A) is located in a county having a consolidated city; and

(B) consolidated the township's fire department under IC 36-3-1-6.1.

(12) File an annual personnel report under IC 5-11-13.

(13) Provide and maintain township parks and community centers under IC 36-10.

(14) Destroy detrimental plants, noxious weeds, and rank vegetation under IC 15-3-4.

(15) Provide insulin to the poor under IC 12-20-16.

(16) Perform other duties prescribed by statute.

SECTION 37. IC 36-8-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) This section applies to:

(1) all municipalities; **and**

(2) a county having a consolidated city.

(b) A warrant of search or arrest, issued by any judge, may be executed in the municipality by:

(1) any municipal police officer; **or**

(2) a member of the consolidated law enforcement department established under IC 36-3-1-5.1;

subject to the laws governing arrest and bail.

(c) The police officers of a municipality **or a member of the consolidated law enforcement department** shall:

(1) serve all process within the municipality **or the consolidated city** issuing from the city or town court;

(2) arrest, without process, all persons who within view violate statutes, take them before the court having jurisdiction of the offense, and retain them in custody until the cause of the arrest has been investigated;

(3) enforce municipal ordinances in accordance with IC 36-1-6;

(4) suppress all breaches of the peace within their knowledge and may call to their aid the power of the municipality **or the consolidated city** and pursue and commit to jail persons guilty of crimes;

(5) serve all process issued by:

(A) the legislative body of the municipality **or the consolidated city;** ~~or~~

(B) any committee of ~~it,~~ **the legislative body of the municipality or the consolidated city;** or ~~by~~

(C) any of the executive departments of the municipality **or the consolidated city;**

(6) serve the city or town court and assist the bailiff in preserving order in the court; and

(7) convey prisoners to and from the county jail or station houses of the municipality **or the consolidated city** for arraignment or trial in the city or town court or to the place of imprisonment under sentence of the court.

SECTION 38. IC 36-8-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a)** This chapter applies to **the following:**

(1) All municipalities.

(2) A county having a consolidated city that establishes a consolidated law enforcement department established under IC 36-3-1-5.1. ~~In addition,~~

(b) Section 2 of this chapter applies to any other political subdivision that employs full-time, fully paid firefighters.

SECTION 39. IC 36-8-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This

chapter applies to pension benefits for members of fire departments hired before May 1, 1977, in units for which a 1937 fund was established before May 1, 1977.

(b) A firefighter with twenty (20) years of service is covered by this chapter and not by IC 36-8-8 if ~~he:~~ **the firefighter:**

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-36.5-7 (repealed September 1, 1981); and

(3) is rehired after April 30, 1977, by the same employer.

(c) A firefighter is covered by this chapter and not by IC 36-8-8 if ~~he:~~ **the firefighter:**

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-36.5-7 (repealed September 1, 1981);

(3) was rehired after April 30, 1977, but before February 1, 1979; and

(4) was made, before February 1, 1979, a member of a 1937 fund.

(d) A firefighter who:

(1) is covered by this chapter before a consolidation under IC 36-3-1-6.1; and

(2) becomes a member of a fire department of a consolidated city under IC 36-3-1-6.1;

is covered by this chapter after the effective date of the consolidation, and the firefighter's service as a member of a fire department of a consolidated city is considered active service under this chapter.

SECTION 40. IC 36-8-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) If a unit has less than five (5) members in its fire department, the unit may provide for the organization of a local board consisting of the fire chief, the executive of the unit, and one (1) member of the fire department.

(b) The trustee from the fire department shall be elected under this section.

(c) The local board may amend the bylaws of the fund to elect the trustee from the fire department in an election held on any three (3) consecutive days in February specified in the bylaws. The election shall be called by the fire chief and held at the house or quarters of the fire department. Subject to this section, the election shall be conducted in the manner specified in the bylaws.

(d) This subsection applies only if the local board does not elect to be governed by subsection (c). The trustee from the fire department shall be elected at a meeting held on the second Monday in February each year. The meeting shall be called by the fire chief and held at the house or quarters of the fire department.

(e) The term of the elected trustee is one (1) year beginning immediately after ~~his~~ **the trustee's** election.

(f) Each member of the department is entitled to one (1) ballot and the person receiving the highest number of votes is elected. The executive of the unit, the fire chief, and the city or county clerk shall canvass and count the ballots, and the clerk shall issue a certificate of election to the person having received the highest number of votes. If two (2) persons have received the same number of votes, the executive and the chief shall immediately determine by lot who will be the trustee from the persons receiving an equal number of votes.

(g) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.

SECTION 41. IC 36-8-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) An election shall be held each year under this section to elect one (1) trustee from the active members of the fire department for a term of four (4) years, commencing on the day of his election. The fire chief shall fix a time for holding a convention to nominate candidates for trustees to be elected at each election. Each convention must be held at least five (5) days before the day on which the annual election is held. A convention consists of one (1) delegate from each fire company and one (1) delegate to be selected by the chief and ~~his~~ **the chief's** assistants. The delegate from each fire company shall be elected by ballot by the members of the company at a time to be fixed by the chief in the call for a convention. The election of delegates shall be certified by the captain or other officer of the company, or, if there is not an officer present, then by the oldest member of the company present. The convention, when assembled, shall nominate six (6) members of the fire department to be voted upon as trustees, and the delegates shall report the names of the persons nominated as candidates to their respective companies in writing.

(b) The local board may amend the bylaws of the fund to elect the trustee from the active members of the fire department in an election held on any three (3) consecutive days in February specified in the bylaws. The election shall be called by the fire chief and held at the house or quarters of the respective companies of the fire department. Subject to this section, the election shall be conducted in the manner specified in the bylaws.

(c) This subsection applies only if the local board does not elect to be governed by subsection (b). The election shall be held at the houses or quarters of the respective companies on the second Monday in February between 9 a.m. and 6 p.m.

(d) Each member of a fire company is entitled to one (1) ballot, and the ballot may not contain the names of more than one (1) person, chosen from the six (6) persons nominated by the convention. The candidate receiving the highest number of votes is elected.

(e) The captain or other officer in command of each of the fire companies, immediately after the casting of all ballots, shall canvass and count the ballots. ~~He~~ **The captain or other officer** shall certify in writing the total number of ballots cast and the number of votes received by each candidate for the office of trustee. After signing the certificate, the officer shall enclose it, together with all the ballots cast by the fire company, in an envelope, securely sealed and addressed, and deliver them to the fire chief. The fire chief shall deliver them to the executive of the unit as soon as **the chief receives** all **the** certificates and ballots. ~~have been received by him.~~ Upon receipt the executive shall, in the presence of the chief and the clerk of the unit, open the envelopes, examine the certificates, and determine the total number of votes cast for each of the candidates.

The executive shall then issue a certificate of election to the candidate having received the highest number of votes. If two (2) or more candidates have received the same number of votes, the executive and the chief shall immediately determine by lot who will be trustee from the persons receiving an equal number of votes. An election may not be set aside for lack of formality in balloting by the members or in certifying or transmitting the returns of an election by the officers in charge.

(f) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.

SECTION 42. IC 36-8-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) An election shall be held under this section every two (2) years to elect one (1) trustee from the retired members of the fire department for a term of two (2) years, commencing on the day of ~~his~~ **the trustee's** election, if the retired list contains **at least** three (3) ~~or more~~ retired members at the time of election. The fire chief shall fix a time for holding a convention to nominate candidates for trustee to be elected at each election. Each convention must be held at least fifteen (15) days before the day on which the biennial election is held. All retired members of the fire department may participate in the convention. The convention, when assembled, shall nominate not more than four (4) members of the retired list to be voted upon as trustee. The secretary of the board shall mail the names of the persons nominated along with an official ballot to the retired members within forty-eight (48) hours of the end of the convention.

(b) The election shall be conducted by mail. Each retired member is entitled to cast one (1) ballot by mail and the ballot may not contain more than one (1) name, chosen from the list of retired persons nominated by the convention. The candidate receiving the highest number of votes by 6 p.m. on the second Monday in February or an alternative date in February specified in the bylaws of the fund is elected.

(c) The ballots must remain closed and inviolate until the close of the election, at which time, in the presence of the executive of the unit, the fire chief, and the clerk of the unit, the ballots shall be opened and counted. A certificate of election shall be issued to the candidate receiving the highest number of votes. If two (2) or more candidates receive the same number of votes, the executive and the chief shall immediately determine by lot who will be trustee from the persons receiving an equal number of votes.

(d) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.

SECTION 43. IC 36-8-7-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.5. (a) All ballots voted under this chapter shall be secured until the balloting is closed.

(b) Tampering with a ballot for an election under this chapter is a Class A infraction.

(c) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.

SECTION 44. IC 36-8-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The fire chief is the president of the local board.

(b) At the first meeting after each election, the local board shall elect a secretary, who may be chosen from among the trustees. However, the local board may consider it proper to have a secretary who is a member of the fire department, to be elected by the companies for a term of four (4) years in the same manner as the election for trustees. The secretary shall keep a full record of all the proceedings of the local board in a book provided for that purpose.

(c) The local board shall make all rules necessary for the discharge of its duties and shall hear and determine all applications for relief or pensions under this chapter.

(d) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.

SECTION 45. IC 36-8-7.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This chapter applies to pension benefits for members of police departments hired before May 1, 1977, by a consolidated city.

(b) A police officer with twenty (20) years of service is covered by this chapter and not by IC 36-8-8 if:

(1) the officer was hired before May 1, 1977;

(2) the officer did not convert under IC 19-1-17.8-7 (repealed September 1, 1981);

(3) the officer was not a member of the 1953 fund because:

(A) ~~his~~ **the officer's** employment was on a temporary or emergency status under a statute in effect before February 25, 1953;

(B) ~~he~~ **the officer** failed to pass a five (5) year physical requirement under such a statute; or

(C) ~~he~~ **the officer** was a war veteran without pension status;

(4) the officer submitted to a physical medical examination, if required by the local board, and the results were satisfactory; and

(5) the officer was accepted by the local board as a member of the 1953 fund upon payment of all dues required for ~~his~~ **the officer's** entire time as a member of the police department.

(c) A police officer is covered by this chapter and not by IC 36-8-8 if ~~he:~~ **the officer:**

(1) was hired before May 1, 1977; and

(2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981).

(d) A police officer is covered by this chapter and not by IC 36-8-8 if ~~he:~~ **the officer:**

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981);

(3) is a regularly appointed member of the police department;

(4) is a member of the 1953 fund;

(5) was employed on a temporary or emergency status before regular employment; and

(6) paid into the 1953 fund by not later than January 1, 1968, all dues for the period ~~he~~ **the officer** was on temporary or emergency status.

(e) A police officer who:

(1) is covered by this chapter before consolidation under

IC 36-3-1-5.1; and

(2) becomes a member of the consolidated law enforcement department through consolidation under IC 36-3-1-5.1;

is covered by this chapter after the effective date of the consolidation, and the officer's service as a member of the consolidated law enforcement department is considered active service under this chapter.

~~(e)~~ **(f)** In computing the length of active service rendered by any police officer for the purpose of determining the expiration of a period of twenty (20) years of active service, all of the following periods are counted:

(1) All of the time the officer performed the duties of ~~his~~ **the officer's** position in active service.

(2) Vacation time or periods of leave of absence with whole or part pay.

(3) Periods of leave of absence without pay that were necessary on account of physical or mental disability.

(4) Periods of disability for which the officer will receive or has received any disability benefit.

~~(f)~~ **(g)** In computing the term of service there is not included any of the following:

(1) Periods during which the police officer was or is suspended or on leave of absence without pay.

(2) Periods during which the officer was not in active service on account of ~~his~~ **the officer's** resignation from the department.

(3) Time served as a special police officer, a merchant police officer, or private police officer.

SECTION 46. IC 36-8-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to:

(1) full-time police officers hired or rehired after April 30, 1977, in all municipalities, or who converted their benefits under IC 19-1-17.8-7 (repealed September 1, 1981);

(2) full-time fully paid firefighters hired or rehired after April 30, 1977, or who converted their benefits under IC 19-1-36.5-7 (repealed September 1, 1981);

(3) a police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996; ~~and~~

(4) a park ranger who:

(A) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;

(B) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and

(C) is employed by the parks department of 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 full-time fully paid firefighter who is covered by this chapter before the effective date of consolidation and becomes a member of the fire department of a consolidated city under IC 36-3-1-6.1, provided that the firefighter's service as a member of the fire department of a consolidated city is considered active service under this chapter;

(6) except as otherwise provided, a full-time fully paid firefighter who is hired or rehired after the effective date of the consolidation by a consolidated fire department established under IC 36-3-1-6.1;

(7) a full-time police officer who is covered by this chapter before the effective date of consolidation and becomes a member of the consolidated law enforcement department as part of the consolidation under IC 36-3-1-5.1, provided that the officer's service as a member of the consolidated law enforcement department is considered active service under this chapter; and

(8) except as otherwise provided, a full-time police officer who is hired or rehired after the effective date of the consolidation by a consolidated law enforcement department established under IC 36-3-1-5.1;

except as provided by section 7 of this chapter.

SECTION 47. IC 36-8-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "employer" means:

(1) a municipality that established a 1925 or 1953 fund or that participates in the 1977 fund under section 3 or 18 of this chapter; ~~or~~

(2) a unit that established a 1937 fund or that participates in the 1977 fund under section 3 or 18 of this chapter;

(3) a consolidated city that consolidated the fire departments of units that:

(A) established a 1937 fund; or

(B) participated in the 1977 fund;

before the units' consolidation into the fire department of a consolidated city established by IC 36-3-1-6.1; or

(4) a consolidated city that establishes a consolidated law enforcement department under IC 36-3-1-5.1.

SECTION 48. IC 36-8-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Except as provided in subsections (d), (e), (f), (g), ~~and~~ (h), **(k), (l), (m), and (n):**

(1) a police officer; or

(2) a firefighter;

who is less than thirty-six (36) years of age and who passes the baseline statewide physical and mental examinations required under section 19 of this chapter shall be a member of the 1977 fund and is not a member of the 1925 fund, the 1937 fund, or the 1953 fund.

(b) A police officer or firefighter with service before May 1, 1977, who is hired or rehired after April 30, 1977, may receive credit under this chapter for service as a police officer or firefighter prior to entry into the 1977 fund if the employer who rehires ~~him~~

the police officer or firefighter chooses to contribute to the 1977 fund the amount necessary to amortize ~~his~~ **the police officer's or firefighter's** prior service liability over a period of not more than forty (40) years, the amount and the period to be determined by the PERF board. If the employer chooses to make the contributions, the police officer or firefighter is entitled to receive credit for ~~his~~ **the police officer's or firefighter's** prior years of service without making contributions to the 1977 fund for that prior service. In no event may a police officer or firefighter receive credit for prior years of service if the police officer or firefighter is receiving a benefit or is entitled to receive a benefit in the future from any other public pension plan with respect to the prior years of service.

(c) Except as provided in section 18 of this chapter, a police officer or firefighter is entitled to credit for all years of service after April 30, 1977, with the police or fire department of an employer covered by this chapter.

(d) A police officer or firefighter with twenty (20) years of service does not become a member of the 1977 fund and is not covered by this chapter, if ~~he:~~ **the police officer or firefighter:**

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981); and

(3) is rehired after April 30, 1977, by the same employer.

(e) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if ~~he:~~ **the police officer or firefighter:**

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) was rehired after April 30, 1977, but before February 1, 1979; and

(4) was made, before February 1, 1979, a member of a 1925, 1937, or 1953 fund.

(f) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if ~~he:~~ **the police officer or firefighter:**

(1) was hired by the police or fire department of a unit before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) is rehired by the police or fire department of another unit after December 31, 1981; and

(4) is made, by the fiscal body of the other unit after December 31, 1981, a member of a 1925, 1937, or 1953 fund of the other unit.

If the police officer or firefighter is made a member of a 1925, 1937, or 1953 fund, ~~he~~ **the police officer or firefighter** is entitled to receive credit for all ~~his~~ **the police officer's or firefighter's** years of service, including years before January 1, 1982.

(g) As used in this subsection, "emergency medical services" and "emergency medical technician" have the meanings set forth in IC 16-18-2-110 and IC 16-18-2-112. A firefighter who:

(1) is employed by a unit that is participating in the 1977 fund;

(2) was employed as an emergency medical technician by a political subdivision wholly or partially within the department's jurisdiction;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) ceased employment with the political subdivision and was hired by the unit's fire department due to the reorganization of emergency medical services within the department's jurisdiction;

shall participate in the 1977 fund. A firefighter who participates in the 1977 fund under this subsection is subject to sections 18 and 21 of this chapter.

(h) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the individual was appointed as:

(1) a fire chief under a waiver under IC 36-8-4-6(c); or

(2) a police chief under a waiver under IC 36-8-4-6.5(c);

unless the executive of the unit requests that the 1977 fund accept the individual in the 1977 fund and the individual previously was a member of the 1977 fund.

(i) A police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996, is a member of the 1977 fund.

(j) A park ranger who:

(1) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;

(2) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and

(3) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

is a member of the fund.

(k) Notwithstanding any other provision of this chapter, a police officer or firefighter:

(1) who is a member of the 1977 fund before a consolidation under IC 36-3-1-5.1 or IC 36-3-1-6.1;

(2) whose employer is consolidated into the fire department of a consolidated city under IC 36-3-1-5.1 or IC 36-3-1-6.1; and

(3) who, after the consolidation, becomes an employee of the consolidated law enforcement department or the consolidated fire department under IC 36-3-1-5.1 or IC 36-3-1-6.1;

is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(l) Notwithstanding any other provision of this chapter, a police officer or firefighter who:

(1) before a consolidation under IC 36-3-1-5.1 or IC 36-3-1-6.1, provides law enforcement services or fire

protection services for an entity in a consolidated city;

(2) has the provision of those services consolidated into the fire department of a consolidated city; and

(3) after the consolidation, becomes an employee of the consolidated law enforcement department or the consolidated fire department under IC 36-3-1-5.1 or IC 36-3-1-6.1;

is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(m) A police officer or firefighter who is a member of the 1977 fund under subsection (k) or (l) may not be:

(1) retired for purposes of section 10 of this chapter; or

(2) disabled for purposes of section 12 of this chapter;

solely because of a change in employer under the consolidation.

SECTION 49. IC 36-8-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to all townships. **However, this chapter does not apply to a township in which the fire department of the township has been consolidated under IC 36-3-1-6.1.**

SECTION 50. IC 36-8-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **Except as provided in section 1.5 of this chapter,** this chapter applies to any geographic area that is established as a fire protection territory.

SECTION 51. IC 36-8-19-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. If the fire departments of a township is consolidated under IC 36-3-1-6.1, after the effective date of the consolidation the township may not establish fire protection territory under this chapter.**

(b) A fire protection territory that is established before the effective date of the consolidation in a township in which the township's fire department is consolidated under IC 36-3-1-6.1 becomes part of the geographic area in which the fire department of a consolidated city provides fire protection services.

SECTION 52. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "commission" refers to the Marion County consolidation study commission established by subsection (b).**

(b) The Marion County consolidation study commission is established.

(c) The commission consists of the following members:

(1) Two (2) members of the house of representatives, not more than one (1) of whom may be a member of the same political party, appointed by the speaker of the house of representatives.

(2) Two (2) members of the senate, not more than one (1) of whom may be a member of the same political party, appointed by the president pro tempore of the senate.

(3) One (1) member appointed by the mayor of Indianapolis.

(4) One (1) member who is a township trustee in Marion County, appointed by the chairman of the legislative council upon the recommendation of the Marion County Trustees Association.

(5) One (1) member who is an elected township assessor in Marion County, appointed by the chairman of the legislative council upon the recommendation of the Marion County Township Assessors Association.

(6) Two (2) members appointed by the chairman of the legislative council upon the recommendation of the president of Indianapolis Lodge No. 86, Fraternal Order of Police, Inc. One (1) member appointed under this subdivision must be a law enforcement officer employed by the Marion County Sheriff's Department, and one (1) member appointed under this subdivision must be a law enforcement officer employed by the Indianapolis Police Department.

(7) Two (2) members appointed by the chairman of the legislative council upon the recommendation of the president of Indianapolis Metropolitan Professional Firefighters Local 416. One (1) member appointed under this subdivision must be a full-time firefighter employed by a fire department in a Marion County township other than Center Township. One (1) member appointed under this subdivision must be a full-time firefighter employed by the Indianapolis Fire Department.

(8) Two (2) members of the Marion County city-county council appointed by the chairman of the legislative council upon the joint recommendation of the president and the minority leader of the Marion County city-county council.

(9) One (1) member appointed by the chairman of the legislative council upon the recommendation of the president of the Marion County Alliance of Neighborhood Associations.

(10) One (1) member appointed by the chairman of the legislative council upon the recommendation of the president of the Greater Indianapolis Chamber of Commerce.

(d) The chairman of the legislative council shall appoint a member of the commission as the chair of the commission.

(e) The affirmative votes of a majority of the members appointed to the commission are required for the commission to take action on any measure, including the adoption of a final report.

(f) The legislative services agency shall provide staff support for the commission.

(g) Except as otherwise provided in this SECTION, the commission shall operate under the rules and procedures of the legislative council.

(h) The commission shall study the consolidation of local government in Marion County, including the consolidation of functions proposed in HB 1435-2005, as introduced, and in the "Indianapolis Works" plan.

(i) There is appropriated forty-five thousand dollars ($45,000) to the legislative council from the state general fund for the period beginning July 1, 2005, and ending June 30, 2006, to hire consultants, including accountants, auditors, and

actuaries, that are necessary to assist the commission in reviewing and verifying information and data concerning the consolidation of local government in Marion County. The chairman and vice chairman of the legislative council must approve the hiring of any consultants by the commission.

(j) Before July 1, 2005, the city of Indianapolis must submit information concerning the following to the commission, including any data or assumption used by the city in providing the information:

(1) The anticipated locations and staffing levels of offices in Marion County providing services related to property assessment and township assistance.

(2) The operational efficiencies that may be achieved from the consolidation of law enforcement and firefighting functions.

(3) The anticipated law enforcement staffing and patrolling patterns throughout Marion County.

(4) The anticipated staffing of each existing fire station in Marion County.

(5) The anticipated wages and benefits that would be paid to law enforcement officers and firefighters of the consolidated departments, including any information concerning the timing of expected wage increases for officers and firefighters currently earning less than other officers with comparable rank and experience.

(6) The anticipated pension payments to law enforcement officers and firefighters and the funding source of those payments.

(7) The amount of any reductions in administrative costs resulting from the consolidation of property assessment, township assistance, law enforcement, and firefighting functions.

(8) The amount of any other savings that might occur if services currently provided by township assessors and township trustees (other than township assistance and firefighting services) were transferred to existing county and city departments.

(9) Any other information demonstrating the manner in which the consolidation proposed by HB 1435-2005, as introduced, would affect:

(A) the cost of providing local government services in Marion County;

(B) tax rates, tax levies, and budgets of units of local government in Marion County;

(C) the ability of local government to provide services; and

(D) the ability of citizens to interact with government officials.

(k) Any interested party may submit information and data described in subsection (j) to the commission.

(l) The commission shall issue a final report to the legislative council before December 1, 2005, concerning any findings and recommendations made by the commission.

(m) This SECTION expires December 31, 2005.

SECTION 53. [EFFECTIVE UPON PASSAGE] **The general assembly finds the following:**

(1) A consolidated city faces unique budget challenges due to a high demand for services combined with the large number of tax exempt properties located in a consolidated city as the seat of state government, home to several institutions of higher education, and home to numerous national, state, and regional nonprofit corporations.

(2) By virtue of its size and population density, a consolidated city has unique overlapping territories of county and city government and an absence of unincorporated areas within its county.

(3) Substantial operational efficiencies, reduction of administrative costs, and economies of scale may be obtained in a consolidated city through consolidation of certain county, city, and township functions.

(4) Consolidation of certain county, city, and township services and operations will serve the public purpose by allowing the consolidated city to:

(A) eliminate duplicative services;

(B) provide better coordinated and more uniform delivery of local governmental services;

(C) provide uniform oversight and accountability for the budgets for local governmental services;

(D) allow local government services to be provided more efficiently and at a lower cost than without consolidation.

(5) Efficient and fiscally responsible operation of local government benefits the health and welfare of the citizens of a consolidated city and is of public utility and benefit.

(6) The public purpose of this act is to provide a consolidated city with the means to perform essential governmental services for its citizens in an effective, efficient, and fiscally responsible manner.

SECTION 54. [EFFECTIVE UPON PASSAGE] **The legislative services agency shall prepare legislation for introduction in the 2006 regular session of the general assembly to organize and correct statutes affected by this act, if necessary.**

SECTION 55. **An emergency is declared for this act.**

Renumber all SECTIONS consecutively.

(Reference is to ESB 307 as reprinted April 8, 2005.)

M. Young, Chair	Behning
Lawson	Borders
Senate Conferees	House Conferees

Roll Call 563: yeas 32, nays 17. Report adopted.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed House Bill 1120 because it conflicts with HEA 1078-

2005, HEA 1137-2005, SEA 12-2005, and SEA 578-2005 without properly recognizing the existence of HEA 1078-2005, HEA 1137-2005, SEA 12-2005, and SEA 578-2005, has had EHB 1120 under consideration and begs leave to report back to the Senate with the recommendation that EHB 1120 be corrected as follows:

In the Conference Committee Report to to EHB 1120, page 5, line 34, after "IC 4-4-30-5" insert ", AS AMENDED BY HEA 1078-2005, SECTION 1,".

In the Conference Committee Report to to EHB 1120, page 5, line 40, delete "." and insert "and coal bed methane.".

In the Conference Committee Report to to EHB 1120, page 5, between lines 50 and 51, begin a new line block indented and insert:

"(9) Investigate the use of coal bed methane in the production of renewable or alternative fuels and renewable energy sources.".

In the Conference Committee Report to to EHB 1120, page 5, line 51, delete "(9)" and insert "**(10)**".

In the Conference Committee Report to EHB 1120, page 6, line 2, after "IC 4-13-1-4" insert ", AS AMENDED BY SEA 12-2005, SECTION 1, AND BY HEA 1137-2005, SECTION 5,".

In the Conference Committee Report to EHB 1120, page 6, delete lines 25 through 26.

In the Conference Committee Report to EHB 1120, page 6, line 29, delete ", the telephone rotary fund, and the data".

In the Conference Committee Report to EHB 1120, page 6, line 30, delete "processing rotary fund are" and insert "is".

In the Conference Committee Report to EHB 1120, page 6, line 32, delete "each" and insert "the general services".

In the Conference Committee Report to EHB 1120, page 7, line 38, delete "(16)" and insert "(16) Adopt rules to establish and implement a "Code Adam" safety protocol as described in IC 4-20.5-6-9.

(17)".

In the Conference Committee Report to EHB 1120, page 70, delete lines 7 through 19, begin a new paragraph and insert:

"SECTION 50. IC 8-9.5-9-2, AS AMENDED BY SEA 578-2005, SECTION 108, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. As used in this chapter, "authority" means:

(1) an authority or agency established under IC 8-1-2.2 or IC 8-9.5 through IC 8-23;

(2) when acting under an affected statute (as defined in IC 4-4-10.9-1.2), the Indiana finance authority established by IC 4-4-11;

(3) only in connection with a program established under IC 13-18-13 or IC 13-18-21, the bank established under IC 5-1.5;

(4) a fund or program established under IC 13-18-13 or IC 13-18-21;

(5) the Indiana health and educational facility financing authority established by IC 5-1-16; ~~and~~

(6) the Indiana housing finance authority established by IC 5-20-1;

(7) the authority established under IC 4-4-11; or

(8) the authority established under IC 5-1-17.".

(Reference is to EHB 1120 as printed April 7, 2005, and as amended by the Conference Committee Report to EHB 1120 adopted April 29, 2005.)

GARTON, Chair
R. YOUNG, R.M.M.
KENLEY

Report adopted.

10:22 p.m.

The Chair declared a recess until the fall of the gavel.

Recess

The Senate reconvened at 10:54 p.m., with the President of the Senate in the Chair.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has accepted and approved the Joint Rule 20 correction on Engrossed Senate Bill 496.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has adopted the Conference Committee Reports on Engrossed Senate Bills 307–1, 496–1, and 609–1.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has accepted and approved the Joint Rule 20 correction on Engrossed Senate Bill 578.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has accepted and approved the Joint Rule 20 correction on Engrossed Senate Bill 607.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has adopted the Conference Committee Reports on Engrossed Senate Bills 213–2, 360–1, 397–1, 419–1, 508–1, and 591–1.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1141.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has adopted the Conference Committee Reports on Engrossed House Bills 1073–1, 1346–1, and 1394–1.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has adopted the following motion:

"I move that the Speaker of the House appoint a committee of six members of the House of Representatives to confer with the Governor for the purpose of ascertaining whether he has any further legislative business to transact with the House of Representatives."

The Speaker appointed Representatives: Buck, Ruppel, Lehe, Van Haaften, Dickinson, and Kromkowski.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has adopted the following motion:

"I move that the Speaker of the House appoint a committee of four members of the House of Representatives to confer with the Senate for the purpose of ascertaining whether the Senate has any further legislative business to transact with the House of Representatives."

The Speaker appointed Representatives: Ulmer, Woodruff, Kromkowski, and Porter.

M. CAROLINE SPOTTS
Principal Clerk of the House

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed Senate Bill 496 because it conflicts with HEA 1288-2005 without properly recognizing the existence of HEA 1288-2005, has had Engrossed Senate Bill 496 under consideration and begs leave to report back to the Senate with the recommendation that Engrossed Senate Bill 496 be corrected as follows:

Page 17, line 42, delete "IC 20-14-14." and insert "IC 36-12-14.".

Page 17, line 45, delete "IC 20-14-14" and insert "IC 36-12-14".

Page 25, line 49, delete "IC 20-14-14" and insert "IC 36-12-14".

(Reference is to ESB 496 as reprinted April 5, 2005, and as amended by the Conference Committee Report to ESB 496 adopted April 29, 2005.)

GARTON, Chair
R. YOUNG, R.M.M.
KENLEY

Report adopted.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
ESB 444–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 444 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-2-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. The institute is established to do the following:

(1) Evaluate state and local programs associated with:
(A) the prevention, detection, and solution of criminal offenses;
(B) law enforcement; and
(C) the administration of criminal and juvenile justice.

(2) Improve and coordinate all aspects of law enforcement, juvenile justice, and criminal justice in this state.

(3) Stimulate criminal and juvenile justice research.

(4) Develop new methods for the prevention and reduction of crime.

(5) Prepare applications for funds under the Omnibus Act and the Juvenile Justice Act.

(6) Administer victim and witness assistance funds.

(7) Administer the traffic safety functions assigned to the institute under IC 9-27-2.

(8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.

(9) Serve as the criminal justice statistical analysis center for this state.

(10) Establish and maintain, in cooperation with the office of the secretary of family and social services, a sex and violent offender directory.

(11) Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.

(12) Prescribe or approve forms as required under IC 5-2-12.

(13) Provide judges, law enforcement officers, prosecuting attorneys, parole officers, and probation officers with information and training concerning the requirements in IC 5-2-12 and the use of the sex and violent offender directory.

(14) Develop and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.

SECTION 2. IC 5-2-6-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 17. In consultation with the state police department and other law enforcement agencies, the institute shall operate and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.**

SECTION 3. IC 5-2-15 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 15. Methamphetamine Lab Reporting

Sec. 1. As used in this chapter, "law enforcement agency" has the meaning set forth in IC 10-11-8-2.

Sec. 2. As used in this chapter, "methamphetamine laboratory" means a location or facility that:

(1) is being used;

(2) was intended to be used; or

(3) has been used;

to produce methamphetamine.

Sec. 3. A law enforcement agency that terminates the operation of a methamphetamine laboratory shall report the existence and location of the methamphetamine laboratory to:

(1) the state police department;

(2) the local fire department that serves the area in which the methamphetamine laboratory is located; and

(3) the county health department or, if applicable, multiple county health department of the county in which the methamphetamine laboratory is located;

on a form and in the manner prescribed by guidelines adopted by the superintendent of the state police department under IC 10-11-2-31.

Sec. 4. A law enforcement agency that discovers a child less than fourteen (14) years of age at a methamphetamine laboratory shall notify the division of family and children.

SECTION 4. IC 10-11-2-31 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 31. (a) The superintendent shall adopt:**

(1) guidelines; and

(2) a reporting form or a specified electronic format, or both;

for the report of a methamphetamine laboratory by a law enforcement agency under IC 5-2-15-3.

(b) The guidelines adopted under this section must require a law enforcement agency to report the existence of a methamphetamine laboratory to:

(1) the department;

(2) the local fire department that serves the area in which the methamphetamine laboratory is located; and

(3) the county health department or, if applicable, multiple county health department of the county in which the methamphetamine laboratory is located;

on the form or in the specified electronic format adopted by the superintendent.

(c) The guidelines adopted under this section:

(1) may incorporate a recommendation of the methamphetamine abuse task force (IC 5-2-14) that the superintendent determines to be relevant;

(2) may require the department to report the existence of the methamphetamine laboratory to one (1) or more additional agencies or organizations;

(3) must require the department to maintain reports filed under IC 5-2-15-3 in a manner permitting an accurate assessment of:

(A) the number of methamphetamine laboratories located in Indiana in a specified period;

(B) the geographical dispersal of methamphetamine laboratories located in Indiana in a specified period; and

(C) any other information that the superintendent determines to be relevant; and

(4) must require a law enforcement agency to report any other information that the superintendent determines to be relevant.

SECTION 5. IC 13-11-2-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 42. "Contaminant", for purposes of environmental management laws, means any solid, semi-solid, liquid, or gaseous matter, or any odor, radioactive material, pollutant (as defined by the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as in effect on January 1, 1989), hazardous waste (as defined in the federal Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), as in effect on January 1, 1989), any constituent of a hazardous waste, or any combination of the items described in this section, from whatever source, that:

(1) is injurious to human health, plant or animal life, or property;

(2) interferes unreasonably with the enjoyment of life or property; or

(3) otherwise violates:

(A) environmental management laws; or

(B) rules adopted under environmental management laws.

The term includes chemicals used in the illegal manufacture of a controlled substance (as defined in IC 35-48-1-9) or an immediate precursor (as defined in IC 35-48-1-17) of a controlled substance, and waste produced from the illegal

manufacture of a controlled substance or an immediate precursor of the controlled substance.

SECTION 6. IC 13-14-1-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 15. (a) The department shall maintain a list of persons certified to inspect and clean property that is polluted by a contaminant. The list may specifically note persons with particular expertise or experience in the inspection or cleanup of property contaminated by chemicals used in the illegal manufacture of a controlled substance (as defined in IC 35-48-1-9)**

or by waste produced from the illegal manufacture of a controlled substance.

(b) The department may specify by rule that a person who meets certain qualifications prescribed by the department is a person certified to inspect and clean property that is polluted by a contaminant.

(c) The department shall adopt rules under IC 4-22-2:

(1) to implement this section; and

(2) concerning the inspection and remediation of contaminated property.

SECTION 7. IC 34-30-2-152.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 152.2. IC 35-48-4-14.7 (Concerning a retailer who discloses information concerning the sale of a product containing ephedrine or pseudoephedrine).**

SECTION 8. IC 35-48-4-14.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14.5. (a) As used in this section, "chemical reagents or precursors" refers to one (1) or more of the following:

(1) Ephedrine.

(2) Pseudoephedrine.

(3) Phenylpropanolamine.

(4) The salts, isomers, and salts of isomers of a substance identified in subdivisions (1) through (3).

(5) Anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1).

(6) Organic solvents.

(7) Hydrochloric acid.

(8) Lithium metal.

(9) Sodium metal.

(10) Ether.

(11) Sulfuric acid.

(12) Red phosphorous.

(13) Iodine.

(14) Sodium hydroxide (lye).

(15) Potassium dichromate.

(16) Sodium dichromate.

(17) Potassium permanganate.

(18) Chromium trioxide.

(19) Benzyl cyanide.

(20) Phenylacetic acid and its esters or salts.

(21) Piperidine and its salts.

(22) Methylamine and its salts.

(23) Isosafrole.

(24) Safrole.

(25) Piperonal.

(26) Hydriodic acid.

(27) Benzaldehyde.

(28) Nitroethane.

(29) Gamma-butyrolactone.

(30) White phosphorus.

(31) Hypophosphorous acid and its salts.

(32) Acetic anhydride.

(33) Benzyl chloride.

(34) Ammonium nitrate.

(35) Ammonium sulfate.

(36) Hydrogen peroxide.

(37) Thionyl chloride.

(38) Ethyl acetate.

(39) Pseudoephedrine hydrochloride.

(b) A person who possesses more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, ~~the salts, isomers or salts of isomers of ephedrine, pseudoephedrine or phenylpropanolamine or a combination of any of these substances exceeding ten (10) grams~~ **pure or adulterated,** commits a Class D felony. However, the offense is a Class C felony if the person possessed:

(1) a firearm while possessing more **than** ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, ~~the salts, isomers or salts of isomers of ephedrine, pseudoephedrine or phenylpropanolamine or a combination of any of these substances exceeding ten (10) grams,~~ **pure or adulterated;** or

(2) more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, ~~the salts, isomers or salts of isomers of ephedrine, pseudoephedrine, or phenylpropanolamine, or a combination of any of these substances exceeding ten (10) grams~~ **pure or adulterated,** in, on, or within one thousand (1,000) feet of:

(A) school property;

(B) a public park;

(C) a family housing complex; or

(D) a youth program center.

(c) A person who possesses anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with the intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6, commits a Class D felony. However, the offense is a Class C felony if the person possessed:

(1) a firearm while possessing anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6; or

(2) anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6 in, on, or within one thousand (1,000) feet of:

(A) school property;

(B) a public park;

(C) a family housing complex; or

(D) a youth program center.

(d) Subsection (b) does not apply to a:

(1) licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier or an agent of any of these persons if the possession is in the regular course of lawful business activities; or

(2) person who possesses more than ten (10) grams of a substance described in subsection (b) if the substance is possessed under circumstances consistent with typical medicinal or household use, including:

(A) the location in which the substance is stored;

(B) the possession of the substance in a variety of:

(i) strengths;

(ii) brands; or

(iii) types; or

(C) the possession of the substance:

(i) with different expiration dates; or

(ii) in forms used for different purposes.

(e) A person who possesses two (2) or more chemical reagents or precursors with the intent to manufacture:

(1) Methcathinone, a schedule I controlled substance under IC 35-48-2-4;

(2) Methamphetamine, a schedule II controlled substance under IC 35-48-2-6;

(3) Amphetamine, a schedule II controlled substance under IC 35-48-2-6; or

(4) Phentermine, a schedule IV controlled substance under IC 35-48-2-10;

commits a Class D felony.

(f) An offense under subsection (e) is a Class C felony if the person possessed:

(1) a firearm while possessing two (2) or more chemical reagents or precursors with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6; or

(2) two (2) or more chemical reagents or precursors with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6 in, on, or within one thousand (1,000) feet of:

(A) school property;

(B) a public park;

(C) a family housing complex; or

(D) a youth program center.

(g) A person who sells, transfers, distributes, or furnishes a chemical reagent or precursor to another person with knowledge or the intent that the recipient will use the chemical reagent or precursors to manufacture methamphetamine, methcathinone, amphetamine, or phentermine commits unlawful sale of a precursor, a Class D felony.

SECTION 9. IC 35-48-4-14.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 14.7. (a) This section does not apply to the following:**

(1) Ephedrine or pseudoephedrine dispensed pursuant to a prescription.

(2) The sale of a drug containing ephedrine or pseudoephedrine to a licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, or an agent of any of these persons if the sale occurs in the regular course of lawful business activities. However, a retail distributor, wholesaler, or manufacturer is required to report a suspicious order to the state police department in accordance with subsection (f).

(3) The sale of a drug containing ephedrine or pseudoephedrine by a person who does not sell exclusively to walk-in customers for the personal use of the walk-in customers. However, if the person described in this subdivision is a retail distributor, wholesaler, or manufacturer, the person is required to report a suspicious order to the state police department in accordance with subsection (f).

(b) The following definitions apply throughout this section:

(1) "Constant video monitoring" means the surveillance by an automated camera that:

(A) records at least one (1) photograph or digital image every ten (10) seconds;

(B) retains a photograph or digital image for at least seventy-two (72) hours;

(C) has sufficient resolution and magnification to permit the identification of a person in the area under surveillance; and

(D) stores a recorded photograph or digital image at a location that is immediately accessible to a law enforcement officer.

(2) "Convenience package" means a package that contains a drug having as an active ingredient not more than one hundred twenty (120) milligrams of ephedrine or pseudoephedrine, or both.

(3) "Ephedrine" means pure or adulterated ephedrine.

(4) "Pseudoephedrine" means pure or adulterated pseudoephedrine.

(5) "Suspicious order" means a sale or transfer of a drug containing ephedrine or pseudoephedrine if the sale or transfer:

(A) is a sale or transfer that the retail distributor, wholesaler, or manufacturer is required to report to the United States Drug Enforcement Administration;

(B) appears suspicious to the retail distributor, wholesaler, or manufacturer in light of the recommendations contained in Appendix A of the report to the United States attorney general by the suspicious orders task force under the federal Comprehensive Methamphetamine Control Act of 1996; or

(C) is for cash or a money order in a total amount of at

least two hundred dollars ($200).

(6) "Unusual theft" means the theft or unexplained disappearance from a particular retail store of drugs containing ten (10) grams or more of ephedrine, pseudoephedrine, or both in a twenty-four (24) hour period.

(c) This subsection does not apply to a convenience package. A person may sell a drug that contains the active ingredient of ephedrine, pseudoephedrine, or both only if the person complies with the following conditions:

(1) The person does not sell the drug to a person less than eighteen (18) years of age.

(2) The person does not sell drugs containing more than three (3) grams of ephedrine or pseudoephedrine, or both in one (1) transaction.

(3) The person requires:

(A) the purchaser to produce a state or federal identification card;

(B) the purchaser to complete a paper or an electronic log in a format approved by the state police department with the purchaser's name, address, and driver's license or other identification number; and

(C) the clerk who is conducting the transaction to initial or electronically record the clerk's identification on the log.

Records from the completion of a log must be retained for at least two (2) years, and may be inspected by a law enforcement officer in accordance with state and federal law. A retailer who in good faith releases information maintained under this subsection is immune from civil liability unless the release constitutes gross negligence or intentional, wanton, or willful misconduct. This subdivision expires June 30, 2008.

(4) The person stores the drug:

(A) behind a counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to a customer without the assistance of an employee; or

(B) directly in front of the pharmacy counter in the direct line of sight of an employee at the pharmacy counter, in an area under constant video monitoring, if the drug is sold in a retail establishment that:

(i) is a pharmacy; or

(ii) contains a pharmacy that is open for business.

(d) A person may not purchase drugs containing more than three (3) grams of ephedrine, pseudoephedrine, or both in one (1) week.

(e) This subsection only applies to convenience packages. A person may not sell drugs containing more than one hundred twenty (120) milligrams of ephedrine or pseudoephedrine, or both in any one (1) transaction if the drugs are sold in convenience packages. A person who sells convenience packages must secure the convenience packages in at least one (1) of the following ways:

(1) The convenience package must be stored not more than thirty (30) feet away from a checkout station or counter and must be in the direct line of sight of an employee at the checkout station or counter.

(2) The convenience package must be protected by a reliable anti-theft device that uses package tags and detection alarms designed to prevent theft.

(3) The convenience package must be stored in restricted access shelving that permits a purchaser to remove not more than one (1) package every fifteen (15) seconds.

(4) The convenience package must be stored in an area that is under constant video monitoring, and a sign placed near the convenience package must warn that the area is under constant video monitoring.

(f) A retail distributor, wholesaler, or manufacturer shall report a suspicious order to the state police department in writing.

(g) Not later than three (3) days after the discovery of an unusual theft at a particular retail store, the retailer shall report the unusual theft to the state police department in writing. If three (3) unusual thefts occur in a thirty (30) day period at a particular retail store, the retailer shall, for at least one hundred eighty (180) days after the date of the last unusual theft, locate all drugs containing ephedrine or pseudoephedrine at that particular retail store behind a counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to customers without the assistance of an employee.

(h) A unit (as defined in IC 36-1-2-23) may not adopt an ordinance after February 1, 2005, that is more stringent than this section.

(i) A person who knowingly or intentionally violates this section commits a Class C misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior unrelated conviction under this section.

(j) Before June 30, 2007, the state police department shall submit a report to the legislative council detailing the effectiveness of this section in reducing the illicit production of methamphetamine. The report must describe the number of arrests or convictions that are attributable to the identification and logging requirements contained in this section, and must include recommendations for future action. The report must be in an electronic format under IC 5-14-6.

SECTION 10. [EFFECTIVE JULY 1, 2005] **(a) The superintendent of the state police department shall adopt a form or a specified electronic format, or both, for the use of a retailer in recording a transaction involving a drug containing ephedrine or pseudoephedrine in accordance with IC 35-48-4-14.7, as added by this act.**

(b) This SECTION expires June 30, 2008.

SECTION 11. [EFFECTIVE JULY 1, 2005] **IC 35-48-4-14.5, as amended by this act, and IC 35-48-4-14.7, as added by this act, apply only to offenses committed after June 30, 2005.**

(Reference is to ESB 444 as reprinted March 18, 2005.)

M. Young, Chair	Friend
Skinner	Van Haaften
Senate Conferees	House Conferees

Roll Call 564: yeas 49, nays 0. Report adopted.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1120.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE PRESIDENT PRO TEMPORE OF THE INDIANA STATE SENATE

Madam President and Members of the Senate: I have on April 29, 2005, signed the following House Enrolled Acts: 1075, 1306, 1329, 1431, 1646, and 1765.

ROBERT D. GARTON
President Pro Tempore

MESSAGE FROM THE PRESIDENT OF THE SENATE

Members of the Senate: I have on the 29th day of April, 2005, signed Senate Enrolled Acts: 18, 64, 140, 179, 227, 253, 296, 340, 422, 474, 487, 538, 539, 634, and Senate Joint Resolution 7.

REBECCA S. SKILLMAN
Lieutenant Governor

SENATE MOTION

Madam President: I move that at 11:10 p.m., this 29th day of April, 2005, the Senate do now adjourn *sine die*.

GARTON

Motion prevailed. The Senate adjourned *sine die*.

MARY C. MENDEL	REBECCA S. SKILLMAN
Secretary of the Senate	President of the Senate