Journal of the Senate

State of Indiana

114th General Assembly — Second Regular Session

Twenty-third Meeting Day — Thursday Afternoon — February 23, 2006

The Senate convened at 1:35 p.m., with the President of the Senate, Rebecca S. Skillman, in the Chair.

The Senate Reader was directed to read the previously read section of the District Court's Order in *Hinrichs v. Bosma*, as set out in full in the Senate Journal of January 9, 2006.

Silent prayer followed the reading.

The Pledge of Allegiance to the Flag was led by the President of the Senate.

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

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

Roll Call 229: present 48; excused 2. [*Note: A ▶ indicates those who were excused.*] 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.

SENATE MOTION

Madam President: I move that the Committee Report to Engrossed House Bill 1062, filed February 22, 2006, be withdrawn from further consideration by the Senate.

WYSS

Motion prevailed.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Engrossed House Bill 1001, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT concerning taxation and to make an appropriation.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 1-1-4-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 7. A reference in the Indiana Code to controlled taxes means a tax or tax rate that is subject to the limitations imposed under IC 6-12. The term applies only to the following taxes:**

(1) Property taxes (other than a property tax that a statute specifically treats as excluded from the controlled tax limits computed under IC 6-12).

(2) County income taxes imposed under IC 6-11 (other than a part of a county income tax imposed in a county that a statute specifically treats as excluded from the controlled tax limits computed under IC 6-12).

SECTION 2. IC 4-4-11-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.5. (a) This section applies to a meeting of the authority at which at least three (3) members of the authority are physically present at the place where the meeting is conducted.**

(b) A member of the authority may participate in a meeting of the authority by using a means of communication that permits:

(1) all other members participating in the meeting; and

(2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(c) A member who participates in a meeting under subsection (b) is considered to be present at the meeting.

(d) The memoranda of the meeting prepared under IC 5-14-1.5-4 must also state the name of each member who:

(1) was physically present at the place where the meeting was conducted;

(2) participated in the meeting by using a means of communication described in subsection (b); and

(3) was absent.

Each member who participated in the meeting by using a means of communication described in subsection (b) must sign the memoranda of the meeting within sixty (60) days after the date of the meeting.

SECTION 3. IC 5-28-4-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8. (a) This section applies to:**

(1) a meeting of the board at which at least seven (7) members of the board are physically present at the place where the meeting is conducted; or

(2) a meeting of a committee or subcommittee established by the board at which at least fifty percent (50%) of the members of the committee or subcommittee are physically present at the place where the meeting is conducted.

(b) A member of the board, committee, or subcommittee may participate in a meeting of the board, committee, or subcomittee by using a means of communication that permits:

(1) all other members participating in the meeting; and

(2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(c) A member who participates in a meeting under subsection (b) is considered to be present at the meeting.

(d) The memoranda of the meeting prepared under IC 5-14-1.5-4 must also state the name of each member who:

(1) was physically present at the place where the meeting was conducted;

(2) participated in the meeting by using a means of communication described in subsection (b); and

(3) was absent.

Each member who participated in the meeting by using a means of communication described in subsection (b) must sign the memoranda of the meeting within sixty (60) days after the date of the meeting.

SECTION 4. IC 6-1.1-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 12. **(a) As used in this section, "land developer" means a person that holds land for sale in the ordinary course of the person's trade or business.**

(b) As used in this section, "land in inventory" means:

(1) a lot; or

(2) a tract that has not been subdivided into lots;

to which a land developer holds title in the ordinary course of the land developer's trade or business.

(c) As used in this section, "title" refers to legal or equitable title, including the interest of a contract purchaser.

(d) Except as provided in subsections (h) and (i), if:

(1) land assessed on an acreage basis is subdivided into lots; ~~the land shall be reassessed on the basis of lots. If~~ **or**

(2) land is rezoned for, or put to, a different use;

the land shall be reassessed on the basis of its new classification.

(e) If improvements are added to real property, the improvements shall be assessed.

(f) An assessment or reassessment made under this section is effective on the next assessment date. ~~However, if land assessed on an acreage basis is subdivided into lots, the lots may not be reassessed until the next assessment date following a transaction which results in a change in legal or equitable title to that lot.~~

(g) No petition to the department of local government finance is necessary with respect to an assessment or reassessment made under this section.

(h) Subject to subsection (i), land in inventory may not be reassessed until the next assessment date following the earliest of:

(1) the date on which title to the land is transferred by:

(A) the land developer; or

(B) a successor land developer that acquires title to the land;

to a person that is not a land developer;

(2) the date on which construction of a structure begins on the land; or

(3) the date on which a building permit is issued for construction of a building or structure on the land.

(i) Subsection (h) applies regardless of whether the land in inventory is rezoned while a land developer holds title to the land.

SECTION 5. IC 6-1.1-4-28.5, AS AMENDED BY P.L.88-2005, SECTION 7, AND AS AMENDED BY P.L.228-2005, SECTION 10, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28.5. (a) Money assigned to a property reassessment fund under section 27.5 of this chapter may be used only to pay the costs of:

(1) the general reassessment of real property, including the computerization of assessment records;

(2) payments to county assessors, members of property tax assessment boards of appeals, or assessing officials under IC 6-1.1-35.2;

(3) the development or updating of detailed soil survey data by the United States Department of Agriculture or its successor agency;

(4) the updating of plat books; ~~and~~

(5) payments for the salary of permanent staff or for the contractual services of temporary staff who are necessary to assist county assessors, members of a county property tax assessment board of appeals, and assessing officials;

(6) making annual adjustments under section 4.5 of this chapter; and

(7) the verification under 50 IAC 21-3-2 of sales disclosure forms forwarded to the county assessor under IC 6-1.1-5.5-3.

Money in a property tax reassessment fund may not be transferred or reassigned to any other fund, and may not be used for any purposes other than those set forth in this section.

(b) All counties shall use modern, detailed soil maps in the general reassessment of agricultural land.

(c) The county treasurer of each county shall, in accordance with IC 5-13-9, invest any money accumulated in the property reassessment fund. until the money is needed to pay general reassessment expenses. Any interest received from investment of the money shall be paid into the property reassessment fund.

(d) An appropriation under this section must be approved by the fiscal body of the county after the review and recommendation of the county assessor. However, in a county with an elected township assessor in every township, the county assessor does not review an appropriation under this section, and only the fiscal body must approve an appropriation under this section.

SECTION 6. IC 6-1.1-12-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. (a) Each year a person who is entitled to receive the homestead credit provided under IC 6-1.1-20.9 for property taxes payable in the following year is entitled to a standard deduction from the assessed value of the real property, mobile home not assessed as real property, or manufactured

home not assessed as real property that qualifies for the homestead credit. The auditor of the county shall record and make the deduction for the person qualifying for the deduction.

(b) Except as provided in section 40.5 of this chapter, the total amount of the deduction that a person may receive under this section for a particular year is the lesser of:

(1) one-half (1/2) of the assessed value of the real property, mobile home not assessed as real property, or manufactured home not assessed as real property; or

(2) **for property taxes first due and payable:**

(A) before January 1, 2007, thirty-five thousand dollars ($35,000); **and**

(B) after December 31, 2006, the greater of:

(i) thirty-five thousand dollars ($35,000); or

(ii) the amount determined by the department of local government finance under subsection (d).

(c) A person who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section with respect to that real property, mobile home, or manufactured home.

(d) The amount referred to in subsection (b)(2)(B)(ii) is the result determined by the department of local government finance under STEP FOUR of the following formula:

STEP ONE: Determine the statewide average assessed value (before the application of any applicable deductions under this article) of all homesteads (as defined in IC 6-1.1-20.9-1) on the assessment date for the particular year to which the deduction applies.

STEP TWO: Determine the statewide average assessed value (before the application of any applicable deductions under this article) of all homesteads (as defined in IC 6-1.1-20.9-1) on the assessment date for the year preceding the year described in STEP ONE.

STEP THREE: Divide the STEP ONE amount by the STEP TWO amount, rounded to the nearest ten-thousandth (0.0001).

STEP FOUR: Determine the product of the STEP THREE amount multiplied by:

(A) thirty-five thousand dollars ($35,000), for property taxes first due and payable in 2007; or

(B) the amount determined under this subsection for the previous year, for property taxes first due and payable after 2007;

rounded to the nearest one dollar ($1) amount.

Before July 1 of 2006 and each year thereafter, the county auditor of each county shall provide to the department of local government finance information concerning assessed values of homesteads in that county as required by the department in order to determine statewide average assessed values of homesteads under this subsection. If a county auditor does not provide the information required by the department under this subsection, the department may estimate the assessed values of homesteads in that county as necessary to carry out this subsection. Before August 1 of 2006 and each year thereafter, the department shall notify each county auditor of the amount determined under STEP FOUR of this subsection.

SECTION 7. IC 6-1.1-12.1-1, AS AMENDED BY P.L.216-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 1. For purposes of this chapter:

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

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

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

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

(3) "New manufacturing equipment" means ~~any~~ tangible personal property ~~which:~~ **that a deduction applicant:**

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

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

(C) ~~was acquired by its owner~~ **acquires** for use as described in clause (B); and

(D) ~~was~~ never ~~before~~ used ~~by its owner~~ for any purpose in Indiana **before the installation described in clause (A).**

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

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

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

(A) on unimproved real estate; or

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

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

property.

(7) "Designating body" means the following:

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

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

(8) "Deduction application" means either:

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

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

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

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

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

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

(A) ~~is installed~~ **a deduction applicant installs** after June 30, 2000, and on or before the approval deadline determined under section 9 of this chapter, in an economic revitalization area in which a deduction for tangible personal property is allowed;

(B) consists of:

(i) laboratory equipment;

(ii) research and development equipment;

(iii) computers and computer software;

(iv) telecommunications equipment; or

(v) testing equipment;

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

(D) ~~is acquired by the property owner~~ **the deduction applicant acquires** for purposes described in this subdivision; and ~~was~~

(E) the deduction applicant never ~~before~~ used ~~by the owner~~ for any purpose in Indiana **before the installation described in clause (A).**

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

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

(A) ~~is installed~~ **a deduction applicant installs** after June 30, 2004, and on or before the approval deadline determined under section 9 of this chapter, in an economic revitalization area in which a deduction for tangible personal property is allowed;

(B) consists of:

(i) racking equipment;

(ii) scanning or coding equipment;

(iii) separators;

(iv) conveyors;

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

(vi) transitional moving equipment;

(vii) packaging equipment;

(viii) sorting and picking equipment; or

(ix) software for technology used in logistical distribution;

(C) ~~is used~~ **the deduction applicant uses** for the storage or distribution of goods, services, or information; and

(D) ~~before being used as described in clause (C), was~~ **the deduction applicant** never used ~~by its owner~~ for any purpose in Indiana **before the installation described in clause (A).**

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

(A) ~~is installed~~ **a deduction applicant installs** after June 30, 2004, and on or before the approval deadline determined under section 9 of this chapter, in an economic revitalization area in which a deduction for tangible personal property is allowed;

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

(i) information processing;

(ii) office automation;

(iii) telecommunication facilities and networks;

(iv) informatics;

(v) network administration;

(vi) software development; and

(vii) fiber optics; and

(C) ~~before being installed as described in clause (A), was~~ **the deduction applicant** never used ~~by its owner~~ for any purpose in Indiana **before the installation described in clause (A).**

(15) "Deduction applicant" means an owner of tangible personal property who makes a deduction application.

SECTION 8. IC 6-1.1-20-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) ~~If a petition and remonstrance process is commenced under section 3.2 of this chapter,~~ **This section applies to a political subdivision that adopts an ordinance or a resolution making a preliminary determination to issue bonds or enter into a lease.** During the **period commencing with the adoption of the ordinance or resolution and, if a petition and remonstrance process is commenced under section 3.2 of this chapter, continuing through the** sixty (60) day period commencing with the notice under section 3.2(1) of this chapter, the political subdivision seeking to issue bonds or enter into a lease for the proposed controlled project may not promote a position on the petition or remonstrance by doing any of the following:

(1) Allowing facilities or equipment, including mail and messaging systems, owned by the political subdivision to be

used for public relations purposes to promote a position on the petition or remonstrance, unless equal access to the facilities or equipment is given to persons with a position opposite to that of the political subdivision.

(2) Making an expenditure of money from a fund controlled by the political subdivision to promote a position on the petition or remonstrance (except as necessary to explain the project to the public) or to pay for the gathering of signatures on a petition or remonstrance. This subdivision does not prohibit a political subdivision from making an expenditure of money to an attorney, an architect, a construction manager, or a financial adviser for professional services provided with respect to a controlled project.

(3) Using an employee to promote a position on the petition or remonstrance during the employee's normal working hours or paid overtime.

(4) In the case of a school corporation, promoting a position on a petition or remonstrance by:

(A) using students to transport written materials to their residences **or in any way directly involving students in a school organized promotion of a position;** or

(B) including a statement within another communication sent to the students' residences.

However, this section does not prohibit an employee of the political subdivision from carrying out duties with respect to a petition or remonstrance that are part of the normal and regular conduct of the employee's office or agency.

(b) A person may not solicit or collect signatures for a petition or remonstrance on property owned or controlled by the political subdivision.

(c) The staff and employees of a school corporation may not personally identify a student as the child of a parent or guardian who supports or opposes a petition or remonstrance.

SECTION 9. IC 6-1.1-20.6-4, AS ADDED BY P.L.246-2005, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 **and to all of the following for purposes of section 6.5 of this chapter:**

(1) An apartment complex.

(2) A homestead.

(3) Residential rental property.

SECTION 10. IC 6-1.1-20.6-6, AS ADDED BY P.L.246-2005, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. **(a) This section applies only to property taxes first due and payable before January 1, 2008.**

~~(a)~~ **(b)** 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)~~ **(c)** 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.

SECTION 11. IC 6-1.1-20.6-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 6.5. (a) This subsection applies only to property taxes first due and payable after December 31, 2007, and before January 1, 2010. A person is entitled to a credit each calendar year under section 7(a) of this chapter 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.**

(b) This subsection applies only to property taxes first due and payable after December 31, 2009. A person is entitled to a credit each calendar year under section 7(b) of this chapter against the person's property tax liability for property taxes first due and payable in that calendar year attributable to the person's real property and personal property.

SECTION 12. IC 6-1.1-20.6-7, AS ADDED BY P.L.246-2005, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. ~~If the~~ **(a) In the case of a** credit ~~under this chapter is~~ authorized under ~~section 2~~ **section 6** of this chapter **or provided by section 6.5(a) 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.

(b) In the case of a credit provided by section 6.5(b) 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 real property and personal 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 real property and personal 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 real property and personal property for property taxes first due and payable in that calendar year.

SECTION 13. IC 6-1.1-20.6-8, AS ADDED BY P.L.246-2005, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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~~ **the** 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.

SECTION 14. IC 6-1.1-20.6-9, AS ADDED BY P.L.246-2005, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. **(a) This section applies only to credits under this chapter against property taxes first due and payable before January 1, 2007.**

(b) 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)~~ **(c)** 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)~~ **(b)** 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)~~ **(d)** If the county fiscal officer distributes money to political subdivisions under subsection ~~(b),~~ **(c),** the political subdivisions that receive the distributions shall repay the loan under subsection ~~(a)~~ **(b)** over the term of the loan. Each political subdivision that receives a distribution under subsection ~~(b).~~ **(c):**

(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),~~ **(c);** 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)~~ **(e)** Property taxes imposed under subsection ~~(c)(1)(B)~~ **(d)(1)(B)** are subject to levy limitations under IC 6-1.1-18.5 or IC 6-1.1-19.

~~(e)~~ **(f)** The obligation to:

(1) repay; or

(2) contribute to the repayment of;

the loan under subsection ~~(a)~~ **(b)** 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)~~ **(g)** 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.

(h) The county auditor shall in each calendar year notify each political subdivision in which the credit under this chapter is applied of the reduction referred to in subsection (b) for the political subdivision for that year.

SECTION 15. IC 6-1.1-20.6-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 9.5. (a) This section applies only to credits under this chapter against property taxes first due and payable after December 31, 2006.**

(b) 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.

(c) The county auditor shall in each calendar year notify each political subdivision in which the credit under this chapter is applied of the reduction of property tax collections referred to in subsection (b) for the political subdivision for that year.

(d) A political subdivision may not borrow money to compensate the political subdivision or any other political subdivision for the reduction of property tax collections referred to in subsection (b).

SECTION 16. IC 6-1.1-21-2, AS AMENDED BY P.L.1-2005, SECTION 92, AND AS AMENDED BY P.L.246-2005, SECTION 64, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: 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~~

(1) the total amount of:

(A) controlled property taxes imposed in the county that does not exceed the sum of the controlled levy limits of each political subdivision in the county, as determined under IC 6-12;

~~(D)~~ **(B) that part of** 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,~~ **before January 1, 1984;**

(ii) is ~~not~~ debt that is issued under IC 5-1-5 to refund debt incurred before January 1, 1984; ~~and~~ **or**

(iii) ~~does not constitute~~ **constitutes** debt entered into for the purpose of building, repairing, or altering school buildings for which the requirements of IC 20-5-52 *(repealed)* were satisfied prior to January 1, 1984; ~~minus~~ **and**

~~(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)~~ **(C) that part of** the total property taxes imposed in the county for ~~the stated assessment year~~ **a cumulative building fund established or reestablished** under authority of IC 21-2-6 (repealed) or **under** 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~~ **(before its repeal)**

~~(ii)~~ **to** the ~~total~~ **extent of the amount of** property taxes imposed in the county **for the fund** 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 IC 36-12-12* for a library capital projects fund; plus~~

~~(iv) *IC 20-5-17.5-3 IC 36-10-13-7* 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~~

~~(II) 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(c) 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(c).~~

(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) **The result of:**

(A) 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; **minus**

(B) 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 which a C corporation is liable for the property taxes for a stated assessment year.

(3) The following percentage 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 which a C corporation is liable for the property taxes for a stated assessment year:

(A) For property taxes first due and payable in 2007, nineteen percent (19%).

(B) For property taxes first due and payable in 2008, eighteen percent (18%).

(C) For property taxes first due and payable in 2009, seventeen percent (17%).

(D) For property taxes first due and payable in 2010, sixteen percent (16%).

(E) For property taxes first due and payable in 2011 and thereafter, fifteen percent (15%).

~~(3)~~ **(4)** 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) **The result of:**

(A) 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; **minus**

(B) 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) imposed in a county on real property for which a C corporation is liable for the property taxes for a stated assessment year.

(3) The following percentage 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) imposed in a county on real property for which a C corporation is liable for the property taxes for a stated assessment year:

(A) For property taxes first due and payable in 2007, nineteen percent (19%).

(B) For property taxes first due and payable in 2008, eighteen percent (18%).

(C) For property taxes first due and payable in 2009, seventeen percent (17%).

(D) For property taxes first due and payable in 2010, sixteen percent (16%).

(E) For property taxes first due and payable in 2011 and thereafter, fifteen percent (15%).

~~(3)~~ **(4)** 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.

(p) "C corporation" has the meaning set forth in Section 1361 of the Internal Revenue Code.

SECTION 17. IC 6-1.1-21-2.5, AS ADDED BY P.L.246-2005, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: 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(j)4),** 2(l)(2), ~~and~~ 2(l)(3), **and 2(l)(4)** 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 18. IC 6-1.1-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. (a) Each year the taxpayers of each county shall receive a credit for property tax replacement in the amount of each taxpayer's property tax replacement credit amount for taxes which:

(1) under IC 6-1.1-22-9 are due and payable in May and November of that year; or

(2) under IC 6-1.1-22-9.5 are due in installments established by the department of local government finance for that year.

The credit shall be applied to each installment of taxes. The dollar amount of the credit for each taxpayer shall be determined by the county auditor, based on data furnished by the department of local government finance.

(b) The tax liability of a taxpayer for the purpose of computing the credit for a particular year shall be based upon the taxpayer's tax liability **for that part of the total county tax levy imposed on the property of the taxpayer** as is evidenced by the tax duplicate for the taxes payable in that year, ~~plus the amount by which the tax payable by the taxpayer had been reduced due to the application of county adjusted gross income tax revenues to the extent the county adjusted gross income tax revenues were included in the determination of the total county tax levy for that year, as provided in sections 2(g) and 3 of this chapter,~~ adjusted, however, for any change in assessed valuation which may have been made pursuant to a postabstract adjustment if the change is set forth on the tax statement or on a corrected tax statement stating the taxpayer's tax liability, as prepared by the county treasurer in accordance with IC 6-1.1-22-8(a). ~~However, except when using the term under section 2(l)(1) of this chapter, the tax liability of a taxpayer does not include the amount of any property tax owed by the taxpayer that is attributable to that part of any property tax levy subtracted under section 2(g)(1)(B), 2(g)(1)(C), 2(g)(1)(D), 2(g)(1)(E), 2(g)(1)(F), 2(g)(1)(G), 2(g)(1)(H), 2(g)(1)(I), 2(g)(1)(J), or 2(g)(1)(K) of this chapter in computing the total county tax levy.~~

(c) The credit for taxes payable in a particular year with respect to mobile homes which are assessed under IC 6-1.1-7 is equivalent to the taxpayer's property tax replacement credit amount for the taxes payable with respect to the assessments. ~~plus the adjustments stated in this section.~~

(d) Each taxpayer in a taxing district that contains all or part of an economic development district that meets the requirements of section 5.5 of this chapter is entitled to an additional credit for property tax replacement. This credit is equal to the product of:

(1) the STEP TWO quotient determined under section 4(a)(3) of this chapter for the taxing district; multiplied by

(2) the taxpayer's taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

SECTION 19. IC 6-1.1-22-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) The county treasurer shall either:

(1) mail to the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records, or to the last known address of the most recent owner shown in the transfer book a statement of current and delinquent taxes and special assessments; or

(2) transmit by written, electronic, or other means to a mortgagee maintaining an escrow account for a person who is liable for any property taxes or special assessments, as shown on the tax duplicate or special assessment records a statement of current and delinquent taxes and special assessments.

(b) The county treasurer may include the following in the statement:

(1) An itemized listing for each property tax levy, including:

(A) the amount of the tax rate;

(B) the entity levying the tax owed; and

(C) the dollar amount of the tax owed.

(2) Information designed to inform the taxpayer or mortgagee clearly and accurately of the manner in which the taxes billed in the tax statement are to be used.

A form used and the method by which the statement and information, if any, are transmitted must be approved by the state board of accounts. The county treasurer may mail or transmit the statement and information, if any, one (1) time each year at least fifteen (15) days before the date on which the first or only installment is due. Whenever a person's tax liability for a year is due in one (1) installment under IC 6-1.1-7-7 or section 9 of this chapter, a statement that is mailed must include the date on which the installment is due and denote the amount of money to be paid for the installment. Whenever a person's tax liability is due in two (2) installments, a statement that is mailed must contain the dates on which the first and second installments are due and denote the amount of money to be paid for each installment.

(c) All payments of property taxes and special assessments shall be made to the county treasurer. The county treasurer, when authorized by the board of county commissioners, may open temporary offices for the collection of taxes in cities and towns in the county other than the county seat.

(d) Before July 1, 2004, the department of local government finance shall designate five (5) counties to participate in a pilot program to implement the requirements of subsection (e). The department shall immediately notify the county treasurer, county auditor, and county assessor in writing of the designation under this subsection. The legislative body of a county not designated for participation in the pilot program may adopt an ordinance to implement the requirements of subsection (e). The legislative body shall submit a copy of the ordinance to the department of local government finance, which shall monitor the county's implementation of the requirements of subsection (e) as if the county were a participant in the pilot program. The requirements of subsection (e) apply:

(1) only in:

(A) a county designated to participate in a pilot program under this subsection, for property taxes first due and payable after December 31, 2004, and before January 1, 2008; or

(B) a county adopting an ordinance under this subsection, for property taxes first due and payable after December 31, 2003, or December 31, 2004 (as determined in the ordinance), and before January 1, 2008; and

(2) in all counties for taxes first due and payable after December 31, 2007.

(e) Subject to subsection (d), regardless of whether a county treasurer transmits a statement of current and delinquent taxes and special assessments to a person liable for the taxes under subsection (a)(1) or to a mortgagee under subsection (a)(2), the county treasurer shall mail the following information to the last known address of each person liable for the property taxes or special assessments or to the last known address of the most recent owner shown in the transfer book. The county treasurer shall mail the information not later than the date the county treasurer transmits a statement for the property under subsection (a)(1) or (a)(2). The county treasurer, county auditor, and county assessor shall cooperate to generate the information to be included on the form. The information that must be provided is the following:

(1) A breakdown showing the total property tax and special assessment liability and the amount of the taxpayer's liability that will be distributed to each taxing unit in the county.

(2) A comparison showing any change in the assessed valuation for the property as compared to the previous year.

(3) A comparison showing any change in the property tax and special assessment liability for the property as compared to the previous year. The information required under this subdivision must identify:

(A) the amount of the taxpayer's liability distributable to each taxing unit in which the property is located in the current year and in the previous year; and

(B) the percentage change, if any, in the amount of the taxpayer's liability distributable to each taxing unit in which the property is located from the previous year to the current year.

(4) An explanation of the following:

(A) The homestead credit and all property tax deductions.

(B) The procedure and deadline for filing for the homestead credit and each deduction.

(C) The procedure that a taxpayer must follow to:

(i) appeal a current assessment; or

(ii) petition for the correction of an error related to the taxpayer's property tax and special assessment liability.

(D) The forms that must be filed for an appeal or **a** petition described in clause (C).

The department of local government finance shall provide the explanation required by this subdivision to each county

treasurer.

(5) A checklist that shows:

(A) the homestead credit and all property tax deductions; and

(B) whether the homestead credit and each property tax deduction applies in the current statement for the property transmitted under subsection (a)(1) or (a)(2).

(f) The information required to be mailed under subsection (e) must be simply and clearly presented and understandable to the average individual.

(g) A county that incurs:

(1) initial computer programming costs directly related to implementation of the requirements of subsection (e); or

(2) printing costs directly related to mailing information under subsection (e);

shall submit an itemized statement of the costs to the department of local government finance for reimbursement from the state. The treasurer of state shall pay a claim approved by the department of local government finance and submitted under this section on a warrant of the auditor of state. However, the treasurer of state may not pay any additional claims under this subsection after the total amount of claims paid reaches fifty thousand dollars ($50,000).

(h) This section expires January 1, 2008.

SECTION 20. IC 6-1.1-22-8.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 8.1. (a) This section applies only to property taxes and special assessments first due and payable after December 31, 2007.**

(b) The county treasurer shall:

(1) mail to the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records, or to the last known address of the most recent owner shown in the transfer book; and

(2) transmit by written, electronic, or other means to a mortgagee maintaining an escrow account for a person who is liable for any property taxes or special assessments, as shown on the tax duplicate or special assessment records;

a statement in the form required under subsection (c).

(c) The department of local government finance shall prescribe a form, subject to the approval of the state board of accounts, for the statement under subsection (b) that includes at least the following:

(1) A statement of the taxpayer's current and delinquent taxes and special assessments.

(2) A breakdown showing the total property tax and special assessment liability and the amount of the taxpayer's liability that will be distributed to each taxing unit in the county.

(3) An itemized listing for each property tax levy, including:

(A) the amount of the tax rate;

(B) the entity levying the tax owed; and

(C) the dollar amount of the tax owed.

(4) Information designed to show the manner in which the taxes and special assessments billed in the tax statement are to be used.

(5) A comparison showing any change in the assessed valuation for the property as compared to the previous year.

(6) A comparison showing any change in the property tax and special assessment liability for the property as compared to the previous year. The information required under this subdivision must identify:

(A) the amount of the taxpayer's liability distributable to each taxing unit in which the property is located in the current year and in the previous year; and

(B) the percentage change, if any, in the amount of the taxpayer's liability distributable to each taxing unit in which the property is located from the previous year to the current year.

(7) An explanation of the following:

(A) The homestead credit and all property tax deductions.

(B) The procedure and deadline for filing for the homestead credit and each deduction.

(C) The procedure that a taxpayer must follow to:

(i) appeal a current assessment; or

(ii) petition for the correction of an error related to the taxpayer's property tax and special assessment liability.

(D) The forms that must be filed for an appeal or a petition described in clause (C).

The department of local government finance shall provide the explanation required by this subdivision to each county treasurer.

(8) A checklist that shows:

(A) the homestead credit and all property tax deductions; and

(B) whether the homestead credit and each property tax deduction applies in the current statement for the property transmitted under subsection (b).

(d) The county treasurer may mail or transmit the statement one (1) time each year at least fifteen (15) days before the date on which the first or only installment is due. Whenever a person's tax liability for a year is due in one (1) installment under IC 6-1.1-7-7 or section 9 of this chapter, a statement that is mailed must include the date on which the installment is due and denote the amount of money to be paid for the installment. Whenever a person's tax liability is due in two (2) installments, a statement that is mailed must contain the dates on which the first and second installments are due and denote the amount of money to be paid for each installment.

(e) All payments of property taxes and special assessments shall be made to the county treasurer. The county treasurer, when authorized by the board of county commissioners, may open temporary offices for the collection of taxes in cities and towns in the county other than the county seat.

(f) The county treasurer, county auditor, and county assessor shall cooperate to generate the information to be included in the statement under subsection (c).

(g) The information to be included in the statement under subsection (c) must be simply and clearly presented and understandable to the average individual.

SECTION 21. IC 6-1.1-22-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9.5. (a) This section applies only to property taxes first due and payable in a year that begins after December 31, 2003:

(1) with respect to a homestead (as defined in IC 6-1.1-20.9-1); and

(2) that are not payable in one (1) installment under section 9(b) of this chapter.

(b) At any time before the mailing or transmission of tax statements for a year under section 8 of this chapter, a county may petition the department of local government finance to establish a schedule of installments for the payment of property taxes with respect to:

(1) real property that are based on the assessment of the property in the immediately preceding year; or

(2) a mobile home or manufactured home that is not assessed as real property that are based on the assessment of the property in the current year.

The county fiscal body (as defined in IC 36-1-2-6) ~~the county auditor, and the county treasurer~~ must approve a petition under this subsection.

(c) The department of local government finance:

(1) may not establish a date for:

(A) an installment payment that is earlier than May 10 of the year in which the tax statement is mailed or transmitted;

(B) the first installment payment that is later than November 10 of the year in which the tax statement is mailed or transmitted; or

(C) the last installment payment that is later than May 10 of the year immediately following the year in which the tax statement is mailed or transmitted; and

(2) shall:

(A) prescribe the form of the petition under subsection (b);

(B) determine the information required on the form; and

(C) notify the county fiscal body, the county auditor, and the county treasurer of the department's determination on the petition not later than twenty (20) days after receiving the petition.

(d) Revenue from property taxes paid under this section in the year immediately following the year in which the tax statement is mailed or transmitted under section 8 of this chapter:

(1) is not considered in the determination of a levy excess under IC 6-1.1-18.5-17 or IC 6-1.1-19-1.7 for the year in which the property taxes are paid; and

(2) may be:

(A) used to repay temporary loans entered into by a political subdivision for; and

(B) expended for any other reason by a political subdivision in the year the revenue is received under an appropriation from;

the year in which the tax statement is mailed or transmitted under section 8 of this chapter.

SECTION 22. IC 6-1.1-40-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 4. As used in this chapter, "new manufacturing equipment" means any tangible personal property that **an applicant for the deduction under section 11 of this chapter:**

(1) ~~is installed~~ **installs** in a district;

(2) ~~is used~~ **uses** in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property; ~~and~~

(3) ~~was acquired by its owner~~ **acquires** for use as described in subdivision (2); and

(4) ~~was~~ never ~~before~~ used ~~by its owner~~ for any purpose in Indiana **before the installation described in subdivision (1).**

SECTION 23. IC 6-1.1-45-9, AS ADDED BY P.L.214-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) **Subject to subsection (c),** a taxpayer that makes a qualified investment is entitled to a deduction from the assessed value of the taxpayer's enterprise zone property located at the enterprise zone location for which the taxpayer made the qualified investment. The amount of the deduction is equal to the remainder of:

(1) the total amount of the assessed value of the taxpayer's enterprise zone property assessed at the enterprise zone location on a particular assessment date; minus

(2) the total amount of the base year assessed value for the enterprise zone location.

(b) To receive the deduction allowed under subsection (a) for a particular year, a taxpayer must comply with the conditions set forth in this chapter.

(c) A taxpayer that makes a qualified investment in an enterprise zone established under IC 5-28-15-11 that is under the jurisdiction of a military base reuse authority board created under IC 36-7-30-3 is entitled to a deduction under this section only if the deduction is approved by the military base reuse authority board.

SECTION 24. IC 6-2.3-1-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 3.5. "Gross consideration" refers to anything of value, including cash or other tangible or intangible property, that a taxpayer pays in consideration for the retail purchase of utility services for consumption before deduction of any costs incurred in providing the utility services.**

SECTION 25. IC 6-2.3-3-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 11. Subject to IC 6-2.3-2 and this chapter, gross receipts derived from activities or businesses or any other sources within Indiana include furnishing utility services to an end user in Indiana for consumption in Indiana, regardless of whether the:**

(1) utility services are delivered through the pipelines, transmission lines, or other property of another person;

(2) taxpayer providing the utility service is or is not a resident or a domiciliary of Indiana; or

(3) transaction is subject to a deduction under IC 6-2.3-5-5.

SECTION 26. IC 6-2.3-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 5.5. Utility Services Use Tax

Sec. 1. An excise tax, known as the utility services use tax, is imposed on the retail consumption of utility services in Indiana that are billed after June 30, 2006.

Sec. 2. The utility services use tax is measured by the gross consideration received by the seller from the sale of the commodities or services listed in IC 6-2.3-1-14(1) through IC 6-2.3-1-14(6).

Sec. 3. The utility services use tax is imposed at the same rate as the utility receipts tax under IC 6-2.3-2-2.

Sec. 4. The retail consumption of utility services in Indiana is exempt from the utility services use tax if the:

(1) transaction is subject to utility receipts tax (including a public utility (as defined in IC 8-1-2-1) and the utility receipts tax is paid on the gross receipts from the utility services;

(2) gross receipts from the transaction are not taxable under IC 6-2.3-3 and the utility services are consumed for the purposes for which the gross receipts were excluded from taxation;

(3) utility services were acquired in a transaction that is wholly or partially exempt from the utility receipts tax under IC 6-2.3-4 and the utility services are consumed for the purpose for which the utility services were exempted; or

(4) utility services were acquired in a transaction that is wholly or partially subject to a deduction from the utility receipts tax under IC 6-2.3-5-6 and the utility services are consumed for the purpose for which the utility services deduction was given.

Sec. 5. A person is entitled to a credit against the utility services use tax imposed on the retail consumption of utility services equal to the amount, if any, of utility services use tax paid to another state. Payment of a general sales tax, purchase tax, or use tax to another state does not qualify for a credit under this section.

Sec. 6. The person who consumes utility services is personally liable for the utility services use tax.

Sec. 7. The department shall establish procedures for the collection of the utility services use tax from users, including deposit and reporting requirements, deposit dates, and reporting dates. Failure to comply with the procedures is subject to the penalties in IC 6-8.1.

Sec. 8. Any seller of utility services may elect to register with the department to collect utility services use tax on behalf of persons liable for the utility services use tax imposed under this chapter. A seller must comply with the collection and reporting procedures specified by the department only if the seller enters into an agreement with the department under this section.

Sec. 9. (a) This subsection applies only to a person who receives utility services from a seller that enters into an agreement under section 8 of this chapter. The person liable for the utility services use tax shall pay the tax to the seller from whom the person purchased the utility services, and the seller shall collect the tax as an agent for the state, if the seller has departmental permission from the department to collect the tax.

(b) In all other cases, the person liable for the utility services use tax shall pay the utility services use tax directly to the department.

Sec. 10. When a seller collects the utility services use tax from a person, the seller shall, upon request, issue a receipt to that person for the utility services use tax collected.

Sec. 11. If:

(1) the department assesses the utility services use tax against a person for the person's retail consumption of utility services; and

(2) the person has already paid the utility services use tax in relation to the utility services to a seller permitted to collect the utility services use tax under section 8 of this chapter; the person may avoid paying the utility services use tax to the department if the person can produce a receipt or other written evidence showing that the person paid the utility services use tax to the seller.

Sec. 12. (a) An individual who:

(1) is an employee, officer, or member of a corporation, partnership, or limited liability company; and

(2) has a duty to remit utility services use tax to the department under an agreement entered into under section 8 of this chapter or under section 9(b) of this chapter by virtue of the individual's responsibilities within the corporation, partnership, or limited liability company;

holds those taxes in trust for the state and is personally liable for the payment of those taxes, plus any penalties and interest attributable to those taxes, to the state.

(b) If an individual described in subsection (a) knowingly fails to collect or remit the specified taxes to the state, the individual commits a Class D felony.

SECTION 27. IC 6-2.5-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) An excise tax, known as the use tax, is imposed on the storage, use, or consumption of tangible personal property in Indiana if the property was acquired in a retail transaction, regardless of the location of that transaction or of the retail merchant making that transaction.

(b) The use tax is also imposed on the storage, use, or consumption of a vehicle, an aircraft, or a watercraft, if the vehicle, aircraft, or watercraft:

(1) is acquired in a transaction that is an isolated or occasional sale; and

(2) is required to be titled, licensed, or registered by this state for use in Indiana.

(c) The use tax is imposed on the addition of tangible personal property to a structure or facility, if, after its addition, the property becomes part of the real estate on which the structure or facility is located. However, the use tax does not apply to additions of tangible personal property described in this subsection, if:

(1) the state gross retail or use tax has been previously imposed on the sale or use of that property; or

(2) the ultimate purchaser or recipient of that property would have been exempt from the state gross retail and use taxes if that purchaser or recipient had directly purchased the property from the supplier for addition to the structure or facility.

(d) The use tax is imposed on a person who:

(1) manufactures, fabricates, or assembles tangible personal property from materials either within or outside Indiana; and

(2) uses, stores, distributes, or consumes tangible personal property in Indiana.

~~(d)~~ **(e)** Notwithstanding any other provision of this section, the use tax is not imposed on the keeping, retaining, or exercising of any right or power over tangible personal property, if:

(1) the property is delivered into Indiana by or for the purchaser of the property;

(2) the property is delivered in Indiana for the sole purpose of being processed, printed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property; and

(3) the property is subsequently transported out of state for use solely outside Indiana.

SECTION 28. IC 6-2.5-4-5, AS AMENDED BY P.L.203-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 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, the part of an economic development area established under IC 36-7-14.5-12.5 that is or formerly was a military base (as defined in IC 36-7-30-1(c)), 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.

(5) The power subsidiary or person sells services or commodities that:

(A) are referred to in subsection (b); and

(B) qualify as home energy (as defined in IC 12-14-11-2);

to a person who acquires the services or commodities after June 30, 2006, and before July 1, 2007, through a program administered by the division of family resources under IC 12-14-11.

SECTION 29. IC 6-2.5-5-16.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 16.5. (a) As used in this section, "home energy" has the meaning set forth in IC 12-14-11-2.**

(b) Transactions involving home energy are exempt from the state gross retail tax if the person acquiring the home energy acquires it after June 30, 2006, and before July 1, 2007, through a program administered by the division of family resources under IC 12-14-11.

SECTION 30. IC 6-2.5-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) In determining the amount of state gross retail and use taxes which a retail merchant must remit under section 7 of this chapter, the retail merchant shall, subject to subsections (c) and (d), deduct from the retail merchant's gross retail income from retail transactions made during a particular reporting period, an amount equal to the retail merchant's receivables which:

(1) resulted from retail transactions in which the retail merchant did not collect the state gross retail or use tax from the purchaser;

(2) resulted from retail transactions on which the retail merchant has previously paid the state gross retail or use tax liability to the department; and

(3) were written off as an uncollectible debt for federal tax purposes under Section 166 of the Internal Revenue Code during the particular reporting period.

(b) If a retail merchant deducts a receivable under subsection (a) and subsequently collects all or part of that receivable, then the retail merchant shall, subject to subsection (d)(6), include the amount collected as part of the retail merchant's gross retail income from

retail transactions for the particular reporting period in which the retail merchant makes the collection.

(c) This subsection applies only to retail transactions occurring after June 30, ~~2004.~~ **2006.** The right to a deduction under this section is **not** assignable. ~~only if the retail merchant that paid the state gross retail or use tax liability assigned the right to the deduction in writing.~~

(d) The following provisions apply to a deduction for a receivable treated as uncollectible debt under subsection (a):

(1) The deduction does not include interest.

(2) The amount of the deduction shall be determined in the manner provided by Section 166 of the Internal Revenue Code for bad debts but shall be adjusted to exclude:

(A) financing charges or interest;

(B) sales or use taxes charged on the purchase price;

(C) uncollectible amounts on property that remain in the possession of the seller until the full purchase price is paid;

(D) expenses incurred in attempting to collect any debt; and

(E) repossessed property.

(3) The deduction shall be claimed on the return for the period during which the receivable is written off as uncollectible in the claimant's books and records and is eligible to be deducted for federal income tax purposes. For purposes of this subdivision, a claimant who is not required to file federal income tax returns may deduct an uncollectible receivable on a return filed for the period in which the receivable is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant were required to file a federal income tax return.

(4) If the amount of uncollectible receivables claimed as a deduction by a retail merchant for a particular reporting period exceeds the amount of the retail merchant's taxable sales for that reporting period, the retail merchant may file a refund claim under IC 6-8.1-9. However, the deadline for the refund claim shall be measured from the due date of the return for the reporting period on which the deduction for the uncollectible receivables could first be claimed.

(5) If a retail merchant's filing responsibilities have been assumed by a certified service provider (as defined in IC 6-2.5-11-2), the certified service provider may claim, on behalf of the retail merchant, any deduction or refund for uncollectible receivables provided by this section. The certified service provider must credit or refund the full amount of any deduction or refund received to the retail merchant.

(6) For purposes of reporting a payment received on a previously claimed uncollectible receivable, any payments made on a debt or account shall be applied first proportionally to the taxable price of the property and the state gross retail tax or use tax thereon, and secondly to interest, service charges, and any other charges.

(7) A retail merchant claiming a deduction for an uncollectible receivable may allocate that receivable among the states that are members of the streamlined sales and use tax agreement if the books and records of the retail merchant support that allocation.

SECTION 31. IC 6-3-1-3.5, AS AMENDED BY P.L.246-2005, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: 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) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(22) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Add to the extent required by IC 6-3-2-20 the amount of intangible expenses (as defined in IC 6-3-2-20) and any directly related intangible interest expenses (as defined in IC 6-3-2-20) for the taxable year that reduced the corporation's taxable income (as defined in Section 63 of the Internal Revenue Code) for federal income tax purposes.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as

defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal

to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars ($2,500).

STEP FIVE: Determine the sum of the STEP FOUR amount and two thousand five hundred dollars ($2,500).

SECTION 32. IC 6-3-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) With regard to corporations and nonresident persons, "adjusted gross income derived from sources within Indiana", for the purposes of this article, shall mean and include:

(1) income from real or tangible personal property located in this state;

(2) income from doing business in this state;

(3) income from a trade or profession conducted in this state;

(4) compensation for labor or services rendered within this state; and

(5) income from stocks, bonds, notes, bank deposits, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other intangible personal property if the receipt from the intangible is attributable to Indiana under section 2.2 of this chapter.

In the case of nonbusiness income described in subsection (g), only so much of such income as is allocated to this state under the provisions of subsections (h) through (k) shall be deemed to be derived from sources within Indiana. In the case of business income, only so much of such income as is apportioned to this state under the provision of subsection (b) shall be deemed to be derived from sources within the state of Indiana. In the case of compensation of a team member (as defined in section 2.7 of this chapter) only the portion of income determined to be Indiana income under section 2.7 of this chapter is considered derived from sources within Indiana. In the case of a corporation that is a life insurance company (as defined in Section 816(a) of the Internal Revenue Code) or an insurance company that is subject to tax under Section 831 of the Internal Revenue Code, only so much of the income as is apportioned to Indiana under subsection (r) is considered derived from sources within Indiana.

(b) Except as provided in subsection (l), if business income of a corporation or a nonresident person is derived from sources within the state of Indiana and from sources without the state of Indiana, ~~then~~ the business income derived from sources within this state shall be determined by multiplying the business income derived from sources both within and without the state of Indiana by ~~a fraction the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three (3). However, after a period of two (2) consecutive quarters of income growth and one (1) additional quarter (regardless of any income growth), the fraction shall be computed as follows:~~ **the following:**

(1) For all taxable years that begin ~~within the first calendar year immediately following the period,~~ **after December 31, 2006, and before January 1, 2008, a fraction.** The:

(A) numerator of the fraction is the sum of the property factor plus the payroll factor plus ~~one hundred thirty-three percent (133%)~~ **the product** of the sales factor **multiplied by three (3);** and ~~the~~

(B) denominator of the fraction is ~~three and thirty-three hundredths (3.33).~~ **five (5).**

(2) For all taxable years that begin ~~within the second calendar year following the period,~~ **after December 31, 2007, and before January 1, 2009, a fraction.** The:

(A) numerator of the fraction is the property factor plus the payroll factor plus ~~one hundred sixty-seven percent (167%)~~ **the product** of the sales factor **multiplied by four and sixty-seven hundredths (4.67);** and ~~the~~

(B) denominator of the fraction is ~~three~~ **six** and sixty-seven hundredths ~~(3.67).~~ **(6.67).**

(3) For all taxable years beginning ~~on or~~ after ~~January 1 of the third calendar year following the period,~~ **December 31, 2008, and before January 1, 2010, a fraction.** The:

(A) numerator of the fraction is the property factor plus the payroll factor plus ~~two hundred percent (200%)~~ **the product** of the sales factor **multiplied by eight (8);** and ~~the~~

(B) denominator of the fraction is ~~four (4).~~ **ten (10).**

(4) For all taxable years beginning after December 31, 2009, and before January 1, 2011, a fraction. The:

(A) numerator of the fraction is the property factor plus the payroll factor plus the product of the sales factor multiplied by eighteen (18); and

(B) denominator of the fraction is twenty (20).

(5) For all taxable years beginning after December 31, 2010, the sales factor.

~~For purposes of this subsection, income growth occurs when the state's nonfarm personal income for a calendar quarter increases in comparison with the state's nonfarm personal income for the immediately preceding quarter at an annualized compound rate of five percent (5%) or more, as determined by the budget agency based on current dollar figures provided by the Bureau of Economic Analysis of the United States Department of Commerce or its successor agency. The annualized compound rate shall be computed in accordance with the formula $(1+N)^4 - 1$, where N equals the percentage change in the state's current dollar nonfarm personal income from one (1) quarter to the next. As soon as possible after two (2) consecutive quarters of income growth, the budget agency shall advise the department of the growth.~~

(c) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the taxable year. However, with respect to a foreign corporation, the denominator does not include the average value of real or tangible personal property owned or rented and used in a place that is outside the United States. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8)

times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The average of property shall be determined by averaging the values at the beginning and ending of the taxable year, but the department may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the taxpayer's property.

(d) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the taxable year by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the taxable year. However, with respect to a foreign corporation, the denominator does not include compensation paid in a place that is outside the United States. Compensation is paid in this state if:

(1) the individual's service is performed entirely within the state;

(2) the individual's service is performed both within and without this state, but the service performed without this state is incidental to the individual's service within this state; or

(3) some of the service is performed in this state and:

(A) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in this state; or

(B) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual is a resident of this state.

(e) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the taxable year, and the denominator of which is the total sales of the taxpayer everywhere during the taxable year. Sales include receipts from intangible property and receipts from the sale or exchange of intangible property. However, with respect to a foreign corporation, the denominator does not include sales made in a place that is outside the United States. Receipts from intangible personal property are derived from sources within Indiana if the receipts from the intangible personal property are attributable to Indiana under section 2.2 of this chapter. **Regardless of the f.o.b. point or other conditions of the sale,** sales of tangible personal property are in this state if:

(1) the property is delivered or shipped to a purchaser **who is within Indiana,** other than the United States government; ~~within this state, regardless of the f.o.b. point or other conditions of the sale;~~ or

(2) the property is shipped from an office, a store, a warehouse, a factory, or other place of storage in this state and:

(A) the purchaser is the United States government; or

(B) the taxpayer is not taxable in the state of the purchaser.

Gross receipts derived from commercial printing as described in IC 6-2.5-1-10 shall be treated as sales of tangible personal property for purposes of this chapter.

(f) Sales, other than receipts from intangible property covered by subsection (e) and sales of tangible personal property, are in this state if:

(1) the income-producing activity is performed in this state; or

(2) the income-producing activity is performed both within and without this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(g) Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (h) through (k).

(h)(1) Net rents and royalties from real property located in this state are allocable to this state.

(2) Net rents and royalties from tangible personal property are allocated to this state:

(i) if and to the extent that the property is utilized in this state; or

(ii) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(3) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year, and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(i)(1) Capital gains and losses from sales of real property located in this state are allocable to this state.

(2) Capital gains and losses from sales of tangible personal property are allocable to this state if:

(i) the property had a situs in this state at the time of the sale; or

(ii) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(3) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

(j) Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

(k)(1) Patent and copyright royalties are allocable to this state:

(i) if and to the extent that the patent or copyright is utilized by the taxpayer in this state; or

(ii) if and to the extent that the patent or copyright is utilized by the taxpayer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(l) If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(1) separate accounting;

(2) **for a taxable year beginning before January 1, 2011,** the exclusion of any one (1) or more of the factors, **except the sales factor;**

(3) the inclusion of one (1) or more additional factors which will fairly represent the taxpayer's income derived from sources within the state of Indiana; or

(4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(m) In the case of two (2) or more organizations, trades, or businesses owned or controlled directly or indirectly by the same interests, the department shall distribute, apportion, or allocate the income derived from sources within the state of Indiana between and among those organizations, trades, or businesses in order to fairly reflect and report the income derived from sources within the state of Indiana by various taxpayers.

(n) For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if:

(1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

(o) Notwithstanding subsections (l) and (m), the department may not, under any circumstances, require that income, deductions, and credits attributable to a taxpayer and another entity be reported in a combined income tax return for any taxable year, if the other entity is:

(1) a foreign corporation; or

(2) a corporation that is classified as a foreign operating corporation for the taxable year by section 2.4 of this chapter.

(p) Notwithstanding subsections (l) and (m), the department may not require that income, deductions, and credits attributable to a taxpayer and another entity not described in subsection (o)(1) or (o)(2) be reported in a combined income tax return for any taxable year, unless the department is unable to fairly reflect the taxpayer's adjusted gross income for the taxable year through use of other powers granted to the department by subsections (l) and (m).

(q) Notwithstanding subsections (o) and (p), one (1) or more taxpayers may petition the department under subsection (l) for permission to file a combined income tax return for a taxable year. The petition to file a combined income tax return must be completed and filed with the department not more than thirty (30) days after the end of the taxpayer's taxable year. **A taxpayer filing a combined income tax return must petition the department within thirty (30) days after the end of the taxpayer's taxable year to discontinue filing a combined income tax return.**

(r) This subsection applies to a corporation that is a life insurance company (as defined in Section 816(a) of the Internal Revenue Code) or an insurance company that is subject to tax under Section 831 of the Internal Revenue Code. The corporation's adjusted gross income that is derived from sources within Indiana is determined by multiplying the corporation's adjusted gross income by a fraction:

(1) the numerator of which is the direct premiums and annuity considerations received during the taxable year for insurance upon property or risks in the state; and

(2) the denominator of which is the direct premiums and annuity considerations received during the taxable year for insurance upon property or risks everywhere.

The term "direct premiums and annuity considerations" means the gross premiums received from direct business as reported in the corporation's annual statement filed with the department of insurance.

SECTION 33. IC 6-3-2-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 20. (a) The following definitions apply throughout this section:**

(1) "Affiliated group" has the meaning provided in Section 1504 of the Internal Revenue Code, except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty percent (50%) instead of eighty percent (80%).

(2) "Directly related intangible interest expenses" means interest expenses that are paid to, or accrued or incurred as a liability to, a recipient if:

(A) the amounts represent, in the hands of the recipient, income from making one (1) or more loans; and

(B) the funds loaned were originally received by the recipient from the payment of intangible expenses by any of the following:

(i) The taxpayer.

(ii) A member of the same affiliated group as the taxpayer.

(iii) A foreign corporation.

(3) "Foreign corporation" means a corporation that is organized under the laws of a country other than the United States and would be a member of the same affiliated group as the taxpayer if the corporation were organized under the laws of the United States.

(4) "Intangible expenses" means the following amounts to the extent these amounts are allowed as deductions in determining taxable income under Section 63 of the Internal Revenue Code before the application of any net operating loss deduction and special deductions for the taxable year:

(A) Expenses, losses, and costs directly for, related to, or in connection with the acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property.

(B) Royalty, patent, technical, and copyright fees.

(C) Licensing fees.

(D) Other substantially similar expenses and costs.

(5) "Intangible property" means patents, patent applications, trade names, trademarks, service marks, copyrights, trade secrets, and substantially similar types of intangible assets.

(6) "Interest expenses" means amounts that are allowed as deductions under Section 163 of the Internal Revenue Code in determining taxable income under Section 63 of the Internal Revenue Code before the application of any net operating loss deductions and special deductions for the

taxable year.

(7) "Makes a disclosure" means a taxpayer provides the following information regarding a transaction with a member of the same affiliated group or a foreign corporation involving an intangible expense and any directly related intangible interest expense with the taxpayer's tax return on the forms prescribed by the department:

(A) The name of the recipient.

(B) The state or country of domicile of the recipient.

(C) The amount paid to the recipient.

(D) A copy of federal Form 851, Affiliation Schedule, as filed with the taxpayer's federal consolidated tax return.

(E) The information needed to determine the taxpayer's status under the exceptions listed in subsection (c).

(8) "Recipient" means:

(A) a member of the same affiliated group as the taxpayer; or

(B) a foreign corporation;

to which is paid an item of income that corresponds to an intangible expense or any directly related intangible interest expense.

(9) "Unrelated party" means a person that, with respect to the taxpayer, is not a member of the same affiliated group or a foreign corporation.

(b) Except as provided in subsection (c), in determining its adjusted gross income under IC 6-3-1-3.5(b), a corporation subject to the tax imposed by IC 6-3-2-1 shall add to its taxable income under Section 63 of the Internal Revenue Code:

(1) intangible expenses; and

(2) any directly related intangible interest expenses;

paid, accrued, or incurred with one (1) or more members of the same affiliated group or with one (1) or more foreign corporations.

(c) The addition of intangible expenses or any directly related intangible interest expenses otherwise required in a taxable year under subsection (b) is not required if one (1) or more of the following apply to the taxable year:

(1) The taxpayer and the recipient are both included in the same consolidated tax return filed under IC 6-3-4-14 or in the same combined return filed under IC 6-3-2-2(q) for the taxable year.

(2) The taxpayer makes a disclosure and, at the request of the department, can establish by a preponderance of the evidence that:

(A) the item of income corresponding to the intangible expenses and any directly related intangible interest expenses was included within the recipient's income that is subject to tax in:

(i) a state or possession of the United States; or

(ii) a country other than the United States;

that is the recipient's commercial domicile and that imposes a net income tax, a franchise tax measured, in whole or in part, by net income, or a value added tax; and

(B) the transaction giving rise to the intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient was made at a commercially reasonable rate and at terms comparable to an arm's length transaction.

(3) The taxpayer makes a disclosure and, at the request of the department, can establish by a preponderance of the evidence that:

(A) the recipient regularly engages in transactions involving intangible property with one (1) or more unrelated parties on terms substantially similar to those of the subject transaction; and

(B) the transactions giving rise to the intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient did not have Indiana tax avoidance as a principal purpose.

(4) The taxpayer and the department agree, in writing, to the application or use of an alternative method of allocation or appointment under section 2(l) or 2(m) of this chapter.

(5) Upon request by the taxpayer, the department determines that the adjustment otherwise required by this section is unreasonable.

(6) The taxpayer makes a disclosure and, at the request of the department, can establish by a preponderance of the evidence that:

(A) the recipient is engaged in:

(i) substantial business activities from the acquisition, use, licensing, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property; or

(ii) other substantial business activities separate and apart from the business activities described in item (i);

as evidenced by the maintenance of a permanent office space and an adequate number of full-time, experienced employees;

(B) the transactions giving rise to the intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient did not have Indiana tax avoidance as a principal purpose; and

(C) the transactions were made at a commercially reasonable rate and at terms comparable to an arm's length transaction.

(7) The taxpayer makes a disclosure and, at the request of the department, can establish by a preponderance of the evidence that:

(A) the recipient paid, accrued, or incurred a liability to an unrelated party during the taxable year for an equal or greater amount that was directly for, related to, or in connection with the same intangible property giving rise to the intangible expenses; and

(B) the transactions giving rise to the intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient did not have Indiana tax avoidance as a principal purpose.

SECTION 34. IC 6-3-4-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4.1. (a) This section applies to taxable years beginning after December 31, 1993.

(b) Any individual required by the Internal Revenue Code to file estimated tax returns and to make payments on account of such estimated tax shall file estimated tax returns and make payments of the tax imposed by this article to the department at the time or times

and in the installments as provided by Section 6654 of the Internal Revenue Code. However, in applying Section 6654 of the Internal Revenue Code for the purposes of this article, "estimated tax" means the amount which the individual estimates as the amount of the adjusted gross income tax imposed by this article for the taxable year, minus the amount which the individual estimates as the sum of any credits against the tax provided by IC 6-3-3.

(c) Every individual who has adjusted gross income subject to the tax imposed by this article and from which tax is not withheld under the requirements of section 8 of this chapter shall make a declaration of estimated tax for the taxable year. However, no such declaration shall be required if the estimated tax can reasonably be expected to be less than four hundred dollars ($400). In the case of an underpayment of the estimated tax as provided in Section 6654 of the Internal Revenue Code, there shall be added to the tax a penalty in an amount prescribed by IC 6-8.1-10-2.1(b).

(d) Every corporation subject to the adjusted gross income tax liability imposed by this article shall be required to report and pay an estimated tax equal to twenty-five percent (25%) of such corporation's estimated adjusted gross income tax liability for the taxable year. A taxpayer who uses a taxable year that ends on December 31 shall file the taxpayer's estimated adjusted gross income tax returns and pay the tax to the department on or before April 20, June 20, September 20, and December 20 of the taxable year. If a taxpayer uses a taxable year that does not end on December 31, the due dates for filing estimated adjusted gross income tax returns and paying the tax are on or before the twentieth day of the fourth, sixth, ninth, and twelfth months of the taxpayer's taxable year. The department shall prescribe the manner and forms for such reporting and payment.

(e) The penalty prescribed by IC 6-8.1-10-2.1(b) shall be assessed by the department on corporations failing to make payments as required in subsection (d) or (g). However, no penalty shall be assessed as to any estimated payments of adjusted gross income tax which equal or exceed:

(1) twenty percent (20%) of the final tax liability for such taxable year; or

(2) twenty-five percent (25%) of the final tax liability for the taxpayer's previous taxable year.

In addition, the penalty as to any underpayment of tax on an estimated return shall only be assessed on the difference between the actual amount paid by the corporation on such estimated return and twenty-five percent (25%) of the corporation's final adjusted gross income tax liability for such taxable year.

(f) The provisions of subsection (d) requiring the reporting and estimated payment of adjusted gross income tax shall be applicable only to corporations having an adjusted gross income tax liability which, after application of the credit allowed by IC 6-3-3-2 (repealed), shall exceed one thousand dollars ($1,000) for its taxable year.

(g) If the department determines that a corporation's:

(1) estimated quarterly adjusted gross income tax liability for the current year; or

(2) average estimated quarterly adjusted gross income tax liability for the preceding year;

exceeds, before January 1, 1998, twenty thousand dollars ($20,000), and, after December 31, 1997, ten thousand dollars ($10,000), after the credit allowed by IC 6-3-3-2 (repealed), the corporation shall pay the estimated adjusted gross income taxes due by electronic funds transfer (as defined in IC 4-8.1-2-7) or by delivering in person or overnight by courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

(h) **Subject to subsection (i),** if a corporation's adjusted gross income tax payment is made by electronic funds transfer, the corporation is not required to file an estimated adjusted gross income tax return.

(i) The reports required by the department to administer the county income tax under IC 6-11-11 shall be filed on the schedule determined by the department.

SECTION 35. IC 6-3-4-8.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 8.1. (a) Any entity that is required to file a monthly return and make a monthly remittance of taxes under sections 8, 12, 13, and 15 of this chapter shall file those returns and make those remittances twenty (20) days (rather than thirty (30) days) after the end of each month for which those returns and remittances are filed, if that entity's average monthly remittance for the immediately preceding calendar year exceeds one thousand dollars ($1,000).

(b) The department may require any entity to make the entity's monthly remittance and file the entity's monthly return twenty (20) days (rather than thirty (30) days) after the end of each month for which a return and payment are made if the department estimates that the entity's average monthly payment for the current calendar year will exceed one thousand dollars ($1,000).

(c) If a person files a combined sales and withholding tax report and either this section or IC 6-2.5-6-1 requires the sales or withholding tax report to be filed and remittances to be made within twenty (20) days after the end of each month, then the person shall file the combined report and remit the sales and withholding taxes due within twenty (20) days after the end of each month.

(d) If the department determines that an entity's:

(1) estimated monthly withholding tax remittance for the current year; or

(2) average monthly withholding tax remittance for the preceding year;

exceeds ten thousand dollars ($10,000), the entity shall remit the monthly withholding taxes due by electronic fund transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the remittance is due.

(e) **Subject to subsection (f),** if an entity's withholding tax remittance is made by electronic fund transfer, the entity is not required to file a monthly withholding tax return.

(f) The reports required by the department to administer the county income tax under IC 6-11-11 shall be filed on the schedule determined by the department.

SECTION 36. IC 6-3.1-26-8, AS AMENDED BY P.L.199-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: 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, 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, 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, finishing, distribution, transportation, or logistical distribution facilities;

(6) costs associated with retooling existing machinery and equipment;

(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 37. IC 6-3.1-26-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 26. (a) This chapter applies to taxable years beginning after December 31, 2003.

(b) Notwithstanding the other provisions of this chapter, ~~a taxpayer is not entitled to~~ **the corporation may not approve** a credit for a qualified investment made after December 31, ~~2007.~~ **2009.** However, this section may not be construed to prevent a taxpayer from carrying an unused tax credit attributable to a qualified investment made before January 1, ~~2008,~~ **2010,** forward to a taxable year beginning after December 31, ~~2007,~~ **2009,** in the manner provided by section 15 of this chapter.

SECTION 38. IC 6-3.5-1.1-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.5. (a) This section applies only to a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000).

(b) As used in this section, "fiscal year" means a twelve (12) month period beginning July 1 and ending June 30.

~~(b)~~ **(c)** The county council of a county described in subsection (a) may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to fund the operation and maintenance of a jail and juvenile detention center opened after July 1, 1998.

~~(c)~~ **(d)** Notwithstanding section 2 of this chapter, if the county council adopts an ordinance under subsection ~~(b)~~ **(c),** the county council may impose the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) on adjusted gross income **for fiscal years beginning before July 1, 2011.** ~~However, a county may impose the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) for only eight (8) years.~~ **For fiscal years beginning** after ~~the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) for eight (8) years~~ **June 30, 2011,** the rate is reduced to one percent (1%). If the county council imposes the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%), the county council may decrease the rate or rescind the tax in the manner provided under this chapter.

~~(d)~~ **(e)** If a county imposes the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under this section, the revenue derived from a tax rate of one-tenth percent (0.1%) on adjusted gross income:

(1) shall be paid to the county treasurer;

(2) may be used only to pay the costs of operating a jail and juvenile detention center opened after July 1, 1998; and

(3) 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.

SECTION 39. IC 6-3.5-1.1-2.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 2.8. (a) This section applies to:

(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); ~~and~~

(2) a county having a population of more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900); **and**

(3) Jasper County.

(b) **Except as provided in subsection (h),** the county council may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to:

(1) finance, construct, acquire, improve, renovate, ~~or~~ equip, **operate, or maintain:**

(A) jail facilities;

(B) juvenile court, detention, and probation facilities;

(C) other criminal justice facilities; and

(D) related buildings and parking facilities;

located in the county, including costs related to the demolition of existing buildings and the acquisition of land; and

(2) repay bonds issued or leases entered into for the purposes described in subdivision (1).

(c) In addition to the rates permitted by section 2 of this chapter, the county council may impose the county adjusted gross income tax at a rate of:

(1) fifteen-hundredths percent (0.15%);

(2) two-tenths percent (0.2%); or

(3) twenty-five hundredths percent (0.25%);

on the adjusted gross income of county taxpayers if the county council makes the finding and determination set forth in subsection (b). The tax imposed under this section may be imposed only until the later of the date on which the financing, construction, acquisition, improvement, renovation, and equipping described in subsection (b) are completed or the date on which the last of any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described in subsection (b) are fully paid. The term of the bonds issued (including any refunding bonds) or a lease entered into under subsection (b)(2) may not exceed twenty (20) years.

(d) If the county council makes a determination under subsection (b), the county council may adopt a tax rate under subsection (c). The tax rate may not be imposed at a rate greater than is necessary to pay the costs of carrying out the purposes described in subsection (b)(1).

(e) The county treasurer shall establish a criminal justice facilities revenue fund to be used only for purposes described in this section.

County adjusted gross income tax revenues derived from the tax rate imposed under this section shall be deposited in the criminal justice facilities revenue fund before making a certified distribution under section 11 of this chapter.

(f) County adjusted gross income tax revenues derived from the tax rate imposed under this section:

(1) may be used only 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 any or all the purposes described in subsection (b).

(g) Notwithstanding any other law, funds accumulated from the county adjusted gross income tax imposed under this section after:

(1) the completion of the financing, construction, acquisition, improvement, renovation, ~~and~~ equipping, **operation, and maintenance** described in subsection (b);

(2) the payment or provision for payment of all the costs for activities described in subdivision (1);

(3) the redemption of bonds issued; and

(4) the final payment of lease rentals due under a lease entered into under this section;

shall be transferred to the county highway fund to be used for construction, resurfacing, restoration, and rehabilitation of county highways, roads, and bridges.

(h) In Jasper County, the additional county adjusted gross income tax revenue may be used only to operate or maintain:

(1) jail facilities;

(2) juvenile court, detention, and probation facilities;

(3) other criminal justice facilities; and

(4) related buildings and parking facilities;

located in the county.

SECTION 40. IC 6-8.1-1-1, AS AMENDED BY P.L.214-2005, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: 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~~ **and utility services use taxes** (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) **(repealed);** the county option income tax (IC 6-3.5-6) **(repealed);** the county economic development income tax (IC 6-3.5-7) **(repealed);** the municipal option income tax (IC 6-3.5-8) **(repealed);** 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 county income tax (IC 6-11);** 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 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 41. IC 6-9-39 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]:

Chapter 39. County Option Dog Tax

Sec. 1. As used in this chapter, "animal care facility" includes an animal control center, an animal shelter, a humane society, or another animal impounding facility that has as its purpose the humane treatment of animals.

Sec. 2. (a) The fiscal body of a county may adopt an ordinance to impose a tax on dogs that a person harbors or keeps in or near the person's premises in the county, regardless of who owns the dog subject to the tax. The person who harbors or keeps a dog in the county is liable for the tax.

(b) The amount of the tax imposed under this section is equal to five dollars ($5) per year for each dog subject to the tax.

Sec. 3. If an ordinance adopted under section 2 of this chapter is in effect in a county, the fiscal body of the county may rescind the ordinance imposing the county option dog tax.

Sec. 4. The fiscal body of a county may designate one (1) or more persons in the county to collect the tax imposed under section 2 of this chapter. A designee may retain a fee from the tax collected for each dog in an amount determined by the fiscal body not to exceed seventy-five cents ($0.75). A designee shall remit the balance of the money collected to the county treasurer by the tenth day of each month.

Sec. 5. (a) If a county fiscal body adopts an ordinance under section 2 of this chapter, the county treasurer shall establish a county option dog tax fund.

(b) At the time a county option dog tax fund is established under subsection (a), the county treasurer shall establish a canine research account within the county option dog tax fund.

(c) Interest and investment income derived from money in a county option dog tax fund becomes part of the county option dog tax fund.

(d) Money in a county's county option dog tax fund at the end of a calendar year does not revert to the county's general fund.

Sec. 6. (a) A county treasurer that receives county option dog tax revenue under section 4 of this chapter shall deposit the money in the county option dog tax fund according to the following allocation:

(1) Twenty percent (20%) for the canine research account.

(2) Eighty percent (80%) for the uses designated by the fiscal body of the county under subsection (c).

(b) If an ordinance adopted under section 2 of this chapter is in effect in a county, the county auditor shall issue a warrant to the treasurer of state for the amount of money accumulated in the canine research account on or before each of the following dates:

(1) January 31.

(2) April 30.

(3) July 31.

(4) October 31.

If an ordinance adopted under section 2 of this chapter is rescinded under section 3 of this chapter, the county auditor shall issue a warrant to the auditor of state for the amount of money accumulated in the canine research account within ninety (90) days after the date on which the ordinance is rescinded.

(c) The fiscal body of a county that imposes a tax under this chapter may appropriate money in the county option dog tax fund, other than money allocated to the canine research account, for any of the following purposes:

(1) For the use of animal care facilities.

(2) For expenses associated with the pick up and disposal of dead animals.

(3) To reimburse farmers for livestock kills.

(d) The fiscal body of a county that imposes a tax under this chapter may establish requirements according to which individuals or entities are eligible to receive distributions of money appropriated for a purpose described in subsection (c).

Sec. 7. (a) A special canine research account within the state general fund shall be established. Any payments issued to the state under section 6(b) of this chapter shall be deposited in the canine research account in the state general fund.

(b) Any income earned on money held in the canine research account established under subsection (a) becomes a part of that account.

(c) Any revenue remaining in the canine research account established under subsection (a) at the end of a fiscal year does not revert to the state general fund.

(d) There is annually appropriated to the Purdue University School of Veterinary Science and Medicine from the canine research account established under subsection (a) an amount equal to the sum of money deposited in the canine research account during the state fiscal year for its use in conducting canine disease research.

(e) On or about January 1 and July 1 of each year, if there is a positive balance in the canine research account established under subsection (a), the auditor of state shall issue a warrant to the Purdue University School of Veterinary Science and Medicine for an amount equal to the amount of money accumulated in the canine research account.

Sec. 8. (a) As used in this section, "municipality" has the meaning set forth in IC 36-1-2-11.

(b) The fiscal body of a municipality may levy a tax of up to two dollars ($2) per year for each dog that a person harbors or keeps in or near the person's premises in the municipality, regardless of who owns the dog. The person who harbors or keeps the dog is liable for the tax.

(c) The fiscal body of a municipality that imposes a tax under subsection (a) shall determine the manner in which the tax is to be collected. The tax may be expended for any lawful purpose of the municipality.

(d) A tax imposed under this section is in addition to a tax imposed under section 2 of this chapter.

SECTION 42. IC 6-11 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

ARTICLE 11. COUNTY INCOME TAX

Chapter 1. Definitions

Sec. 1. The definitions in this chapter, IC 6-1.1, and IC 36-1-2 apply throughout this article.

Sec. 2. The definitions in this chapter, except sections 20 and 22 of this chapter, apply throughout IC 6-1.1-21, IC 6-12, IC 6-13, IC 6-14, IC 6-15, and IC 36-1-8-5.1.

Sec. 3. "Adjusted gross income" has the meaning set forth in IC 6-3-1-3.5.

Sec. 4. "Annual controlled tax increase" refers to the maximum amount by which the controlled taxes imposed for a political subdivision in an ensuing year may exceed the amount of controlled taxes imposed for a political subdivision in the immediately preceding year, as determined under IC 6-11-7.

Sec. 5. "Certified" refers to the certification by the department of a budget, tax, or tax rate under IC 6-13.

Sec. 6. "Controlled" means that a tax or tax rate is subject to the limitations imposed under IC 6-12. The term applies only to the following taxes:

(1) Property taxes (other than property taxes that qualify as excluded taxes).

(2) County income taxes (other than county income taxes that qualify as excluded taxes).

Sec. 7. "Controlled levy limit" refers to the maximum amount of controlled property taxes that are eligible for a state distribution under IC 6-1.1-21 to replace revenue lost from the granting of homestead credits under IC 6-1.1-20.9 and property tax replacement credits under IC 6-1.1-21-5.

Sec. 8. "Controlled tax limit" refers to the maximum total combination of controlled property taxes and controlled income taxes that may be imposed in a county in a year for a political subdivision, as determined under IC 6-12.

Sec. 9. "Council" refers to the county income tax council established in a county under IC 6-11-3.

Sec. 10. "County's total allowable tax increase amounts" refers to the sum of the annual controlled tax increases allowed in a county for each year after 2006.

Sec. 11. "Department" refers to the department of local government finance.

Sec. 12. "Eligible civil taxing unit" refers to a political subdivision eligible for a distribution of excluded taxes imposed under IC 6-11-8.

Sec. 13. "Excluded taxes" refers to any part of a:

(1) property tax levy or property tax rate; or

(2) county income tax or county income tax rate;

that is not subject to the limitations imposed under IC 6-12.

Sec. 14. "Imposed" refers to:

(1) with respect to a property tax, the year in which the property tax is first due and payable (or would be first due and payable if the statement for the property taxes had been mailed before the date specified in IC 6-1.1-22-8); and

(2) with respect to an income tax, the year in which the tax is imposed on adjusted gross income regardless of when the tax is due.

Sec. 15. "Out-of-state resident", as it relates to a particular county, means an individual who:

(1) is not a resident of the county on the date specified in IC 6-11-4;

(2) maintains the individual's principal place of business or employment in the county on the date specified in IC 6-11-4; and

(3) is not a resident of another Indiana county on the date specified in IC 6-11-4.

Sec. 16. "Political subdivision's total allowable tax increase amount" refers to the sum of the annual controlled tax increases allowed in a county for a particular political subdivision for each year after 2006.

Sec. 17. "Property tax" refers to an ad valorem property tax.

Sec. 18. "Rainy day fund" refers to a political subdivision's rainy day fund established under IC 36-1-8-5.1.

Sec. 19. "Resident", as it relates to a particular county, means an individual who resides in the county on the date specified in IC 6-11-4.

Sec. 20. "Tax" refers to a county income tax.

Sec. 21. "Taxable property" means all tangible property that is subject to the tax imposed by IC 6-1.1 and is not exempt from the tax under IC 6-1.1-10 or any other law.

Sec. 22. "Taxpayer" refers to an individual who has tax liability in a county.

Chapter 2. Exempt Political Subdivisions

Sec. 1. This article does not apply to a political subdivision that does not have the power to impose a property tax.

Sec. 2. A political subdivision that is exempted by this chapter from the application of this article is not eligible for an allocation of county income taxes. However, a political subdivision that is eligible for an allocation of county income taxes may assign any part of the political subdivision's allocation to an entity that is not eligible for an allocation under this article.

Chapter 3. County Income Tax Council

Sec. 1. A council is established for each county in Indiana.

Sec. 2. The membership of each council consists of:

(1) the fiscal body of the county;

(2) the fiscal body of each city or town that lies either partially or entirely in the county; and

(3) the fiscal body of each school corporation that lies partially or entirely in the county.

Sec. 3. (a) Every council has a total of one hundred fifty (150) votes. The county and each city and town that is located in any part in the county is allocated a percentage of a total of one hundred (100) votes that may be cast. Each school corporation that is located in any part in the county is allocated a percentage of a total of fifty (50) votes that may be cast.

(b) Subject to subsection (d), the percentage of votes that a city or town is allocated for a year equals the same percentage that the population of the city or town bears to the population of the county. In the case of a city or town that lies within more than one (1) county, the county auditor of each county shall base the allocations required by subsection (a) on the population of that part of the city or town that lies within the county for which the allocations are being made.

(c) Subject to subsection (d), the percentage that the county is allocated for a year equals the same percentage that the population of all areas in the county not located in a city or town bears to the population of the county.

(d) In the case of Marion County, the county, the consolidated city, all included towns (as described in IC 36-3-1-7), and the remainder of the county that is not in an excluded city (as described in IC 36-3-1-7) shall be treated as one (1) political subdivision whose fiscal body is the fiscal body of the consolidated city.

(e) The percentage of votes that a school corporation is allocated for a year equals the same percentage that the population of the school corporation in the county has to the total population of the county.

(f) On or before January 1 of each year (or in 2006, before July 2), the county auditor shall certify to each member of the council the number of votes, rounded to the nearest one hundredth (0.01), the council has for that year.

Sec. 4. A council takes an action by adopting an ordinance.

Sec. 5. Except as otherwise provide in this article, a council may adopt an ordinance to amend or rescind a previously adopted ordinance.

Sec. 6. A member of the council may exercise its votes on the council for or against a proposed ordinance by:

(1) passing a resolution that contains the text of an ordinance being proposed to the council; and

(2) transmitting the resolution to the county auditor of the county.

Sec. 7. A resolution passed by a member of the council exercises all of the votes of the member. Except as permitted by the department, the votes on a resolution may not be changed during the year.

Sec. 8. A resolution must be substantially in the following general form:

"The (insert name of political subdivision's fiscal body) casts its (insert number of political subdivision's votes) votes (for or against) the proposed ordinance of the (insert name of the county) County Income Tax Council, which reads as follows:

(Insert text of ordinance being proposed to members of the council).".

Sec. 9. The text of a resolution and a proposed ordinance contained in a resolution must be substantially in the form prescribed by the department.

Sec. 10. A proposed ordinance adopting, increasing, or decreasing a tax rate must state that the tax rate in the proposed ordinance is subject to adjustment by the department before November 1 of the year, as necessary, to correct any error in the data or computations on which the estimated tax rate is based or to reflect changes in the department's forecast of economic conditions that will affect the amount of taxes raised by the tax rate.

Sec. 11. Subject to this article, a council may adopt an ordinance to do any of the following:

(1) Adopt, amend, or rescind an ordinance adopted under IC 6-11-7-10.

(2) Adopt a tax and set a tax rate for the county under IC 6-11-8 or IC 6-11-9.

(3) Increase or decrease a tax rate imposed in the county under IC 6-11-8 or IC 6-11-9.

(4) Rescind a tax imposed under IC 6-11-8 or IC 6-11-9 in the county.

(5) Adopt, amend, or rescind any other action authorized under this article.

Sec. 12. An ordinance adopted by the council before September 16 initially applies to the ensuing year. Unless waived by the department for good cause, an ordinance adopted after September 15 in a year initially applies to the year following the year of adoption by two (2) years.

Sec. 13. Except as provided by this article, an ordinance adopted by a council remains in effect until the earlier of:

(1) the date specified in the ordinance; or

(2) the date on which a subsequent ordinance amending or rescinding the ordinance is effective.

Sec. 14. Any member of the council may present a proposed ordinance to the council for passage.

Sec. 15. (a) A member of the council may present an ordinance to the council for passage by:

(1) providing:

(A) in the case of a resolution for a proposed ordinance under IC 6-11-7-10, the county auditor and the fiscal officer of each member of the council; and

(B) the public;

with notice of the date, time, and place that a public hearing will be held on a resolution proposing an ordinance to the council;

(2) conducting the public hearing; and

(3) after the hearing, passing the resolution proposing the ordinance.

(b) The notice required by subsection (a) must be given in accordance with IC 5-3-1.

Sec. 16. (a) This section applies only to the hearing conducted for a proposed ordinance under IC 6-11-7-10.

(b) Notice must be given under:

(1) section 15(a)(1)(A) of this chapter before August 2; and

(2) section 15(a)(1)(B) of this chapter before August 7;

to be effective for the ensuing year.

(c) The hearing required under section 15 of this chapter must be conducted as part of the hearing required under IC 6-13-6.

Sec. 17. After passing a resolution proposing an ordinance, a member initiating the proposed ordinance shall distribute a copy of the proposed ordinance to the county auditor of the county and a certified tally of the member's vote on the proposed ordinance. The county auditor shall treat any proposed ordinance presented to the county auditor under this section as a casting of all that member's votes in favor of the proposed ordinance.

Sec. 18. The county auditor shall deliver copies of a proposed ordinance that is received from a member under section 17 of this chapter to all the other members of the council not later than ten (10) days after receiving the proposed ordinance.

Sec. 19. (a) Once a member receives a resolution containing a proposed ordinance from the county auditor, the member shall:

(1) provide the public with notice of the date, time, and place a public hearing will be held on the proposed ordinance;

(2) conduct the hearing, except for a resolution for a proposed ordinance under IC 6-11-7-10 if a hearing has been conducted as required in section 16 of this chapter; and

(3) vote on the proposed ordinance;

not later than thirty (30) days after receipt of the proposed ordinance.

(b) The notice required by subsection (a) must be given in accordance with IC 5-3-1.

Sec. 20. After voting on a resolution concerning a proposed ordinance received under section 17 of this chapter, a member voting on the proposed ordinance shall distribute a copy of the proposed ordinance and a certified tally of the member's vote on the proposed ordinance to the county auditor.

Sec. 21. The county auditor shall record all votes taken on ordinances presented to the members of the council for a vote.

Sec. 22. The county auditor shall treat the ordinance as adopted if the proposed ordinance receives at least seventy-six (76) votes from the members of the council.

Sec. 23. If the council adopts an ordinance, the county auditor shall immediately send a certified copy of the:

(1) ordinance; and

(2) results of the vote on the ordinance;

to the department and the department of state revenue by certified mail.

Sec. 24. Not later than ten (10) days after an ordinance is adopted, the county auditor shall publish a notice of the action under IC 5-3-1.

Chapter 4. Determination of Residency

Sec. 1. For purposes of this article, an individual shall be treated as a resident of the county in which the individual:

(1) maintains a home, if the individual maintains only one

(1) home in Indiana;

(2) if subdivision (1) does not apply, is registered to vote;

(3) if subdivision (1) or (2) does not apply, registers the individual's personal automobile; or

(4) if subdivision (1), (2), or (3) does not apply, spends the majority of the individual's time spent in Indiana during the taxable year in question.

Sec. 2. Subject to section 3 of this chapter, the residence or principal place of business or employment of an individual is to be determined on January 1 of the year in which the individual's taxable year commences. If an individual changes the location of the individual's residence or principal place of employment or business to another county in Indiana during a year, the individual's liability for the tax is not affected.

Sec. 3. If an individual becomes a resident for purposes of IC 36-7-27 during a year because the individual:

(1) changes the location of the individual's residence to a county in which the individual begins employment or business at a qualified economic development tax project (as defined in IC 36-7-27-9); or

(2) changes the location of the individual's principal place of employment or business to a qualified economic development tax project and does not reside in another county in which the tax is in effect;

the individual's adjusted gross income attributable to employment or business at the qualified economic development tax project is taxable only by the county containing the qualified economic development tax project.

Chapter 5. Exempt Taxpayers

Sec. 1. A council may pass an ordinance to enter into reciprocity agreements with the taxing authority of a city, town, municipality, county, or other similar local governmental entity of any other state. A reciprocity agreement must provide that the income of Indiana residents is exempt from income taxation by the other local governmental entity to the extent income of the out-of-state residents who reside in the other local governmental entity is exempt from the tax in the Indiana county entering into the agreement.

Sec. 2. A reciprocity agreement adopted under this section may not become effective until it is also made effective in the other local governmental entity that is a party to the agreement.

Sec. 3. The form and effective date of any reciprocity agreement described in this section must be approved by the department of state revenue.

Chapter 6. Imposition of Tax

Sec. 1. A county income tax is imposed in each county.

Sec. 2. The tax is imposed on the adjusted gross income of:

(1) each resident of; and

(2) each out-of-state resident who maintains the individual's principal place of business or employment in;

the county for which the council is established.

Sec. 3. The tax on an out-of-state resident may be imposed only on the part of the out-of-state resident's adjusted gross income that is derived from the individual's principal place of business or employment.

Sec. 4. In the case of a resident of Perry County, the tax may not be imposed on the part of the individual's adjusted gross income that is:

(1) earned in a county that is:

(A) located in another state; and

(B) adjacent to the county in which the taxpayer resides; and

(2) subject to an income tax imposed by a county, city, town, or other local governmental entity in the other state.

Sec. 5. The tax rate imposed in a county is the sum of the following:

(1) The tax rate imposed under IC 6-11-7.

(2) The tax rate imposed under IC 6-11-8.

(3) The tax rate imposed under IC 6-11-9.

Sec. 6. If for any taxable year a taxpayer is subject to different tax rates for the tax imposed by a particular county, the taxpayer's tax rate for the county and that taxable year is the rate determined in STEP THREE of the following STEPS:

STEP ONE: Multiply the number of months in the taxpayer's taxable year that precede July 1 by the rate in effect before the rate change.

STEP TWO: Multiply the number of months in the taxpayer's taxable year that follow June 30 by the rate in effect after the rate change.

STEP THREE: Divide the sum of the amounts determined under STEPS ONE and TWO by twelve (12).

Sec. 7. If the tax is not in effect during a taxpayer's entire taxable year, the amount of tax that the taxpayer owes for that taxable year equals the product of:

(1) the amount of tax the taxpayer would owe if the tax had been imposed during the taxpayer's entire taxable year; multiplied by

(2) a fraction. The numerator of the fraction equals the number of days in the taxpayer's taxable year during which the county option income tax was in effect. The denominator of the fraction equals the total number of days in the taxpayer's taxable year.

However, if the taxpayer files state income tax returns on a year basis, the fraction to be applied under this section is one-half (1/2).

Chapter 7. Tax Rate to Fund Controlled Tax Increases

Sec. 1. Except as provided in section 10 of this chapter, in each year, in addition to the part of the tax rate in effect in the county under IC 6-11-8 or IC 6-11-9, or both, a tax is imposed in each county at the rate necessary to raise the county's total allowable tax increase amount.

Sec. 2. The department, with the assistance of the department of state revenue and the budget agency, shall establish the rate required under section 1 of this chapter based on the best available economic forecast data available to the department before the later of November 1 or the date set by the department.

Sec. 3. The total tax imposed under section 1 of this chapter shall be treated as a controlled tax.

Sec. 4. For purposes of this chapter, a county's total allowable tax increase amount under this chapter is equal to the sum of each political subdivision's total allowable tax increase amounts allowed in the county after 2006.

Sec. 5. For purposes of this chapter, a political subdivision's total allowable tax increase amount under this chapter is equal to the sum of the annual controlled tax increase amounts allowed in the county for the political subdivisions in each year after 2006.

Sec. 6. For purposes of this chapter, a political subdivision's annual controlled tax increase in a county for any particular year is the amount determined under STEP THREE of the following formula:

STEP ONE: Subtract the political subdivision's controlled tax limit in the county for the immediately preceding year from the political subdivision's controlled tax limit in the county for the ensuing year.

STEP TWO: Subtract the political subdivision's controlled levy limit in the county for the immediately preceding year from the political subdivision's controlled levy limit in the county for the ensuing year.

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

Sec. 7. Subject to section 8 of this chapter, a negative result for a political subdivision under section 6 of this chapter reduces the political subdivision's total allowable tax increase amount that may be funded from taxes imposed under this chapter.

Sec. 8. A political subdivision's total allowable tax increase amount under this chapter may not be less than zero (0).

Sec. 9. (a) This section applies to a school corporation.

(b) A separate annual controlled tax increase and total allowable tax increase amount shall be computed for each of the following:

(1) A school corporation's school general fund and charter schools taxes imposed under IC 6-1.1-19-1.5.

(2) A school corporation's transportation fund taxes imposed under IC 21-2-11.5-3.

(3) A school corporation's school bus replacement fund taxes imposed under IC 21-2-11.5-3.

(c) None of the separate school corporation's total allowable tax increase amounts under subsection (b) may be less than zero (0).

Sec. 10. Subject to section 11 of this chapter, instead of funding all of a county's total allowable tax increase amount from county income taxes, a council may adopt an ordinance to fund the annual controlled tax increases attributable to one (1) or more years from controlled property taxes. Adoption of the ordinance does not increase the controlled levy limit of any political subdivision in the county. Notice of the proposed ordinance must be given under IC 6-11-3-15 before the date specified in IC 6-11-3-16. If an ordinance adopted under this section applies to the annual controlled tax increases attributable to a particular year the ordinance must require that all of the annual controlled tax increases attributable to the particular year be funded by controlled property taxes.

Sec. 11. A council, either through an ordinance terminating a tax or an ordinance reducing the tax rate, may not decrease a tax imposed under this chapter below the tax rate necessary to continue the part of an allocation of taxes to a political subdivision that the political subdivision has pledged to pay or fund bonds, leases, or another obligation permitted by IC 5-1-14 or another law.

Sec. 12. Subject to IC 6-13-22-11 concerning the treatment of distributions to a county that qualify as excess revenue, the part of the tax imposed under this chapter is allocated among the political subdivisions in the county in proportion to the part of the county's total allowable tax increase amount that is:

(1) attributable to each political subdivision; and

(2) funded by taxes under this article.

Any annual controlled tax increase that is not funded by taxes under this chapter as the result of the adoption of an ordinance under section 10 of this chapter may not be considered in determining a political subdivision's allocation of taxes under this section.

Sec. 13. Subject to any law limiting the use of a political subdivision's revenues, a political subdivision may use taxes allocated to a political subdivision under this chapter for any governmental or public purpose, including any purpose for which a county adjusted gross income tax, a county option income tax, or a county economic development tax could be used before 2007.

Sec. 14. The county auditor shall retain from taxes allocated to a political subdivision under this chapter an amount equal to any:

(1) reserve or settlement required under IC 6-11-13;

(2) assignment authorized under IC 6-11-14; or

(3) special allocation authorized under IC 6-11-15;

that is payable from taxes imposed under this chapter in the manner and under the schedule determined under IC 6-11-13.

Sec. 15. The remainder of an allocation of taxes imposed under this chapter shall be distributed to the political subdivisions in the county in the manner and under the schedule determined under IC 6-11-13.

Sec. 16. A political subdivision shall deposit the amount distributed to the political subdivision under this chapter among the funds of the political subdivision as provided in the political subdivision's budget for the year in which the tax being distributed was imposed, including any amount budgeted for deposit in the political subdivision's rainy day fund. Money deposited in a fund under this section may be used for any purpose for which money in the fund may be used or transferred to another fund as authorized by law.

Sec. 17. The amount raised under this chapter and retained by a county auditor as an assignment or a special allocation may be used only for the purposes of the assignment or the special allocation.

Sec. 18. Subject to IC 6-13-22-11 concerning excess revenue, an amount retained in excess of the amount necessary for the purposes of a reserve, a settlement, an assignment, or a special allocation shall be distributed to the political subdivision from which the amount was retained. The amount distributed under this section does not reduce the controlled tax limit or allocation amount for a political subdivision in any year.

Chapter 8. Optional Additional Income Tax

Sec. 1. In addition to a tax in effect in the county under IC 6-11-7 or IC 6-11-9, or both, a council may adopt an additional tax under this chapter for the county.

Sec. 2. The tax rate imposed for a tax under this chapter in a county may not exceed the greater of the following:

(1) One percent (1%).

(2) The rate determined under sections 5 and 6 of this chapter, if sections 5 and 6 of this chapter apply to the county.

Sec. 3. A tax imposed under section 1 of this chapter (including a tax described in section 4 of this chapter) shall be treated as an excluded tax.

Sec. 4. An ordinance adopted in a county before April 1, 2006, that would have initially imposed any of the following in 2007 or authorized the continuation of any of the following after 2006 if IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-3.5-7 had not been repealed shall be treated after 2006 as an ordinance adopted under section 1 of this chapter:

(1) County adjusted gross income tax.

(2) County option income tax.

(3) County economic development tax.

Sec. 5. Subject to the reductions under section 6 of this chapter, the tax rate imposed in 2007 under section 4 of this chapter is equal to the combined:

(1) county adjusted gross income tax rate or county option income tax; and

(2) county economic development rate;

that the county would have imposed in 2007 (after deducting any part of the tax rate attributable to a law listed in IC 6-11-9-11) if IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-3.5-7 had not been repealed.

Sec. 6. Section 4 of this chapter does not prohibit a council from adopting an ordinance after June 30, 2006, to increase the tax rate determined under section 5 of this chapter as long as the total tax rate imposed under this chapter does not exceed the maximum rate specified in section 2 of this chapter.

Sec. 7. Taxes imposed under this chapter shall be allocated among the civil taxing units in the county based on the formulas described in the following:

OPTION	DESCRIPTION
Option 1	Section 18 of this chapter.
Option 2	Section 19 of this chapter.

Option 3	Section 20 of this chapter.
Option 4	Section 21 of this chapter.
Option 5	Section 22 of this chapter.

Sec. 8. The formulas to be applied in a county depends on the:

(1) combination of county adjusted gross income taxes, county option income taxes, and county economic development taxes imposed in the county in 2006; and

(2) elections adopted by the council after June 30, 2006.

Sec. 9. The department shall establish five (5) tax option ratios for each county.

Sec. 10. The sum of the ratios established under section 9 of this chapter must add to one (1).

Sec. 11. (a) This section applies to a county that would not have received a certified distribution of county adjusted gross income tax, county option income tax, or county economic development tax in 2007 if IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-3.5-7 had not been repealed.

(b) The county's tax option ratios are as follows:

OPTION	RATIO
Option 1	1
Option 2	0
Option 3	0
Option 4	0
Option 5	0

(c) The eligible civil units are the following:

(1) Any political subdivision that has the power to impose a property tax, other than a school corporation or a county solid waste management district (as defined in IC 13-11-2-47) or a joint solid waste management district (as defined in IC 13-11-2-113).

(2) A county solid waste management district (as defined in IC 13-11-2-47) or a joint solid waste management district (as defined in IC 13-11-2-113) if a majority of the members of each of the county fiscal bodies of the counties within the district passes a resolution approving an allocation of taxes under this chapter.

(d) An eligible civil unit's allocation factor for a year is the eligible civil taxing unit's controlled tax limit for a year.

(e) The tax imposed under this chapter shall be allocated under Option 1 in section 18 of this chapter.

Sec. 12. (a) This section applies to a county that would have received a certified distribution of county adjusted gross income tax, county option income tax, or county economic development tax in 2007 if IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-3.5-7 had not been repealed.

(b) Subject to section 10 of this chapter, the tax option ratios that apply in the county are:

(1) the ratios adopted by the council by ordinance; or

(2) the ratios determined under sections 13 through 17 of this chapter, if subdivision (1) does not apply.

Sec. 13. (a) The Option 1 ratio in a county is:

(1) if the county received a 2006 certified distribution of county option income taxes that was distributed under IC 6-3.5-6-18(e) and also received a 2006 certified distribution of county economic development taxes, the quotient determined by dividing:

(A) the county option income tax rate, excluding any part of the rate attributable to a law listed in IC 6-11-9-11, that would have been in effect in the county in 2007 and distributed under IC 6-3.5-6-18(e) if IC 6-3.5-6 had not been repealed; by

(B) the sum of the county adjusted gross income tax rate, county option income tax rate, and county economic development income tax rate that would have been in effect in the county in 2007, excluding any part of the rate attributable to a law listed in IC 6-11-9-11, if IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-3.5-7 had not been repealed;

(2) if the county did not receive a 2006 certified distribution of county option income taxes that was distributed under IC 6-3.5-6-18(e), zero (0); and

(3) if the county received a 2006 certified distribution of county option income taxes that was distributed under IC 6-3.5-6-18(e), and did not receive a 2006 certified distribution of county economic development taxes, one (1).

(b) The Option 1 eligible civil units are the following:

(1) Any political subdivision that has the power to impose a property tax, other than a school corporation or a county solid waste management district (as defined in IC 13-11-2-47) or a joint solid waste management district (as defined in IC 13-11-2-113).

(2) A county solid waste management district (as defined in IC 13-11-2-47) or a joint solid waste management district (as defined in IC 13-11-2-113) if a majority of the members of each of the county fiscal bodies of the counties within the district passes a resolution approving an allocation of taxes under this chapter.

A resolution passed under IC 6-3.5-6-1.3 (before its repeal) that would have applied to a distribution of county adjusted gross income taxes or county option income taxes in 2007 if IC 6-3.5-1.1 and IC 6-3.5-6 had not been repealed shall be treated as a resolution adopted under section 1 of this chapter.

(c) An Option 1 eligible civil unit's allocation factor for a year is the sum of the following:

(1) The eligible civil taxing unit's controlled tax limit for a year.

(2) For an eligible civil taxing unit in a county that received a certified distribution of county adjusted gross income taxes, county option income taxes, or county economic development income taxes in 2006, an amount equal to the property taxes imposed on taxable property by the county in 1999 for the county's welfare fund and welfare administration fund in the county.

(3) For an eligible civil taxing unit in a county that received a certified distribution of county adjusted gross income taxes, county option income taxes, or county economic development income taxes in 2006, an amount equal to the property taxes levied in the county to fund or pay bonded indebtedness, lease rentals, or other obligations permitted by IC 5-1-14 or another law that were issued or entered into before July 1, 2005, including any refunding bonds or successor leases to the extent that the term does not exceed the term of the original obligation.

(4) For an eligible civil taxing unit in a county that received a certified distribution of county adjusted gross income taxes, county option income taxes, or county economic

development income taxes in 2006, an amount equal to the lesser of the fixed rate levies (as defined in IC 6-15-1-3) imposed on taxable property by the civil taxing unit in the county in:

(A) the year of distribution; or

(B) 2006.

Sec. 14. (a) The Option 2 ratio in a county is equal to:

(1) if the county received a 2006 certified distribution of county option income taxes that was distributed under IC 6-3.5-6-18.5 (repealed), one (1); or

(2) if the county did not receive a 2006 certified distribution of county option income taxes that was distributed under IC 6-3.5-6-18.5 (repealed), zero (0).

(b) The Option 2 eligible civil units are any entity that would have been eligible to receive a distribution under IC 6-3.5-6-18.5 if IC 6-3.5-6 had not been repealed.

(c) An Option 2 eligible civil unit's allocation factor for a year is the sum of the following:

(1) The eligible civil taxing unit's controlled tax limit for a year.

(2) For an eligible civil taxing unit in a county that received a certified distribution of county economic development income taxes in 2006, an amount equal to the property taxes imposed on taxable property by the county in 1999 for the county's welfare fund and welfare administration fund in the county.

Sec. 15. (a) The Option 3 ratio in a county is equal to:

(1) if the county received a 2006 certified distribution of county adjusted gross income taxes and also received a 2006 certified distribution of county economic development taxes, the quotient determined by dividing:

(A) the county adjusted gross income tax rate, excluding any part of the rate attributable to a law listed in IC 6-11-9-11, that would have been in effect in the county in 2007 and distributed under IC 6-3.5-1.1-15 if IC 6-3.5-1.1 had not been repealed; by

(B) the sum of the county adjusted gross income tax rate, county option income tax rate, and county economic development income tax rate that would have been in effect in the county in 2007, excluding any part of the rate attributable to a law listed in IC 6-11-9-11, if IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-3.5-7 had not been repealed;

(2) if the county did not receive a 2006 certified distribution of county adjusted gross income taxes, zero (0); or

(3) if the county received a 2006 certified distribution of county adjusted gross income taxes but did not receive a 2006 certified distribution of county economic income taxes, one (1).

(b) The Option 3 eligible civil units are the following:

(1) Any political subdivision that has the power to impose a property tax, other than a school corporation or a county solid waste management district (as defined in IC 13-11-2-47) or a joint solid waste management district (as defined in IC 13-11-2-113).

(2) A county solid waste management district (as defined in IC 13-11-2-47) or a joint solid waste management district (as defined in IC 13-11-2-113) if a majority of the members of each of the county fiscal bodies of the counties within the district passes a resolution approving an allocation of taxes under this chapter.

A resolution passed under IC 6-3.5-1.1-1.3 (before its repeal) that would have applied to a distribution of county adjusted gross income taxes or county option income taxes in 2007 if IC 6-3.5-1.1 and IC 6-3.5-6 had not been repealed shall be treated as a resolution adopted under section 1 of this chapter.

(c) An Option 3 eligible civil unit's allocation factor for a year is the sum of the following:

(1) The eligible civil taxing unit's controlled tax limit for a year.

(2) The controlled tax limit for a year 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 eligible civil taxing unit.

(3) The amount of federal revenue sharing funds and certified shares that were used by the eligible 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 eligible civil taxing unit) to reduce its ad valorem property tax levies below the limits imposed by IC 6-1.1-18.5 (repealed) in 2006.

(4) For a county that received a certified distribution of county adjusted gross income taxes, county option income taxes, or county economic development income taxes in 2006, an amount equal to the property taxes imposed on taxable property by the county in 1999 for the county's welfare fund and welfare administration fund in the county.

Sec. 16. (a) The Option 4 ratio in a county is equal to:

(1) if the county also received a 2006 certified distribution of county economic development income taxes that was distributed under IC 6-3.5-7-12(b) and also received a 2006 certified distribution of county adjusted gross income taxes or county option income taxes, the quotient determined by dividing:

(A) the county economic development income tax rate, excluding any part of the rate attributable to a law listed in IC 6-11-9-11, that would have been in effect in the county in 2007 and distributed under IC 6-3.5-7-12(b) if IC 6-3.5-7 had not been repealed; by

(B) the sum of the county adjusted gross income tax rate, county option income tax rate, and county economic development income tax rate that would have been in effect in the county in 2007, excluding any part of the rate attributable to a law listed in IC 6-11-9-11, if IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-3.5-7 had not been repealed;

(2) if the county did not receive a 2006 certified distribution of county economic development income taxes, zero (0);

(3) if the county received a 2006 certified distribution of county economic development income taxes that was distributed under IC 6-3.5-7-12(c), zero (0); or

(4) if the county received a 2006 certified distribution of county economic development income taxes that was distributed under IC 6-3.5-7-12(b) but did not receive a 2006 certified distribution of county adjusted gross income

tax or county option income tax, one (1).

(b) The Option 4 eligible civil units are the following:

(1) The county.

(2) Each city and town in the county.

(c) An Option 4 eligible civil unit's allocation factor for a year is the sum of the following:

(1) The eligible civil taxing unit's controlled tax limit for a year.

(2) For an eligible civil taxing unit in a county that received a certified distribution of county adjusted gross income taxes, county option income taxes, or county economic development income taxes in 2006, an amount equal to the property taxes imposed on taxable property by the county in 1999 for the county's welfare fund and welfare administration fund in the county.

(3) For an eligible civil taxing unit in a county that received a certified distribution of county adjusted gross income taxes, county option income taxes, or county economic development income taxes in 2006, an amount equal to the property taxes levied in the county to fund or pay bonded indebtedness, lease rentals, or other obligations permitted by IC 5-1-14 or another law that were issued or entered into before July 1, 2005, including any refunding bonds or successor leases to the extent that the term does not exceed the term of the original obligation.

(4) For an eligible civil taxing unit in a county that received a certified distribution of county adjusted gross income taxes, county option income taxes, or county economic development income taxes in 2006, an amount equal to the lesser of the fixed rate levies (as defined in IC 6-15-1-3) imposed on taxable property by the civil taxing unit in the county in:

(A) the year of distribution; or

(B) 2006.

Sec. 17. (a) The Option 5 ratio in a county is equal to:

(1) if the county received a 2006 certified distribution of county economic development income taxes that was distributed under IC 6-3.5-7-12(c) and also received a 2006 certified distribution of county adjusted gross income taxes or county option income taxes, the quotient determined by dividing:

(A) the county economic development income tax rate, excluding any part of the rate attributable to a law listed in IC 6-11-9-11, that would have been in effect in the county in 2007 and distributed under IC 6-3.5-7-12(c) if IC 6-3.5-7 had not been repealed; by

(B) the sum of the county adjusted gross income tax rate, county option income tax rate, and county economic development income tax rate that would have been in effect in the county in 2007, excluding any part of the rate attributable to a law listed in IC 6-11-9-11, if IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-3.5-7 had not been repealed;

(2) if the county did not receive a 2006 certified distribution of county economic development income taxes, zero (0);

(3) if the county received a 2006 certified distribution of county economic development income taxes that was distributed under IC 6-3.5-7-12(b), zero (0); or

(4) if the county received a 2006 certified distribution of county economic development income taxes that was distributed under IC 6-3.5-7-12(c) but did not receive a 2006 certified distribution of county adjusted gross income tax or county option income tax, one (1).

(b) The Option 5 eligible civil units are the following:

(1) The county.

(2) Each city and town in the county.

(c) An Option 5 eligible civil unit's allocation factor for a year is the eligible civil unit's population. For the purpose of applying this subsection to a county, only the population of the county in an unincorporated area shall be attributed to the county.

Sec. 18. The amount allocated to an eligible civil taxing unit under Option 1 is the amount determined under STEP SIX of the following formula:

STEP ONE: Determine the amount of revenue to be distributed under this chapter.

STEP TWO: Multiply the STEP ONE amount by the county's Option 1 ratio.

STEP THREE: Determine the Option 1 allocation factor for the eligible civil taxing unit for the year of distribution.

STEP FOUR: Determine the sum of the Option 1 allocation factors for all eligible civil units in the county for the year of distribution.

STEP FIVE: Divide the STEP THREE result by the STEP FOUR result.

STEP SIX: Multiply the STEP FIVE result by the STEP TWO amount.

Sec. 19. The amount allocated to an eligible civil taxing unit under Option 2 is the amount determined using STEP NINE of the following formula:

STEP ONE: Determine the total amount of revenues that were distributed as distributive shares under IC 6-3.5-6-18.5 (repealed) in 1995.

STEP TWO: Determine the amount of revenue from taxes imposed under this chapter in the current 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 this chapter.

STEP FIVE: Determine the ratio of:

(A) the Option 2 allocation factor for the eligible civil taxing unit; divided by

(B) the sum of the Option 2 allocation factors for all eligible civil taxing units of the county during the current year.

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 this chapter.

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

STEP EIGHT: For each eligible 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 this chapter. The STEP THREE excess shall be distributed as provided in STEP NINE only to the

eligible civil taxing units that have a STEP EIGHT difference greater than or equal to zero (0).

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

(A) the Option 2 allocation factor for the eligible civil taxing unit; divided by

(B) the sum of the Option 2 allocation factors for all eligible civil taxing units of the county during the current year.

Sec. 20. The amount allocated to an eligible civil taxing unit under Option 3 is the amount determined under STEP SIX of the following formula:

STEP ONE: Determine the amount of revenue to be distributed under this chapter.

STEP TWO: Multiply the STEP ONE amount by the county's Option 3 ratio.

STEP THREE: Determine the Option 3 allocation factor for the eligible civil taxing unit for the year of distribution.

STEP FOUR: Determine the sum of the Option 3 allocation factors for all eligible civil units in the county for the year of distribution.

STEP FIVE: Divide the STEP THREE result by the STEP FOUR result.

STEP SIX: Multiply the STEP FIVE result by the STEP TWO result.

Sec. 21. The amount allocated to an eligible civil taxing unit under Option 4 is the amount determined under STEP SIX of the following formula:

STEP ONE: Determine the amount of revenue to be distributed under this chapter.

STEP TWO: Multiply the STEP ONE amount by the county's Option 4 ratio.

STEP THREE: Determine the Option 4 allocation factor for the eligible civil taxing unit for the year of distribution.

STEP FOUR: Determine the sum of the Option 4 allocation factors for all eligible civil units in the county for the year of distribution.

STEP FIVE: Divide the STEP THREE result by the STEP FOUR result.

STEP SIX: Multiply the STEP FIVE result by the STEP TWO amount.

Sec. 22. The amount allocated to an eligible civil taxing unit under Option 5 is the amount determined under STEP SIX of the following formula:

STEP ONE: Determine the amount of revenue to be distributed under this chapter.

STEP TWO: Multiply the STEP ONE amount by the county's Option 5 ratio.

STEP THREE: Determine the Option 5 allocation factor for the eligible civil taxing unit for the year of distribution.

STEP FOUR: Determine the sum of the Option 5 allocation factors for all eligible civil units in the county for the year of distribution.

STEP FIVE: Divide the STEP THREE result by the STEP FOUR result.

STEP SIX: Multiply the STEP FIVE result by the STEP TWO amount.

Sec. 23. A council, either through an ordinance terminating a tax or an ordinance reducing the tax rate, may not decrease a tax imposed under this chapter below the tax rate necessary to continue the part of an allocation of taxes to a civil taxing unit that the civil taxing unit has pledged to pay or fund bonds, leases, or another obligation permitted by IC 5-1-14 or another law. For purposes of this section, a pledge of county adjusted gross income taxes (before the repeal of IC 6-3.5-1 or IC 6-3.5-1.1), county option income taxes (before the repeal of IC 6-3.5-6), or county economic development taxes (before the repeal of IC 6-3.5-7) shall be treated as a pledge of an allocation of taxes under this chapter.

Sec. 24. Subject IC 6-13-19 or any other law limiting the use of a civil taxing unit's revenues, a civil taxing unit may use taxes allocated to a civil taxing unit under this chapter for any governmental or public purpose, including any purpose for which a county adjusted gross income tax, a county option income tax, or a county economic development tax could be used before 2007.

Sec. 25. The county auditor shall retain from taxes allocated to a civil taxing unit under this chapter an amount equal to any:

(1) reserve or settlement under IC 6-11-13;

(2) assignment under IC 6-11-14; or

(3) special allocation under IC 6-11-16;

that is payable from taxes imposed under this chapter in the manner and under the schedule determined under IC 6-11-13.

Sec. 26. The remainder of an eligible civil unit's allocation of taxes imposed under this chapter shall be distributed to the eligible civil taxing unit in the manner and under the schedule determined under IC 6-11-13.

Sec. 27. An eligible taxing unit shall deposit the amount distributed to the political subdivision under this chapter as provided in the budget for the year among the funds of the year in which the distributed taxes were imposed, including any amount budgeted for deposit in the political subdivision's rainy day fund. Money deposited in a fund under this section may be used for any purpose for which money in the fund may be used or transferred to another fund as authorized by law.

Sec. 28. The amount raised under this chapter and retained by a county auditor as an assignment or a special allocation may be used only for the purposes of the assignment or the special allocation.

Sec. 29. Subject to IC 6-13-22-11 concerning excess revenue, an amount retained in excess of the amount necessary for the purposes of a reserve, a settlement, an assignment, or a special allocation shall be distributed to the civil taxing unit from which the amount was retained. The amount distributed under this section does not reduce the controlled tax limit or allocation amount for a civil taxing unit in any year.

Chapter 9. Excluded Taxes

Sec. 1. In addition to the tax rate in effect in the county under IC 6-11-7 or IC 6-11-8, or both, the governing body specified in any of the following may adopt an additional tax rate for the county under this chapter.

Sec. 2. An additional tax rate adopted under this chapter (including a tax described in section 3 of this chapter) shall be treated as an excluded tax.

Sec. 3. An ordinance adopted in a county before April 1, 2006, that would have imposed any of the additional rates listed in IC 6-11-9-11 after 2006 if IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-3.5-7 had not been repealed shall be treated after 2006 as an ordinance adopted under section 1 of this chapter.

Sec. 4. The tax rate imposed under section 3 of this chapter is equal to the combined total of the additional tax rates listed in IC 6-11-9-11 that the county would have imposed in 2007 if IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-3.5-7 had not been repealed.

Sec. 5. The tax rate imposed under section 3 of this chapter applies to 2007 and each year thereafter until the earlier of the following:

(1) The tax expires by law.

(2) The tax is rescinded or the tax rate is reduced by the council under this article.

Sec. 6. A fiscal body or council, either through an ordinance terminating a tax or an ordinance reducing the tax rate, may not decrease an excluded tax imposed under this chapter below the tax rate necessary to continue the part of an allocation of taxes to a political subdivision that the political subdivision has pledged to pay or fund bonds, leases, or another obligation permitted by IC 5-1-14 or another law. For purposes of this section, a pledge of county adjusted gross income taxes (before the repeal of IC 6-3.5-1 or IC 6-3.5-1.1), county option income taxes (before the repeal of IC 6-3.5-6), or county economic development taxes (before the repeal of IC 6-3.5-7) under a law listed in IC 6-11-9-11 shall be treated as a pledge of an allocation of taxes under this article.

Sec. 7. The county auditor shall retain from the distribution of taxes made to the county the amount of each excluded tax imposed in the county.

Sec. 8. The amount raised by an excluded tax, after deducting any necessary reserves and settlements under IC 6-11-13, may be used only for the purposes allowed under the law under which it was imposed or its successor law. Any amount raised in excess of the amount necessary for the purposes of the excluded tax shall be treated as excess revenue under IC 6-13-22-11 and applied to reduce the excluded tax rate for the following year or the later year determined by the department. Except as otherwise provided by law, IC 36-1-8-5 applies to an unused and unencumbered balance remaining from an excluded tax when the purposes for the excluded tax have been fulfilled.

Sec. 9. (a) Except to the extent waived for a year by the department, an additional tax rate is imposed in each county at the lesser of the following:

(1) The rate necessary, after deducting any amount being raised as property taxes to replace money in a rainy day fund used as a temporary loan to a debt service fund, to maintain the balance of the rainy day funds of each political subdivision at six percent (6%) of the budget in the immediately preceding year for the political subdivision in the county; or

(2) twenty percent (20%) of the increase in the tax rate imposed in the county under IC 6-11-7.

(b) The additional rate under this section is an excluded tax.

(c) The county auditor shall retain the amount of the additional tax rate under this section as a special allocation. The retained amount shall be allocated among political subdivisions for deposit in each political subdivision's rainy day fund in proportion to the controlled tax limits for each political subdivision in the county until the political subdivision's rainy day fund balance is at least six percent (6%) of the political subdivision's controlled tax limit.

(d) The council may adopt an ordinance to increase the additional tax imposed under this section. The county auditor shall retain the amount of the additional tax rate under this subsection as a special allocation. The retained amount shall be allocated among political subdivisions for deposit in each political subdivision's rainy day fund in proportion to the controlled tax limits of each political subdivision in the county.

Sec. 10. (a) This section applies to any county, regardless of whether the county has adopted an ordinance under:

(1) IC 6-11-15 to provide additional property tax replacement credits or homestead credits from the part of a tax that is a controlled tax imposed under IC 6-11-7;

(2) IC 6-11-16 to provide additional property tax replacement credits or homestead credits from the part of an optional additional county income tax imposed as an excluded tax under IC 6-11-8; or

(3) another provision of this chapter to provide additional property tax replacement credits or homestead credits.

(b) In addition to any other additional tax rate imposed under this article, a council may adopt an additional tax rate to replace revenue lost to a political subdivision as the result of granting an additional homestead credit under this section. A county that adopted an ordinance under IC 6-3.5-7-26 (before its repeal) shall be treated as if the county adopted an ordinance under this section. The amount of the additional tax is an excluded tax.

(c) The additional tax rate may not exceed twenty-five hundredths of one percent (0.25%).

(d) An additional homestead credit is established in each county to which this section applies to offset the effect on homesteads in the county resulting from the statewide deduction for inventory under IC 6-1.1-12-42. The department shall set the percentage of the homestead credit so that the total amount of additional homestead credits granted equals the amount of the additional tax collected under this section. The homestead credit adopted under this section shall be applied as specified in the ordinance. The ordinance may provide that the additional tax be:

(1) uniformly applied to increase the homestead credit granted under IC 6-1.1-20.9 for all homesteads in the county; or

(2) applied to increase the homestead credit granted under IC 6-1.1-20.9 for all homesteads in the county in the same proportion as 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.

(e) The county auditor shall retain the amount necessary for the homestead credit as a special allocation. The retained amount shall be allocated among political subdivisions in proportion to property tax revenue lost as the result of granting additional homestead credits under this section.

(f) Money received under this section shall be treated for all purposes as property tax levies.

Sec. 11. (a) This section applies to an additional tax imposed under any of the following before April 1, 2006, and that would have been in effect for a year after 2006 if IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-3.5-7 had not been repealed:

(1) IC 6-3.5-1.1-2.5 (repealed).
(2) IC 6-3.5-1.1-2.7 (repealed).
(3) IC 6-3.5-1.1-2.8 (repealed).
(4) IC 6-3.5-1.1-2.9 (repealed).
(5) IC 6-3.5-1.1-3.3 (repealed).
(6) IC 6-3.5-1.1-3.5 (repealed).
(7) IC 6-3.5-1.1-3.6 (repealed).
(8) IC 6-3.5-6-27 (repealed).
(9) IC 6-3.5-6-28 (repealed).
(10) IC 6-3.5-7-22 (repealed).
(11) IC 6-3.5-7-24 (repealed).
(12) IC 6-3.5-7-25 (repealed).
(13) IC 6-3.5-7-27 (repealed).

(b) An additional tax rate is imposed in a county after 2006 for the purposes each law described in subsection (a). The amount of the additional tax rate is the tax rate imposed in 2006 under a law described in subsection (a). The additional tax rate is an excluded tax.

(c) An additional tax rate imposed under this section continues until the earliest of the following:

(1) The date the additional tax rate is rescinded or reduced by the body establishing the additional rate.
(2) The date that the purpose for which the tax rate was imposed is accomplished.
(3) The date that the law described in subsection (a) would have terminated the additional tax rate.

(d) The county auditor shall retain the amount of the additional tax rate as a special allocation. The retained amount shall be allocated as provided in the applicable law described in subsection (a).

Sec. 12. (a) This section applies to any county, regardless of whether the county has adopted an ordinance under:

(1) IC 6-11-15 to provide additional property tax replacement credits or homestead credits from the part of a tax that is a controlled tax imposed under IC 6-11-7;
(2) IC 6-11-16 to provide additional property tax replacement credits or homestead credits from the part of an optional additional county income tax imposed as an excluded tax under IC 6-11-8; or
(3) another provision of this chapter to provide additional property tax replacement credits or homestead credits.

(b) In addition to any other additional tax rate imposed under this article, a council may adopt an additional tax rate to replace revenue lost to a political subdivision as the result of granting an additional property tax replacement credit under this section. The amount of the additional tax is an excluded tax.

(c) The additional tax rate may not exceed one percent (1%).

(d) An additional property tax replacement credit is established in each county to which this section applies. The department shall set the percentage of the property tax replacement credit so that the total amount of additional property tax replacement credits granted equals the amount of the additional tax collected under this section. The additional property tax replacement credit shall be uniformly applied to all taxpayer property tax liability for controlled property taxes imposed by the political subdivision.

(e) The county auditor shall retain the amount necessary for the property tax replacement credit as a special allocation. The retained amount shall be allocated among political subdivisions in proportion to property tax revenue lost as the result of granting additional property tax replacement credits under this section.

(f) Money received under this section shall be treated for all purposes as property tax levies.

Chapter 10. Credits

Sec. 1. (a) Except as provided in subsection (b), if for a particular taxable year a resident is liable for an income tax imposed by a county, city, town, or other local governmental entity located outside Indiana, that resident is entitled to a credit against the tax liability imposed under this article for that same taxable year. The amount of the credit equals the amount of tax imposed by the other governmental entity on income derived from sources outside Indiana and subject to the tax under this article. However, the credit provided by this section may not reduce a resident's tax liability under this article to an amount less than would have been owed if the income subject to taxation by the other governmental entity had been ignored.

(b) The credit provided by this section does not apply to a resident to the extent that the other governmental entity provides for a credit to the resident for the amount of taxes owed under this article.

(c) To claim the credit provided by this section, a resident must provide the department of state revenue with satisfactory evidence that the taxpayer is entitled to the credit.

Sec. 2. (a) If for a particular taxable year a taxpayer is, or a taxpayer and the taxpayer's spouse who file a joint return are, allowed a credit for the elderly or totally disabled under Section 22 of the Internal Revenue Code, the taxpayer is, or the taxpayer and the taxpayer's spouse are, entitled to a credit against the tax liability under this article for that same taxable year. The amount of the credit equals the lesser of:

(1) the product of:
(A) the credit for the elderly or totally disabled for that same taxable year; multiplied by
(B) a fraction, the:
(i) numerator of which is the tax rate imposed under this article against the taxpayer or the taxpayer and the taxpayer's spouse; and
(ii) denominator of which is fifteen-hundredths (0.15); or
(2) the amount of tax imposed on the taxpayer or the taxpayer and the taxpayer's spouse.

(b) If a taxpayer and the taxpayer's spouse file a joint return and are subject to different county income tax rates for the same taxable year, the taxpayer and the taxpayer's spouse shall compute the credit under this section by using the formula provided by subsection (a), except that they shall use the average of the two (2) county income tax rates imposed against them as the numerator referred to in subsection (a)(1)(B)(i).

Chapter 11. Administration

Sec. 1. Except as otherwise provided in this article, all provisions of the adjusted gross income tax law (IC 6-3) concerning:

(1) definitions;

(2) declarations of estimated tax;

(3) filing of returns;

(4) deductions or exemptions from adjusted gross income;

(5) remittances;

(6) incorporation of the provisions of the Internal Revenue Code;

(7) penalties and interest; and

(8) exclusion of military pay credits for withholding;

apply to the imposition, collection, and administration of the tax imposed by this article.

Sec. 2. The provisions of IC 6-3-1-3.5(a)(6), IC 6-3-3-3, IC 6-3-3-5, IC 6-3-4-4.1(h), IC 6-3-4-8.1(e), and IC 6-3-5-1 do not apply to the tax imposed by this article.

Sec. 3. Each employer, including an employer making payments by electronic funds transfer, shall report to the department of state revenue for each reporting period the amount of tax withholdings attributable to each county. The report must be made before the later of the time that an employer that is not making an electronic funds transfer is required to pay to the department of state revenue amounts withheld during the reporting period or the date specified by the department of state revenue.

Sec. 4. A taxpayer required to file estimated or annual state adjusted gross income tax returns under IC 6-3-4-4.1, including taxpayers making payments by electronic funds transfer, shall file estimated tax returns and make payments of the tax imposed by this article to the department of state revenue at the time or times and in the installments specified under IC 6-3-4-4.1 for making estimated state adjusted gross income tax returns by taxpayers not making an electronic funds transfer.

Chapter 12. Collection and Distribution of Revenue to a County

Sec. 1. (a) A special account within the state general fund shall be established for each county that adopts the tax. Estimated tax payments, wage withholding payments, and other revenue derived from the imposition of the tax by a county shall be deposited in that county's account in the state general fund on at least a monthly basis as the revenue is received.

(b) Overpayments of the county's tax deposited in a county's account and other amounts deposited in a county's account in error shall be withdrawn from the account whenever the amount of the excess deposit is determined. If the amount that must be withdrawn from a county's account exceeds the amount in the account, the budget agency shall advance to the county's account from the state general fund the amount necessary to make the withdrawal. The advance shall be repaid from the account on the schedule determined by the budget agency.

(c) Income earned on money held in a county's account becomes a part of that account.

(d) Revenue remaining in a county's account at the end of a fiscal year does not revert to the state general fund.

Sec. 2. The auditor of state shall distribute money in a county's account, less the reserve that the department of state revenue determines is necessary to meet probable withdrawals from the fund for overpayments and other erroneous deposits, at least monthly.

Sec. 3. All distributions from an account shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.

Sec. 4. The department of state revenue shall at least annually distribute to the county auditor for a county imposing a tax and to the department sufficient information for the county auditor and the department to determine that the distributions made to the county are correct and complete. To the extent that the information distributed under this section is confidential information under IC 6-8.1-7, the department of state revenue shall require the recipients to enter into an agreement under IC 6-8.1-7-1(b) before providing the information.

Sec. 5. The department of state revenue, in addition to offsetting withdrawals and the repayment of advances to an account against money deposited in an account, may on a settlement date seek repayment from a county of money erroneously distributed to the county. The county auditor shall reimburse the county's account for overpayments from county income tax distributions held by the county. The amount of the reimbursement shall be proportionately deducted from all allocations made to the political subdivisions in the county except allocations made to pay or fund any bonds, lease obligations, or other obligations (as defined in IC 5-1-3-1) for which county adjusted gross income tax, county option income tax, county economic development tax, or county income tax is pledged. If the amount held by the county is insufficient to reimburse the county's account, the county fiscal body may authorize an advance of money from the county general fund to make the reimbursement. The advance shall be repaid on the schedule determined by the county fiscal body.

Chapter 13. Distribution of Revenue by the County Auditor

Sec. 1. When taxes are distributed to a county under IC 6-11-12, the county auditor shall:

(1) determine the part of the distribution that is attributable to the part of the tax imposed under IC 6-11-7, IC 6-11-8, and each additional excluded tax rate imposed under IC 6-11-9;

(2) determine the part of each political subdivision's allocation of taxes imposed under IC 6-11-7 and IC 6-11-8 that must be retained under this article, including amounts retained as a result of assignments of taxes made by a political subdivision under IC 6-11-14; and

(3) distribute the remainder of the taxes among the political subdivisions in the county according to the formulas established under this article.

Sec. 2. Amounts retained under section 1 of this chapter shall be distributed as required to carry out the purposes of the special allocation or other purpose for which the taxes are retained.

Sec. 3. To assist county auditors, the department shall compute allocations, amounts that must be retained, and amounts to be distributed for each purpose.

Sec. 4. The department shall establish a schedule for transmitting the information computed under section 3 of this chapter to each county auditor. The information must be accompanied by sufficient supporting work papers for the county

auditor to verify the accuracy and completeness of the computations.

Sec. 5. A county auditor shall provide each affected political subdivision, individual, or other entity entitled to a distribution with:

(1) advance notice of the policies established under this chapter; and

(2) sufficient documentation for the entity to verify the accuracy and completeness of the entity's distributions under this article.

The county auditor shall give the notices and documentation under this section on the schedule, if any, specified by the department.

Sec. 6. Subject to this chapter and any other law, a council may adopt an ordinance to establish the:

(1) schedule on which distributions are made;

(2) amount of reserve that the county auditor shall retain to reimburse the state for any overpayment to the county under IC 6-11-12;

(3) schedule for apportioning amounts retained by the county auditor to the distributions that would otherwise be made under this article; and

(4) formula and schedule for apportioning shortfalls among the distributions that would otherwise be made under this article.

Sec. 7. In the absence of an ordinance under section 6 of this chapter the:

(1) schedule on which distributions are made;

(2) amount of reserve that the county auditor shall retain to reimburse the state for any overpayment to the county under IC 6-11-12;

(3) schedule for apportioning amounts retained by the county auditor to the distributions that would otherwise be made under this article; and

(4) formula and schedule for apportioning shortfalls among the distributions that would otherwise be made under this article.

is the schedule, amount, and formula specified by the department under section 8 of this chapter or, in the absence of a policy under section 8 of this chapter, the county auditor.

Sec. 8. The department may establish the:

(1) schedule on which distributions are made;

(2) amount of reserve that a county auditor shall retain to reimburse the state for any overpayment to the county under IC 6-11-12;

(3) schedule for apportioning amounts retained by the county auditor to the distributions that would otherwise be made under this article; and

(4) formula and schedule for apportioning shortfalls among the distributions that would otherwise be made under this article.

Sec. 9. If the council adopts an ordinance under section 6 of this chapter, the department may establish under section 8 of this chapter a different standard than the standard adopted in the ordinance only as necessary to:

(1) protect taxpayers;

(2) protect the holders of bonds, leases, or other obligations;

(3) provide for uniform and just treatment of all political subdivisions in the county; or

(4) enforce a law.

Sec. 10. To the extent possible, the county auditor, council, and department shall provide for monthly distributions of a county's tax.

Sec. 11. An ordinance adopted under section 6 of this chapter or a policy established under section 3, 7, or 8 of this chapter may not adversely affect the payment or funding of any bonds, lease obligations, or other obligations (as defined in IC 5-1-3-1) for which:

(1) county adjusted gross income tax, county option income tax, or county economic development tax was pledged before 2007; or

(2) county income tax is pledged.

Sec. 12. A county auditor may not maintain a reserve to reimburse the state for any overpayment to the county under IC 6-11-12 that exceeds the probable net settlement to the state for taxes from which the reserve is retained.

Sec. 13. The county auditor shall retain from a county's distribution under IC 6-11-12 the amount of any settlement with the state required to eliminate overpayments to the county of taxes imposed under this article that are not covered by a reserve.

Chapter 14. Assignments of an Allocation

Sec. 1. The fiscal body of a political subdivision may by ordinance or resolution assign any part of the political subdivision's allocation, including a special allocation, of a county's distribution of taxes to another entity to carry out any governmental purpose, including any purpose for which county adjusted gross income taxes, county option income taxes, or county economic development taxes could have been pledged or assigned before 2007.

Sec. 2. An assignment of a political subdivision's share of:

(1) county adjusted income taxes;

(2) county option income taxes; or

(3) county economic development income taxes;

that would have applied to a year after 2006 if IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-3.5-7 had not been repealed, shall be treated as an assignment of the political subdivision's allocation of a county's distribution of taxes under this article.

Sec. 3. Except as provided in section 2 of this chapter, if the political subdivision assigns an allocation, the fiscal body shall certify the allocation to the county auditor and the department.

Sec. 4. If a political subdivision fails to pay or fund bonds, lease obligations, or other obligations (as defined in IC 5-1-3-1) for which a pledge of county adjusted gross income tax, county option income tax, or county economic development tax was made, the department may order the county auditor to retain from the amount that would otherwise be allocated to the political subdivision the amount necessary to fulfill the political subdivision's obligations. The amount retained under this section shall be treated as an assignment of the political subdivision's allocation to meet the political subdivision's obligations under the pledge.

Sec. 5. The county auditor shall retain an assigned amount and directly distribute it to the assignee as if it were a distribution to the political subdivision.

Sec. 6. An assignment under this chapter (including an assignment described in section 2 of this chapter) applies until the fiscal body of the political subdivision rescinds or reduces the amount of an assignment in a subsequent ordinance.

Sec. 7. A political subdivision (or the department in the case of section 4 of this chapter) may not reduce or rescind an assignment to the extent that the reduction or rescission will adversely affect the payment or funding of any bonds, lease obligations, or other obligations (as defined in IC 5-1-3-1) for which county adjusted gross income tax, county option income tax, or county economic development tax, or county income tax is pledged.

Sec. 8. An assignment of controlled taxes does not change the political subdivision's controlled tax limit or controlled levy limit.

Chapter 15. Special Allocations From Controlled Taxes

Sec. 1. This chapter applies only to the part of a tax that is a controlled tax imposed under IC 6-11-7.

Sec. 2. (a) This section applies to any county.

(b) In addition to any other property tax replacement credit or homestead credit granted under this article, the fiscal body of a political subdivision may adopt an ordinance to retain part of the amount that would otherwise be allocated to the political subdivision under IC 6-11-7 to replace revenue lost to a political subdivision as the result of granting additional property tax replacement credits under this section. The ordinance must specify the amount to be retained. The amount retained under this section is not an excluded tax.

(c) An additional property tax replacement credit is established in each county to which this section applies. The additional property tax replacement credit applies to the controlled property taxes imposed by the political subdivision adopting an ordinance under this section. The department shall set the percentage of property tax replacement credits so that the total amount of additional property tax replacement credits granted equals the amount of the tax retained under this section. The additional property tax replacement credit shall be uniformly applied to all taxpayer property tax liability for controlled property taxes imposed by the political subdivision.

(d) The county auditor shall retain the amount necessary for the additional property tax replacement credit as a special allocation. The retained amount shall be allocated to the political subdivision in proportion to the controlled property tax revenue lost as the result of granting additional property tax replacement credits under this section.

(e) Money received under this section shall be treated for all purposes as controlled property tax levies.

Chapter 16. Special Allocations From Optional Additional County Income Taxes

Sec. 1. This chapter applies only to the part of the tax imposed under this article that is imposed as an excluded tax under IC 6-11-8.

Sec. 2. The amount of taxes allocated to a tax area under:

(1) IC 36-7-13;

(2) IC 36-7-31;

(3) IC 36-7-31.3;

(4) IC 36-7-32; or

(5) another similar law;

shall be treated as a special allocation that reduces only the amount that would otherwise be allocated to a political subdivision under IC 6-11-8. The amount of the special allocation under this section may not be considered in determining the controlled tax limit of a political subdivision or in setting tax rates under this article.

Sec. 3. (a) This section applies to a county that adopted an ordinance under IC 6-3.5-7-23 (before its repeal) to provide for an additional property tax replacement credit to replace library property taxes in the county.

(b) The county fiscal body may adopt an ordinance to retain part of the amount that would otherwise be allocated to political subdivisions under IC 6-11-8 to replace revenue lost to a public library as the result of granting an additional property tax replacement credit against library property taxes imposed in the county. An ordinance adopted under IC 6-3.5-7-23 (before its repeal) shall be treated as an ordinance adopted under this section. The county fiscal body may not designate for library property tax replacement purposes tax revenue that is generated by a tax rate of more than fifteen-hundredths percent (0.15%).

(c) An additional property tax replacement credit is established in each county to which this section applies. The department shall set the percentage of the property tax replacement credit so that the total amount of additional property tax replacement credits granted equals the amount of the tax retained under this section. The additional property tax credit shall be applied in the same manner as an additional property tax credit under IC 6-3.5-7-23 (before its repeal) would have been applied.

(d) The county auditor shall allocate the amount retained under this section as a special allocation. The retained amount shall be allocated among public libraries as an additional property tax credit under IC 6-3.5-7-23 (before its repeal) would have been allocated.

(e) Money received under this section shall be treated for all purposes as property tax levies.

(f) A special allocation and property tax replacement credit under this section continues in effect until rescinded or reduced by ordinance adopted by the county fiscal body.

Sec. 4. (a) This section applies to a county that received a certified distribution of county adjusted gross income taxes in 2006.

(b) In addition to any other property tax replacement credit or homestead credit granted under this chapter, part of the amount that would otherwise be allocated to political subdivisions under IC 6-11-8 must be retained to replace revenue lost to a political subdivision as the result of granting additional property tax replacement credits under this section.

(c) The amount to be retained is the amount raised by the tax rate that is equal to the part of the county adjusted gross income tax rate that was imposed to raise the part of the county's 2006 certified distribution that was allocated to civil taxing units (as defined in IC 6-3.5-1.1-1 (repealed)) and school corporations as property tax replacement credits.

(d) An additional property tax replacement credit is established in each county to which this section applies. The department shall set the percentage of property tax replacement credits so that the total amount of additional property tax replacement credits granted equals the amount of the tax

retained under this section. The additional property tax replacement credit shall be uniformly applied to property tax liability on taxable property in the county as follows:

(1) To the property tax liability of each eligible civil taxing unit, as determined under IC 6-11-8-15, for controlled property taxes.

(2) To the property tax liability of each school corporation for its general fund, debt service fund, capital projects fund, transportation fund, and special education preschool fund.

(e) The county auditor shall retain the amount necessary for the additional property tax replacement credit as a special allocation. The retained amount shall be allocated among political subdivisions in proportion to the property tax revenue lost as the result of granting additional property tax replacement credits under this section.

(f) Money received under this section shall be treated for all purposes as property tax levies.

Sec. 5. (a) This section applies to a county that received a certified distribution of county adjusted gross income taxes in 2006.

(b) In addition to any other property tax replacement credit or homestead credit granted under this chapter, part of the amount that would otherwise be allocated to each eligible civil taxing unit, as determined under IC 6-11-8-15, under IC 6-11-8 must be retained to replace revenue lost to an eligible civil taxing unit as the result of granting additional property tax replacement credits under this section.

(c) The amount to be retained is the amount raised by the tax rate that is equal to the part of the county adjusted gross income tax rate that was imposed to raise the part of the county's 2006 certified distribution that was:

(1) allocated to eligible civil taxing units (as determined under IC 6-11-8-15) as certified shares; and

(2) used as additional property tax replacement credits.

(d) An additional property tax replacement credit is established in each county to which this section applies. The department shall set the percentage of property tax replacement credits so that the total amount of additional property tax replacement credits granted equals the amount of the tax retained under this section. The additional property tax replacement credit shall be uniformly applied to property tax liability on taxable property in the county of each eligible civil taxing unit, as determined under IC 6-11-8-15, for controlled property taxes.

(e) The county auditor shall retain the amount necessary for the additional property tax replacement credit as a special allocation. The retained amount shall be allocated among political subdivisions in proportion to the property tax revenue lost as the result of granting additional property tax replacement credits under this section.

(f) Money received under this section shall be treated for all purposes as property tax levies.

Sec. 6. (a) This section applies to any county.

(b) In addition to any other property tax replacement credit or homestead credit granted under this chapter, a council may adopt an ordinance to retain part of the amount that would otherwise be allocated to political subdivisions under IC 6-11-8 to replace revenue lost to a political subdivision as the result of granting additional property tax replacement credits under this section. The ordinance must specify the amount to be retained.

(c) An additional property tax replacement credit is established in each county to which this section applies. The department shall set the percentage of property tax replacement credits so that the total amount of additional property tax replacement credits granted equals the amount of the tax retained under this section. The additional property tax replacement credit shall be uniformly applied to all controlled property tax liability in the county.

(d) The county auditor shall retain the amount necessary for the additional property tax replacement credit as a special allocation. The retained amount shall be allocated among political subdivisions in proportion to the controlled property tax revenue lost as the result of granting additional property tax replacement credits under this section.

(e) Money received under this section shall be treated for all purposes as controlled property tax levies.

Sec. 7. (a) This section applies to any county.

(b) In addition to any other additional property tax replacements or homestead credits granted under this chapter, a council may adopt an ordinance to retain part of the amount that would otherwise be allocated to political subdivisions under IC 6-11-8 to replace revenue lost to a political subdivision as the result of granting an additional homestead credit under this section. The amount retained is not an excluded tax. An ordinance adopted in a county under IC 6-3.5-6-13 (repealed) before April 1, 2006, shall be treated as an ordinance adopted under this section if the ordinance would have been in effect in a year after 2006 if IC 6-3.5-6 had not been repealed.

(c) The maximum amount that may be retained under this section for an ensuing year is the greater of:

(1) eight percent (8%) of the sum of the property taxes imposed in the county in the year immediately preceding the ensuing year; or

(2) the amount that the county retained under IC 6-3.5-6-18(b) (repealed) in 2006 for the purposes of granting homestead credits.

The ordinance must specify the amount to be retained.

(d) An additional homestead credit is established in each county to which this section applies. The department shall set the percentage of the homestead credit so that the total amount of additional homestead credits granted equals the amount of the additional tax collected under this section. The additional homestead credit shall be applied as an increase in the homestead credit allowed in a taxing district under IC 6-1.1-20.9 for a year. The homestead credit shall be uniformly applied to all homesteads in the county.

(e) The county auditor shall retain the amount necessary for the homestead credit as a special allocation. The retained amount shall be allocated among political subdivisions in proportion to property tax revenue lost as the result of granting additional homestead credits under this section.

(f) Money received under this section shall be treated for all purposes as property tax levies.

Sec. 8. (a) This section applies to any county.

(b) In addition to any other property tax replacement credit or homestead credit granted under this article, the fiscal body of a political subdivision may adopt an ordinance to retain part of the amount that would otherwise be allocated to the political subdivision under IC 6-11-8 to replace revenue lost to a political subdivision as the result of granting additional property tax replacement credits under this section. The ordinance must specify the amount to be retained. The ordinance may be combined with an ordinance adopted under IC 6-11-15.

(c) An additional property tax replacement credit is established in each county to which this section applies. The additional property tax replacement credit applies to the controlled property taxes imposed by the political subdivision adopting an ordinance under this section. The department shall set the percentage of property tax replacement credits so that the total amount of additional property tax replacement credits granted equals the amount of the tax retained under this section. The additional property tax replacement credit shall be uniformly applied to all taxpayer property tax liability for controlled property taxes imposed by the political subdivision.

(d) The county auditor shall retain the amount necessary for the additional property tax replacement credit as a special allocation. The retained amount shall be allocated to the political subdivision in proportion to the controlled property tax revenue lost as the result of granting additional property tax replacement credits under this section.

(e) Money received under this section shall be treated for all purposes as controlled property tax levies.

Chapter 17. Actions Taken by Fiscal Body Other Than Council

Sec. 1. This chapter applies to an action that under this article may be taken by a fiscal body that is not acting as a member of the council.

Sec. 2. A fiscal body may take an action after publishing a notice under IC 5-3-1.

Sec. 3. As soon as practical after its adoption, a certified copy of an ordinance or resolution adopted by a fiscal body shall be distributed to the:

(1) county auditor;

(2) department; and

(3) department of state revenue.

Sec. 4. An ordinance or resolution adopted by a fiscal body may be amended or rescinded by adopting a subsequent ordinance or resolution.

Sec. 5. An ordinance or resolution adopted by a fiscal body before September 16 initially applies to the ensuing year. Unless waived by the department for good cause, an ordinance or resolution adopted after September 15 in a year initially applies to the year following the year of adoption by two (2) years.

Chapter 18. Bonds

Sec. 1. Notwithstanding any other law, if a political subdivision desires to issue obligations or enter into leases, payable wholly or in part by the tax, the obligations of the political subdivision or any lessor may be sold at public sale in accordance with IC 5-1-11 or at negotiated sale.

Sec. 2. A pledge of tax revenues under this article is enforceable in accordance with IC 5-1-14.

Sec. 3. With respect to obligations for which a pledge has been made under this article, the general assembly covenants with the county and the purchasers or owners of those obligations that this article will not be repealed or amended in any manner that will adversely affect the tax collected under this article as long as the principal of or interest on those obligations is unpaid.

SECTION 43. IC 6-12 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

ARTICLE 12. CONTROLLED TAX LIMIT

Chapter 1. Definitions

Sec. 1. The definitions in IC 6-1.1, IC 6-11, and IC 36-1-2 apply throughout this article.

Sec. 2. The definitions in this chapter apply throughout this article.

Sec. 3. "Adjustment" means an increase or a decrease of a:

(1) political subdivision's controlled tax limit or controlled levy limit, or both;

(2) political subdivision's property taxes or property tax rates;

(3) county's income tax or income tax rate; or

(4) political subdivision's allocation of income taxes; or

another action allowed under this article or IC 6-13.

Sec. 4. "Income tax" refers to a county income tax imposed under IC 6-13.

Sec. 5. "Indiana nonfarm personal income" means the estimate of total nonfarm personal income for Indiana in a year as computed by the federal Bureau of Economic Analysis using any actual data for the year and any estimated data determined to be appropriate by the federal Bureau of Economic Analysis.

Chapter 2. Excluded Taxes

Sec. 1. This article does not apply to the state or a political subdivision that does not have the power to impose a property tax.

Sec. 2. This article applies to the:

(1) amount of controlled income taxes that may be imposed in a county for allocation to a political subdivision; and

(2) controlled property taxes that may be imposed in a county by the political subdivision.

Sec. 3. The taxes described in section 2 of this chapter are controlled taxes subject to this article.

Sec. 4. This article does not apply to any part of:

(1) an income tax imposed in a county; or

(2) a property tax levy imposed by a political subdivision;

that is designated as an excluded tax under this chapter or IC 6-11.

Sec. 5. A controlled tax limit or controlled levy limit calculated under this article does not apply to an excluded tax.

Sec. 6. An excluded tax may not be considered in calculating a controlled tax limit, controlled levy limit, or annual controlled tax increase for any political subdivision.

Sec. 7. A property tax imposed for a debt service fund (as defined in IC 6-14-1-8) is an excluded tax.

Sec. 8. A fixed rate levy (as defined in IC 6-15-1-3) is an excluded tax.

Sec. 9. A property tax imposed for any of the following is an excluded tax:

(1) A referendum tax levy fund (IC 21-2-11.6).

(2) A school capital projects fund (IC 21-2-15).

(3) A special education preschool fund (IC 21-2-17).

(4) A racial balance fund (IC 6-1.1-19-10 (repealed) or IC 21-2-22).

(5) A cultural institution (IC 20-5-17.5-4 (repealed) or IC 36-10-13-8).

Sec. 10. A:

(1) tax imposed under IC 6-1.1-21.2-12; or

(2) special assessment imposed under IC 12-19-1.5-9;

for an allocation area is an excluded tax.

Sec. 11. A part of the income tax rate that is:

(1) imposed under IC 6-11-8; or

(2) otherwise designated by law as an excluded tax.

Chapter 3. Limitations on Controlled Taxes

Sec. 1. A:

(1) controlled tax limit; and

(2) controlled levy limit;

is established for each political subdivision.

Sec. 2. If the political subdivision is located in more than one (1) county, a controlled tax limit and controlled levy limit is established for each county in which the political subdivision is located. The controlled tax limit and the controlled levy limit in each county must reflect a proportionate share of the total amount of controlled taxes that may be imposed for the political subdivision. The apportionment must reflect the factors applicable to apportioning an adjustment under IC 6-12-5-5.

Sec. 3. A political subdivision's controlled tax limit specifies the maximum total amount of controlled taxes that may be imposed in a county in a year for the political subdivision. Subject to section 16 of this chapter, an action taken by a political subdivision, the council, or the department of local government is void to the extent that it allows controlled taxes to be imposed in a county in a year for a political subdivision that exceeds the political subdivision's controlled tax limit in the county for the year.

Sec. 4. A political subdivision's controlled levy limit does not limit the amount of controlled property taxes that a political subdivision may impose in a county in a year. However, the political subdivision's controlled levy limit specifies the maximum total amount of the political subdivision's controlled taxes that is eligible for:

(1) homestead credits under IC 6-1.1-20.9-2 and property tax replacement credits under IC 6-1.1-21-5; and

(2) distributions under IC 6-1.1-21 to replace revenue lost from the granting of homestead credits under IC 6-1.1-20.9-2 and property tax replacement credits under IC 6-1.1-21-5.

Sec. 5. If a county does not pay all of a political subdivision's total allowable tax increase amounts from income taxes the political subdivision may impose a controlled property tax to raise the amount that is not raised from income taxes. However, the additional amount of property taxes is not eligible for:

(1) homestead credits under IC 6-1.1-20.9-2 and property tax replacement credits under IC 6-1.1-21-5; and

(2) distributions under IC 6-1.1-21 to replace revenue lost from the granting of homestead credits under IC 6-1.1-20.9-2 and property tax replacement credits under IC 6-1.1-21-5.

Sec. 6. A political subdivision's allocation of income taxes under IC 6-11-7 is calculated based on the political subdivision's controlled tax limit.

Sec. 7. A political subdivision is not required to spend the entire amount of the political subdivision's controlled tax limit for a year or impose property taxes equal to the amount of the political subdivision's controlled levy limit.

Sec. 8. The use of controlled income taxes to increase the amount of money in:

(1) the political subdivision's rainy day fund; or

(2) another fund that the political subdivision is saving under a written plan approved by the department;

does not reduce the political subdivision's controlled tax limit or controlled levy limit.

Sec. 9. The use of controlled income taxes as property tax replacement credits, homestead credits, or other credits under IC 6-11-15 does not reduce the political subdivision's controlled tax limit or controlled levy limit.

Sec. 10. A temporary adjustment, as determined by the department, in the amount of controlled income taxes or controlled property taxes that are imposed for a political subdivision is disregarded for purposes of determining the political subdivision's controlled tax limit and controlled levy limit for the following year.

Sec. 11. The application of money from:

(1) the political subdivision's rainy day fund;

(2) an excess revenue fund account;

(3) excluded income taxes under IC 6-11-9 or IC 6-11-16; or

(4) another source;

to reduce the controlled income taxes or controlled property taxes imposed for the political subdivision in a year shall be treated as a temporary adjustment.

Sec. 12. For purposes of determining a political subdivision's controlled tax limit, controlled levy limit, and allocations of controlled income taxes, the assignment of controlled income taxes under IC 6-11-14 or controlled property taxes to another entity shall be treated as if the money were expended by the assigning political subdivision.

Sec. 13. A political subdivision is not prohibited by law from using controlled income taxes to pay expenditures for a purpose or from a fund when a law imposes a limit at or requires expenditure of a specified property tax levy or specified property tax rate. The law shall be construed to mean that the total of all controlled income taxes and controlled property taxes that may or must be expended is the amount that would be raised by the specified levy or rate.

Sec. 14. Regardless of whether a political subdivision's controlled tax limit or controlled levy limit would permit a higher tax or rate, the controlled taxes that may be imposed in a year for a particular fund or purpose may not exceed the maximum tax amount or rate specified by law, if any, for the fund or purpose.

Sec. 15. An unused part of a political subdivision's controlled tax limit or controlled levy limit that is attributable to a:

(1) family and children's fund;

(2) children's psychiatric residential treatment services fund;

(3) school general fund;

(4) school transportation fund; or

(5) school bus replacement fund;

may not be reallocated and applied to increase the controlled tax limit or controlled levy limit for any other fund or purpose.

Sec. 16. If, as the result of applying the property tax and income tax rates certified by the department, more controlled taxes are raised for a political subdivision than the maximum amount allowed under the political subdivision's controlled tax limit, the collection of the excess is valid. The excess shall be treated as excess revenue under IC 6-13-22.

Chapter 4. Computation of Controlled Tax and Levy Limits

Sec. 1. A political subdivision's controlled tax limit and controlled levy limit for a county are the controlled tax limit and controlled levy limit calculated by the department.

Sec. 2. The department shall annually calculate a political subdivision's controlled tax limit and controlled levy limit under this article.

Sec. 3. (a) This section does not apply to a school corporation.

(b) Subject to any adjustment allowed or required under this article, a political subdivision's controlled tax limit in a county for the ensuing year is equal to the amount determined under STEP SEVEN of the following formula:

STEP ONE: Determine the amount of controlled property taxes, as adjusted under IC 6-13-4-10, and controlled income taxes under IC 6-11-7 imposed in the county for the political subdivision for the immediately preceding year, as certified by the department and adjusted to eliminate the:

(A) effects of any temporary adjustments in the certified amount; and

(B) cumulative effects of any incorrect data, computations, and advertisements on the certified amount;

as determined by the department.

STEP TWO: Multiply the STEP ONE amount by the greater of the political subdivision's:

(A) tax growth quotient; or

(B) assessed value growth quotient;

for the ensuing year.

STEP THREE: Determine the lesser of one and fifteen hundredths (1.15) or the quotient of:

(A) the assessed value of all taxable property subject to the political subdivision's controlled property tax levy for the ensuing year; divided by

(B) the assessed value of all taxable property that is subject to the political subdivision's controlled property tax levy:

(i) for the ensuing year; and

(ii) that is contained in the geographic area that was subject to the political subdivision's controlled property tax levy in the preceding year.

STEP FOUR: Determine the greater of:

(A) the amount determined in STEP THREE; or

(B) one (1).

STEP FIVE: Multiply the amount determined in STEP TWO by the amount determined in STEP FOUR.

STEP SIX: Add the amount determined under STEP TWO and:

(A) the amount paid by the annexed area during the immediately preceding year for services that the political subdivision must provide to that area during the ensuing year as a result of the annexation, if the boundary change involved an annexation of an area to which the political subdivision provided services on a contractual basis in the immediately preceding year; or

(B) zero dollars ($0), if:

(i) the boundary change did not involve an annexation of an area to which the political subdivision provided services on a contractual basis in the immediately preceding year; or

(ii) the political subdivision will not continue to provide the services previously provided on a contractual basis in the ensuing year.

STEP SEVEN: Determine the greater of STEP FIVE or STEP SIX.

Sec. 4. A political subdivision's tax growth quotient for the ensuing year is the amount determined under STEP FOUR of the following formula:

STEP ONE: For each of the six (6) years preceding the year by two (2), divide the Indiana nonfarm personal income for the year by the Indiana nonfarm personal income for the year immediately preceding that 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).

Sec. 5. A political subdivision's assessed value growth quotient for the ensuing year is the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the three (3) years that most immediately precede the ensuing year and in which a statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the:

(A) sum of:

(i) the political subdivision's total assessed value of all taxable property; plus

(ii) the total assessed value of property tax deductions in the political subdivision under IC 6-1.1-12-41 or IC 6-1.1-12-42;

in the particular year; divided by

(B) the sum of:

(i) the political subdivision's total assessed value of all taxable property; plus

(ii) the total assessed value of property tax deductions in the political subdivision under IC 6-1.1-12-41 or IC 6-1.1-12-42;

in the year immediately preceding the particular year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

Sec. 6. (a) A separate controlled tax limit shall be computed for each of the following:

(1) The school corporation's school general fund and charter schools under IC 6-1.1-19-1.5.

(2) The school corporation's transportation fund under IC 21-2-11.5-3.

(3) The school corporation's school bus replacement fund under IC 21-2-11.5-3.

(b) A school corporation's controlled tax limit for the:

(1) school corporation's school general fund and charter schools under IC 6-1.1-19-1.5 is the maximum controlled tax that may be imposed in the county under IC 6-1.1-19-1.5;

(2) school corporation's transportation fund under IC 21-2-11.5-3 is the maximum controlled tax that may be imposed in the county under IC 21-2-11.5-3; and

(3) school corporation's school bus replacement fund under IC 21-2-11.5-3 is the maximum controlled tax that may be imposed in the county under IC 21-2-11.5-3.

Sec. 7. The department shall compute a controlled tax limit for each political subdivision that imposed a property tax in 2006 as if this chapter applied to the political subdivision in 2006. The controlled tax limit computed under this section shall be used in computing a political subdivision's:

(1) 2007 controlled tax limit under section 3 of this chapter; and

(2) annual controlled tax increase that is eligible to be funded from income taxes under IC 6-11.

Sec. 8. The 2006 controlled tax limit for a political subdivision, other than a school corporation, is the sum of the following:

(1) The remainder, without any adjustment under IC 6-13-4-10, of the total amount of property taxes certified by the department to be imposed in the county for the political subdivision in 2006:

(A) after deducting the property taxes attributable to excluded taxes, as certified by the department; and

(B) adjusted to eliminate the:

(i) cumulative effects of any temporary adjustments in the certified amount; and

(ii) cumulative effects of any incorrect data, computations, and advertisements on the certified amount;

as determined by the department.

(2) The amounts, if any, of county adjusted gross income taxes (before its repeal) that were applied by the taxing units in the county as property tax replacement credits to reduce the individual levies of the taxing units, as provided in IC 6-3.5-1.1 (before its repeal) in 2006.

(3) 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 (before its repeal) in 2006.

(4) The difference between:

(A) the amount determined in IC 6-1.1-18.5-3(e) STEP FOUR (before its repeal); 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) (before its repeal);

in 2006.

Sec. 9. A school corporation's 2006 controlled tax limit is the school corporation's controlled tax limit, as determined under section 6 of this chapter for 2006.

Sec. 10. Except as permitted to be increased under IC 6-12-5-6, a political subdivision's controlled levy limit for the ensuing year is the lesser of the following:

(1) The political subdivision's controlled levy limit for the immediately preceding year.

(2) The political subdivision's controlled tax limit for the ensuing year.

Sec. 11. The department shall compute a controlled levy limit for each political subdivision that imposed a property tax in 2006 as if this chapter applied to the political subdivision in 2006. The controlled levy limit computed under this section shall be used in computing a political subdivision's:

(1) 2007 controlled levy limit under section 10 of this chapter; and

(2) annual controlled tax increase that is eligible to be funded from income taxes under IC 6-11.

Sec. 12. A political subdivision's 2006 controlled levy limit is equal to the political subdivision's 2006 controlled tax limit.

Sec. 13. (a) This section applies to the determination of the controlled tax limit and controlled levy limit for a political subdivision:

(1) for which no certified taxes were imposed in the immediately preceding year; and

(2) that existed on March 1 of the preceding year.

(b) The controlled tax limit for a political subdivision described in subsection (a) in the ensuing year is the amount certified under subsection (c).

(c) The political subdivision shall refer its proposed budget for the ensuing year to the department before July 2 of the immediately preceding year. The department shall make the final determination concerning the political subdivision's budget, controlled levy limit, and controlled tax limit for the ensuing year before the immediately following August 2. The amount certified under this section is the political subdivision's controlled levy limit and controlled tax limit for the ensuing year.

Chapter 5. Adjustments

Sec. 1. The department may make an adjustment for any of the reasons specified in this article or IC 6-13. The department may increase a controlled levy limit only as permitted under section 6 of this chapter.

Sec. 2. Subject to this article, an adjustment under this article may be made on the department's own motion or after an appeal under IC 6-13. To the extent possible, the department shall make adjustments required by this article before certifying a political subdivision's controlled tax limit and controlled tax levy to the political subdivision under IC 6-13-5.

Sec. 3. An adjustment may be a:

(1) permanent adjustment that affects the computation of the political subdivision's controlled tax limit or controlled tax levy, or both, in all future years; or

(2) temporary adjustment that affects the computation of the political subdivision's controlled tax limit or controlled tax levy, or both, in only the years specified by the department;

as determined by the department. The department may make an

adjustment as a temporary adjustment only if the department determines that a law specifies that the adjustment is temporary, a permanent adjustment is not reasonably necessary to carry out the continuing governmental responsibilities of a political subdivision, or the conditions that justify the adjustment will not have a continuing effect on the political subdivision.

Sec. 4. If an adjustment is temporary, the department shall determine the years to which the adjustment applies.

Sec. 5. If a political subdivision is located in more than one (1) county and an adjustment is not directly related to the controlled taxes raised in a particular county, the department may apportion the adjustment among the counties in which the political subdivision is located in proportion to any of the following:

(1) Each county's share of the controlled taxes certified by the department for the political subdivision in the immediately preceding year, as determined without considering the adjustment.

(2) Each county's share of the assessed valuation of taxable property in the political subdivision, if an apportionment under subdivision (1) does not justly reflect the obligation of each county to provide funding for the political subdivision.

(3) The cost of the services provided to each county, if an apportionment under subdivisions (1) and (2) do not justly reflect the obligation of each county to provide funding for the political subdivision.

(4) Any other formula that justly reflects the obligation of each county to provide funding for the political subdivision, if an apportionment under subdivisions (1) through (3) do not justly reflect the obligation of each county to provide funding for the political subdivision.

Sec. 6. The department may increase a political subdivision's controlled levy limit only:

(1) as allowed under IC 6-11-4-13 concerning the establishment of a controlled tax limit and controlled levy limit for a new political subdivision;

(2) to make a temporary adjustment to fund a shortfall in property taxes or correct the cumulative effects of incorrect data, computations, or advertisements on property taxes in appropriate circumstances; or

(3) by the amount by which another political subdivision's controlled levy limit is reduced.

A political subdivision's controlled tax limit is increased by the amount and for the years that an increase is granted under this section.

Sec. 7. An adjustment under this article or IC 6-13 is subject to judicial review in the same manner as an appeal under IC 6-13.

Sec. 8. The department may make an adjustment if a political subdivision, in an appeal filed under IC 6-13, demonstrates that the political subdivision cannot carry out the governmental functions committed to it by law without the adjustment unless the political subdivision is given the authority for which it petitions. The amount of the adjustment is that which is reasonably necessary for the political subdivision to carry out its governmental functions committed to it by law.

Sec. 9. The department may make an adjustment if a political subdivision, in an appeal filed under IC 6-13, demonstrates that the adjustment is reasonably necessary to fund the operation of:

(1) a new facility opened by the political subdivision after December 31, 1972; or

(2) an existing facility that has not been used for at least three (3) years and that is being reopened by the political subdivision after July 1, 1988.

The adjustment, if approved, shall be an amount equal to the increase in costs resulting from the activity described in subdivision (1) or (2). In determining the amount of the increased costs, the department shall consider the costs to the political subdivision of complying with safety, health, space, heat, or lighting standards required by state or federal law or regulation and the other physical operation costs that in the opinion of the department justify an adjustment.

Sec. 10. The department may make an adjustment if a political subdivision, in an appeal filed under IC 6-13, demonstrates that the adjustment is reasonably necessary due to increased costs of the political subdivision resulting from:

(1) annexation;

(2) consolidation; or

(3) other extensions of governmental services by the political subdivision to additional geographic areas or persons.

The amount of the adjustment is the amount reasonably necessary to pay the increased costs.

Sec. 11. The department may make an adjustment to eliminate the effects of temporary adjustments made by the department.

Sec. 12. Subject to section 13 of this chapter, the department may make an adjustment to eliminate the cumulative effects of incorrect data, computations, or advertisements on controlled taxes. If the adjustment is made for an ensuing year after income tax rates have been certified, the department may order a distribution from the political subdivision's rainy day fund for the ensuing year to replace the amount lost in the ensuing year as a result of the incorrect data, computations, or advertisements.

Sec. 13. The primary method of funding a shortfall is to order a distribution from the rainy day fund to cover the shortfall. The amount used to cover the shortfall would be replaced through the imposition of an excluded income tax under IC 6-11-9 in the years determined by the department. However, for good cause, the department may make an adjustment to eliminate the effects of a shortfall of controlled taxes.

Sec. 14. The department may make a temporary adjustment to eliminate a political subdivision's excessive cash balances:

(1) that a political subdivision:

(A) has accumulated; or

(B) will accumulate in the ensuing year if an adjustment is not made under this section; and

(2) that are available for the purposes for which a controlled tax would otherwise be imposed.

Sec. 15. The department may not consider any of the following as excessive cash balances:

(1) Money in a political subdivision's rainy day fund under IC 36-1-8-5.1.

(2) Money that is being accumulated by a political subdivision in a rainy day fund or for another purpose approved by the department.

(3) Gifts, bequests, and grants from a private individual, the federal government, or another entity.

(4) Money designated in a law as miscellaneous revenue or otherwise designated by law or rule of the department as revenue that is not to be considered in determining a political subdivision's controlled tax limit.

(5) Excluded taxes.

(6) The proceeds of bonds or other obligations approved by the department.

Sec. 16. The department shall consider money in a political subdivision's excess revenue fund account under IC 6-13-22 as an excessive cash balance.

Sec. 17. The department may make an adjustment to reflect a reduction in the:

(1) political subdivision's services;

(2) political subdivision's cost of services; or

(3) geographic areas or persons served by the political subdivision.

Sec. 18. The department shall make the adjustments reasonably necessary to do the following:

(1) To pay the principal or interest on an obligation to meet the requirements of the family and children's fund for child services (as defined in IC 12-19-7-1) other than loans and bonds payable under IC 6-15-3-8.

(2) To pay the principal or interest on an obligation to meet the requirements of the children's psychiatric residential treatment services fund for children's psychiatric residential treatment services (as defined in IC 12-19-7.5-1) other than loans and bonds payable under IC 6-15-3-8.

Chapter 6. Additional Relief and Requirements

Sec. 1. If grounds exist for an adjustment under this article or IC 6-13, the department may do any of the following:

(1) Order a transfer of money from the political subdivision's rainy day fund under IC 36-1-8-5.1 to temporarily replace the amount of the shortfall.

(2) Order a transfer from the political subdivision's excess revenue fund account.

(3) Grant any necessary permission for a grant or grants from any funds of the state that are available for the purpose.

(4) Grant any necessary permission for a loan or loans from any funds of the state that are available for the purpose.

(5) Grant any necessary permission for the political subdivision to borrow funds from a source other than the state or any necessary assistance in obtaining the loan.

(6) Grant any necessary permission for an advance or advances of funds that will become payable to the political subdivision under any law providing for the payment of state funds to the political subdivision.

(7) Grant permission to the political subdivision to:

(A) cancel any unpaid obligation of the political subdivision's general fund to the political subdivision's cumulative building fund; or

(B) use, for general fund purposes, any unobligated balance in the political subdivision's cumulative building fund and the proceeds of any levy made or to be made by the political subdivision for the political subdivision's cumulative building fund.

(8) Grant permission, subject to any agreement with the bondholders, to use, for general fund purposes, any unobligated balance in any construction fund, including any unobligated proceeds of a sale of the political subdivision's general obligation bonds.

Sec. 2. (a) This section applies only to a school corporation.

(b) This section does not apply to an adjustment granted for any of the following:

(1) An adjustment for the transportation fund that is necessary because of a transportation operating cost increase of at least ten percent (10%) over the preceding year as a result of at least one (1) of the following:

(A) A fuel expense increase.

(B) A significant increase in the number of students enrolled in the school corporation who need transportation or a significant increase in the mileage traveled by the school corporation's buses due to students enrolled in the school corporation as compared to the previous year.

(C) A significant increase in the number of students enrolled in special education who need transportation or a significant increase in the mileage traveled by the school corporation's buses due to students enrolled in special education as compared to the previous year.

(D) Increased transportation operating costs due to compliance with a court ordered desegregation plan.

(E) The closure of a school building within the school corporation that results in a significant increase in the distances that students must be transported to attend school in another school building.

(2) An adjustment that is necessary because the amount of total revenue actually received or estimated to be received by the school corporation on behalf of students transferring to the school corporation is less than the total transfer tuition payments actually made or estimated to be made on behalf of students transferring from the school corporation.

(c) Every school corporation with respect to which the department authorizes an adjustment under IC 6-12-5-8 is, if the school corporation accepts the adjustment, prohibited throughout any year in which or for which the school corporation receives the adjustment from taking any of the prohibited actions described in this section without the prior approval of the department.

(d) The prohibited actions are any of the following:

(1) The acquisition of real estate for school building purposes, the construction of new school buildings, or the remodeling or renovation of existing school buildings.

(2) The making of a lease of real or personal property for an annual rental or the incurring of any other contractual obligation (except an employment contract for a new employee, which contract is to supersede the contract of a terminating employee) calling for an annual outlay by the school corporation in excess of ten thousand dollars ($10,000).

(3) The purchase of personal property for a consideration in excess of ten thousand dollars ($10,000).

(4) The adoption or advertising of a budget, tax levy, or tax rate for any year.

(e) If a school corporation subject to the controls described in this section takes any of the actions described in subsection (d)

without having obtained the prior approval of the department, the department may take appropriate steps to reduce or terminate any adjustment granted under IC 6-12-5 or any other relief granted under section 1 of this chapter.

Sec. 3. (a) In addition to, or instead of, any adjustment under IC 6-12-5, the department may permit a school corporation to make a referendum tax levy for the ensuing year under this section if a majority of the individuals voting in a referendum held in the school corporation approves the school corporation making a referendum tax levy.

(b) If the school corporation requests that the department take the steps necessary to cause a referendum to be conducted, the department shall proceed as follows:

(1) The question to be submitted to the voters in the referendum must read as follows:

"For the __ (insert number) year or years immediately following the holding of the referendum, shall the school corporation impose a property tax rate that does not exceed _____ (insert amount) cents ($0.__) (insert amount) on each one hundred dollars ($100) of assessed valuation and that is in addition to the school corporation's normal tax rate?".

The voters in a referendum may not approve a referendum tax levy that is imposed for more than seven (7) years. However, a referendum tax levy may be reimposed or extended under this section.

(2) The department shall act under IC 3-10-9-3 to certify the question to be voted on at the referendum to the county election board of each county in which any part of the school corporation lies. Each county clerk shall, upon receiving the question certified by the department, call a meeting of the county election board to make arrangements for the referendum. The referendum shall be held in the next primary or general election in which all the registered voters who are residents of the school corporation are entitled to vote after certification of the question under IC 3-10-9-3. However, if the referendum would be held at a primary or general election more than six (6) months after certification by the department, the referendum shall be held at a special election to be conducted not less than ninety (90) days after the question is certified to the circuit court clerk or clerks by the department. The school corporation shall notify each affected county election board of the date on which the school corporation desires that the referendum be held, and, if practicable, the referendum shall be held on the day specified by the school corporation. The referendum shall be held under the direction of the county election board, which shall take all steps necessary to carry out the referendum. If a primary election, general election, or special election is held during the sixty (60) days preceding or following the special election described in this subdivision and is held in an election district that includes some, but not all, of the school corporation, the county election board may also adopt orders to specify when the registration period for the elections cease and resume under IC 3-7-13-10. Not less than ten (10) days before the date on which the referendum is to be held, the county election board shall cause notice of the question that is to be voted upon at the referendum to be published in accordance with IC 5-3-1. If the referendum is not conducted at a primary or general election, the school corporation in which the referendum is to be held shall pay all the costs of holding the referendum.

(3) Each county election board shall cause the question certified to the circuit court clerk by the tax control board to be placed on the ballot in the form prescribed by IC 3-10-9-4. The county election board shall also cause an adequate supply of ballots and voting equipment to be delivered to the precinct election board of each precinct in which the referendum is to be held.

(4) The individuals entitled to vote in the referendum are all the registered voters resident in the school corporation.

(5) Each precinct election board shall count the affirmative votes and the negative votes cast in the referendum and shall certify those two (2) totals to the county election board of each county in which the referendum is held. The circuit court clerk of each county shall, immediately after the votes cast in the referendum have been counted, certify the results of the referendum to the department. If a majority of the individuals who voted in the referendum voted "yes" on the referendum question, the department, upon being notified of the result of the referendum, shall take prompt and appropriate steps to notify the school corporation that the appellant school corporation is authorized to collect, for the year that next follows the year in which the referendum is held, a referendum tax levy not greater than the amount approved in the referendum. The referendum tax levy may be imposed for the number of years approved by the voters following the referendum for the school corporation in which the referendum is held. If a majority of the individuals who voted in the referendum voted "yes" on the referendum question, the school corporation shall establish a referendum tax levy fund under IC 21-2-11.6. A school corporation's referendum tax levy 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 controlled levy limit or controlled tax limit under this article and IC 21-3-1.7. If a majority of the persons who voted in the referendum did not vote "yes" on the referendum question, the school corporation may not make any referendum levy for its general fund, and another referendum under this section may not be held for a period of one (1) year after the date of the referendum.

Sec. 4. With respect to any political subdivision to which a loan or an advance of state funds is made under section 1 of this chapter, or for which a loan or an advance is recommended under section 1 of this chapter for purposes other than for the purpose of remedying a shortfall under IC 6-13-17-3, the department may authorize an additional excluded property tax levy for a specified year solely for the purpose of enabling the political subdivision to repay the loan or advance. The department shall, in the department's order, specify the amount of the authorized additional excluded property tax levy and take appropriate steps to ensure that the amount of the proceeds of the additional excluded property tax levy that should be used for loan repayment purposes is not used for any other purpose. The

department may not exercise the power described in this section for a particular subdivision for more than one (1) year in any period of four (4) consecutive years.

SECTION 44. IC 6-13 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

ARTICLE 13. FIXING BUDGETS AND BUDGET REVENUES

Chapter 1. Definitions

Sec. 1. The definitions in IC 6-1.1, IC 6-11, and IC 36-1-2 apply throughout this article.

Sec. 2. The definitions in this chapter apply throughout this article.

Sec. 3. "Income tax" refers to a county income tax imposed under IC 6-11.

Chapter 2. Exempt Political Subdivisions

Sec. 1. This article applies to the imposition of controlled taxes and excluded taxes.

Sec. 2. This article applies to a political subdivision only if the political subdivision is granted the power by another law to impose a property tax, regardless of whether the political subdivision imposes a property tax.

Sec. 3. The budget of a political subdivision that:

(1) does not have the power to impose a property tax; and

(2) is a special taxing district, an authority, a board, or other entity formed to discharge governmental services or functions on behalf of or ordinarily attributable to a political subdivision that has the power to impose a property tax;

must be included, in the manner specified by the department, in the budget presented by a political subdivision with the power to impose a property tax.

Chapter 3. Local Government Tax Control Board

Sec. 1. As used in this chapter, "board" refers to the local government tax control board.

Sec. 2. The local government tax control board is established.

Sec. 3. Except in matters related to school construction, school bonds, and school leases, the board consists of seven (7) voting members and two (2) nonvoting members. In the case of matters related to school construction, bonds, and leases, the board consists of eleven (11) voting members and two (2) nonvoting members.

Sec. 4. Seven (7) voting members of the board shall be appointed as follows:

(1) One (1) member appointed by the state board of accounts.

(2) One (1) member appointed by the department.

(3) Five (5) members appointed by the governor. Three (3) of the members appointed by the governor must be citizens of Indiana who do not hold a political or an elective office in state or local government. The governor may seek the recommendation of representatives of the cities, towns, and counties before appointing two (2) members to the board. The governor may seek the recommendation of the state superintendent of public instruction with regard to one (1) of the governor's appointments.

Sec. 5. The additional members of the board for purposes of matters related to school construction, bonds, and leases shall be appointed as follows:

(1) One (1) member, appointed by the president pro tempore of the senate, who must be a business official of a school corporation and is not employed by a school corporation that is undergoing a construction project.

(2) One (1) member, appointed by the president pro tempore of the senate, who must be an engineer knowledgeable in the construction of school buildings but who is not actively employed by an engineering firm that is involved in a school building construction project or who is not otherwise a party to a contract for engineering services for a school building construction project.

(3) One (1) member, appointed by the speaker of the house of representatives, who must be an architect knowledgeable in the design of school buildings but who is not actively employed by an architectural firm that is involved in a school building construction project or who is not otherwise a party to a contract for architectural services for a school building construction project.

(4) One (1) member, appointed by the speaker of the house of representatives, who must be a financial adviser who is not actively employed as a financial adviser to a school corporation that is involved in a school building construction project or who is not otherwise a party to a contract for financial advisory services for a school building construction project.

Sec. 6. The nonvoting members of the board shall be appointed as follows:

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

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

Sec. 7. A member of the board serves at the will of the member's appointing authority.

Sec. 8. The board shall annually hold an organizational meeting. At this organizational meeting, the board shall elect a chairperson and a secretary from its membership. The board shall meet after each organizational meeting as often as its business requires.

Sec. 9. The department shall provide the board with rooms, staff, and secretarial assistance for its meetings.

Sec. 10. (a) Members of the board serve without compensation, except as provided in this section.

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

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

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

(c) Each member of the board who is a state employee is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 11. To carry out its responsibilities, the board has the power to:

(1) conduct hearings; and

(2) require any officer or member of a political subdivision to:

(A) appear before the board; or

(B) provide the board with any relevant records or books.

Sec. 12. If an officer or a member:

(1) fails to appear at a hearing of the board after having been given written notice from the board requiring attendance of the officer or member; or

(2) fails to produce for the board's use the books and records that the local government tax control board by written notice required the officer or member to produce;

the board may file an affidavit in the circuit court in the jurisdiction in which the officer or member may be found setting forth the facts of the failure.

Sec. 13. Upon the filing of an affidavit under section 12 of this chapter, the circuit court shall promptly issue a summons, and the sheriff of the county within which the circuit court is sitting shall serve the summons. The summons must command the officer or member to:

(1) appear before the board;

(2) provide information to the board; or

(3) produce books and records for the board's use;

as the case may be.

Sec. 14. Disobedience of the summons constitutes, and is punishable as, a contempt of the circuit court that issued the summons.

Sec. 15. All expenses incident to the filing of an affidavit under section 12 of this chapter and the issuance and service of a summons shall be charged to the officer or member against whom the summons is issued, unless the circuit court finds that the officer or member was acting in good faith and with reasonable cause. If the circuit court finds that the officer or member was acting in good faith and with reasonable cause or if an affidavit is filed and no summons is issued, the expenses shall be charged against the county in which the affidavit was filed and shall be allowed by the proper fiscal officers of that county.

Sec. 16. In considering an appeal, the board has the power to:

(1) conduct hearings; and

(2) require any officer or member of a political subdivision to:

(A) appear before the board; or

(B) provide the board with any relevant records or books.

Sec. 17. If an officer or a member:

(1) fails to appear at a hearing of the board after having been given written notice from the board requiring attendance of the officer or member; or

(2) fails to produce for the board's use the books and records that the board by written notice required the officer or member to produce;

the board may file an affidavit in the circuit court in the jurisdiction in which the officer or member may be found setting forth the facts of the failure.

Sec. 18. Upon the filing of an affidavit under section 17 of this chapter, the circuit court shall promptly issue a summons, and the sheriff of the county within which the circuit court is sitting shall serve the summons. The summons must command the officer or member to:

(1) appear before the board;

(2) provide information to the board; or

(3) produce books and records for the board's use;

as the case may be.

Sec. 19. Disobedience of the summons constitutes, and is punishable as, a contempt of the circuit court that issued the summons.

Sec. 20. All expenses incident to the filing of an affidavit under section 17 of this chapter and the issuance and service of a summons shall be charged to the officer or member against whom the summons is issued, unless the circuit court finds that the officer or member was acting in good faith and with reasonable cause. If the circuit court finds that the officer or member was acting in good faith and with reasonable cause or if an affidavit is filed and no summons is issued, the expenses shall be charged against the county in which the affidavit was filed and shall be allowed by the proper fiscal officers of that county.

Chapter 4. General Provisions

Sec. 1. Except as provided by this article, a political subdivision may not expend money that is not appropriated in conformity with this article.

Sec. 2. Except as corrected under IC 6-13-5 or adjusted under another provision of this article, the appropriation of any combination of:

(1) property taxes; or

(2) income taxes;

may not exceed the amount of income taxes and the property taxes advertised under IC 6-13-7.

Sec. 3. A:

(1) political subdivision's budget, property taxes, property tax rates, and allocations of income tax; and

(2) county's income tax and income tax rate;

for the ensuing year must be imposed or made at the amount or rate certified by the department, as adjusted after any appeal to the tax court as allowed by law. The excess is void.

Sec. 4. The excess of an expenditure that does not comply with section 1 of this chapter or the part of a tax that exceeds an amount or a rate permitted under sections 2 and 3 of this chapter is void.

Sec. 5. The department may prescribe the forms that must be used and the information to be included in forms used under this article. A form prescribed by the department must be approved by the state board of accounts.

Sec. 6. The department may delay the time in which any action required under this article must be completed for just cause. Notice of the delay must be given to the affected political subdivisions.

Sec. 7. A political subdivision shall:

(1) use the forms prescribed by the department and approved by the state board of accounts; and

(2) comply with any change in a deadline made under section 6 of this chapter.

Sec. 8. The department shall enforce this article, IC 6-11, IC 6-12, IC 6-14, IC 6-15, and all other laws governing budgets and the imposition of property taxes and income taxes by a political subdivision or the council.

Sec. 9. To the extent waived by the department, failure of the council, a political subdivision, the local government control board, or the department to complete any action within the time or time limits provided by this article or any other law does not invalidate any expenditure, tax, or tax rate. In exercising any waiver under this section, the department shall give taxpayers a reasonable opportunity to appeal budgets, taxes, and tax rates under this article.

Sec. 10. After 2006, for the purposes of certifying property taxes and property tax rates and applying homestead credits and property tax replacement credits:

(1) the department;

(2) county auditors; and

(3) county treasurers;

shall compute, apply, and bill property taxes, property tax rates, homestead credits, and property tax replacement credits rates in counties that received a certified distribution of county adjusted gross income tax in 2006 the same way that the department calculates and applies property taxes, property tax rates, homestead credits, and property tax replacement credits in other counties.

Sec. 11. The department may establish the method by which calculations for controlled tax limits, controlled levy limits, total allowable tax increase amounts, annual controlled tax increases, taxes, tax rates, allocations, distributions, property tax replacement credits, homestead credits, and other related matters are rounded whenever a law does not establish the method for rounding.

Chapter 5. Exchange of Revenue Data and Assumptions; Correction of Errors

Sec. 1. Each year before July 2 or a later date specified by the department, a county auditor shall certify to the department the property tax and assessed value information specified by the department.

Sec. 2. Each year before August 2, the department shall certify the following information for each political subdivision:

(1) The political subdivision's controlled tax limit for the current year and the political subdivision's controlled tax limit for the ensuing year, as determined before granting any appeals under IC 6-13-13 or making any corrections under this chapter.

(2) The political subdivision's controlled levy limit for the current year and the political subdivision's controlled levy limit for the ensuing year.

(3) The political subdivision's annual controlled tax increase for the ensuing year and the political subdivision's total allowable tax increase amount for all years after 2006.

(4) The total amount that must be deposited in the political subdivision's rainy day fund and an estimate of the excluded income tax that must be imposed in the ensuing year to raise the amount of the deposit and the part of the amount imposed for the rainy day fund that is attributable to replacing amounts expended to fund shortfalls, appeals, or eliminate the effects of incorrect data, computations, and advertisements.

(5) An estimate of the controlled income tax rate and excluded tax rate increases in the county that are necessary to the sum of the annual controlled tax increases and excluded tax increases that must be imposed in the ensuing year for all political subdivisions in the county.

(6) Any other information that the department determines is necessary for the political subdivision to adopt a budget, taxes, and tax rates.

Sec. 3. A separate calculation must be made under section 2 of this chapter for each county in which a political subdivision is located. The calculation for a county applies only to the part of the political subdivision that is located in the county.

Sec. 4. The department of state revenue and the budget agency shall assist the department in forecasting and computing income tax information.

Sec. 5. The information certified under section 2 of this chapter must be distributed to the:

(1) fiscal officer of the political subdivision; and

(2) county auditor of each county in which the political subdivision is located.

Sec. 6. The department shall provide with all tax rates, tax amounts, and other calculations distributed to a county auditor or political subdivision the supporting work papers needed to verify the accuracy and completeness of the tax rates, tax amounts, and other calculations.

Sec. 7. Each year before August 2, a county auditor shall send a certified statement, under the seal of the board of county commissioners, to the fiscal officer of each political subdivision of the county and the department. The statement must contain at least the following:

(1) Information concerning the assessed valuation in the political subdivision for the ensuing year.

(2) An estimate of the taxes to be distributed to the political subdivision during the last six (6) months of the current year.

(3) The current assessed valuation as shown on the abstract of charges.

(4) The average growth in assessed valuation in the political subdivision over the preceding three (3) years, excluding years in which a general reassessment occurs, determined according to procedures established by the department.

(5) The balance in the political subdivision's excess revenue fund account.

(6) Any other information at the disposal of the county auditor that might affect the assessed value used in the budget adoption process.

Sec. 8. The estimate of taxes to be distributed under section 7 of this chapter must be based on:

(1) the abstract of taxes levied and collectible for the current year, less any taxes previously distributed for the year; and

(2) any other information at the disposal of the county auditor that might affect the estimate.

Sec. 9. The fiscal officer of each political subdivision shall review and present the information received under this chapter to the proper officers of the political subdivision.

Sec. 10. If any information:

(1) certified under this chapter;

(2) distributed by the department to a council, county auditor, or political subdivision under any law;

(3) distributed by the county auditor to a council, a political subdivision, or the department under any law; or

(4) distributed by a political subdivision to a council, the county auditor, another political subdivision, or the department under any law;

relating to property taxes or income taxes contains an error, the authority distributing the information may correct the error by distributing an amended statement identifying the changes being made and the source of the error. If a fiscal officer discovers an error, the fiscal office shall notify the authority distributing the information to resolve the error.

Sec. 11. (a) The department may adjust taxes, tax rates, budgets, allocations, distributions, property tax replacement credits, homestead credits, controlled levy limits, and controlled tax limits, order a temporary distribution from a political subdivision's rainy day fund, or take any other action, as necessary, to eliminate the cumulative effect of incorrect data, computations, or advertisements if the proposed adjustment:

(1) either:

(A) is based on information first obtained by the political subdivision or council after the initial publication of a notice for a public hearing under this article or IC 6-11;

(B) results from:

(i) an erroneous computation or any other mathematical error; or

(ii) the use of erroneous data; or

(C) is based on an advertising error; and

(2) in the case of an adjustment affecting the amount of a tax or a tax rate, is published by the county auditor or a political subdivision according to a notice provided by the department.

(b) The department may take an action under this section:

(1) on its own motion after notifying the affected political subdivision and the county auditor for the affected county;

(2) after receiving notice of an error under section 10 of this chapter; or

(3) as part of an appeal under IC 6-13-13.

A request under this section may be combined with a request under IC 6-13-17 to make up a shortfall.

Sec. 12. Information, as corrected under this chapter, shall be used in setting budgets, controlled tax limits, controlled levy limits, taxes, tax rates, allocations, and distributions of controlled taxes and excluded taxes.

Sec. 13. The department shall under IC 6-11 compute tax amounts, tax rates, allocations, reserves, retention amounts, and distribution amounts to be used by councils, county auditors, and political subdivisions in administering the county income tax.

Sec. 14. The department shall establish a regular schedule throughout each year for the distribution to county auditors and the fiscal officer of each political subdivision of supplemental income tax forecasts and other information that will assist political subdivisions in the administration of budgets and taxes.

Chapter 6. Annual Hearing on County Income Taxes

Sec. 1. IC 6-11 applies to the adoption of income taxes in a county.

Sec. 2. Before August 7 of each year, the county auditor shall publish a notice under IC 5-3-1:

(1) explaining the county income taxes for the ensuing year;

(2) providing the public with notice of the date, time, and place that a public hearing will be held under IC 6-11-3-15 a resolution proposing an ordinance to the council;

(3) notice of any ordinance being proposed under IC 6-11-7-10; and

(4) an explanation of any pending actions before the council related to the adoption or change in an excluded income tax.

Sec. 3. Before August 21, the council shall conduct a public hearing in the county seat for the county. Each fiscal body that is a member of the council shall designate at least one (1) member of the council to attend the public hearing.

Sec. 4. Members of the council must be available at the public hearing to hear public testimony and to answer questions from the public about the county income tax.

Sec. 5. As soon as practicable after the public hearing, the county auditor shall prepare a written summary of the meeting and distribute the summary to the chair of each fiscal body that is a member of the council.

Chapter 7. Estimated Budget; Property Tax Levies; Public Notice

Sec. 1. The proper officers of a political subdivision shall formulate an estimated budget for the political subdivision that identifies the source of revenue for each proposed appropriation. However, state and federal government distributions for township assistance, unemployment relief, old age pensions, and other funds that may at any time be made available under The Economic Security Act or under any other federal act that provides for civil and public works projects need not be made part of the budget.

Sec. 2. The political subdivision shall give notice by publication to taxpayers of at least the following:

(1) The estimated budget for the ensuing year that identifies the sources of revenue for each fund that the political subdivision proposes to use to fund the budget.

(2) If any proposed ordinances are pending before the council in the county, a separate explanation of any changes the political subdivision will make in its budget or in the sources of revenue that the political subdivision proposes to use to fund its budget if the pending ordinances are adopted.

(3) The current and proposed property tax levies of each fund.

(4) The amount by which the political subdivision is seeking to increase the political subdivision's controlled tax limit or controlled levy limit, or both, by appeal under this article, the sources of revenue that the political subdivision intends to use in the ensuing year to fund the amount under appeal, and an explanation of the extent to which the appeal will permanently increase the amount and rate of taxes imposed in subsequent years.

(5) The explanation of the political subdivision's budget, taxes, and other revenues that are required by the department.

Sec. 3. A notice under this chapter may not include an amount for a cumulative fund sinking fund, or other fund with a fixed rate levy that is subject to IC 6-15 if notice is not given to the department in conformity with IC 6-15.

Sec. 4. A political subdivision that is located in more than one (1) county must publish a notice in each county. The notice published for a county must separately state the amount of taxes to be raised in the county for the estimated budget.

Sec. 5. In the notice, the political subdivision shall state the date, time, and place at which at least one (1) public hearing will be held on the political subdivision's estimated budget and proposed sources of revenues to fund the estimated budget.

Sec. 6. The notice must be published at least two (2) times before the hearing in accordance with IC 5-3-1. The first publication of the notice must occur at least ten (10) days before the date fixed for the public hearing.

Sec. 7. A political subdivision shall conduct each public hearing on the political subdivision's estimated budget and proposed taxes and other sources of revenue to fund the estimated budget at the date, time, and place specified in the notices published under this chapter. However, the political subdivision may move the location of a hearing to another room by posting a notice at the door where the published notice indicates the meeting will be held if:

(1) moving to another room is necessary to accommodate all persons who wish to attend the hearing or if circumstances make the original meeting place unuseable; and

(2) the site of the relocated hearing is easily accessible from the original meeting place.

Sec. 8. A political subdivision that is located in more than one (1) county may conduct a hearing required under this chapter in any county in which the political subdivision is located. The board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal) shall conduct the public hearing required under this chapter in accordance with the annual notice of meetings published under IC 13-21-5-2.

Sec. 9. Except to the extent waived by the department, if a fiscal body does not formulate and publish:

(1) its estimated budget; and

(2) the proposed revenue sources needed to fund the estimated budget;

as required under this chapter, the most recent annual appropriations and estimated budget revenue sources needed to fund the estimated budget shall be treated as the estimated appropriations and estimated budget revenue sources needed to fund the estimated budget formulated by the political subdivision for the ensuing budget year.

Chapter 8. Objection to Estimated Budget or Proposed Taxes After Hearing

Sec. 1. Ten (10) or more property taxpayers may object to:

(1) a political subdivision's budget; or

(2) the property taxes proposed to fund the budget;

or both, by filing an objection petition with the fiscal officer of the political subdivision not more than seven (7) days after the hearing.

Sec. 2. The objection petition must specifically identify the provisions of the:

(1) budget; and

(2) property taxes;

to which the taxpayers object.

Chapter 9. Adoption of Budget

Sec. 1. The fiscal body shall meet each year to adopt one (1) or more ordinances to fix:

(1) a budget for the political subdivision that identifies the sources of revenue for each appropriation; and

(2) the property tax levies and property tax rates necessary to fund the adopted budget; for the ensuing year.

Sec. 2. Subject to section 7 of this chapter, the fiscal body must comply with section 1 of this chapter before October 1.

Sec. 3. Except for Indianapolis, Marion County, or a second class city, the last public hearing specified in the notice under IC 6-13-7 must be completed at least ten (10) days before the fiscal body of the political subdivision takes final action under section 1 of this chapter. A public hearing, by any committee or by the entire fiscal body, for Indianapolis, Marion County, or a second class city may be held at any time after introduction of the budget.

Sec. 4. If a petition is filed under IC 6-13-8 before the date that the fiscal body takes final action on the budget, property tax levies, and property tax rates, the fiscal body of the political subdivision shall adopt with its budget a finding concerning the objections in the petition and any testimony presented at the adoption hearing.

Sec. 5. (a) After a political subdivision adopts one (1) or more ordinances under section 1 of this chapter, the political subdivision shall immediately file with the county auditor the information in subsection (b).

(b) The political subdivision must file the number of copies of the following specified by the department with the county auditor:

(1) The budget for the political subdivision that identifies the sources of revenue for each appropriation.

(2) The property tax levies and property tax rates that the political subdivision imposed to fund the adopted budget.

(3) Any findings adopted under section 4 of this chapter.

Sec. 6. Except to the extent waived by the department, if a fiscal body does not:

(1) fix a budget; and

(2) impose property tax levies and property tax rates;

as required under this chapter, budget, property tax levies, and property tax rates most recently adopted in accordance with law shall be treated as the budget, property tax levies, and property tax rates adopted by the political subdivision for the ensuing year.

Sec. 7. (a) This section applies only to a school corporation that is engaged in a pilot project to operate under a budget year that is not a year.

(b) Before February 1 of each year, the officers of the school corporation shall meet to fix the budget for the school corporation for the ensuing budget year, with notice given by the same officers. However, if a resolution adopted under subsection (d) is in effect, the officers shall meet to fix the budget for the ensuing budget year before the date specified in section 2 of this chapter.

(c) The school corporation shall file with the county auditor:

(1) a statement of the budget revenue resources needed to fund the budget adopted by the school corporation for the ensuing budget year;

(2) two (2) copies of the budget adopted by the school corporation for the ensuing budget year; and

(3) any written notification from the department under this article that specifies a proposed revision, reduction, or increase in the budget adopted by the school corporation for the ensuing budget year.

(d) The governing body of the school corporation may adopt a resolution to cease using a school year budget year and return to using a calendar year budget year. A resolution adopted under this subsection must be adopted after January 1 and before July 1. The school corporation's initial calendar year budget year following the adoption of a resolution under this subsection begins on January 1 of the year following the year the resolution is adopted. The first six (6) months of the initial calendar year budget for the school corporation must be consistent with the last six (6) months of the final school year budget fixed by the department of local government finance before the adoption of a resolution under this subsection.

(e) A resolution adopted under subsection (d) may be rescinded by a subsequent resolution adopted by the governing body. If the governing body of the school corporation rescinds a resolution adopted under subsection (d) and returns to a school year budget year, the school corporation's initial school year budget year begins on July 1 following the adoption of the rescinding resolution and ends on June 30 of the following year. The first six (6) months of the initial school year budget for the school corporation must be consistent with the last six (6) months of the last calendar year budget fixed by the department of local government finance before the adoption of a rescinding resolution under this subsection.

Chapter 10. Review of Budget of Political Subdivision With Unelected Board

Sec. 1. IC 36-3-6-9 and not section 2 of this chapter applies to political subdivisions listed in IC 36-3-6-9.

Sec. 2. This chapter applies only:

(1) to each governing body of a political subdivision that is not comprised of a majority of officials who are elected to serve on the governing body; and

(2) if:

(A) either:

(i) the proposed budget of the political subdivision (other than a public library) that is to be funded from property taxes and income tax for the ensuing year is more than five percent (5%) greater than the amount funded from property taxes and income tax (or in 2006, county adjusted gross income tax, county option income tax, or county economic development tax) in the current year; or

(ii) the proposed operating budget of a public library that is to be funded from property taxes and income tax for the ensuing year is more than five percent (5%) greater than the amount funded from property taxes and income tax (or in 2006 county adjusted gross income tax, county option income tax, or county economic development tax) in the current year;

(B) the political subdivision is not a school corporation; and

(C) the political subdivision is not listed in IC 36-3-6-9.

Sec. 3. The governing body of a political subdivision other than a public library shall submit its proposed budget, tax rates, and tax levies to the fiscal body determined under section 4 of this chapter. The governing body of a public library shall submit its proposed operating budget and tax rates and tax levies for the operating budget to the fiscal body determined under IC 36-12-1-14. The:

(1) proposed budget; and

(2) proposed tax levies needed to fund the proposed budget;

fixed by the governing body shall be submitted at least fourteen (14) days before the appropriate fiscal body is required to hold budget approval hearings under IC 6-13-7.

Sec. 4. (a) The appropriate fiscal body required to conduct a review under section 5 of this chapter for a political subdivision other than a public library is the fiscal body determined under this section.

(b) If:

(1) the assessed valuation of a political subdivision without a majority of elected officials on its governing board is entirely contained within a city or town; or

(2) the assessed valuation of the political subdivision is not entirely contained within a city or town but the political subdivision was originally established by the city or town;

the governing body shall submit the information required under section 2 of this chapter to the city or town fiscal body.

(c) If subsection (b) does not apply, the governing body of the political subdivision shall submit the information required under section 3 of this chapter to the county fiscal body in the county where the political subdivision has the most assessed valuation.

Sec. 5. The reviewing fiscal body shall review the information provided under section 3 of this chapter and adopt an ordinance fixing:

(1) a final budget; and

(2) property tax rates and property tax levies needed to fund the final budget;

for the political subdivision. The reviewing fiscal body may reduce or modify but not increase the proposed budget, property tax rates, and property tax levies needed to fund the proposed budget. However, the power to review information and adopt budgets, property tax rates, and property tax levies for a public library is limited to the operating budget of the public library.

Chapter 11. Notice of Adoption of Budget, Tax Rates, and Tax Levies

Sec. 1. Before October 1, the county auditor shall send a certified copy of:

(1) any income tax ordinance adopted in the year; and

(2) the results of the vote on the ordinance;

to the department and the department of state revenue by certified mail, if the county auditor has not previously sent the information under IC 6-11-3.

Sec. 2. In each year before October 15, the county auditor shall prepare a notice of the:

(1) property tax rates to be charged on each one hundred dollars ($100) of assessed valuation in each taxing district

in;

(2) income taxes to be imposed in the county in; and

(3) actions taken by the council in the year that affect income taxes in; the ensuing year. The notice shall also inform taxpayers that the department shall conduct a hearing under IC 6-13-14 on the budgets and taxes adopted in the county. To the extent reasonably determinable by the county auditor, the notice must indicate the extent to which a proposed tax or tax rate exceeds the limitations imposed by law on the income taxes and property taxes imposed for any political subdivision in the county. The notice must also inform the taxpayers of the manner in which they may initiate an appeal of a political subdivision's action. The county auditor shall post the notice at the county courthouse and publish it in two (2) newspapers that represent different political parties and have a general circulation in the county.

Sec. 3. The county auditor shall certify the:

(1) budgets adopted for political subdivisions in the county for the ensuing year;

(2) property tax levies, property tax rates, and income tax rate to be imposed in the county in the ensuing year; and

(3) any other information required by the department;

to the department for final review.

Sec. 4. To the extent reasonably determinable by the county auditor, the certification under section 3 of this chapter must indicate the extent to which a proposed tax or tax rate exceeds the limitations imposed by law on income taxes or property taxes imposed for any political subdivision in the county. The county auditor shall give notice to the affected political subdivision of any certification made under this section.

Chapter 12. Taxpayer Appeal of Final Budget Action

Sec. 1. Except as provided in this chapter, ten (10) or more property taxpayers in a political subdivision may initiate an appeal to the department from a final action on:

(1) any part of the budget adopted by the political subdivision; or

(2) one (1) or more property tax levies or property tax rates imposed by the political subdivision;

for the ensuing year by filing a statement of their objections with the county auditor.

Sec. 2. An objection under section 1 of this chapter must be filed not later than ten (10) days after the publication of the notice required under IC 6-13-11.

Sec. 3. The statement must specifically identify the provisions of the budget, property tax levies, property tax rates, income tax, or income tax rate to which the taxpayers object.

Sec. 4. The county auditor shall forward an objection filed under this chapter to the department.

Sec. 5. This section applies to provisions of the budget and tax levy of a political subdivision:

(1) against which an objection petition was filed under IC 6-13-8; and

(2) that were not changed by the fiscal body of the political subdivision after hearing the objections.

A group of ten (10) or more property taxpayers may not initiate an appeal under section 1 of this chapter if less than seventy-five percent (75%) of the objecting taxpayers under IC 6-13-8 are objecting taxpayers with respect to the objection statement filed under section 1 of this chapter.

Chapter 13. Political Subdivision Appeals

Sec. 1. A political subdivision or county auditor in any county where the political subdivision is located may use the procedures in this chapter to petition for an adjustment in any combination of the following:

(1) The amount of a political subdivision's controlled tax limit or controlled levy limit for the ensuing year.

(2) A political subdivision's property tax levy or property tax rate.

(3) The amount of income tax that will be allocated to a political subdivision in a county where the political subdivision is located.

(4) One (1) or more appropriations in a political subdivision's budget.

(5) The amount of money:

(A) from a political subdivision's rainy day fund to be used to fund expenditures in the ensuing year; or

(B) to be deposited in the political subdivision's rainy day fund in the ensuing year.

Sec. 2. A petitioner may:

(1) before October 1 of the year immediately preceding the ensuing year; or

(2) in the case of a request related to a:

(A) correction of computations or data under IC 6-13-5; or

(B) shortfall under IC 6-13-17;

that does not affect an income tax rate before January 1 of the ensuing year;

appeal to the department for an adjustment described in section 1 of this chapter.

Sec. 3. In the appeal, the petitioner must state:

(1) the nature of the requested adjustment; and

(2) the grounds that authorize the adjustment.

The petitioner must support these allegations by reasonably detailed statements of fact.

Sec. 4. A taxpayer that files a proper objection under:

(1) IC 6-13-12-1 concerning a budget, property tax rate, or property tax levy that is the subject of an appeal under this chapter is a party to the appeal under this chapter; and

(2) IC 6-13-12-2 concerning an income tax or income tax rate that is the subject of an appeal under this chapter, is a party to the appeal under this chapter.

Sec. 5. The department shall promptly deliver to the local government tax control board every appeal petition it receives under section 2 of this chapter and any materials it receives relevant to those appeals.

Sec. 6. The department shall give expedited treatment to matters related to the following:

(1) An income tax or income tax rate.

(2) An emergency request for relief by a school that requires a referendum under IC 6-12.

Sec. 7. Upon receipt of an appeal petition, the local government tax control board shall immediately proceed to the examination and consideration of the merits of the petitioner's appeal.

Sec. 8. After the examination, the local government tax control board shall make a recommendation to the department.

Sec. 9. The department, upon receiving a recommendation from the local government tax control board, shall enter an order:

(1) adopting;

(2) rejecting; or

(3) adopting in part and rejecting in part;

the recommendation of the local government tax control board.

Sec. 10. The department may make only the adjustments allowed by law. The department shall make the adjustments necessary to fund any appropriation that is required by law.

Sec. 11. The petitioner or any affected political subdivision may petition for judicial review of the final determination of the department under this chapter. The action must be taken to the tax court under IC 6-1.1-15 in the same manner that an action is taken to appeal a final determination of the Indiana board. The petition must be filed in the tax court not more than forty-five (45) days after the department enters its final order under this chapter.

Chapter 14. State Review of Budgets and Budget Revenue Resources

Sec. 1. The department shall review and certify under this chapter the:

(1) budget, property tax levies, and property tax rates of each political subdivision;

(2) income tax and income tax rate imposed by each county; and

(3) allocations of income taxes to each political subdivision;

for an ensuing year.

Sec. 2. The department shall revise or reduce budgets, taxes, tax rates, and allocations in order to limit:

(1) property tax rates, property tax levies, income taxes, and income tax rates to the maximum amount permitted by law, after making any adjustments allowed by law; and

(2) a budget to the amount of revenue, including cash balances and transfers from a rainy day fund, that is available in the ensuing year to the political subdivision to fund the budget.

Sec. 3. The department may increase:

(1) a part of a budget that is funded from controlled taxes; or

(2) the amount or rate of controlled taxes;

only as permitted under IC 6-12 and this article.

Sec. 4. The department shall make a revision or reduction in a political subdivision's budget only with respect to the total amounts budgeted for each office or department within each of the major budget classifications prescribed by the state board of accounts.

Sec. 5. Before the department reviews, revises, reduces, or increases:

(1) a political subdivision's budget, taxes, or tax rates;

(2) an income tax, an income tax rate, or an allocation of income taxes; or

(3) a controlled tax limit or controlled levy limit;

the department must hold a public hearing on the matters described in this section. The department shall hold the hearing in the affected county. The department may hear matters affecting more than one (1) political subdivision at the same public hearing.

Sec. 6. At least five (5) days before the date fixed for a public hearing, the department shall give notice of the date, time, and place of the hearing, the budgets, the taxes and tax rates, and the allocations to be considered at the hearing. If any matter is under appeal under IC 6-13-13, the department shall include a brief description of the matter in the notice. The department shall publish the notice in two (2) newspapers of general circulation published in the county. However, if only one (1) newspaper of general circulation is published in the county, the department of local government finance shall publish the notice in that newspaper.

Sec. 7. The department shall give the affected political subdivisions written notification specifying any revision, reduction, or increase the department proposes to make. If the adjustment is a reduction in a budget, tax, tax rate, or allocation, a political subdivision has one (1) week after the date the political subdivision receives the notice to provide a written response to the department's Indianapolis office specifying how to make the required reductions in the amount budgeted for each office or department. The department shall make reductions as specified in the political subdivision's response if the response is provided as required by this section and sufficiently specifies all necessary reductions.

Sec. 8. The department may not approve taxes, tax rates, or allocations for lease payments by a city, town, county, library, or school corporation if the lease payments are payable to a building corporation for use by the building corporation for debt service on bonds and if:

(1) no bonds of the building corporation are outstanding; or

(2) the building corporation has enough legally available funds on hand to redeem all outstanding bonds payable from the particular lease rental levy requested.

Sec. 9. The department shall certify its actions to:

(1) the county auditor of each affected county; and

(2) each affected political subdivision.

Sec. 10. The following may petition for judicial review of the final determination of the department under this chapter:

(1) The political subdivision.

(2) If an objection is filed under IC 6-13-12, a taxpayer who signed the objection.

(3) The county auditor.

(4) With respect to income tax rates, the department of state revenue.

The petition must be filed in the tax court not more than forty-five (45) days after the department certifies its action under section 9 of this chapter.

Sec. 11. Except as otherwise provided, the department is expressly directed to complete the duties assigned to it under this chapter not later than:

(1) November 1 immediately preceding the ensuing year for matters related to an income tax or income tax rate; and

(2) February 15 of the ensuing year for all other matters.

Sec. 12. The department shall annually review the budget of each school corporation before April 2 each year. The department shall give the school corporation written notification specifying any revision, reduction, or increase the department

proposes in the school corporation's budget. A public hearing is not required in connection with this review of the budget.

Chapter 15. Publication of Final Tax Rates

Sec. 1. After the county auditor has prepared the tax duplicate for a year under IC 6-1.1-22-3, the county treasurer shall publish the notice required under IC 6-1.1-22-4.

Sec. 2. As part of the notice required under IC 6-1.1-22-4, the county treasurer also shall:

(1) give notice of the total county income tax rate imposed in the county for the year; and

(2) separately identify the part of the total county income tax rate that is imposed:

(A) under IC 6-11-7;

(B) as an excluded tax rate under IC 6-11-8; and

(C) under each law authorizing an excluded tax rate in addition to the excluded rate imposed under IC 6-11-8;

and the general purpose of each of the separate rates.

Chapter 16. Supplemental Budgets

Sec. 1. If the fiscal body of a political subdivision desires to appropriate more money for a particular year than the amount prescribed in the budget for that year as finally determined under this article, the fiscal body shall give notice of its proposed additional appropriation. The notice must state the date, time, and place at which a public hearing will be held on the proposal. The notice shall be given once in accordance with IC 5-3-1-2(b).

Sec. 2. After the public hearing, the political subdivision shall file a certified copy of its final proposal and any other relevant information to the department.

Sec. 3. If the additional appropriation by the political subdivision is made from:

(1) a fund that receives distributions from the motor vehicle highway account established under IC 8-14-1-1 or the local road and street account established under IC 8-14-2-4;

(2) a fund that receives revenue from property taxes; or

(3) the cumulative bridge fund (and the appropriation meets the requirements under IC 8-16-3-3(c));

the political subdivision must report the additional appropriation to the department and comply with sections 4 through 8 of this chapter.

Sec. 4. (a) This section applies only to an appropriation to which section 3 of this chapter applies.

(b) When the department receives a certified copy of a proposal for an additional appropriation, the department shall determine whether sufficient funds are available or will be available for the proposal. The determination shall be made in writing and sent to the political subdivision not more than fifteen (15) days after the department receives the proposal.

Sec. 5. (a) This section applies only to an appropriation to which section 3 of this chapter applies.

(b) In making the determination under section 4 of this chapter, the department shall limit the amount of the additional appropriation to revenues available, or to be made available, that have not been previously appropriated.

Sec. 6. (a) This section applies only to an appropriation to which section 3 of this chapter applies.

(b) If the department disapproves an additional appropriation under section 4 of this chapter, the department shall specify the reason for its disapproval on the determination sent to the political subdivision.

Sec. 7. (a) This section applies only to an appropriation to which section 3 of this chapter applies.

(b) A political subdivision may request a reconsideration of a determination of the department under section 4 of this chapter by filing a written request for reconsideration. A request for reconsideration must:

(1) be filed with the department within fifteen (15) days of the receipt of the determination by the political subdivision; and

(2) state with reasonable specificity the reason for the request.

Sec. 8. (a) This section applies only to an appropriation described in section 3 of this chapter.

(b) The department of local government finance must act on a request for reconsideration within fifteen (15) days after receiving the request.

Chapter 17. Permissible Adjustments in Controlled Taxes and Excluded Taxes

Sec. 1. The department may make any adjustment in a budget, tax, tax rate, or income tax allocation allowed under this article or another law. The department shall make the adjustments required under IC 6-12. To the extent possible, the department shall make adjustments before the department certifies a political subdivision's controlled tax limit under IC 6-13-5.

Sec. 2. The department may at any time increase a debt service fund or require an assignment of a political subdivision's allocation of income taxes for the following reasons:

(1) To pay the principal or interest on a funding, refunding, or judgment funding obligation of a political subdivision.

(2) To pay the interest or principal on an outstanding obligation of the political subdivision.

(3) To pay a judgment rendered against the political subdivision.

(4) To pay lease rentals that have become an obligation of the political subdivision under IC 21-5-11 or IC 21-5-12.

Alternatively, the department may treat a required increase under this section in the same manner as a shortfall under this chapter.

Sec. 3. (a) The primary method of funding a shortfall is to order a distribution from the rainy day fund to cover the shortfall described in this section. The amount used to cover the shortfall would be replaced through the imposition of an excluded income tax under IC 6-11-9 in the years determined by the department. However, for good cause, the department may adjust taxes, tax rates, budgets, allocations, controlled levy limits, and controlled tax limits, order a temporary distribution from a political subdivision's rainy day fund, or take any other action, as necessary, to eliminate the cumulative effects of a shortfall in property tax revenue or income taxes that resulted from any of the following:

(1) Erroneous assessed valuation figures that were:

(A) provided to the political subdivision;

(B) used by the political subdivision in determining its total property tax rate; and

(C) discovered to be in error after the political subdivision's property tax levy resulting from that total rate was finally approved by the department.

(2) The payment of refunds in an appeal under IC 6-1.1 and IC 6-1.5.

(3) An error described in IC 6-13-5.

(4) The payment of refunds of income tax under IC 6-8.1.

(5) The sum of the:

(A) property taxes collected for a fund; and

(B) income tax allocations transferred to the political subdivision and available for the purposes of a fund;

are less than ninety-eight percent (98%) of the sum of the property tax levy and income tax allocations certified by the department for the fund.

(6) The granting of an appeal under IC 6-13-13 that authorizes an increase in controlled taxes after the date that department finally determines the income tax rate for a county in which the political subdivision is located.

(b) If the department determines that any of the conditions described in subsection (a) occurred, the department may do any combination of the following:

(1) Order a transfer of money from the political subdivision's rainy day fund to temporarily replace the amount of the shortfall.

(2) Order a transfer from the political subdivision's excess revenue fund account.

(3) Grant any necessary permission for a grant or grants from any funds of the state that are available for the purpose.

(4) Grant any necessary permission for a loan or loans from any funds of the state that are available for the purpose.

(5) Grant any necessary permission for the political subdivision to borrow funds from a source other than the state or assistance in obtaining the loan.

(6) Grant any necessary permission for an advance or advances of funds that will become payable to the political subdivision under any law providing for the payment of state funds to the political subdivision.

(7) Grant permission to the political subdivision to:

(A) cancel any unpaid obligation of the political subdivision's general fund to the political subdivision's cumulative building fund; or

(B) use, for general fund purposes, any unobligated balance in the political subdivision's cumulative building fund and the proceeds of any levy made or to be made by the political subdivision for the political subdivision's cumulative building fund.

(8) Grant permission, subject to any agreement with the bondholders, to use, for general fund purposes, any unobligated balance in any construction fund, including any unobligated proceeds of a sale of the political subdivision's general obligation bonds.

(c) The department may take an action under this section as part of an appeal under IC 6-13-13. A request may be combined with a request under IC 6-13-5 to eliminate the effects of incorrect data, computations, or advertisements.

(d) If the department of local government finance authorizes an increase to make up a shortfall, the department shall take appropriate steps to ensure that the proceeds are first used to repay any loan made to the political subdivision for the purpose of meeting its current expenses.

(e) For purposes of fixing its budget and for purposes of the controlled tax limits, a political subdivision may not treat money received to eliminate a shortfall as part of its controlled taxes for the year unless the department determines that inclusion of the amount is necessary to eliminate the cumulative effects of the shortfall.

Chapter 18. Miscellaneous Budget Procedures

Sec. 1. The fiscal officer of a political subdivision may appropriate funds received from an insurance company if the funds are:

(1) received as a result of damage to property of the political subdivision;

(2) appropriated for the purpose of repairing or replacing the damaged property; and

(3) in fact expended to repair or replace the property within the twelve (12) month period after they are received.

Sec. 2. Notwithstanding the other provisions of this article, the proper officer or officers of a political subdivision may:

(1) reappropriate money recovered from erroneous or excessive disbursements if the error and recovery are made within the current budget year; or

(2) refund, without appropriation, money erroneously received.

Chapter 19. Transfer of Appropriated Amount to Another Purpose

Sec. 1. (a) Except as otherwise provided by law, the proper officers of a political subdivision may transfer money from one (1) major budget classification to another within a department or office if:

(1) the officers determine that the transfer is necessary;

(2) the transfer does not require the expenditure of more money than the total amount set out in the budget as finally determined under this article; and

(3) the transfer is made at a regular public meeting and by ordinance or resolution.

(b) A transfer may be made under this section without notice and without the approval of the department.

Sec. 2. Money raised and budgeted for volunteer firefighting contracts and purposes, if appropriated and spent by that political subdivision, shall be appropriated and spent for those purposes only.

Sec. 3. (a) Money may not be transferred from:

(1) a family and children's fund;

(2) a children's psychiatric residential treatment services fund; or

(3) a township assistance fund or account;

to any other fund or purpose.

(b) An unused part of a county's controlled tax limit or controlled levy limit attributable to:

(1) a family and children's fund; or

(2) a children's psychiatric residential treatment services fund; or

(3) a township assistance fund or account;

may not be used for any other fund or purpose.

Chapter 20. Administration of State and Federal Funds

Sec. 1. Except as provided in this chapter, a political subdivision may not expend funds that the political subdivision has received from the state unless:

(1) the funds have been included in a budget estimate by the political subdivision; and

(2) the funds have been appropriated by the political subdivision's fiscal body in the amounts and for the specific purposes for which they may be used.

Sec. 2. The following funds received by a political subdivision from the state or the federal government may be expended without complying with section 1 of this chapter:

(1) Township assistance.

(2) Unemployment relief.

(3) Old age pensions.

(4) Other funds that may at any time be made available under The Economic Security Act or under any other federal act that provides for civil and public works projects.

Sec. 3. A political subdivision may use state funds in the event of a casualty, an accident, or an extraordinary emergency by appropriating the state funds in a supplemental budget under IC 6-13-16.

Chapter 21. Mandatory Appropriations

Sec. 1. A county fiscal body shall appropriate funds for the operation of the county highway department for the entire ensuing budget year for which annual appropriations are being made. The appropriation shall be for an amount not less than the greater of:

(1) seventy-five percent (75%) of the total estimated to be in the highway fund in the ensuing budget year; or

(2) ninety-nine percent (99%) of the total estimated to be in the highway fund in the ensuing budget year if the county commissioners file with the county council a four (4) year plan for the construction and improvement of county highways and a one (1) year plan for the maintenance and repair of the county highways.

Sec. 2. 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 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.

Sec. 3. Each council and political subdivision shall fix tax rates and make appropriations for the appropriate fund that are sufficient to provide money for each purpose described in the following:

(1) IC 6-12-5-24.

(2) IC 6-14-3-7.

Sec. 4. Regardless of whether an adjustment is made in any political subdivision's controlled tax limit, each council and political subdivision shall fix tax rates and make appropriations for the appropriate fund that are sufficient for each the following:

(1) Medical assistance under IC 12-13-8-5.

(2) Hospital care for the indigent under IC 12-16-14-3.

(3) Community mental health centers under IC 12-29-2-2.

(4) Children with special health care needs under IC 16-35-3-3.

(5) Any other law requiring the imposition of a tax for a particular purpose or fund.

Chapter 22. Excess Revenue Account

Sec. 1. As used in this chapter, "account" refers to a political subdivision's account in a fund.

Sec. 2. As used in this chapter, "excess revenue" refers to revenue described in section 4 or 5 of this chapter.

Sec. 3. As used in this chapter, "fund" refers to an excess revenue fund established in a county under this chapter.

Sec. 4. Imposition and collection of the part of a property tax actually collected by a political subdivision for a year that exceeds the amount of property taxes certified for the year is valid and may not be contested on the grounds that the amount exceeds the political subdivision's:

(1) controlled tax limit;

(2) certified tax; or

(3) tax limits imposed by any other law;

for the applicable year.

Sec. 5. Imposition and collection of the part of an income tax actually collected by a county for a year that exceeds the amount of income taxes certified for the year is valid and may not be contested on the grounds that the amount exceeds:

(1) a political subdivision's:

(A) controlled tax limit;

(B) certified tax; or

(C) tax limits imposed by any other law;

for the applicable year; or

(2) the county's:

(A) certified tax; or

(B) tax limits imposed by any other law.

Sec. 6. An excess revenue fund is established in each county for the deposit of excess revenue collected in a year.

Sec. 7. An account for each political subdivision in the county is established in the fund.

Sec. 8. The county treasurer shall administer the fund. The county treasurer shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund. The interest shall be allocated among the accounts in the fund on the schedule determined by the department in proportion to the balance in the account on the date specified by the department.

Sec. 9. Money in the fund or an account in the fund at the end of a year does not revert to the general fund of any political subdivision but remains in the fund to be used exclusively for the purposes of fund.

Sec. 10. The county treasurer shall deposit the excess revenue collected in the year in the fund.

Sec. 11. The county treasurer shall deposit in a political subdivision's account:

(1) excess revenue from property taxes imposed by the political subdivision; and

(2) a proportionate share of the excess revenue collected from income taxes;

if the sum of the excess property taxes and excess income taxes exceeds the total amount of property taxes and income tax allocations certified for the political subdivision for the year. However, the department may establish procedures for retaining a small amount of excess revenue in a general account for the period determined by the department.

Sec. 12. A political subdivision shall:

(1) include the amount in the political subdivision's account that exceeds one hundred dollars ($100) in the political subdivision's budget fixed under this article; and

(2) reduce its property tax levies for the ensuing year by the amount included in the political subdivision's budget under subdivision (1).

Sec. 13. Except as provided by section 15 of this chapter, a political subdivision may not spend money in its account until the expenditure of the money has been included in a budget that has been approved by the department.

Sec. 14. A transfer of money from the political subdivision's revenue excess fund account that reduces the political subdivision's allocation of controlled income taxes or the political subdivision's levy of controlled property taxes shall be treated as a temporary adjustment. The amount of the transfer shall be treated as controlled taxes for the purposes of computing the political subdivision's controlled tax limits and controlled levy limits for the ensuing year.

Sec. 15. For the purposes of determining excise tax distributions to a political subdivision and other distributions that are computed on the property tax levies imposed by the political subdivision, the department shall certify the amount of the distribution from an account that qualifies as property taxes.

Sec. 16. Upon the receipt of a political subdivision's certified budget, the county auditor shall transfer to the political subdivision the amount of money in the political subdivision's account that the department has certified for use by the political subdivision.

Sec. 17. A political subdivision may transfer money from its account to any fund to reimburse the fund for amounts withheld from the political subdivision as a result of general property tax refunds paid under IC 6-1.1-26 or general income tax refunds paid under IC 6-8.1.

Sec. 18. Money distributed from an account may be used for any lawful purpose for which controlled taxes may be used.

SECTION 45. IC 6-14 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

ARTICLE 14. APPROVAL OF BONDED INDEBTEDNESS AND LEASE OBLIGATIONS

Chapter 1. Definitions

Sec. 1. The definitions in IC 6-1.1, IC 6-11, and IC 36-1-2 apply throughout this article.

Sec. 2. The definitions in this chapter apply throughout this article.

Sec. 3. "Bonds" refers to bonds or any other evidence of indebtedness (other than exempt obligations) payable from or guaranteed by property taxes or income taxes.

Sec. 4. "Controlled debt service" refers to debt service for bonds for a controlled project.

Sec. 5. "Controlled lease rentals" refers to payments for a lease of a controlled project.

Sec. 6. "Controlled project" refers to a controlled project described in IC 6-14-7-3.

Sec. 7. "Debt service" means principal of and interest on bonds. The term includes the repayment of an advance from the common school fund under IC 21-1-5-3.

Sec. 8. (a) "Debt service fund" means any of the following funds for which a property tax is imposed:

(1) A fund established under IC 21-2-4-2 or IC 36-9-15-10.

(2) A fund primarily established to pay or fund loans or bonds authorized under IC 12-19-5-11, IC 12-19-7-19, or IC 12-19-7.5-18.

(3) A fund described in subsection (b).

(4) A fund established to pay or fund bond indebtedness or lease rentals with a term of at least five (5) years.

(5) Any other fund established by a political subdivision that is similar to a fund described in subdivisions (1) through (4), as determined by the department.

(b) The term includes the following funds:

Department Fund Control Number	Department Name for Fund
0180	Debt Service
0181	Debt Payment
0182	Bond #2
0183	Bond #3
0184	Bond #4
0185	Bond #5
0186	School Pension Debt
0280	Bond-General Sinking
0281	Loan and Interest Payment
0282	Obligation Loan
0283	Lease Rental Payment
0580	Court House Lease Rental
0581	Court House Bond
0780	Bridge Bond and Interest
0781	Thoroughfare Bond
0783	Street Bond
0880	Hospital Lease Rental
0881	Hospital Bond
0882	Medical Center Bond
0883	Township Assistance Bond
0884	County Welfare Bond
0885	Township Assistance Loan
0886	County Welfare Loan
0889	Cumulative Hospital
0980	Levee Bond
0982	Flood Control Bond
0986	Storm Sewer Bond
1080	County Home Bond
1081	Equipment Bond
1180	Fire and Police Equipment Debt
1181	Fire Building Debt
1182	Fire Equipment Debt
1183	Fire Equipment Bond
1184	Police Equipment Debt
1185	Jail Lease Rental
1186	Jail Bond
1187	Emergency Fire Loan
1280	School Bus Debt
1281	School Bus Bond
1380	Park Bond
1381	Park Bond #2

2180 Airport Bond
2181 Airport Sinking
2182 Cemetery Bond
2380 Capital Improvement Bond
2480 Urban Renewal Bond
2481 Community Development Bond
2482 Redevelopment Bond
2483 Redevelopment Bond #2
2484 Industrial Loan
6280 Sewer Bond
6380 Transportation Bond
8080 Special Transportation Debt
8180 Special Airport Debt Service
8280 Special Sanitary Debt Service
8281 Special Sanitary User Charge Debt
8282 Special Sanitation (Liquid) Debt
8283 Solid Waste District Debt Service
8380 Special Flood Control Debt Service
8382 Special Flood Control Debt Service #2
8383 Water District Debt Service
8480 Special Redevelopment Debt
8481 Special Redevelopment Dist Bond
8684 Special Fire Debt
8780 Special Health/Hospital Debt
8880 Indianapolis Consolidated City Redevelopment Debt
8881 Indianapolis Consolidated City Debt Service
8980 Special Consolidated County Flood Control Debt
8981 Special Consolidated County Park Debt
8982 Special Consolidated County Metropolitan Thoroughfare Debt
8984 Special Consolidated County Metropolitan Emergency Comm Agency Debt

Sec. 9. "Exempt obligation" refers to bonds or leases designated as an exempt obligation under IC 6-14-2.

Sec. 10. "Funding bonds" means bonds issued to retire the principal and accrued interest of any bonds of a political subdivision that are outstanding.

Sec. 11. "Income taxes" refers to county income taxes imposed under IC 6-11.

Sec. 12. "Leases" refers to leases payable from or guaranteed by property taxes or income taxes.

Chapter 2. Exemptions

Sec. 1. IC 6-14-5, IC 6-14-6, and IC 6-14-7 do not apply to debt or leases designated as an exempt obligation under this chapter.

Sec. 2. Notes representing loans under IC 36-2-6-18, IC 36-3-4-22, IC 36-4-6-20, or IC 36-5-2-11 that are payable within five (5) years after issuance are exempt obligations.

Sec. 3. Warrants representing temporary loans that are payable out of taxes imposed and in the course of collection are exempt obligations.

Sec. 4. A lease that either:
(1) has a term of less than five (5) years; or
(2) is not a controlled lease;
is an exempt obligation.

Sec. 5. Obligations:
(1) that are not payable from property taxes or income taxes; and
(2) for which a guarantee of payment from property taxes or income taxes in the event that payment from another source of revenue is insufficient has not been made;
are exempt obligations.

Sec. 6. Bonds in a total amount that does not exceed five thousand dollars ($5,000) are exempt obligations.

Sec. 7. Funding bonds, refunding bonds, and judgment funding bonds are exempt obligations.

Chapter 3. General Provisions

Sec. 1. Whenever the proper officers of a political subdivision decide to issue bonds payable from property taxes or county income taxes to finance a public improvement, they shall adopt an ordinance or a resolution that sets forth their determination to issue the bonds.

Sec. 2. A political subdivision may, subject to the limitations provided by law, issue any bonds, notes, or warrants that it considers necessary.

Sec. 3. A political subdivision may issue or enter into obligations under any law that requires or permits the imposition of:
(1) property taxes; or
(2) income taxes;
to pay debt service or lease rentals without pledging to impose property taxes or income taxes, or both, if necessary, to pay the debt service or lease rentals.

Sec. 4. If the proper officers of a political subdivision determine to use revenues other than property taxes or income taxes to pay obligations without pledging to impose property taxes or income taxes for that purpose, provisions of any law relating to property taxes or income taxes do not apply to the issuance of or entering into the obligations.

Sec. 5. A property tax levy for a debt service fund is not:
(1) subject to the controlled tax limits or controlled levy limits imposed under IC 6-12; or
(2) included in computing a political subdivision's controlled tax limit or controlled levy limit for a year.

Sec. 6. A property tax levy for a debt service fund shall be treated as an excluded tax. Income taxes used for the purposes of a debt service fund are excluded taxes only to the extent that IC 6-11 designates the income taxes as excluded taxes.

Sec. 7. A political subdivision shall fix property tax rates from the appropriate debt services fund that are sufficient to provide funds for the following purposes:
(1) To pay the principal or interest on a funding, refunding, or judgment funding obligation of the political subdivision.
(2) To pay the principal or interest on an outstanding obligation for which property taxes of the political subdivision were pledged.
(3) To pay the principal or interest on:
(A) an obligation issued by the political subdivision to meet an emergency that results from a flood, a fire, a pestilence, a war, or any other major disaster; or
(B) a note issued under IC 36-2-6-18, IC 36-3-4-22, IC 36-4-6-20, IC 36-5-2-11, or IC 36-9-4 to enable a city, town, or county to acquire necessary equipment or facilities.

(4) To pay the principal or interest on an obligation issued in the manner provided in this article, IC 6-1.1-20-3 (before its repeal), or IC 6-1.1-20-3.1 through IC 6-1.1-20-3.2 (before their repeal).

(5) To pay a judgment rendered against the political subdivision.

(6) To pay the principal or interest on an obligation to meet the requirements of the family and children's fund for child services (as defined in IC 12-19-7-1).

(7) To pay the principal or interest on an obligation to meet the requirements of the children's psychiatric residential treatment services fund for children's psychiatric residential treatment services (as defined in IC 12-19-7.5-1).

Sec. 8. The department and a county income tax council may not reduce a political subdivision's allocation of county income taxes below the amount of the political subdivision's allocation of county income taxes pledged by the political subdivision. A county income tax council and the department are not required to increase a political subdivision's allocation of county income taxes to eliminate the effects on the political subdivision's budget resulting from the pledge of the political subdivision's allocation to the funding or payment of an obligation.

Sec. 9. The collection of money in excess of the amount certified for a debt service fund is valid. The excess is subject to treatment as excess revenue under IC 6-13-22.

Sec. 10. The department shall develop forms and procedures to expedite the review of bonded indebtedness and lease rental obligations under this article. In developing forms and procedures, the department must seek to avoid unnecessary delays that will increase the borrowing costs or construction costs of projects and purposes that a political subdivision would otherwise have the power to carry out.

Chapter 4. Construction

Sec. 1. Except as provided in section 2 of this chapter, a political subdivision may not advertise for or receive bids for the construction of an improvement until the expiration of the later of:

(1) the period within which taxpayers may file a petition for review of or a remonstrance against the proposed issue; or

(2) the period during which a petition for review of the proposed issue is pending before the department.

Sec. 2. (a) Whenever a petition for review of a proposed issue is pending before the department, the department may order the political subdivision to advertise for and receive bids for the construction of a public improvement.

(b) When the department issues an order under subsection (a):

(1) the political subdivision shall file a bid report with the department within five (5) days after the bids are received; and

(2) the department shall render a final decision on the proposed issue within fifteen (15) days after it receives the bid report.

(c) Notwithstanding the provisions of this section, a political subdivision may not enter into a contract for the construction of a public improvement while a petition for review of the bond issue that is to finance the improvement is pending before the department.

Sec. 3. The department in determining whether to approve or disapprove a school building construction project shall consider the following factors:

(1) The current and proposed square footage of school building space per student.

(2) Enrollment patterns within the school corporation.

(3) The age and condition of the current school facilities.

(4) The cost per square foot of the school building construction project.

(5) The effect that completion of the school building construction project would have on the school corporation's tax rate.

(6) Any other pertinent matter.

Sec. 4. The department in determining whether to approve or disapprove a school building construction project may not approve or recommend the approval of a project that is financed through the issuance of bonds if the bonds mature more than twenty-five (25) years after the date of the bonds' issuance.

Sec. 5. After December 31, 1995, the department may not approve a school corporation's proposed lease rental agreement or bond issue to finance the construction of additional classrooms unless the school corporation first:

(1) establishes that additional classroom space is necessary; and

(2) conducts a feasibility study, holds public hearings, and hears public testimony on using a twelve (12) month school term (instead of the nine (9) month school term (as described in IC 20-10.1-2-2)) rather than expanding classroom space.

Chapter 5. Review of Bonds

Sec. 1. This chapter applies when:

(1) the proper officers of a political subdivision decide to issue bonds in a total amount that exceeds five thousand dollars ($5,000); and

(2) IC 6-14-7 does not apply to the bonds.

The decision to issue bonds may be a preliminary decision.

Sec. 2. A political subdivision may not impose property taxes or income taxes to pay debt service for the bonds to which this chapter applies without:

(1) complying with this chapter; and

(2) approval of the proposed issue (or the proposed issue as reduced by the department) by the department.

Sec. 3. The proper officers of a political subdivision shall give notice of the decision by:

(1) posting; and

(2) publication once each week for two (2) weeks.

The notice required by this section shall be posted in three (3) public places in the political subdivision and published in accordance with IC 5-3-1-4.

Sec 4. (a) Ten (10) or more taxpayers who:

(1) will be affected by the proposed issuance of the bonds; and

(2) wish to object to the issuance on the grounds that it is unnecessary or excessive;

may file a petition in the office of the county auditor of the county in which the political subdivision is located.

(b) The petition must be filed within fifteen (15) days after the notice required by section 3 of this chapter is given. The petition

must contain the objections of the taxpayers and facts that show that the proposed issue is unnecessary or excessive.

Sec. 5. Whenever taxpayers file a petition in the manner prescribed in section 4 of this chapter, the county auditor shall immediately forward a certified copy of the petition and any other relevant information to the department. A review under sections 6 through 9 of this chapter may be combined with a review under IC 6-14-8 or IC 6-14-9.

Sec. 6. Upon receipt of a certified petition filed in the manner prescribed in section 4 of this chapter, the department shall fix a date, time, and place for a hearing on the matter. The department shall hold the hearing not fewer than five (5) or more than thirty (30) days after the department receives the petition. The department shall hold the hearing in the political subdivision or in the county where the political subdivision is located.

Sec. 7. At least five (5) days before the date fixed for the hearing, the department shall give notice of the hearing, by mail, to the executive officer of the political subdivision and to the first ten (10) taxpayers who signed the petition. The mailings shall be addressed to the officer and the taxpayers at their usual place of residence.

Sec. 8. After the hearing required by this chapter, the department may approve, disapprove, or reduce the amount of the proposed issue. The department must render a decision not later than three (3) months after the hearing. If a decision is not rendered within that time, the issue is considered approved unless the department takes the extension provided for in this section. A three (3) month extension of the period during which the decision must be rendered may be taken by the department if the department mails notice of the extension to the executive officer of the political subdivision and to the first ten (10) taxpayers who signed the petition at least ten (10) days before the end of the original three (3) month period. If a decision is not rendered within the extension period, the issue is considered approved.

Sec. 9. A:

(1) taxpayer who signed a petition under this chapter; or

(2) political subdivision against which a petition referred to in this chapter is filed;

may petition for judicial review of the final determination of the department under this chapter. The petition must be filed in the tax court not more than forty-five (45) days after the department renders its decision under this chapter.

Chapter 6. Review of Interest Rate

Sec. 1. This chapter applies when the proper officers of a political subdivision decide to issue any bonds, notes, or warrants that will:

(1) be payable from property taxes or income taxes; and

(2) bear interest in excess of eight percent (8%) per annum.

Sec. 2. A political subdivision may not impose property taxes or income taxes to pay debt service for bonds, notes, or warrants to which this chapter applies without:

(1) complying with this chapter; and

(2) approval of the interest rate by the department.

Sec. 3. The political subdivision shall submit the matter to the department for review. A review under this section may be combined with a review under IC 6-14-8 or IC 6-14-9.

Sec. 4. The department may either approve or disapprove the rate of interest.

Chapter 7. Remonstrance and Petition Process for Controlled Debt Service and Controlled Lease Rentals

Sec. 1. This chapter applies only to controlled debt service and controlled lease rentals.

Sec. 2. For purposes of this chapter, a project is any project or purpose for which a political subdivision may issue bonds or enter into leases, including a sale-lease back of an existing building.

Sec. 3. For purposes of this chapter, a controlled project is any project financed by bonds or a lease, except for the following:

(1) A project for which the political subdivision reasonably expects to pay:

(A) debt service; or

(B) lease rentals;

from funds other than property taxes or income taxes. However, a project that would otherwise be exempt under this subdivision becomes a controlled project if the political subdivision pledges property taxes or income taxes to pay debt service or lease rentals if other funds are insufficient.

(2) A project that will not cost the political subdivision more than two million dollars ($2,000,000).

(3) A project that is being refinanced to provide gross or net present value savings to taxpayers.

(4) A project for which bonds were issued or leases were entered into before January 1, 1996, or for which the state board of tax commissioners (repealed) has approved the issuance of bonds or the execution of leases before January 1, 1996.

(5) A project that is required by a court order holding that a federal law mandates the project.

(6) A project for which the political subdivision complied with IC 6-1.1-20 (before its repeal).

Sec. 4. A political subdivision may not impose property taxes or income taxes to pay debt service or lease rentals without:

(1) completing the procedures in section 5 of this chapter; and

(2) if a sufficient petition requesting the application of a petition and remonstrance process has been filed as set forth in section 6 of this chapter, completing the procedures in section 6 of this chapter.

Sec. 5. A political subdivision must do the following:

(1) The proper officers of a political subdivision shall:

(A) publish notice in accordance with IC 5-3-1; and

(B) send notice by first class mail to any organization that delivers to the officers, before January 1 of that year, an annual written request for such notices;

of any meeting to consider adoption of a resolution or an ordinance making a preliminary determination to issue bonds or enter into a lease and shall conduct a public hearing on a preliminary determination before adoption of the resolution or ordinance.

(2) Whenever the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease, the officers shall give notice of the preliminary determination by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to the organizations described in subdivision (1)(B).

(3) A notice under subdivision (2) of the preliminary determination of the political subdivision to issue bonds or enter into a lease must include the following information:

(A) The maximum term of the bonds or lease.

(B) The maximum principal amount of the bonds or the maximum lease rental for the lease.

(C) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.

(D) The purpose of the bonds or lease.

(E) A statement that any owners of real property within the political subdivision who want to initiate a petition and remonstrance process against the proposed debt service or lease payments must file a petition that complies with subdivisions (4) and (5) not later than thirty (30) days after publication in accordance with IC 5-3-1.

(F) With respect to bonds issued or a lease entered into to open:

(i) a new school facility; or

(ii) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space;

the estimated costs the school corporation expects to incur annually to operate the facility.

(G) A statement of whether the school corporation expects to appeal for an adjustment under IC 6-12-5 for an increased controlled tax limit or controlled levy limit to pay the estimated costs described in clause (F).

(4) After notice is given, a petition requesting the application of a petition and remonstrance process may be filed by the lesser of:

(A) one hundred (100) owners of real property within the political subdivision; or

(B) five percent (5%) of the owners of real property within the political subdivision.

(5) The state board of accounts shall design and, upon request by the county auditor, deliver to the county auditor or the county auditor's designated printer the petition forms to be used solely in the petition process described in this section. The county auditor shall issue to an owner or owners of real property within the political subdivision the number of petition forms requested by the owner or owners. Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be owners of real property;

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; and

(D) govern the closing date for the petition period.

Persons requesting forms may not be required to identify themselves and may be allowed to pick up additional copies to distribute to other property owners.

(6) Each petition must be verified under oath by at least one (1) qualified petitioner in a manner prescribed by the state board of accounts before the petition is filed with the county auditor under subdivision (7).

(7) Each petition must be filed with the county auditor not more than thirty (30) days after publication under subdivision (2) of the notice of the preliminary determination.

(8) The county auditor must file a certificate and each petition with:

(A) the township trustee, if the political subdivision is a township, who shall present each petition to the township board; or

(B) the body that has the authority to authorize the issuance of the bonds or the execution of a lease, if the political subdivision is not a township;

not later than fifteen (15) business days after the filing of the petition requesting a petition and remonstrance process. The certificate must state the number of petitioners that are owners of real property within the political subdivision.

If a sufficient petition requesting a petition and remonstrance process is not filed by owners of real property as set forth in this section, the political subdivision may issue bonds or enter into a lease by following the provisions of law relating to the bonds to be issued or the lease to be entered into.

Sec. 6. If a sufficient petition requesting the application of a petition and remonstrance process has been filed as set forth in section 5 of this chapter, the political subdivision shall do the following:

(1) The proper officers of the political subdivision shall give notice of the applicability of the petition and remonstrance process by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to the organizations described in section 5(1)(B) of this chapter.

Notice under this subdivision must include a statement that any owners of real property or tenants of residential property within the political subdivision who want to petition in favor of or remonstrate against the proposed debt service or lease payments must file petitions and remonstrances in compliance with subdivisions (2) through (4) not earlier than thirty (30) days or later than sixty (60) days after publication in accordance with IC 5-3-1.

(2) Not earlier than thirty (30) days or later than sixty (60) days after the notice under subdivision (1) is given:

(A) petitions (as described in subdivision (3)) in favor of the bonds or lease; and

(B) remonstrances (as described in subdivision (3)) against the bonds or lease;

may be filed by an owner or owners of real property or a tenant or tenants of residential property within the political subdivision. A petition or remonstrance signed by a tenant of residential property must be accompanied by an affidavit setting forth the name of the landlord and the property address of the tenant's leasehold. Each signature on a petition must be dated, and the date of signature may not be before the date on which the petition and remonstrance forms may be issued under subdivision (3). A petition described in clause (A) or a remonstrance described in clause (B) must be verified in compliance with subdivision (4) before the petition or remonstrance is filed with the

county auditor under subdivision (4).

(3) The state board of accounts shall design and, upon request by the county auditor, deliver to the county auditor or the county auditor's designated printer the petition, remonstrance, and affidavit forms to be used solely in the petition and remonstrance process described in this section. The county auditor shall issue to an owner or owners of real property or a tenant or tenants of residential property within the political subdivision the number of petition, remonstrance, or affidavit forms requested by the owner or owners or tenant or tenants. Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be owners of real property or tenants of residential property;

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature;

(D) govern the closing date for the petition and remonstrance period; and

(E) apply to the carrier under section 7 of this chapter.

Persons requesting petition, remonstrance, or affidavit forms may not be required to identify themselves and may be allowed to pick up additional copies to distribute to other property owners or tenants of residential property. The county auditor may not issue a petition, remonstrance, or affidavit form earlier than twenty-nine (29) days after the notice is given under subdivision (1). The county auditor shall certify the date of issuance on each petition, remonstrance, or affidavit form that is distributed under this subdivision.

(4) The petitions, remonstrances, and affidavits must be verified in the manner prescribed by the state board of accounts and filed with the county auditor within the thirty (30) to sixty (60) day period described in subdivision (2) in the manner set forth in section 5 of this chapter relating to requests for a petition and remonstrance process.

(5) The county auditor must file a certificate and the petition or remonstrance with the body of the political subdivision charged with issuing bonds or entering into leases not later than fifteen (15) business days after the filing of a petition or remonstrance under subdivision (4), whichever applies, containing ten thousand (10,000) signatures or fewer. The county auditor may take an additional five (5) days to review and certify the petition or remonstrance for each additional five thousand (5,000) signatures, up to a maximum of sixty (60) days. The certificate must state the number of petitioners and remonstrators that are owners of real property and the number of petitioners and remonstrators who are tenants of residential property within the political subdivision.

(6) If a greater number of owners of real property plus tenants of residential property within the political subdivision sign a remonstrance than the number that signed a petition, the bonds petitioned for may not be issued or the lease petitioned for may not be entered into. The proper officers of the political subdivision may not make a preliminary determination to issue bonds or enter into a lease for the controlled project defeated by the petition and remonstrance process under this section or any other controlled project that is not substantially different within one (1) year after the date of the county auditor's certificate filed under subdivision (5). Withdrawal of a petition carries the same consequences as a defeat of the petition.

(7) After a political subdivision has gone through the petition and remonstrance process set forth in this section, the political subdivision is not required to follow any other remonstrance or objection procedures under any other law (including section 5 of this chapter) relating to bonds or leases designed to protect owners of real property and tenants of residential property within the political subdivision from the imposition of property taxes to pay debt service or lease rentals. However, the political subdivision must still receive the approval of the department required under IC 6-14-8.

Sec. 7. (a) If a petition and remonstrance process is commenced under section 6 of this chapter, during the sixty (60) day period commencing with the notice under section 6(1) of this chapter, the political subdivision seeking to issue bonds or enter into a lease for the proposed controlled project may not promote a position on the petition or remonstrance by doing any of the following:

(1) Allowing facilities or equipment, including mail and messaging systems, owned by the political subdivision to be used for public relations purposes to promote a position on the petition or remonstrance unless equal access to the facilities or equipment is given to persons with a position opposite to that of the political subdivision.

(2) Making an expenditure of money from a fund controlled by the political subdivision to promote a position on the petition or remonstrance (except as necessary to explain the project to the public) or to pay for the gathering of signatures on a petition or remonstrance. This subdivision does not prohibit a political subdivision from making an expenditure of money to an attorney, an architect, a construction manager, or a financial adviser for professional services provided with respect to a controlled project.

(3) Using an employee to promote a position on the petition or remonstrance during the employee's normal working hours or paid overtime.

(4) In the case of a school corporation, promoting a position on a petition or remonstrance by:

(A) using students to transport written materials to their residences; or

(B) including a statement within another communication sent to the students' residences.

However, this section does not prohibit an employee of the political subdivision from carrying out duties with respect to a petition or remonstrance that are part of the normal and regular conduct of the employee's office or agency.

(b) A person may not solicit or collect signatures for a petition or remonstrance on property owned or controlled by the political subdivision.

Chapter 8. Review by Department

Sec. 1. Subject to section 2 of this chapter, this chapter applies to the following:

(1) Bonded indebtedness.

(2) Lease rentals under a lease with an original term of at least five (5) years.

Sec. 2. This chapter does not apply to the following:

(1) Temporary loans made in anticipation of and to be paid from current revenues of the political subdivision actually imposed and in the course of collection for the budget year in which the loans are made.

(2) Bonded indebtedness that will be repaid through property taxes or income taxes imposed under IC 12-19.

(3) Bonded indebtedness or lease rentals that were approved under IC 6-1.1-18.5-8 (before its repeal) or IC 6-1.1-19-8 (before its repeal).

(4) Property taxes or income taxes that a school corporation imposes to pay or fund bond or lease rental indebtedness created or incurred before July 1, 1974.

Sec. 3. A political subdivision may not impose property taxes or income taxes to pay debt service for bonded indebtedness or leases to which this chapter applies without:

(1) complying with this chapter; and

(2) approval of the bonded indebtedness or leases by the department.

Sec. 4. (a) A political subdivision must file a petition requesting approval from the department to incur bonded indebtedness or execute a lease with an original term of at least five (5) years.

(b) If IC 6-14-7 applies to the bonded indebtedness or lease and the bonded indebtedness is to be paid or funded with property taxes, the petition must be filed not later than twenty-four (24) months after the first date of publication of notice of a preliminary determination under IC 6-1.1-20-3.1(2) (repealed) or IC 6-14-7-5(2), as applicable, unless the political subdivision demonstrates that a longer period is reasonable in light of the political subdivision's facts and circumstances.

Sec. 5. A political subdivision must obtain approval from the department before the political subdivision may:

(1) incur bonded indebtedness; or

(2) enter into a lease.

Sec. 6. The department may seek recommendations from the local government tax control board or the department of state revenue, or both, when determining whether to authorize incurring bonded indebtedness or the execution of a lease.

Sec. 7. The department shall render a decision within three (3) months after the date it receives a request for approval under section 4 of this chapter. However, the department may extend this three (3) month period by an additional three (3) months if, at least ten (10) days before the end of the original three (3) month period, the department sends notice of the extension to the executive officer of the political subdivision.

Sec. 8. The local government tax control board, the department of state revenue, and other state agencies shall provide information to the department that the department considers necessary to determine the estimated impact of the issuance of bonds or execution of a lease on a political subdivision's property tax rate or the rate of an income tax in a county where the political subdivision is located.

Sec. 9. Subject to section 10 of this chapter, the department may:

(1) approve or disapprove the proposed bond issue or lease agreement; or

(2) approve an alternative financing arrangement by:

(A) reducing the amount of the proposed bond issue or lease agreement;

(B) modifying other terms of the proposed bond issue or lease agreement;

(C) approving the use of other funding mechanisms that are available to the political subdivision to cover all or part of the costs that would be covered by the proposed bond issue or lease agreement;

(D) modifying the scope of the proposed project, in the case of bonds to be issued or a lease to be entered into for the acquisition, construction, renovation, improvement, or expansion of a building, a structure, or another public improvement; or

(E) any combination of the methods described in clauses (A) through (D).

Sec. 10. In determining whether to approve or disapprove a proposed bond issue or lease agreement or to approve an alternative financing arrangement, the department shall consider the following factors:

(1) Whether the proposed bond issue or lease agreement is unnecessary or excessive.

(2) With respect to a proposed bond issue or lease agreement for the acquisition, construction, renovation, improvement, expansion, or use of a building, a structure, or another public improvement, whether the civil taxing unit has demonstrated that an adequate source of funding will be available to cover annual costs of operating, maintaining, and repairing the building, structure, or public improvement.

(3) Whether an excessive impact on the political subdivision's tax rate or on the rate of an income tax imposed in a county where the political subdivision is located will result from:

(A) the issuance of the bonds or execution of the lease agreement; and

(B) with respect to a proposed bond issue or lease agreement for the acquisition, construction, renovation, improvement, expansion, or use of a building, a structure, or another public improvement, the annual costs of operating, maintaining, and repairing the building, structure, or public improvement.

(4) Whether any costs of acquiring, constructing, renovating, improving, or expanding a building, a structure, or another public improvement that are to be financed through the issuance of bonds or execution of a lease are comparable to the costs incurred for those purposes by other similarly situated political subdivisions for similar projects.

(5) With respect to a proposed bond issue or lease agreement for the acquisition, construction, renovation, improvement, expansion, or use of a building, a structure, or another public improvement, whether the building,

structure, or public improvement will be made available to residents of the political subdivision for uses other than those planned by the political subdivision.

(6) Any other pertinent matter, including matters described in IC 6-14-4.

Sec. 11. (a) A political subdivision may petition for judicial review of the final determination of the department under this chapter.

(b) The petition for judicial review must be filed in the tax court not more than forty-five (45) days after the department enters its order under this chapter.

Sec. 12. A taxpayer may petition for judicial review of the final determination of the department under this chapter. The petition must be filed in the tax court not more than thirty (30) days after the department enters its order under this chapter.

Chapter 9. School Bus Loan Review

Sec. 1. This chapter does not apply to school bus purchase loans made by a school corporation that will be repaid solely from the general fund of the school corporation.

Sec. 2. A school corporation must obtain approval from the department before the school corporation may repay a school bus purchase loan.

Sec. 3. Before it approves or disapproves a proposed school bus purchase loan, the department may seek the recommendation of the local government tax control board or the department of state revenue.

Sec. 4. Subject to section 5 of this chapter, the department may either:

(1) approve, disapprove, or modify then approve a school corporation's proposed school bus purchase loan; or

(2) approve an alternative financing arrangement by:

(A) reducing the amount of the proposed school bus purchase loan;

(B) modifying other terms of the proposed school bus purchase loan;

(C) approving the use of other funding mechanisms that are available to the school corporation to cover all or part of the costs that would be covered by the proposed school bus purchase loan;

(D) modifying the scope of the proposed purchase of school buses; or

(E) any combination of the methods described in clauses (A) through (D).

Sec. 5. In determining whether to approve or disapprove a proposed school bus purchase loan, or to approve an alternative financing arrangement, the department shall consider the following factors:

(1) Whether the proposed school bus purchase loan is unnecessary or excessive.

(2) Whether an excessive impact on the tax rates, fees, or other charges imposed by the school corporation will result from the annual costs of operating, maintaining, and repairing the vehicles to be purchased with the loan.

(3) Any other pertinent matter.

Sec. 6. The department shall render a decision not more than three (3) months after the date it receives a request for approval under this chapter. However, the department may extend this three (3) month period by an additional three (3) months if, at least ten (10) days before the end of the original three (3) month period, the department sends notice of the extension to the executive officer of the school corporation.

Sec. 7. A school corporation may petition for judicial review of the final determination of the department under this chapter. The petition must be filed in the tax court not more than forty-five (45) days after the department enters its order under this chapter.

Sec. 8. A taxpayer may petition for judicial review of the final determination of the department under this chapter. The petition must be filed in the tax court not more than thirty (30) days after the department enters its order under this section.

Chapter 10. Jay County School Corporation

Sec. 1. The levy and property tax rate for an excessive levy granted under IC 6-1.1-19-10.5 (repealed) before January 1, 2007, is transferred to the Jay County School Corporation debt service fund for property taxes first due and payable after December 31, 2006.

Sec. 2. The relief under section 1 of this chapter is granted as an advance of state funds related to an intercept action to be paid back to the treasurer of state in two hundred forty (240) payments of:

(1) thirteen thousand eight hundred eighty-two dollars ($13,882) beginning on January 15, 2001, and ending May 15, 2003; and

(2) equal installment amounts beginning June 15, 2003, and ending with final payment on December 31, 2020.

SECTION 46. IC 6-15 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

ARTICLE 15. CUMULATIVE FUNDS, SINKING FUNDS, AND OTHER FIXED RATE LEVIES

Chapter 1. Definitions

Sec. 1. The definitions in IC 6-1.1, IC 6-11, and IC 36-1-2 apply throughout this article.

Sec. 2. The definitions in this chapter apply throughout this article.

Sec. 3. "Fixed rate levy" refers to a property tax imposed for a fund or purpose described in a law listed or described in IC 6-15-3-1 or IC 6-15-4-1.

Chapter 2. General Provisions

Sec. 1. A fixed rate levy is not:

(1) subject to the controlled tax limits or controlled levy limits imposed under IC 6-12; or

(2) included in the computation of a political subdivision's controlled tax limit or controlled levy limit for a year.

Sec. 2. A fixed rate levy shall be treated as an excluded tax.

Sec. 3. The collection of money in excess of the amount certified for a fixed rate levy is valid. The excess shall be treated as excess revenue and deposited in the political subdivision's excess revenue fund account under IC 6-11-22.

Chapter 3. Cumulative Fund Tax Levy Procedures

Sec. 1. This chapter applies to the establishment and imposition of a tax levy for cumulative funds under the following:

(1) IC 3-11-6.

(2) IC 8-10-5.

(3) IC 8-16-3.

(4) IC 8-16-3.1.

(5) IC 8-22-3.
(6) IC 14-27-6.
(7) IC 14-33-21.
(8) IC 16-22-4.
(9) IC 16-22-5.
(10) IC 16-22-8.
(11) IC 36-8-14.
(12) IC 36-9-4.
(13) IC 36-9-14.
(14) IC 36-9-14.5.
(15) IC 36-9-15.
(16) IC 36-9-15.5.
(17) IC 36-9-16.
(18) IC 36-9-17.
(19) IC 36-9-17.5.
(20) IC 36-9-26.
(21) IC 36-9-27.
(22) IC 36-10-3.
(23) IC 36-10-4.
(24) IC 36-10-7.5.
(25) Any other statute that specifies that a property tax levy may be imposed under this chapter.

Sec. 2. (a) In addition to complying with the budget, tax rate, and tax levy requirements applicable to other tax levies, a political subdivision may:

(1) establish a cumulative fund and impose a property tax for the cumulative fund; or
(2) increase the tax rate for a cumulative fund;

only after the proposal is adopted and approved in compliance with this chapter.

(b) If an action described in this section is not adopted or approved in conformity with this chapter, the political subdivision may not levy a tax for the fund in the ensuing year.

Sec. 3. (a) A political subdivision that proposes to establish a fund under this chapter must:

(1) give notice of the proposal to the affected taxpayers; and
(2) hold a public hearing on the proposal;

before presenting the proposal to the department for approval.

(b) Notice of the proposal and of the public hearing shall be given by publication in accordance with IC 5-3-1.

(c) For a cumulative fund authorized under IC 3-11-6 or IC 8-10-5-17, the political subdivision imposing a property tax levy shall post a notice of the proposal and the public hearing in three (3) public places in the political subdivision.

(d) A notice required by this section must describe the tax levy that will be imposed for the fund.

Sec. 4. A political subdivision that in any year adopts a proposal under this chapter must submit the proposal to the department before August 2 of that year. If a proposal under this chapter is not submitted to the department before August 2 of a year, the political subdivision may not levy a tax for the cumulative fund or sinking fund in the ensuing year.

Sec. 5. The department shall require that a notice of submission under section 4 of this chapter be given to the taxpayers of the county. The notice shall be published in one (1) publication and posted in the same manner as required by section 3 of this chapter.

Sec. 6. Not later than noon of the day that is thirty (30) days after the publication of the notice required by section 3 of this chapter:

(1) at least ten (10) taxpayers in the taxing district, if the fund is authorized under IC 8-10-5-17, IC 8-16-3-1, IC 8-16-3.1-4, IC 14-27-6-48, IC 14-33-21-2, IC 36-8-14-2, IC 36-9-4-48, or IC 36-10-4-36;
(2) at least twenty (20) taxpayers in a county served by a hospital, if the fund is authorized under IC 16-22-4-1;
(3) at least thirty (30) taxpayers in a tax district, if the fund is authorized under IC 36-10-3-21 or IC 36-10-7.5-19;
(4) at least fifty (50) taxpayers in a municipality, if subdivisions (1), (2), (3), and (5) do not apply; or
(5) at least one hundred (100) taxpayers in the county, if the fund is authorized by IC 3-11-6;

may file a petition with the county auditor stating their objections to an action described in section 2 of this chapter. Upon the filing of the petition, the county auditor shall immediately certify the petition to the department.

Sec. 7. (a) The department shall within a reasonable time set a date for a hearing on a petition filed under section 6 of this chapter.

(b) For a cumulative fund authorized under IC 3-11-6 or IC 36-9-4-48, the hearing must be held in the county affected by the proposed action.

Sec. 8. The department shall give notice of the hearing required by section 7 of this chapter to:

(1) the county auditor; and
(2) the first ten (10) taxpayers whose names appear on the petition filed under section 6 of this chapter.

The notice must be given by letter signed by the commissioner or deputy commissioner of the department and sent by mail with prepaid postage to the auditor and the taxpayers at their usual places of residence at least five (5) days before the date set for the hearing.

Sec. 9. (a) After a hearing on a proposal (if a hearing is required) or after the proposal is submitted to the department under section 4 of this chapter (if no hearing is required), the department shall certify approval, disapproval, or modification of the proposal to the county auditor.

(b) A:

(1) taxpayer who signed a petition filed under section 6 of this chapter; or
(2) political subdivision submitting a proposal for approval;

may petition for judicial review of the final determination of the department under subsection (a). The petition must be filed in the tax court not more than forty-five (45) days after the department certifies its action under subsection (a).

Sec. 10. To provide for a fund, a political subdivision may levy a tax on all taxable property within the jurisdiction authorized to establish the fund. The tax may not exceed the tax rate specified in the statute authorizing the fund.

Sec. 11. If a political subdivision considers it advisable after the levy has been approved, the governing body imposing the levy for the political subdivision may reduce or rescind the annual levy.

Sec. 12. At least:

(1) ten (10) taxpayers in the tax district, if the fund is authorized under IC 8-10-5-17, IC 8-16-3-1, IC 8-16-3.1-4, IC 14-27-6-48, IC 14-33-21-2, IC 36-8-14-2, IC 36-9-4-48, or IC 36-10-4-36; or

(2) fifty (50) taxpayers in the area where a property tax for a fund is imposed, if subdivision (1) does not apply;

may file with the county auditor, by noon on August 1 of a year, a petition for reduction or revision of the levy approved under this chapter. The petition must state the taxpayers' objections to the levy. The county auditor shall certify the petition to the department, and the same procedure for notice and hearing must be followed that was required for the original levy. After a hearing on the petition, the department may confirm, reduce, or rescind the levy. The department's action is final and conclusive.

Sec. 13. After a political subdivision complies with this chapter, a property tax may be levied annually at the tax rate approved under this chapter without further action under this chapter. The tax levy must be advertised annually as other tax levies are advertised.

Sec. 14. The tax collected for a fund must be held in the fund for which the tax was levied. The fund may not be expended for any purpose other than the purposes specified by the statute authorizing the fund. Except to the extent that IC 8-16-3-3(c), IC 14-27-6-48(c), IC 36-9-14.5-8(c), IC 36-9-15.5-8(c), or another statute specifically provides a different procedure, expenditures may be made from the fund only after an appropriation has been made in the manner provided by law for making other appropriations.

Sec. 15. If the political subdivision establishing a fund:

(1) determines that the purposes for which the fund was established have been accomplished or no longer exist; or

(2) rescinds the tax levy for the fund;

the governing body establishing the fund for the political subdivision may transfer the balance in the fund to the general fund of the political subdivision. The money in a fund does not otherwise revert to the general fund of a political subdivision at the end of the political subdivision's fiscal year.

Chapter 4. General Reassessment Adjustment of Fixed Rate Levies

Sec. 1. This chapter applies to the property tax levies under:

(1) IC 8-10-5-17;
(2) IC 8-22-3-11;
(3) IC 8-22-3-25;
(4) IC 12-29-1-1;
(5) IC 12-29-1-2;
(6) IC 12-29-1-3;
(7) IC 12-29-3-6;
(8) IC 13-21-3-12;
(9) IC 13-21-3-15;
(10) IC 14-27-6-30;
(11) IC 14-33-7-3;
(12) IC 14-33-21-5;
(13) IC 15-1-6-2;
(14) IC 15-1-8-1;
(15) IC 15-1-8-2;
(16) IC 16-20-2-18;
(17) IC 16-20-4-27;
(18) IC 16-20-7-2;
(19) IC 16-23-1-29;
(20) IC 16-23-3-6;
(21) IC 16-23-4-2;
(22) IC 16-23-5-6;
(23) IC 16-23-7-2;
(24) IC 16-23-8-2;
(25) IC 16-23-9-2;
(26) IC 16-41-15-5;
(27) IC 16-41-33-4;
(28) IC 20-5-17.5-2 (before its repeal), IC 36-10-13-4, or IC 36-10-13-5;
(29) IC 20-5-17.5-3 (before its repeal) or IC 36-10-13-7;
(30) IC 20-5-37-4 (before its repeal) or IC 20-26-8-4;
(31) IC 20-14-7-5.1 (before its repeal) or IC 36-12-7-7;
(32) IC 20-14-7-6 (before its repeal) or IC 36-12-7-8;
(33) IC 20-14-13-12 (before its repeal) or IC 36-12-12-10;
(34) IC 21-1-11-3;
(35) IC 21-2-17-2;
(36) IC 23-13-17-1;
(37) IC 23-14-66-2;
(38) IC 23-14-67-3;
(39) IC 36-7-13-4;
(40) IC 36-7-14-28;
(41) IC 36-7-15.1-16;
(42) IC 36-8-19-8.5;
(43) IC 36-9-6.1-2;
(44) IC 36-9-17.5-4;
(45) IC 36-9-27-73;
(46) IC 36-9-29-31;
(47) IC 36-9-29.1-15;
(48) IC 36-10-6-2;
(49) IC 36-10-7-7;
(50) IC 36-10-7-8;
(51) IC 36-10-7.5-19; and
(52) any statute enacted after December 31, 2003, that:

(A) establishes a maximum rate for any part of the:

(i) property taxes; or

(ii) special benefits taxes;

imposed by a political subdivision; and

(B) does not exempt the maximum rate from the adjustment under this section.

Sec. 2. For purposes of this chapter, "maximum rate" refers to the maximum:

(1) property tax rate or rates; or

(2) special benefits tax rate or rates;

referred to in the laws listed in section 1 of this chapter.

Sec. 3. The maximum rate for taxes first due and payable after 2003 is the maximum rate that would have been determined under section 5 of this chapter for taxes first due and payable in 2003 if section 5 of this chapter had applied for taxes first due and payable in 2003.

Sec. 4. The maximum rate must be adjusted:

(1) each time an annual adjustment of the assessed value of real property takes effect under IC 6-1.1-4-4.5; and

(2) each time a general reassessment of real property takes effect under IC 6-1.1-4-4.

Sec. 5. The new maximum rate under a statute listed in section 1 of this chapter is the tax rate determined under STEP SEVEN

of the following STEPS:

STEP ONE: Determine the maximum rate for the political subdivision levying a property tax or special benefits tax under the statute for the year preceding the year in which the annual adjustment or general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment takes effect.

STEP THREE: Determine the three (3) years that immediately precede the ensuing year and in which a statewide general reassessment of real property does not first take effect.

STEP FOUR: Compute separately, for each of the years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0).

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of the STEP ONE tax rate divided by the sum of one (1) plus the STEP SIX percentage increase.

Sec. 6. The department shall compute the maximum rate allowed under section 5 of this chapter and provide the rate to each political subdivision with authority to levy a tax under a statute listed in section 1 of this chapter.

SECTION 47. IC 12-13-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. ~~For taxes first due and payable in~~ Each year, ~~after 2003,~~ each county shall impose ~~a~~ **controlled taxes for** medical assistance ~~property tax levy~~ equal to the product of:

(1) the **controlled taxes certified for the county by the department of local government finance under this section for** medical assistance ~~property tax levy imposed for taxes first due and payable~~ in the preceding year, as that ~~levy~~ **amount** was determined by the department of local government finance in fixing the ~~civil taxing unit's~~ **county's** budget, ~~levy,~~ **taxes,** and ~~rate~~ **tax rates** for that preceding calendar year under, **before 2007,** IC 6-1.1-17 **and, after 2006, IC 6-13** and after eliminating the effects of ~~temporary excessive levy appeals and~~ any ~~other~~ temporary adjustments made to the ~~levy~~ **taxes** for the calendar year; multiplied by

(2) the ~~statewide average assessed value~~ **tax** growth quotient ~~using all the county assessed value growth quotients~~ determined under ~~IC 6-1.1-18.5-2~~ **IC 6-12-4-4** for the year in which the tax ~~levy~~ under this section will be first due and payable.

If the amount ~~levied~~ **of tax** in a particular year exceeds the amount necessary to cover the costs payable from the fund, the ~~levy~~ **tax** in the following year shall be reduced by the amount of surplus money **as a temporary adjustment to the county's controlled tax limit and controlled levy limit.**

SECTION 48. IC 12-16-14-3, AS AMENDED BY P.L.246-2005, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) For purposes of this section, "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b)(1).

~~(b) For taxes first due and payable in 2003, each county shall impose a hospital care for the indigent property tax levy equal to the product of:~~

~~(1) the county's hospital care for the indigent property tax levy for taxes first due and payable in 2002, multiplied by~~

~~(2) the county's assessed value growth quotient determined under IC 6-1.1-18.5-2 for taxes first due and payable in 2003.~~

~~(c)~~ **(b)** For taxes ~~first due and payable in 2004, 2005, 2006,~~ **for** 2007, ~~and 2008,~~ each county shall impose ~~a~~ **controlled taxes for** 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,~~ **2006;** multiplied by

(2) the ~~assessed value~~ **tax** 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).~~ **under IC 6-12-4-4 for 2007.**

~~(d) Except as provided~~ **(c) Subject to the limitations** in subsection ~~(c).~~ **(d), each county shall impose controlled taxes for hospital care for the indigent equal to:**

(1) for ~~taxes first due and payable in 2009,~~ **2008,** ~~each county shall impose a hospital care for the indigent property tax levy equal to~~ the average of the annual amount of payable claims attributed to the county under IC 12-16-7.5-4.5 during the state fiscal years beginning:

(A) July 1, 2005;

(B) July 1, 2006; and

(C) July 1, 2007; and

(2) for all subsequent ~~annual levies under this section,~~ **years,** 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)~~ **(d)** A county may not impose ~~an annual levy~~ **controlled taxes in any year** under subsection ~~(d)~~ **(c)** in an amount greater than the product of:

(1) The greater of:

(A) the ~~county's~~ **amount of controlled taxes imposed by the county for** hospital care for the indigent ~~property tax levy for taxes first due and payable in 2008;~~ **in 2007;** or

(B) the amount of ~~the county's maximum~~ **controlled taxes certified for the county by the department of local government finance for** hospital care for the indigent ~~property tax levy~~ **as the amount was** determined ~~under this subsection for taxes first due and payable in~~ **by the department of local government finance in fixing the county's budget, taxes, and tax rates for that preceding calendar year under, before 2007, IC 6-1.1-17 and after 2006, IC 6-13 and after eliminating the effects of temporary adjustments made to the amount for** the immediately preceding year; multiplied by

(2) the ~~assessed value~~ **tax** 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).~~ **under IC 6-12-4-4 for the year.**

SECTION 49. IC 12-19-7-4, AS AMENDED BY P.L.234-2005, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. ~~(a) For taxes first due and payable in~~ Each year ~~after 2005,~~ each county shall impose ~~a~~ **controlled taxes for the** county family and ~~children property tax levy~~ **children's fund, excluding any amount attributable for loans under this chapter or IC 12-19-5,** equal to the ~~county family and children property tax levy 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.~~ **product of:**

(1) the controlled taxes certified for the county by the department of local government finance for the family and children's fund for the preceding year as that amount was determined by the department of local government finance in fixing the county's budget, taxes, and tax rates for that preceding calendar year under, before 2007, IC 6-1.1-17 and after 2006, IC 6-13 and after eliminating the effects of temporary adjustments made to the certified amount for the calendar year; multiplied by

(2) the greater of:

(A) the tax growth quotient for the ensuing calendar year as determined under IC 6-12-4-4; or

(B) one (1).

SECTION 50. IC 12-19-7.5-6, AS AMENDED BY P.L.234-2005, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. ~~(a) For taxes first due and payable in~~ Each year ~~after 2005,~~ each county shall impose ~~a county~~ **controlled taxes for the** children's psychiatric residential treatment services ~~property tax levy~~ **fund, excluding any amount attributable for loans under this chapter or IC 12-19-5,** equal to ~~the county children's psychiatric residential treatment services property tax levy necessary to pay the costs of children's psychiatric residential treatment 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.~~

the product of:

(1) the controlled taxes certified for the county by the department of local government finance for the children's psychiatric residential treatment services fund for the preceding year as that amount was determined by the department of local government finance in fixing the county's budget, taxes, and tax rates for that preceding calendar year under, before 2007, IC 6-1.1-17 and after 2006, IC 6-13 and after eliminating the effects of temporary adjustments made to the certified amount for the calendar year; multiplied by

(2) the greater of:

(A) the tax growth quotient for the ensuing calendar year as determined under IC 6-12-4-4; or

(B) one (1).

SECTION 51. IC 12-20-21-4, AS AMENDED BY P.L.73-2005, SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. **Subject to IC 12-20-23,** if the board of commissioners determines from the ~~levies made~~ **controlled taxes imposed** by the respective townships for township assistance purposes that there will be insufficient money in the township assistance fund to provide free and available money during the following year for township assistance purposes on the basis of the total costs of township assistance granted by the township trustees, as administrators of township assistance, for the previous twelve (12) months:

(1) the board of commissioners may include estimates for the advancements in the county general fund budget; **and**

(2) the county fiscal body may appropriate for the advancement in the budget and ~~levy~~ **to the extent that an increase in the county's tax will not exceed the county's controlled tax limit, impose controlled taxes** as adopted by the county fiscal body. ~~and~~

~~(3)~~ The department shall include that amount in the final **determination of the** county general fund ~~levy~~ **budget.**

SECTION 52. IC 12-20-25-4, AS AMENDED BY P.L.73-2005, SECTION 114, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. As used in this chapter, "distressed township" means:

(1) a township that:

(A) has a valid township assistance claim that the county auditor cannot pay within thirty (30) days after the claim is approved for payment under IC 12-2-1-31 (before its repeal) or IC 12-20-20;

(B) has township assistance expenditures during a year that exceed the year's township assistance revenues, excluding any advances from the state and revenues from short term loans from the county or a financial institution or advances from the county from the proceeds of bonds, made or issued under:

(i) this article; or

(ii) IC 12-2-1, IC 12-2-4.5, or IC 12-2-5 (before the repeal of those statutes);

(C) has imposed and dedicated to township assistance at least ninety percent (90%) of the maximum ~~permissible ad valorem property tax levy~~ **amount of controlled taxes** permitted for all of the township's money under ~~IC 6-1.1-18.5,~~ **IC 6-12;** and

(D) has outstanding indebtedness that exceeds one and eight-tenths percent (1.8%) of the township's adjusted value of taxable property in the district as determined under IC 36-1-15; or

(2) a township that:

(A) has been a controlled township during any part of the preceding five (5) years;

(B) has a valid township assistance claim that the county auditor cannot pay within thirty (30) days after the claim is approved for payment under IC 12-2-1-31 (before its repeal) or IC 12-20-20; and

(C) uses advances from the county from proceeds of bonds issued under IC 12-2-1 (before its repeal) or this article.

SECTION 53. IC 12-29-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) A county shall fund the operation of community mental health centers in the amount determined under subsection (b), unless a lower tax levy amount will be adequate to fulfill the county's financial obligations under this chapter in any of the following situations:

(1) If the total population of the county is served by one (1) center.

(2) If the total population of the county is served by more than one (1) center.

(3) If the partial population of the county is served by one (1) center.

(4) If the partial population of the county is served by more than one (1) center.

(b) The amount of funding under subsection (a) for taxes ~~first due and payable~~ in a ~~calendar~~ year is ~~the following:~~

~~(1) For 2004, the amount is the amount determined under STEP THREE of the following formula:~~

~~STEP ONE: Determine the amount that was levied within the county to comply with this section from property taxes first due and payable in 2002.~~

~~STEP TWO: Multiply the STEP ONE result by the county's assessed value growth quotient for the ensuing year 2003, as determined under IC 6-1.1-18.5-2.~~

~~STEP THREE: Multiply the STEP TWO result by the county's assessed value growth quotient for the ensuing year 2004, as determined under IC 6-1.1-18.5-2.~~

~~(2) For 2005 and each year thereafter,~~ the result equal to:

~~(A)~~ **(1)** the amount ~~that was levied~~ **of controlled taxes imposed** in the county to comply with this section ~~from property taxes first due and payable~~ in the calendar year immediately preceding the ensuing calendar year; multiplied by

~~(B)~~ **(2)** the ~~county's assessed~~ **tax** value growth quotient for the ensuing calendar year, as determined under ~~IC 6-1.1-18.5-2.~~ **IC 6-12-4-4.**

SECTION 54. IC 15-5-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. If a dog kills or injures any livestock while the livestock is in the care, custody, and control of the livestock's owner or ~~his~~ **the owner's** agent, the owner or harborer of the dog is liable to the owner of the livestock for all damages sustained, including ~~his~~ reasonable attorney's fees and the court costs. ~~if the appropriate dog tax has not been paid on the dog, triple damages may be awarded.~~

SECTION 55. IC 16-35-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. ~~(a) For taxes first due and payable in~~ Each year ~~after 2003,~~ each county shall impose ~~a~~ **controlled taxes for** children with special health care needs ~~property tax levy~~ equal to the product of:

(1) the **amount, excluding any amount attributable for loans under this chapter or IC 12-19-5, controlled taxes imposed for** children with special health care needs ~~property tax levy imposed for taxes first due and payable~~ in the preceding year, as that ~~levy~~ **amount** was determined by the department of local government finance in fixing the ~~civil taxing unit's~~ **county's** budget, ~~levy,~~ **taxes,** and ~~rate~~ **tax rates** for that preceding calendar year under, **before 2007,** IC 6-1.1-17 **and after 2006, IC 6-13** and after eliminating the effects of ~~temporary excessive levy appeals and any other~~ temporary adjustments made to the ~~levy~~ **amount** for the calendar year; multiplied by

(2) the greater of:

(A) the ~~county's assessed value~~ **tax** growth quotient for the ensuing calendar year, as determined under ~~IC 6-1.1-18.5-2,~~ **IC 6-12-4-4;** 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.~~

~~(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 56. IC 20-24-7-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 12. (a) Not later than the date on which the department of local government finance certifies a final action on budgets, taxes, and tax rates under IC 6-13, the department of local government finance shall provide to each county auditor the amount determined under section 3(c) of this chapter for each charter school attended by a student who has legal settlement in both the county and a school corporation located in the county.**

(b) At the same time a county auditor distributes property taxes to a school corporation, the county auditor shall distribute to a charter school the amount described in subsection (a) for the charter school.

(c) A distribution of property taxes to a school corporation does not include an amount distributed under subsection (b).

(d) The department of education shall provide for the annual submission of reports before July 16 in each year from charter schools that provide reasonable estimates of the number of students that will be enrolled in the charter school in the current school year. The information shall be used to assist the department of local government finance in computing tax rates and tax amounts under IC 6-1.1-19-1.5. The department of education shall submit the information to the department of local government finance in the form and on the schedule required by the department of local government finance.

SECTION 57. IC 21-2-11.5-3, AS AMENDED BY P.L.246-2005, SECTION 187, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) Subject to subsection (b), each school corporation may ~~levy~~ **impose controlled taxes** 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~~ **amount of controlled taxes** for the fund may not exceed

~~(1)~~ the amount determined by multiplying:

(A) the ~~school corporation's levy for the school transportation fund~~ **amount of controlled taxes certified by the department of local government finance for the fund** for the previous year, as that ~~levy~~ **amount** was determined by the department of local government finance in fixing the ~~civil taxing unit's~~ **school corporation's** budget, ~~levy,~~ **taxes,** and rate for that preceding calendar year, **before 2007,** under IC 6-1.1-17 **and, after 2006, under IC 6-13** and after eliminating the effects of ~~temporary excessive levy appeals and any other~~ temporary adjustments made to the ~~levy~~ **amount** for the calendar year; by

(B) the ~~assessed value~~ **tax** 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.~~ **IC 6-12-4-4 for the ensuing year.**

~~(e)~~ **(c)** Each school corporation may ~~levy~~ **impose controlled taxes** 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.

~~(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 58. IC 21-2-22 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]:

Chapter 22. Racial Balance Fund

Sec. 1. This chapter applies to a school corporation that:

(1) is located in Allen County or Marion County;

(2) is a party to a lawsuit alleging that its schools are segregated in violation of the Constitution of the United States or federal law;

(3) desires to improve or maintain racial balance among two (2) or more schools within the school corporation, regardless of the school corporation's basis for desiring to improve or maintain racial balance; and

(4) has a minority student enrollment that comprises at least ten percent (10%) of its total student enrollment, using the most recent enrollment data available to the school corporation.

Sec. 2. As used in this chapter, "minority student" means a student who is black, Spanish American, Asian American, or American Indian.

Sec. 3. A school corporation may establish a racial balance fund if the department of local government finance:

(1) approved a racial balance fund for the school corporation before January 1, 2007, under IC 6-1.1-19-10 (repealed); or

(2) approves a racial balance fund under this chapter.

Sec. 4. The school corporation may petition the department of local government finance to impose an ad valorem property tax to raise revenue for the fund. However, before a school corporation may impose an ad valorem property tax under this chapter, the school corporation must file a petition with the department of local government finance. The petition must be filed before June 1 of the year preceding the first year the school corporation desires to impose the property tax and must include the following:

(1) The name of the school corporation.

(2) A settlement agreement among the parties to a desegregation lawsuit that includes the program that will improve or maintain racial balance in the school corporation.

(3) The proposed property tax levy.

(4) Any other item required by the department of local government finance.

Sec. 5. Upon receiving a petition under this chapter, the department of local government finance shall refer the petition to the local government tax control board. The local government tax control board shall consider the petition in the same manner as an appeal under IC 6-16. The local government tax control board may recommend to the department of local government finance that a school corporation be allowed to establish a racial balance fund to be funded by an ad valorem property tax levy. The amount of the levy shall be determined each year, and the levy may not exceed the lesser of the following:

(1) The revenue derived from a tax rate of eight and thirty-three hundredths cents ($0.0833) for each one hundred dollars ($100) of assessed valuation within the school corporation.

(2) The revenue derived from a tax rate equal to the difference between the maximum rate allowed for the school corporation's capital projects fund under IC 21-2-15 minus the actual capital projects fund rate that will be in effect for the school corporation for a particular year.

Sec. 6. The department of local government finance shall review the petition of the school corporation and:

(1) disapprove the petition if the petition does not comply with this chapter;

(2) approve the petition; or

(3) approve the petition with modifications.

Sec. 7. A property tax levy under this chapter is in addition to, and not part of, the school corporation's controlled tax limit and controlled levy limit for purposes of determining the school corporation's controlled tax limit and controlled levy limit.

Sec. 8. Money received from a property tax levy under this chapter shall be deposited in the school corporation's racial balance fund established under this chapter. Money in the fund may be used only for education programs that improve or maintain racial balance in the school corporation. Money in the fund may not be used for:

(1) transportation; or

(2) capital improvements;

even though those costs may be attributable to the school corporation's proposed programs for improving or maintaining racial balance in the school corporation.

SECTION 59. IC 21-3-1.7-9, AS AMENDED BY P.L.246-2005, SECTION 200, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (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 (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 seven hundred fifty-nine million three hundred thousand dollars ($3,759,300,000) in 2005;

(2) **the greater of:**

(A) three billion ~~seven~~ **eight** hundred ~~fifty-four~~ **two** million ~~seven~~ **nine** hundred thousand dollars ~~($3,754,700,000)~~ **($3,802,900,000)** in 2006; **or**

(B) the amount necessary to enable the department of education to make tuition support distributions in 2006 in accordance with IC 21-1-30 and this article without requiring a reduction in the amount distributed for tuition support under this section; 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 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. **However, the department of education shall distribute the full amount of tuition support to school corporations in the second six (6) months of 2006 in accordance with IC 21-1-30 and this article without a reduction under this section.**

SECTION 60. IC 27-5.1-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 8. The following provisions apply to standard companies and extended companies:

(1) IC 27-1-3.

(2) IC 27-1-3.1.

(3) IC 27-1-5-3.

(4) IC 27-1-7-14 through IC 27-1-7-16.

(5) IC 27-1-7-21 through IC 27-1-7-23.

(6) IC 27-1-9.

(7) IC 27-1-10.

(8) IC 27-1-13-3 through IC 27-1-13-4.

(9) IC 27-1-13-6 through IC 27-1-13-9.

(10) IC 27-1-15.6.

(11) IC 27-1-18-2.

~~(11)~~ **(12)** IC 27-1-20-1.
~~(12)~~ **(13)** IC 27-1-20-4.
~~(13)~~ **(14)** IC 27-1-20-6.
~~(14)~~ **(15)** IC 27-1-20-9 through IC 27-1-20-11.
~~(15)~~ **(16)** IC 27-1-20-14.
~~(16)~~ **(17)** IC 27-1-20-19 through IC 27-1-20-21.3.
~~(17)~~ **(18)** IC 27-1-20-23.
~~(18)~~ **(19)** IC 27-1-20-30.
~~(19)~~ **(20)** IC 27-1-22.
~~(20)~~ **(21)** IC 27-4-1.
~~(21)~~ **(22)** Except as provided in IC 27-6-1.1-6, IC 27-6-1.1-2.
~~(22)~~ **(23)** IC 27-6-2.
~~(23)~~ **(24)** IC 27-7-2.
~~(24)~~ **(25)** IC 27-9.
~~(25)~~ **(26)** IC 34-30-17.

SECTION 61. IC 36-1-2-7, AS AMENDED BY P.L.227-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: 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;
(6) the treasurer, for a school corporation; or
(7) the individual authorized as the fiscal officer by law or the political subdivision's fiscal body, for any other political subdivision.

SECTION 62. IC 36-1-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. (a) The fiscal body of a political subdivision may, by ordinance or resolution, permit the transfer of a prescribed amount, for a prescribed period, to a fund in need of money for cash flow purposes from another fund of the political subdivision if all these conditions are met:

(1) It must be necessary to borrow money to enhance the fund that is in need of money for cash flow purposes.
(2) There must be sufficient money on deposit to the credit of the other fund that can be temporarily transferred.
(3) Except as provided in subsection (b), the prescribed period must end during the budget year of the year in which the transfer occurs.
(4) The amount transferred must be returned to the other fund at the end of the prescribed period.
(5) Only revenues derived from:
(A) the levying and collection of property taxes, **income taxes,** or special taxes; or ~~from~~
(B) operation of the political subdivision;
may be included in the amount transferred.

(b) If the fiscal body of a political subdivision determines that an emergency exists that requires an extension of the prescribed period of a transfer under this section, the prescribed period may be extended for not more than six (6) months beyond the budget year of the year in which the transfer occurs if the fiscal body does the following:

(1) Passes an ordinance or a resolution that contains the following:
(A) A statement that the fiscal body has determined that an emergency exists.
(B) A brief description of the grounds for the emergency.
(C) The date the loan will be repaid that is not more than six (6) months beyond the budget year in which the transfer occurs.
(2) Immediately forwards the ordinance or resolution to the state board of accounts and the department of local government finance.

SECTION 63. IC 36-1-8-5, AS AMENDED BY P.L.73-2005, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) This section applies to all funds raised:

(1) by a general or special tax levy on all the taxable property of a political subdivision; **or**
(2) from county income taxes.

(b) Whenever the purposes of a tax levy **or an allocation of county income tax** have been fulfilled and an unused and unencumbered balance remains in the fund, the fiscal body of the political subdivision shall order the balance of that fund to be transferred as follows, unless a statute provides that it be transferred otherwise:

(1) Funds of a county, to the ~~general fund or~~ rainy day fund of the county, as provided in section 5.1 of this chapter.
(2) Funds of a municipality, to the ~~general fund or~~ rainy day fund of the municipality, as provided in section 5.1 of this chapter.
(3) Funds of a township for redemption of township assistance obligations, to the township assistance fund of the township or rainy day fund of the township, as provided in section 5.1 of this chapter.
(4) Funds of any other political subdivision, to the ~~general fund or~~ rainy day fund of the political subdivision, as provided in section 5.1 of this chapter.

However, if the political subdivision is dissolved, ~~or does not have a general fund or rainy day fund,~~ then to the ~~general~~ **rainy day** fund of each of the units located in the political subdivision in the same proportion that the assessed valuation of the unit bears to the total assessed valuation of the political subdivision.

(c) Whenever an unused and unencumbered balance remains in the civil township fund of a township and a current tax levy **or an allocation of county income tax** for the fund is not needed, the township fiscal body may order any part of the balance of that fund transferred to the debt service fund of the school corporation located in or partly in the township; but if more than one (1) school corporation is located in or partly in the township, then any sum transferred shall be transferred to the debt service fund of each of those school corporations in the same proportion that the part of the assessed valuation of the school corporation in the township bears to the total assessed valuation of the township.

(d) Transfers **under this section** to a political subdivision's rainy day fund must be made after the last day of the political subdivision's fiscal year and before March 1 of the subsequent calendar year.

SECTION 64. IC 36-1-8-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5.1. (a) **The definitions in IC 6-11-1 apply throughout this section.**

(b) A political subdivision ~~may~~ **shall** establish a rainy day fund. ~~by the adoption of:~~

(c) The fiscal body of a political subdivision may authorize use of money in the fund for any of the following purposes:

(1) To make a permanent transfer of money to another fund specified in an ordinance, in the case of a county, city, or town, or a resolution, in the case of any other political subdivision to replace revenue lost as the result of reducing property tax rates or income tax rates, or both, to eliminate fluctuations in the rates that would otherwise be imposed as a result of changes in economic activity in the county.

(2) To make a temporary transfer or loan of money under section 4 of this chapter to fund a shortfall resulting from:

(A) tax collections that are less than the amount of controlled taxes certified by the department of local government finance for collection in a year;

(B) incorrect data, computations, or advertisements; or

(C) refunds paid to taxpayers as the result of an appeal under IC 6-1.1 or IC 6-8.1 related to property taxes or income taxes.

(3) To make a temporary transfer or loan of money under section 4 of this chapter to provide a temporary source of funds to pay or fund a bond, judgment bond, lease, or other obligation when other revenues are insufficient to meet the payments required in a year.

(4) To make a temporary transfer or loan of money under section 4 of this chapter to fund an increase in the budget and controlled tax limit granted by the department of local government finance under IC 6-12 or IC 6-13.

(5) To make a temporary transfer or loan of money under section 4 of this chapter in anticipation of the collection of property taxes, income taxes, or other sources of revenue.

(6) To make a permanent transfer of money for any other purpose specified in ~~(1)~~ an ordinance, in the case of a county, city, or town, or ~~(2)~~ a resolution, in the case of any other political subdivision **(including the purpose of replacing revenue lost from granting in the ordinance or resolution an additional property tax replacement credit that exceeds the credits granted under any other law) to the extent that the expenditure:**

(A) is made from an amount that was deposited in the rainy day fund before January 1, 2007; or

(B) does not reduce the balance in the rainy day fund to less than six percent (6%) of the political subdivision's budget for the year immediately preceding the year of the expenditure.

~~(b)~~ **(d) The fund consists of money deposited in the rainy day fund:**

(1) under subsection (e);

(2) under section 5 of this chapter;

(3) under IC 6-11-9-9; and

(4) from money from any other source: ~~an ordinance or a resolution adopted under this section must specify the following:~~

~~(1) The purposes of the rainy day fund.~~

~~(2) The sources of funding for the rainy day fund, which may include the following:~~

~~(A) Unused and unencumbered funds under:~~

~~(i) section 5 of this chapter;~~

~~(ii) IC 6-3.5-1.1-21.1;~~

~~(iii) IC 6-3.5-6-17.3; or~~

~~(iv) IC 6-3.5-7-17.3.~~

~~(B) any other funding source:~~

~~(i)~~ **(A)** specified in the ordinance or resolution adopted under this section; and

~~(ii)~~ **(B)** not otherwise prohibited by law.

(e) Upon adoption of an ordinance or resolution authorizing a transfer of money under subsection (c)(1) or (c)(6), the ordinance or resolution must be submitted to the county auditor and the department of local government finance. A transfer under subsection (c)(1) or (c)(6) that reduces a controlled tax or tax rate does not reduce the political subdivision's controlled tax limit or controlled levy limit.

~~(c)~~ **(f)** The **expenditure of money transferred from a** rainy day fund **to another fund** is subject to the same appropriation process as other funds that receive tax money.

~~(d)~~ **(g)** In any fiscal year, a political subdivision may transfer ~~under section 5 of this chapter~~ not more than ten percent (10%) of the political subdivision's total annual budget for that ~~fiscal~~ year, adopted under ~~IC 6-1.1-17,~~ **IC 6-13,** to the rainy day fund.

~~(e) A political subdivision may use only the funding sources specified in subsection (b)(2)(A) or in the ordinance or resolution establishing the rainy day fund. The political subdivision may adopt a subsequent ordinance or resolution authorizing the use of another funding source.~~

~~(f) The department of local government finance may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the rainy day fund of the political subdivision.~~

SECTION 65. IC 36-6-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. The assessor shall perform the duties prescribed by statute, including

~~(1)~~ assessment duties prescribed by IC 6-1.1. ~~and~~

~~(2) administration of the dog tax and dog fund, as prescribed by IC 15-5-9.~~

SECTION 66. IC 36-7-13-3.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3.8. As used in this chapter, "state and local income taxes" means taxes imposed under any of the following:

(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax).

(2) IC 6-3.5-1.1 (county adjusted gross income tax) **(repealed).**

(3) IC 6-3.5-6 (county option income tax) **(repealed).**

(4) IC 6-3.5-7 (county economic development income tax) **(repealed).**

(5) IC 6-11-8 (optional additional county income taxes).

SECTION 67. IC 36-7-27-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. (a) As used in this chapter, "county taxpayer" means an individual who:

(1) resides in the county; or

(2) **before 2007,** maintains the individual's principal place of business or employment in the county and who does not reside in another county in which the county option income tax, the county adjusted income tax, or the county economic development income tax is in effect **and, after 2006, maintains the individual's principal place of business or employment in the county and who is an out-of state resident (as defined in IC 6-11-1-10).**

(b) For purposes of this section, an individual shall be treated as a resident of the county in which the individual:

(1) maintains a home, if the individual maintains only one (1) home in Indiana;

(2) if subdivision (1) does not apply, is registered to vote;

(3) if subdivision (1) or (2) does not apply, registers the individual's personal automobile; or

(4) if subdivision (1), (2), or (3) does not apply, spends the majority of the individual's time spent in Indiana during the taxable year in question.

SECTION 68. IC 36-7-27-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. As used in this chapter, "covered local income taxes" means the following income taxes imposed on county taxpayers:

(1) County option income tax **(repealed).**

(2) County economic development income tax **(repealed).**

(3) Optional additional county income tax (IC 6-11-8).

SECTION 69. IC 36-7-31-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. As used in this chapter, "covered taxes" means the following:

(1) The state gross retail tax imposed under IC 6-2.5-2-1 or use tax imposed under IC 6-2.5-3-2.

(2) An adjusted gross income tax imposed under IC 6-3-2-1 on an individual.

(3) A county option income tax imposed under IC 6-3.5-6 **(repealed).**

(4) A food and beverage tax imposed under IC 6-9.

(5) An optional additional county income tax under IC 6-11-8.

SECTION 70. IC 36-7-31.3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. As used in this chapter, "covered taxes" means the part of the following taxes attributable to the operation of a facility designated as part of a tax area under section 8 of this chapter:

(1) The state gross retail tax imposed under IC 6-2.5-2-1 or use tax imposed under IC 6-2.5-3-2.

(2) An adjusted gross income tax imposed under IC 6-3-2-1 on an individual.

(3) A county option income tax imposed under IC 6-3.5 **(repealed).**

(4) Except in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000), a food and beverage tax imposed under IC 6-9.

(5) An optional additional county income tax under IC 6-11-8.

SECTION 71. IC 36-7-32-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 8. As used in this chapter, "income tax base period amount" means the aggregate amount of the following taxes paid by employees employed in the territory comprising a certified technology park with respect to wages and salary earned for work in the certified technology park for the state fiscal year that precedes the date on which the certified technology park was designated under section 11 of this chapter:

(1) The adjusted gross income tax **(repealed).**

(2) The county adjusted gross income tax **(repealed).**

(3) The county option income tax **(repealed).**

(4) The county economic development income tax **(repealed).**

(5) The optional additional county income tax (IC 6-11-8). After 2006, taxes imposed before 2007 under the taxes listed in subdivisions (1) through (4) shall be treated after 2006 as the base amount for taxes imposed under IC 6-11-8.

SECTION 72. IC 36-7-32-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 22. (a) The treasurer of state shall establish an incremental tax financing fund for each certified technology park 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) Subject to subsection (c), the following amounts shall be deposited during each state fiscal year in the incremental tax financing fund established for a certified technology park under subsection (a):

(1) The aggregate amount of state gross retail and use taxes that are remitted under IC 6-2.5 by businesses operating in the certified technology park, until the amount of state gross retail and use taxes deposited equals the gross retail incremental amount for the certified technology park.

(2) The aggregate amount of the following taxes paid by employees employed in the certified technology park with respect to wages earned for work in the certified technology park, until the amount deposited equals the income tax incremental amount:

(A) The adjusted gross income tax.

(B) The county adjusted gross income tax.

(C) The county option income tax.

(D) The county economic development income tax.

(E) The optional additional county income tax (IC 6-11-8).

(c) Not more than a total of five million dollars ($5,000,000) may be deposited in a particular incremental tax financing fund for a certified technology park over the life of the certified technology park.

(d) On or before the twentieth day of each month, all amounts held in the incremental tax financing fund established for a certified technology park shall be distributed to the redevelopment commission for deposit in the certified technology park fund established under section 23 of this chapter.

SECTION 73. IC 36-9-14.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. (a) Except as provided in subsection (c), the county fiscal body may provide money for the cumulative capital development fund by levying a tax in compliance with ~~IC 6-1.1-41~~ **IC 6-15** on the taxable property in the county.

(b) The maximum property tax rate that may be imposed for property taxes first due and payable during a particular year in a county in which the county option income tax **(repealed),** ~~or~~ the county adjusted gross income tax **(repealed), or an optional additional county income tax imposed under IC 6-11-8** is in effect on January 1 of that year, depends upon the number of years the county has previously imposed a tax under this chapter and is determined under the following table:

NUMBER OF YEARS	TAX RATE PER $100 OF ASSESSED VALUATION
0	$0.05
1 or more	$0.10

(c) The maximum property tax rate that may be imposed for property taxes first due and payable during a particular year in a county in which ~~neither~~ the county option income tax ~~nor~~ **(repealed),** the county adjusted gross income tax **(repealed), or optional additional county income tax imposed under IC 6-11-8** is in effect on January 1 of that year, depends upon the number of years the county has previously imposed a tax under this chapter and is determined under the following table:

NUMBER OF YEARS	TAX RATE PER $100 OF ASSESSED VALUATION
0	$0.04
1 or more	$0.07

SECTION 74. IC 36-12-1-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 14. An appointed library board subject to IC 6-11-10 shall submit its proposed operating budget and property tax levy for the operating budget to the following fiscal body:**

(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 75. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 6-1.1-17-1; IC 6-1.1-17-2; IC 6-1.1-17-3; IC 6-1.1-17-5; IC 6-1.1-17-5.6; IC 6-1.1-17-6; IC 6-1.1-17-7; IC 6-1.1-17-8; IC 6-1.1-17-9; IC 6-1.1-17-10; IC 6-1.1-17-11; IC 6-1.1-17-12; IC 6-1.1-17-13; IC 6-1.1-17-14; IC 6-1.1-17-15; IC 6-1.1-17-16; IC 6-1.1-17-16.5; IC 6-1.1-17-16.7; IC 6-1.1-17-17; IC 6-1.1-17-19; IC 6-1.1-17-20; IC 6-1.1-18; IC 6-1.1-18.5; IC 6-1.1-19-1.7; IC 6-1.1-19-2; IC 6-1.1-19-3; IC 6-1.1-19-4.1; IC 6-1.1-19-4.2; IC 6-1.1-19-4.4; IC 6-1.1-19-4.5; IC 6-1.1-19-4.6; IC 6-1.1-19-4.7; IC 6-1.1-19-4.9; IC 6-1.1-19-5.1; IC 6-1.1-19-5.3; IC 6-1.1-19-5.4; IC 6-1.1-19-6; IC 6-1.1-19-7; IC 6-1.1-19-8; IC 6-1.1-19-10; IC 6-1.1-19-10.5; IC 6-1.1-19-11; IC 6-1.1-19-12; IC 6-1.1-20; IC 6-1.1-29; IC 6-1.1-41; IC 12-13-8-4.

SECTION 76. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2007]: IC 15-5-9; IC 15-5-10.

SECTION 77. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2007]: IC 6-3.5-1.1; IC 6-3.5-2; IC 6-3.5-6; IC 6-3.5-7; IC 6-3.5-8.

SECTION 78. [EFFECTIVE JULY 1, 2006] **Any balance on December 31, 2006, and any amount collected for deposit after December 31, 2006, in a county's special account under IC 6-3.5-1.1, IC 6-3.5-6, or IC 6-3.5-7, all as repealed by this act, and remaining after:**

(1) making certified distributions under IC 6-3.5-1.1, IC 6-3.5-6, or IC 6-3.5-7 for 2006;

(2) paying any refunds to taxpayers for any overpayment of the county's county adjusted gross income tax, county option income tax, or county economic development tax; and

(3) recovering any overpayment by the state to the county of county adjusted gross income tax, county option income tax, or county economic development tax;

shall be distributed by the auditor of state to the county imposing the tax for deposit in the rainy day funds of the political subdivisions in the county according to the schedule and formula prescribed by the department of local government finance, after consultation with the department of state revenue. An amount deposited in a rainy day fund is available to pay or fund any bond, lease, or other obligation for which a political subdivision pledged county adjusted gross income tax, county option income tax, or county economic development tax before January 1, 2007.

SECTION 79. [EFFECTIVE UPON PASSAGE] **(a) IC 6-11, as added by this act, applies only to taxable years beginning after December 31, 2006.**

(b) IC 6-12, as added by this act, initially applies to taxes first due and payable in 2007.

(c) IC 6-13, as added by this act, applies only to budget years beginning after December 31, 2006.

(d) Notwithstanding IC 6-14, as added by this act, IC 6-1.1-20 (as effective June 30, 2006) and IC 6-1.1-18.5-8 (as effective June 30, 2006), or IC 6-1.1-19-8 (as effective June 30, 2006), as appropriate, and not IC 6-14, as added by this act, applies to petitions, remonstrances, and the review of debt service or lease rentals for a controlled project (as defined in IC 6-1.1-20-1.1 (before its repeal by this act)) if a notice for the debt service or lease rentals has been published under IC 6-1.1-20-3.1(2) (before its repeal by this act) before July 1, 2006. However, an action required by the school property tax control board shall be taken by the local government tax control board established under IC 6-13-3, as added by this act. Proceedings conducted under this subsection shall be treated as if they had been conducted under IC 6-14, as added by this act, for all purposes, including the issuance of obligations to refund an obligation subject to this subsection.

(e) Notwithstanding IC 6-14, as added by this act, a petition for approval of bond indebtedness, lease rentals, or bus purchase loans filed with the department of local government finance under IC 6-1.1-18.5-8 (as effective before July 1, 2006), IC 6-1.1-19-8 (as effective before July 1, 2006), or IC 6-1.1-20 (as effective before July 1, 2006), as appropriate, before July 1, 2006, shall be reviewed and approved after June 30, 2006, under IC 6-1.1-18.5-8 (as effective before July 1, 2006), IC 6-1.1-19-8 (as effective before July 1, 2006), or IC 6-1.1-20 (as effective before July 1, 2006), as appropriate. However, an action required by the school property tax control board shall be taken by the local government tax control board established under IC 6-13-3, as added by this act. Proceedings conducted under this subsection shall be treated as if they had been conducted under IC 6-14, as added by this act, for all purposes, including the issuance of obligations to refund an obligation subject to this subsection.

(f) Notwithstanding IC 6-14, as added by this act, a bonding bond or loan agreement that:

(1) is entered into before July 1, 2006;

(2) pledges county adjusted gross income tax, county option income tax, or county economic development income tax; and

(3) was authorized and approved in conformity with the law in effect at the time the agreement was entered into;

is valid to the same extent as if it had been authorized and approved in compliance with all the requirements in IC 6-14, as added by this act. Otherwise, IC 6-14, as added by this act, applies to a pledge of county adjusted gross income tax, county option income tax, or county economic development tax for the funding or payment of bonded indebtedness or lease rentals to the same extent as if it were a pledge of county income tax made under IC 6-11, as added by this act. Any other loan, lease agreement, or bonded indebtedness, or other obligation that was entered into by a political subdivision before July 1, 2006, in conformity with the law in effect at the time the agreement was entered into (including any requirement requiring approval or review by the state board of tax commissioners or the department of local government finance) shall be treated after June 30, 2006, as if it had been entered into under IC 6-14, as added by this act. Proceedings conducted under this subsection shall be treated as if they had been conducted under IC 6-14, as added by this act, for all purposes, including the issuance of obligations to refund an obligation subject to this subsection.

(g) An action that:

(1) is taken by a political subdivision before July 1, 2006; and

(2) complies with the requirements in IC 6-14, as added by this act;

shall be treated after June 30, 2006, as meeting the requirements of IC 6-14, as added by this act.

(h) IC 6-15, as added by this act, applies only to property taxes first due and payable after December 31, 2006. An action that:

(1) is taken by a political subdivision before July 1, 2006; and

(2) complies with the requirements of IC 6-15, as added by this act;

shall be treated after June 30, 2006, as meeting the requirements of IC 6-15, as added by this act.

(i) The department of local government finance may adopt temporary rules in the manner provided in IC 4-22-2-37.1 for the adoption of emergency rules to implement this act. A temporary rule adopted under this subsection expires on the earliest of the following:

(1) The date specified in the temporary rule.

(2) The date another temporary rule adopted under this subsection supersedes the temporary rule.

(3) The date that a rule that supersedes the temporary rule is adopted under IC 4-22-2.

(4) July 1, 2008.

SECTION 80. [EFFECTIVE JULY 1, 2006] **(a) Subject to this SECTION, after June 30, 2006, to the extent that there is a substantially similar requirement or procedure enacted in this act, a reference in a law, rule, policy, form, contract, or other document to any part of:**

(1) IC 6-1.1-17 that is repealed by this act or IC 6-1.1-18 (repealed by this act) shall be treated as a reference to the appropriate requirements and procedures in IC 6-13, as added by this act;

(2) IC 6-1.1-18.5 (repealed by this act) or IC 6-1.1-19 that is repealed by this act shall be treated as a reference to the appropriate requirements and procedures in IC 6-12, as added by this act;

(3) IC 6-1.1-20 (repealed by this act) shall be treated as a reference to the appropriate requirements and procedures in IC 6-14, as added by this act; and

(4) IC 6-1.1-41 (repealed by this act) shall be treated as a reference to the appropriate requirements and procedures in IC 6-15, as added by this act.

(b) Subject to this SECTION, after December 31, 2006, to the extent that there is a substantially similar requirement or procedure enacted in this act, a reference in a law, rule, policy, form, contract, or other document to any part of IC 6-3.5-1 (repealed), IC 6-3.5-1.1 (repealed by this act), IC 6-3.5-2 (repealed by this act), IC 6-3.5-6 (repealed by this act), IC 6-3.5-7 (repealed by this act), or IC 6-3.5-8 (repealed by this act) shall be treated as a reference to the appropriate requirements and procedures in IC 6-11.

(c) After June 30, 2006, to the extent that there is a substantially similar requirement or procedure enacted in this act, a reference in a law, rule, policy, form, contract, or other document to IC 6-1.1-17-16(e) (repealed by this act), IC 6-1.1-18.5-8 (repealed by this act), IC 6-1.1-19-4.2 (repealed by this act), IC 6-1.1-19-4.6 (repealed by this act), or IC 6-1.1-19-8 (repealed by this act) shall be treated as a reference to the appropriate requirements and procedures in IC 6-14, as added by this act.

(d) After June 30, 2006, to the extent that there is a substantially similar requirement or procedure enacted in this act, a reference in a law, rule, policy, form, contract, or other document to IC 6-1.1-17-16.7 (repealed by this act) or IC 6-1.1-18-12 (repealed by this act) shall be treated as a reference to the appropriate requirements and procedures in IC 6-13-16, as added by this act, and IC 6-15, as added by this act.

(e) Each county board of tax adjustment is terminated on July 1, 2006. Political subdivision budgets, tax rates, and taxes for each year after 2006 shall be reviewed in conformity with IC 6-13, as added by this act. A reference in any law to the county board of tax adjustment does not have the effect of creating any procedure or requirement not included in IC 6-13, as added by this act.

(f) This act, including IC 6-12-3-4, as added by this act, does not increase the amount of debt that a political subdivision may incur under the Constitution of the State of Indiana or any law that limits debt to a percentage of the assessed value in the political subdivision.

(g) Any law that limits the amount of anticipation warrants that a political subdivision may issue or other short term borrowing that a political subdivision may make to a percentage of the levy imposed for a particular purpose or fund shall be treated after December 31, 2006, as a reference to the percentage of the levy and county income taxes raised for the particular purpose or fund.

(h) A reference in IC 12-13-8-5, IC 12-16-14-3, IC 12-19-7-4, IC 12-19-7.5-6, IC 12-29-2-2, IC 16-35-3-3, or IC 21-2-11.5-3, all as amended by this act, to controlled taxes imposed for 2006 shall be treated as a reference to taxes used to compute the affected

political subdivision's 2006 controlled tax limit under IC 6-12-4, as added by this act.

SECTION 81. [EFFECTIVE UPON PASSAGE] **(a) IC 6-11 through IC 6-15, all as added by this act, shall be liberally construed to effectuate the intent of the general assembly to:**

(1) provide county income taxes as an alternative source of revenue for tax increases traditionally raised through annual increases in property tax levies tied to the assessed value growth quotient;

(2) establish general tax controls over controlled property taxes and the county income taxes used to replace controlled property taxes;

(3) provide necessary funding to carry out the essential governmental functions of political subdivisions;

(4) establish a rainy day fund in each political subdivision as the primary source of savings for political subdivisions to use during times of economic distress, to provide funds to temporarily fund shortfalls, and for cash flow needs;

(5) provide for the continued funding and payment after June 30, 2006, of debt and lease rentals incurred by political subdivisions and allocation areas before July 1, 2006;

(6) limit state distributions to replace revenue lost from the granting of property tax replacement credits and homestead credits;

(7) provide additional public and administrative review of debt and lease rental obligations; and

(8) grant the department of local government finance adequate authority to implement this act to carry out the intent of the general assembly.

(b) The repeal of a provision in IC 6-1.1 or IC 6-3.5 by this act shall not be construed to mean that the general assembly is rescinding any policy adopted in another act in the same session as this act. The department of local government finance shall administer IC 6-11 through IC 6-15, all as added by this act, in a manner that implements policies adopted in other acts that are not inconsistent with the policies adopted in IC 6-11 through IC 6-13, all as added by this act.

(c) Except with respect to limitations on the allocation factors that may be used to distribute income taxes under IC 6-11-8, as added by this act, and expansion of the purposes for which local income taxes may be used, it is the intent of the general assembly that political subdivisions:

(1) be authorized to raise under the controlled tax limits imposed by this act substantially similar revenue from controlled property taxes and controlled income taxes under IC 6-11-7, as added by this act, as the political subdivision could have raised if IC 6-11 through IC 6-13, all as added by this act, had not been enacted; and

(2) receive substantially similar distributions under IC 6-11-8, as added by this act, as the political subdivision could have received under the county adjusted gross income tax, county option income tax, and county economic development income tax.

(d) The legislative council shall provide for introduction of corrective legislation in the 2007 session of the general assembly to:

(1) bring any law in conflict with this act (including any law enacted in the 2006 session of the general assembly) into conformity with this act;

(2) make any technical change necessary or appropriate as the result of the passage of this act; and

(3) make any changes in IC 6-11 through IC 6-15, all as added by this act, or other related amendments in this act that are necessary to carry out the intent of the general assembly expressed in this SECTION.

(e) The department of local government finance is authorized to make the adjustments in taxes, tax rates, allocations, and distributions otherwise required by IC 6-11 through IC 6-13, all as added by this act, to carry out the intent of this SECTION in 2006 and 2007. In order to assist the general assembly with bringing the provisions of IC 6-11 through IC 6-13, all as added by this act, into conformity with the intent of the general assembly, the department of local government finance shall submit an initial report of its activities under this subsection before July 1, 2007, and a final report, before November 1, 2007, to the general assembly in an electronic format under IC 5-14-6 and to the governor. The department of local government finance may submit additional preliminary reports or recommendations as the department determines appropriate to assist the general assembly with carrying out subsection (d).

SECTION 82. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 6-1.1-20.6-6, as in effect January 1, 2006, a county may adopt an ordinance under this SECTION to apply the credit authorized by IC 6-1.1-20.6, as in effect January 1, 2006, to property taxes first due and payable in 2006.**

(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 2006, the county fiscal body may adopt an ordinance to apply the credit under IC 6-1.1-20.6, as in effect January 1, 2006, to the property taxes first due and payable in 2006. 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 2006.

(c) Except as provided in subsection (a), IC 6-1.1-20.6, as in effect January 1, 2006, applies to a credit authorized by an ordinance adopted under this SECTION.

(d) This SECTION expires January 1, 2007.

SECTION 83. [EFFECTIVE JANUARY 1, 2007] **(a) Notwithstanding the repeal of IC 15-5-9-10 by this act, if any money remains in the state dog account of the state general fund on December 31, 2006, the auditor of state shall, on January 1, 2007, abolish the account and distribute the money as follows:**

(1) Fifty percent (50%) to Purdue University for the School of Veterinary Science and Medicine, to be used solely for canine disease research.

(2) Fifty percent (50%) to the counties identified under subsection (b).

(b) Money to be distributed under subsection (a)(2) shall be divided among the counties that paid to the auditor of state, under IC 15-5-9-10(j) (before its repeal by this act), the surplus money remaining in the counties' county dog funds on May 1, 2006.

(c) Each county's share of the total amount distributed under this SECTION must be proportional to the county's share of the total amount paid to the auditor of state in 2006 under

IC 15-5-9-10(j) (before its repeal by this act).

(d) On or before February 1, 2007, the county auditor of each county shall distribute to the township trustees of the townships located in the county:

(1) money distributed to the county under subsection (b); and

(2) any money remaining in the county dog fund.

An equal share of the money described in this subsection shall be distributed to each township trustee.

(e) A township trustee who receives a distribution under subsection (d) shall use the distribution:

(1) to pay claims filed under IC 15-5-9-9.1 (before its repeal by this act);

(2) to pay fees and charges under IC 15-5-9-10 (before its repeal by this act);

(3) to provide funding for the humane society designated by the county legislative body under IC 15-5-9-8(d) (before its repeal by this act) to receive a part of each dog tax payment; or

(4) if the county legislative body did not designate a humane society under IC 15-5-9-8(d) (before its repeal by this act), to provide funding for the township general fund.

(f) This SECTION expires January 1, 2008.

SECTION 84. [EFFECTIVE JULY 1, 2006] **IC 6-1.1-45-9, as amended by this act, applies only to property taxes first due and payable after December 31, 2006.**

SECTION 85. [EFFECTIVE UPON PASSAGE] **(a) The general assembly finds that:**

(1) IC 6-3.5-1.1-2.8, as amended by this act, allows Jasper County to fund the operation and maintenance of a jail and juvenile detention center through the use of county option income tax revenues; and

(2) allowing Jasper County to fund the operation and maintenance of a jail and juvenile detention center through the use of county option income tax revenues rather than the use of property taxes promotes the purpose of maintaining low property tax rates and is essential to economic development.

(b) These special circumstances require legislation particular to Jasper County.

SECTION 86. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "adopting entity" has the meaning set forth in IC 6-3.5-7-26.**

(b) Notwithstanding IC 6-3.5-7-5, IC 6-3.5-7-6, and IC 6-3.5-7-26, an adopting entity may adopt or amend an ordinance under IC 6-3.5-7-26 in 2006 before June 1, 2006. A tax rate imposed in an ordinance adopted before June 1, 2006, applies to the adjusted gross income of county taxpayers on July 1, 2006.

SECTION 87. [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)] **IC 27-5.1-2-8, as amended by this act, applies only to taxable years beginning after December 31, 2005.**

SECTION 88. [EFFECTIVE JULY 1, 2006] **(a) As used in this SECTION, "home energy" has the meaning set forth in IC 12-14-11-2.**

(b) IC 6-2.5-4-5, as amended by this act, and IC 6-2.5-5-16.5, as added by this act, apply to transactions involving home energy that occur after June 30, 2006, and before July 1, 2007.

SECTION 89. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "department" refers to the department of state revenue established by IC 6-8.1-2-1.**

(b) The department may adopt rules under IC 4-22-2 to implement IC 6-2.5-4-5, as amended by this act, and IC 6-2.5-5-16.5, as added by this act.

(c) The department shall adopt any rules under this SECTION to implement IC 6-2.5-4-5, as amended by this act, and IC 6-2.5-5-16.5, as added by this act, in the same manner as emergency rules are adopted under IC 4-22-2-37.1. Any rules adopted under this SECTION must be adopted not later than June 1, 2006. A rule adopted under this SECTION expires on the earlier of:

(1) the date a rule is adopted by the department under IC 4-22-2-24 through IC 4-22-2-36 to implement IC 6-2.5-4-5, as amended by this act, and IC 6-2.5-5-16.5, as added by this act; or

(2) July 1, 2007.

(d) This SECTION expires July 1, 2007.

SECTION 90. [EFFECTIVE JULY 1, 2005 (RETROACTIVE)] **(a) There is appropriated to the department of education the greater of the following from the state general fund for purposes of making the distributions for tuition support described in IC 21-3-1.7-9, beginning July 1, 2005, and ending June 30, 2006:**

(1) Twenty million one hundred thousand dollars ($20,100,000).

(2) An amount sufficient to enable the department of education to make tuition support distributions after December 31, 2005, and before July 1, 2006, in accordance with IC 21-1-30 and IC 21-3 without requiring a reduction in tuition support distributions to school corporations in the first six (6) months of 2006.

The amount appropriated under this SECTION is in addition to the amount appropriated by P.L.246-2005, SECTION 9 to the department of education for distribution for tuition support. The amount appropriated under this subsection shall be distributed in the same manner and on the same schedule as other distributions for tuition support subject to P.L.246-2005, SECTION 9.

(b) 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:

(1) the state board of finance, notwithstanding IC 4-9.1-1-7, IC 4-13-2-23, or any other law; or

(2) the budget agency, notwithstanding IC 4-12-1-12 or any other law.

SECTION 91. [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)] **IC 6-1.1-4-12, as amended by this act, applies only to assessment dates after December 31, 2005.**

SECTION 92. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 6-1.1-12.1 apply throughout this SECTION.**

(b) As used in this SECTION, "department" refers to the department of local government finance.

(c) As used in this SECTION, "taxpayer" means a person:

(1) who operates a grey iron foundry located in Grant County;

(2) who applied in 2001 for property tax deductions under IC 6-1.1-12.1 for new manufacturing equipment located in an

economic revitalization area; and

(3) whose applications described in subdivision (2) were denied.

(d) References to the Indiana Code in this SECTION refer to the Indiana Code in effect on March 1, 2001, unless otherwise stated.

(e) Notwithstanding any other law, a taxpayer who complies with the requirements of this SECTION is entitled to the property tax deduction for new manufacturing equipment in the amounts and for the number of years provided under IC 6-1.1-12.1-4.5, as determined by the department under subsection (h).

(f) The taxpayer shall provide the department with copies of the taxpayer's:

(1) statement of benefits; and

(2) applications for deductions from assessed value;

for new manufacturing equipment placed in service in an economic revitalization area that the taxpayer filed in 2001.

(g) If there are any deficiencies in the taxpayer's filings described in subsection (f), the department shall assist the taxpayer in completing the information necessary to determine:

(1) the assessed value of the new manufacturing equipment; and

(2) the number of years over which the taxpayer is entitled to the deduction under this SECTION.

(h) The department shall determine:

(1) the amount of the assessed value of the new manufacturing equipment;

(2) the number of years over which the taxpayer is entitled to the deduction under this SECTION; and

(3) the percentages used to compute the taxpayer's deductions;

in accordance with IC 6-1.1-12.1-4.5(d) and IC 6-1.1-12.1-4.5(e) as if the taxpayer's applications for deductions had been approved in 2001.

(i) Notwithstanding IC 6-1.1-26 (as in effect on January 1, 2006), when the department has completed the department's determinations under subsection (h), the department shall issue an order to the county auditor of the county in which the economic revitalization area is located:

(1) describing the department's determinations under subsection (h); and

(2) requiring the county auditor to accept the taxpayer's refund claims as if the taxpayer's deduction applications had been approved in 2001.

The department shall provide the taxpayer with a copy of the order issued under this subsection.

(j) Notwithstanding IC 6-1.1-26 (as in effect January 1, 2006), the taxpayer may file refund claims for property taxes paid in previous years that are affected by the department's order issued under subsection (i). The taxpayer must attach a copy of the order issued under subsection (i) to the taxpayer's refund claim.

(k) Notwithstanding IC 6-1.1-26 (as in effect January 1, 2006), the county auditor shall pay the refund claims of the taxpayer filed under subsection (j) if the refund claims are fully consistent with the department's order issued under subsection (i).

SECTION 93. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies to property that:**

(1) is used for a fraternity for students attending Butler University;

(2) is owned by a nonprofit corporation that was, before the effective date of this SECTION, determined by the auditor of the county in which the property is located to be eligible to receive a property tax exemption under IC 6-1.1-10-16 or IC 6-1.1-10-24; and

(3) is not eligible for the property tax exemption under IC 6-1.1-10-16 or IC 6-1.1-10-24 for property taxes first due and payable in 2001, 2002, 2003, and 2004 because the nonprofit corporation failed to timely file an application under IC 6-1.1-11-3.5.

(b) Notwithstanding IC 6-1.1-11-1 and IC 6-1.1-11-3.5, the auditor of the county in which the property described in subsection (a) is located shall:

(1) waive the noncompliance with the timely filing requirement for the exemption application in question; and

(2) grant the appropriate exemption.

(c) A property tax exemption granted under this SECTION applies to:

(1) property taxes first due and payable in 2001;

(2) property taxes first due and payable in 2002;

(3) property taxes first due and payable in 2003; and

(4) property taxes first due and payable in 2004.

(d) This SECTION expires July 1, 2007.

SECTION 94. P.L.228-2005, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 35. (a) The definitions in IC 6-1.1-1 apply throughout this SECTION.

(b) As used in this SECTION, "taxpayer" means a nonprofit corporation that is an owner of land and improvements:

(1) that were:

(A) owned and occupied by the taxpayer during the period preceding the assessment date in 1999 and continuing through the date that this SECTION is effective; and

(B) used to prepare and create a soccer facility to provide youths with the opportunity to play supervised and organized soccer against other youths;

(2) for which the property tax liability imposed for property taxes first due and payable in 2000, 2001, 2002, 2003, and 2004 exceeded ~~thirty-three~~ **thirty** thousand dollars ~~($33,000)~~ **($30,000),** in total, which has been paid by the taxpayer;

(3) that would have qualified for an exemption under IC 6-1.1-10 from property taxes first due and payable in 2000, 2001, 2002, 2003, and 2004 if the taxpayer had complied with the filing requirements for the exemption in a timely manner; and

(4) that have been granted an exemption under IC 6-1.1-10 from property taxes first due and payable in 2005.

(c) Land and improvements described in subsection (b) are exempt under IC 6-1.1-10-16 from property taxes first due and payable in 2003 and 2004, notwithstanding that the taxpayer failed to make a timely application for the exemption for those years.

(d) The taxpayer may file claims with the county auditor for a refund for the amounts paid toward property taxes on land and improvements described in subsection (b) that were billed to the taxpayer for property taxes first due and payable in 2003 and 2004. The claims must be filed as set forth in IC 6-1.1-26-1(1) through IC 6-1.1-26-1(3). The claims must present sufficient facts for the county auditor to determine whether the claimant is a person that

meets the qualifications described in subsection (b) and the amount that should be refunded to the taxpayer.

(e) Upon receiving a claim filed under this SECTION, the county auditor shall determine whether the claim is correct. If the county auditor determines that the claim is correct, the county auditor shall submit the claim under IC 6-1.1-26-4 to the county board of commissioners for review. The only grounds for disallowing the claim under IC 6-1.1-26-4 are that the claimant is not a person that meets the qualifications described in subsection (b) or that the amount claimed is not the amount due to the taxpayer. If the claim is allowed, the county auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount due the claimant under this SECTION. The amount of the refund must equal the amount of the claim allowed. Notwithstanding IC 6-1.1-26-5, no interest is payable on the refund.

(f) This SECTION shall be liberally construed in favor of the taxpayer to give effect to the purposes of this SECTION.

~~(f)~~ **(g)** This SECTION expires December 31, 2007.

SECTION 95. [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)] **(a) IC 6-1.1-12.1-1 and IC 6-1.1-40-4, both as amended by this act, apply only to:**

(1) new manufacturing equipment, new research and development equipment, new logistical distribution equipment, and new information technology equipment installed and initially used in an economic revitalization area; or

(2) new manufacturing equipment installed and initially used in a maritime opportunity district;

after December 31, 2005.

(b) It is the intent of the general assembly that the amendment of IC 6-1.1-12.1-1 and IC 6-1.1-40-4 by this act be interpreted to expand the equipment that is eligible for a deduction under IC 6-1.1-12.1 or IC 6-1.1-40 to include equipment that is ineligible for a deduction under IC 6-1.1-12.1 or IC 6-1.1-40 solely because the equipment was used in Indiana by a person other than a deduction applicant (as defined in IC 6-1.1-12.1-1(15), as added by this act) before being installed by the deduction applicant in an economic revitalization area or a maritime opportunity district.

SECTION 96. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "eligible district" means a fire protection district established under IC 36-8-11:**

(1) that expanded its territory after 1998; and

(2) for which the quotient expressed as a percentage of:

(A) the taxable assessed value of all tangible property in the district for the assessment date (as defined in IC 6-1.1-1-2) in 2004; divided by

(B) subject to subsection (b), the taxable assessed value of all tangible property in the district for the assessment date (as defined in IC 6-1.1-1-2) in 1999;

is at least one hundred fifty percent (150%).

(b) To account for the change in the definition of "assessed value" reflected in IC 6-1.1-1-3(a)(1) and IC 6-1.1-1-3(a)(2), the taxable assessed value to be used for purposes of subsection (a)(2)(B) is the product of:

(1) the actual taxable assessed value; multiplied by

(2) three (3).

(c) An eligible district may, before September 20, 2006, appeal to the department of local government finance for relief from the levy limitations imposed by IC 6-1.1-18.5 for property taxes first due and payable in 2007. In the appeal the district must:

(1) state that it will be unable to carry out the governmental functions committed to it by law unless the appeal is approved; and

(2) present evidence that it is an eligible district.

(d) The maximum increase in an eligible district's levy allowed under this SECTION is four hundred twenty-five thousand dollars ($425,000).

(e) The department of local government finance shall process the appeal in the same manner that the department processes appeals under IC 6-1.1-18.5-12.

(f) For purposes of computing an eligible district's ad valorem property tax levy for taxes first due and payable in 2008, the district's maximum permissible ad valorem property tax levy for property taxes first due and payable in 2007 under STEP ONE of IC 6-1.1-18.5-3(a) or STEP ONE of IC 6-1.1-18.5-3(b) includes the amount of any increase in the district's levy approved under this SECTION for property taxes first due and payable in 2007.

(g) This SECTION expires January 1, 2009.

SECTION 97. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "taxable year" has the meaning set forth in IC 6-3-1-16.**

(b) IC 6-3-2-20, as added by this act, applies only to taxable years beginning after June 30, 2006.

(c) The addition of IC 6-3-2-20, as added by this act, does not affect the legitimacy or illegitimacy of deductions claimed by taxpayers for taxable years beginning before July 1, 2006. Any determination of:

(1) the department of state revenue; or

(2) a court reviewing a department of state revenue determination;

of the legitimacy or illegitimacy of deductions claimed by taxpayers for taxable years beginning before July 1, 2006, shall be made without regard to IC 6-3-2-20, as added by this act.

(d) The department of state revenue may adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to implement IC 6-3-2-20, as added by this act, and IC 6-3.1-1-3.5, as amended by this act. A temporary rule adopted under this SECTION expires on the earliest of the following:

(1) The date a rule is adopted by the department of state revenue under IC 4-22-2 that repeals, amends, or supersedes the temporary rule.

(2) The date another temporary rule is adopted under this SECTION that repeals, amends, or supersedes a previously adopted temporary rule.

(3) The date specified in the temporary rule.

(4) July 1, 2007.

SECTION 98. [EFFECTIVE UPON PASSAGE] **The department of state revenue may adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to implement IC 6-2.3-1-3.5, IC 6-2.3-3-11, and IC 6-2.3-5.5, all as added by this act. A temporary rule adopted under this SECTION expires on the earliest of the following:**

(1) The date a rule is adopted by the department of state revenue under IC 4-22-2 that repeals, amends, or supersedes the temporary rule.

(2) The date another temporary rule is adopted under this SECTION that repeals, amends, or supersedes a previously adopted temporary rule.

(3) The date specified in the temporary rule.

(4) July 1, 2007.

SECTION 99. [EFFECTIVE JANUARY 1, 2007] **IC 6-3-2-2, as amended by this act, applies to taxable years beginning after December 31, 2006.**

SECTION 100. **An emergency is declared for this act.**

(Reference is to HB 1001 as reprinted January 26, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 12, Nays 0.

KENLEY, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred Engrossed House Bill 1212, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 11, Nays 0.

RIEGSECKER, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Engrossed House Bill 1128, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 7, Nays 0.

BRAY, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Engrossed House Bill 1214, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

BRAY, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Engrossed House Bill 1093, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 11, Nays 0.

LONG, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Engrossed House Bill 1138, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 12, Nays 0.

MEEKS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Utilities, and Public Policy, to which was referred Engrossed House Bill 1339, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

WYSS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Engrossed House Bill 1136, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, line 32, delete "7 and".

Page 2, line 32, after "8" insert "**and 9**".

Page 3, line 10, after "Sec. 7." insert "**(a) This section does not apply:**

(1) to fees or commissions that arise from a lease, including fees or commissions for a sale of the property, lease expansions, or lease renewals;

(2) if a principal broker's fees or commissions have been paid in full; or

(3) if a principal broker waives the notice requirements of this section in writing.

(b) Not later than ten (10) days before the planned closing of a transaction involving the sale of commercial real estate, the owner shall notify the following persons of the date of the closing, the time of the closing, the address of the closing, and of the name of the closing agent, title company, or title insurance agent:

(1) One (1) or more principal brokers to whom the owner owes fees or commissions.

(2) The closing agent, title company, or title insurance agent involved in the transaction.

Notice under this subsection shall be sent by registered or certified mail, return receipt requested, or by another means of service authorized by the Indiana trial rules that provides proof that the addressee has received the notice.

(c) To exercise its rights under this chapter to file a lien after receipt of the notice under subsection (b), the principal broker must notify the closing agent, title company, or title insurance agent at the address in the notice of the amount of the fees or commissions owed before the time of the closing stated in the notice.

(d) If the principal broker does not attend the closing of a transaction involving the sale of commercial real estate, the

owner shall certify in writing at the closing, under the penalties of perjury:

(1) that:

(A) the owner has notified the principal broker in accordance with subsection (b); and

(B) the principal broker received the notice; or

(2) that the principal broker has been paid in full.

Sec. 8.".

Page 3, line 36, delete "8" and insert "**9**".

Page 4, line 27, delete "12(b)" and insert "**13(b)**".

Page 5, line 6, delete "9" and insert "**10**".

Page 5, line 23, delete "10" and insert "**11**".

Page 5, line 23, delete "A principal broker may bring suit to enforce a lien".

Page 5, delete lines 24 through 26.

Page 5, line 27, delete "required by this chapter.".

Page 5, line 28, delete "two (2) years" and insert "**one (1) year**".

Page 5, line 29, delete "under this section by filing a" and insert "**to foreclose the lien.**".

Page 5, line 30, delete "complaint.".

Page 5, line 37, delete "two (2) years" and insert "**one (1) year**".

Page 5, line 38, delete "by filing a complaint" and insert "**to foreclose the lien**".

Page 6, line 1, after "(c)" insert "**The foreclosure of a lien recorded under this chapter shall be conducted under the same rules and same procedures applicable to the foreclosure of mortgages upon real estate.**".

Page 6, delete lines 14 through 29.

Page 6, line 30, delete "11" and insert "**12**".

Page 7, line 3, delete "12" and insert "**13**".

Page 7, line 41, delete "13" and insert "**14**".

Page 8, line 10, delete "14" and insert "**15**".

Page 8, line 18, delete "15" and insert "**16**".

Page 8, line 21, delete "12" and insert "**13**".

Page 8, line 24, delete "16" and insert "**17**".

Page 8, line 35, delete "17" and insert "**18**".

Page 9, after line 10, begin a new paragraph and insert:

"**Sec. 19. (a) If any party, including a principal broker, buyer, or buyer's mortgagee suffers a pecuniary loss as the result of an owner's violation of the notice or certification provisions described in section 7 of this chapter, the party may bring a civil action against the owner for the following:**

(1) Actual damages.

(2) The costs of the action.

(3) Reasonable attorney's fees.

However, if the party establishes that the owner's violation of the notice or certification provisions was fraudulent, a court may award the party damages that do not exceed three (3) times actual damages.

(b) It is a defense to an action brought under this section that the most recent address provided by the principal broker to the owner in the agreement, contract, or other written instrument, including a written instrument described in section 5 of this chapter, was incorrect, and as a result of the incorrect address, the principal broker did not receive the owner's notice described in section 7(b) of this chapter, and as a result the principal broker failed to provide the notice as required in section 7(c) of this chapter.".

(Reference is to HB 1136 as printed January 25, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 1.

BRAY, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Engrossed House Bill 1314, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 11, Nays 0.

MILLER, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Engrossed House Bill 1158, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, line 2, delete "The" and insert "**Except as provided in subsection (c),** the".

Page 1, line 7, after "(a)" insert "**or (c)**".

Page 2, between lines 7 and 8, begin a new paragraph and insert:

"**(c) The superintendent of the state police department may charge a fee in an amount that is not less than five dollars ($5) for each report.**".

Page 4, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 6. IC 33-37-5-26.2, AS ADDED BY P.L.176-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 26.2. In each action in which a person is:

(1) convicted of an offense;

(2) required to pay a pretrial diversion fee;

(3) found to have committed an infraction; or

(4) found to have violated an ordinance;

the clerk shall collect a DNA sample processing fee of ~~one dollar ($1).~~ **two dollars ($2).**".

Page 11, after line 17, begin a new paragraph and insert:

"SECTION 13. [EFFECTIVE JULY 1, 2006] **IC 33-37-4-4, IC 33-37-4-6, IC 33-37-5-15, and IC 33-37-5-28, all as amended by this act, apply only to cases filed after June 30, 2006.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1158 as reprinted February 1, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

BRAY, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Engrossed House Bill 1235, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, line 7, after "a" insert "**dangerous**".

Page 1, line 12, after "of" insert "**IC 16-22-8 and**".

Page 1, line 16, delete "or".

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

(4) a health and hospital corporation established under IC 16-22-8-6.".

Page 2, line 6, delete "may".

Page 2, line 6, after "a" insert "**dangerous**".

Page 2, line 36, strike "Orders, health directives, and restrictions issued by the state".

Page 2, strike lines 37 through 38.

Page 2, line 39, strike "public health" and insert "**A public health authority**".

Page 2, line 39, strike "be enforced by the corporation in a" and insert "**petition a circuit or superior**".

Page 2, line 39, strike "with".

Page 2, line 40, strike "jurisdiction" and insert "**for an order of isolation or quarantine**".

Page 2, line 42, delete "A" and insert "**Unless otherwise provided by law,** a".

Page 3, line 16, after "must" insert "**be verified and**".

Page 3, line 19, delete "." and insert "**, including a description of any efforts the public health authority made to obtain the individual's voluntary compliance with isolation or quarantine before filing the petition.**".

Page 3, line 25, delete "may" and insert "**is likely to**".

Page 3, line 28, delete ":".

Page 3, line 29, delete "(1)".

Page 3, line 29, delete "would allow" and insert "**allows**".

Page 3, run in lines 28 through 29.

Page 3, line 31, delete "; or" and insert "**.**".

Page 3, delete line 32.

Page 3, line 33, delete "a preponderance of" and insert "**clear and convincing**".

Page 3, line 34, delete "the".

Page 3, line 41, delete "impose" and insert "**issue an order imposing**".

Page 4, line 5, delete "may" and insert "**is likely to**".

Page 4, between lines 18 and 19, begin a new line blocked left and insert:

"**The verified petition must include a description of any efforts the public health authority made to obtain the individual's voluntary compliance with isolation or quarantine before filing the petition.**".

Page 4, line 19, delete "a preponderance of" and insert "**clear and convincing**".

Page 4, line 20, delete "the".

Page 4, line 32, delete "An emergency order of isolation or".

Page 4, delete line 33.

Page 4, line 34, delete "accordance with subsection (l).".

Page 4, line 34, after "establish the" insert "**duration and**".

Page 5, line 1, delete "or".

Page 5, line 2, delete "." and insert "**; or**

(4) through other electronic means approved by the court.".

Page 5, line 35, after "court" insert "**, and obtaining the individual's voluntary compliance is or has proven impracticable or ineffective**".

Page 5, line 36, delete "fourteen (14) days" and insert "**seventy-two (72) hours, excluding Saturdays, Sundays, and legal holidays,**".

Page 5, line 41, after "public." delete "The" and insert "**If the immediate order applies to a group of individuals and it is impracticable to provide individual notice, the**".

Page 6, line 15, after "quarantine" insert "**and a description of any efforts the public health authority made to obtain the individual's voluntary compliance with isolation or quarantine before filing the petition**".

Page 6, line 36, delete "a preponderance of" and insert "**clear and convincing**".

Page 7, between lines 7 and 8, begin a new paragraph and insert:

"**(n) Unless otherwise provided by law, a petition for isolation or quarantine, or a petition to renew an immediate order for isolation or quarantine, may be filed in a circuit or superior court in any county. Preferred venue for a petition described in this subsection is:**

(1) the county or counties (if the area of isolation or quarantine includes more than one (1) county) where the individual, premises, or location to be isolated or quarantined is located; or

(2) a county adjacent to the county or counties (if the area of isolation or quarantine includes more than one (1) county) where the individual, premises, or location to be isolated or quarantined is located.

This subsection does not preclude a change of venue for good cause shown.".

Page 7, line 8, delete "(n)" and insert "**(o)**".

Page 7, line 16, delete "order" and insert "**appoint**".

Page 7, line 18, after "represented." insert "**An individual may retain his or her own counsel or proceed pro se.**".

Page 7, line 19, delete "(o)" and insert "**(p)**".

Page 7, line 19, after "quarantine" insert "**that is not in the person's home:**".

Page 7, line 19, delete "may".

Page 7, delete line 20.

Page 7, line 21, after "(1)" insert "**shall allow**".

Page 7, line 22, delete "or" and insert "**and**".

Page 7, line 23, delete "an adult family member of" and insert "**may allow**".

Page 7, line 23, delete "who is quarantined" and insert "**;**".

Page 7, delete line 24.

Page 7, line 25, delete "if the" and insert "**. As a condition of remaining with the quarantined individual, the public health authority may require a person described in subdivision (2) who has not been exposed to a dangerous communicable disease to receive an immunization or treatment for the disease or condition, if an immunization or treatment is available and if requiring immunization or treatment does not violate a constitutional right.**".

Page 7, delete lines 26 through 28.

Page 7, line 29, delete "(p)" and insert "**(q)**".

Page 7, line 36, delete "(q)" and insert "**(r)**".

Page 7, line 39, delete "(r)" and insert "**(s)**".

Page 8, line 3, delete "(s)" and insert "**(t)**".

Page 8, line 5, delete "Each day that a".

Page 8, delete line 6.

Page 8, line 7, delete "(t)" and insert "**(u)**".

Page 8, line 7, delete "may" and insert "**shall**".

Page 8, line 8, delete "." and insert "**, including rules to establish guidelines for:**

(1) voluntary compliance with isolation and quarantine;

(2) quarantine locations and logistical support; and

(3) moving individuals to and from a quarantine location.

The absence of rules adopted under this subsection does not preclude the public health authority from implementing any provision of this section.".

Page 8, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 7. IC 16-41-9-1.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 1.6. (a) A public health authority may impose or petition a court to impose a quarantine and do the following:**

(1) Distribute information to the public concerning:

(A) the risks of the disease;

(B) how the disease is transmitted;

(C) available precautions to reduce the risk of contracting the disease;

(D) the symptoms of the disease; and

(E) available medical or nonmedical treatments available for the disease.

(2) Instruct the public concerning social distancing.

(3) Request that the public inform the public health authority or a law enforcement agency if a family member contracts the disease.

(4) Instruct the public on self quarantine and provide a distinctive means of identifying a home that is self quarantined.

(5) Instruct the public on the use of masks, gloves, disinfectant, and other means of reducing exposure to the disease.

(6) Close schools, athletic events, and other nonessential situations in which people gather.

(7) If quarantine is still necessary after a public health authority has taken the steps described in subdivisions (1) through (6), the public health authority may impose or petition a court to impose a quarantine in accordance with section 1.5 of this chapter. If a quarantine is imposed under section 1.5 of this chapter, the public health authority shall ensure that, to the extent possible, quarantined individuals have sufficient supplies to remain in their own home.

(b) If an out of home, nonhospital quarantine is imposed on an individual, the individual shall be housed as close as possible to the individual's residence.

(c) In exercising the powers described in this section or in section 1.5 of this chapter, the public health authority may not prohibit a person lawfully permitted to possess a firearm from possessing one (1) or more firearms unless the person is quarantined in a mass quarantine location. The public health authority may not remove a firearm from the person's home, even if the person is quarantined in a mass quarantine location.

(d) This section does not prohibit a public health authority from adopting rules and enforcing rules to implement this section if the rules are not inconsistent with this section.

SECTION 8. IC 16-41-9-1.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 1.7. (a) An immunization program established by a public health authority to combat a public health emergency involving a dangerous communicable disease must comply with the following:**

(1) The department must develop and distribute information concerning the risks and benefits of immunization. A copy of this document must be provided to each person who will receive an immunization.

(2) No person may be required to receive an immunization without that person's consent. No child may be required to receive an immunization without the consent of the child's parent, guardian, or custodian.

(3) A person may not be subjected to civil penalty, criminal liability, or workplace discrimination based on the person's decision not to receive an immunization.

(b) The department shall adopt rules to implement this section.".

Page 8, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 9. IC 34-6-2-55 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 55. **(a)** "Health care services", for purposes of IC 34-30-13, has the meaning set forth in IC 27-13-1-18(a).

(b) "Health care services", for purposes of IC 34-30-13.5, means:

(1) any services provided by an individual licensed under:

(A) IC 25-2.5;

(B) IC 25-10;

(C) IC 25-13;

(D) IC 25-14;

(E) IC 25-22.5;

(F) IC 25-23;

(G) IC 25-23.5;

(H) IC 25-23.6;

(I) IC 25-24;

(J) IC 25-26;

(K) IC 25-27;

(L) IC 25-27.5;

(M) IC 25-29;

(N) IC 25-33;

(O) IC 25-34.5; or

(P) IC 25-35.6;

(2) services provided as the result of hospitalization;

(3) services incidental to the furnishing of services described in subdivisions (1) or (2);

(4) any services by individuals certified as:

(A) paramedics;

(B) emergency medical technicians-intermediate;

(C) emergency medical technicians-advanced;

(D) emergency medical technicians basic-advanced; or

(E) emergency medical technicians under IC 16-31-2;

(5) any services provided by individuals certified as first responders under IC 16-31-2; or

(6) any other services or goods furnished for the purpose of preventing, alleviating, curing, or healing human illness, physical disability, or injury.".

Page 9, line 5, delete "is immune from civil liability" and insert "**may not be held civilly liable**".

Page 9, line 6, delete "resulting from" and insert "**for**".

Page 9, line 7, after "to" insert "**an event that is declared**".

Page 9, line 7, delete "(as defined in IC 10-14-3-1):" and insert "**emergency under IC 10-14-3-12, regardless of whether the provision of health care services occurred before or after the declaration of a disaster emergency:**".

Page 9, line 15, delete "section 1 of".

Page 9, line 19, delete "medical clinic, health care".

Page 9, line 19, after "facility" delete ",".

Page 9, line 20, delete "during" and insert "**in response to**".

Page 9, line 21, delete "is immune from civil liability resulting from" and insert "**emergency may not be held civilly liable for**".

Page 9, line 23, delete "a disaster" and insert "**that event**".

Page 9, line 26, delete "." and insert "**emergency, regardless of whether the provision of health care services occurred before or after the declaration of a disaster emergency.**".

Page 9, line 30, delete "IC 16-41-9-1.5(s)" and insert "**IC 16-41-9-1.5(t)**".

Page 9, after line 32, begin a new paragraph and insert:

"SECTION 13. [EFFECTIVE JULY 1, 2006] **In carrying out its duties under IC 16-41-9, a public health authority (as defined in IC 16-18-2-298.5) shall attempt to seek the cooperation of cases, carriers, contacts, or suspect cases to implement the least restrictive but medically necessary procedures to protect the public health.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1235 as printed January 26, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

BRAY, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Engrossed House Bill 1008, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-4-10.9-1.2, AS ADDED BY P.L.235-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 4-4-11.4,** IC 4-4-21, IC 4-13.5, IC 8-1-33, IC 8-9.5, IC 8-14.5, IC 8-15, **IC 8-15.5,** 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 4-22-2-37.1, AS AMENDED BY P.L.235-2005, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(9) A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an emergency.

(10) An emergency rule adopted by the Indiana ~~transportation~~ finance authority under IC 8-21-12.

(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(16) An emergency rule adopted by the Indiana gaming commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(22) An emergency rule adopted by the Indiana state board of animal health under IC 15-2.1-18-21.

(23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34.

(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33.

(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) 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.

(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

(30) A rule adopted by the Indiana finance authority:

(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;

(B) under IC 8-15-2-17.2(a)(10):

(i) establishing enforcement procedures; and

(ii) making assessments for failure to pay required tolls; or

(C) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies 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), **and (l),** a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

SECTION 3. IC 5-10.3-6-8.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2005 (RETROACTIVE)]: **Sec. 8.7. (a) This section applies when certain employees of the state, in particular departmental, occupational, or other definable classifications, are terminated from employment with the state as a result of:**

(1) a lease, or other transfer, of state property or property of a body corporate and politic to a nongovernmental entity; or

(2) a contractual arrangement with a nongovernmental entity to perform certain state functions.

(b) The governor shall request coverage under this section from the board whenever an employee of the state is terminated as described in subsection (a).

(c) The board must approve a request from the governor under subsection (b) unless approval violates subsection (i), federal or state law, or the terms of the fund.

(d) As used in this section, "early retirement" means a member is eligible to retire with a reduced pension under IC 5-10.2-4-1, because the member:

(1) is at least fifty (50) years of age; and

(2) has at least fifteen (15) years of creditable service.

(e) As used in this section, "normal retirement" means a member is eligible to retire under IC 5-10.2-4-1, because:

(1) the member is at least sixty-five (65) years of age and has at least ten (10) years of creditable service;

(2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or

(3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.

(f) The withdrawal of the employees described in subsection (a) from the fund is effective on a termination date established by the board. The board may not establish a termination date that occurs before all of the following have occurred:

(1) The governor has requested coverage under this section and provided written notice of the following to the board:

(A) The intent of the state to terminate the employees from employment.

(B) The names of the terminated employees as of the date that the termination is to occur.

(2) The expiration of a thirty (30) day period following the filing of the notice with the board.

(3) The state complies with subsection (g).

(g) A member who is covered by subsection (f) and who, as of the date of the notice under subsection (f), is less than twenty-four (24) months from being eligible for normal or early retirement under IC 5-10.2-4-1 may elect to retire by purchasing the service credit needed for retirement under the following conditions:

(1) The state shall contribute to the fund an amount determined under IC 5-10.2-3-1.2 and payable from the sources described in subsection (h) sufficient to pay the member's contributions required for the member's purchase of the service credit the member needs to retire.

(2) The maximum amount of creditable service that the state may purchase for a member under this subsection is twenty-four (24) months.

(3) The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service plus all other service for which the fund gives credit, including the creditable service purchased under this subsection.

(h) The amounts that the state is required to contribute to the fund under subsection (g) must come from the following sources:

(1) If the state receives monetary payments under the lease or contractual arrangement described in subsection (a), the proceeds of the monetary payments received by the state. The state may not require, as a condition of the transaction to transfer state property or have certain state functions performed by a nongovernmental entity, that the nongovernmental entity directly or indirectly pay the amounts that the state is required to contribute under subsection (g).

(2) If the state does not receive any monetary payments under the lease or contractual arrangement described in subsection (a), any remaining appropriations made to the state department, agency, or other entity terminating the employees described in subsection (a).

(3) If the sources described in subdivisions (1) and (2) do not fully fund the amounts that the state is required to contribute to the fund under subsection (g), the board shall request that the general assembly appropriate the amount necessary to fully fund the state's required contribution under subsection (g) in the next biennial state budget.

(i) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny an employee permission to withdraw if the denial is necessary to achieve compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

SECTION 4. IC 6-3-3-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 11. (a) An individual is entitled to a credit under this section against the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for each taxable year ending before January 1, 2017. The amount of the credit is equal to the lesser of:**

(1) one-half (1/2) of the amount of the tolls paid by the individual after June 30, 2006, and during the taxable year to drive a vehicle with two (2) axles, including a motorcycle, on the Indiana toll road for a nonbusiness purpose; or

(2) three hundred dollars ($300).

(b) Notwithstanding subsection (a), a husband and wife filing a joint adjusted gross income tax return for a particular taxable year may not claim a credit of more than three hundred dollars ($300) under this section.

(c) If a credit claimed under this section exceeds an individual's total tax liability incurred under the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3-1 through IC 6-3-7, the excess shall be refunded to the individual.

(d) To receive the credit provided by this section, an individual must claim the credit in the manner prescribed by the department. The individual shall submit to the department all information that the department determines is necessary for the calculation of the credit provided by this section.

SECTION 5. IC 8-14-14 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 14. Major Moves Construction Fund

Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority established by IC 4-4-11-4.

Sec. 2. As used in this chapter, "department" refers to the Indiana department of transportation.

Sec. 3. As used in this chapter, "fund" refers to the major moves construction fund established by section 5 of this chapter.

Sec. 4. As used in this chapter, "transportation plan" refers to the department's long range comprehensive transportation plan developed under IC 8-23-2-5.

Sec. 5. (a) The major moves construction fund is established for the purpose of:

(1) funding projects in the department's transportation plan; and

(2) funding distributions under sections 6 and 7 of this chapter.

(b) The fund shall be administered by the department.

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

(d) The fund consists of the following:

(1) Distributions to the fund from the toll road fund under IC 8-15.5-11.

(2) Distributions to the fund from the next generation trust fund under IC 8-14-15.

(3) Appropriations to the fund.

(4) Gifts, grants, loans, bond proceeds, and other money received for deposit in the fund.

(5) Revenues arising from:

(A) a tollway under IC 8-15-3 or IC 8-23-7-22; or

(B) a toll road under IC 8-15-2 or IC 8-23-7-23;

that the department designates as part of, and deposits in, the fund.

(6) Interest, premiums, or other earnings on the fund.

(e) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

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

(g) Money in the fund must be appropriated by the general assembly to be available for expenditure.

Sec. 6. (a) If the authority enters into a public-private agreement concerning the Indiana Toll Road under IC 8-15.5, the department shall make the following distributions from the fund for the indicated purposes:

(1) Seventy-five million dollars ($75,000,000) during each state fiscal year beginning July 1, 2006, and July 1, 2007, to the treasurer of state for deposit in the motor vehicle highway account established by IC 8-14-1. Notwithstanding IC 8-14-1, the auditor of state shall make quarterly distributions of the amounts deposited in the motor vehicle highway account under this subdivision to each of the counties, cities, and towns eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1 and in the same proportion among the counties, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1. Money distributed under this subdivision may be used only for purposes that money distributed from the motor vehicle highway account may be expended under IC 8-14-1.

(2) Twenty million dollars ($20,000,000) to the northwest Indiana regional development authority during the state fiscal year beginning July 1, 2006, for deposit in the development authority fund established under IC 36-7.5-4-1. However, no distributions may be made under this subdivision until the development authority's comprehensive strategic development plan has been reviewed by the budget committee and approved by the director of the office of management and budget.

(3) The following amounts during the state fiscal year beginning July 1, 2006, to each county that establishes a local major moves construction fund under IC 8-14-16:

(A) Thirty million dollars ($30,000,000) to each county described in IC 8-14-16-1(1) through IC 8-14-16-1(5).

(B) Twenty-five million dollars ($25,000,000) to each county described in IC 8-14-16-1(6).

(C) Fifteen million dollars ($15,000,000) to each county described in IC 8-14-16-1(7).

(4) One hundred seventy-nine million dollars ($179,000,000) during the state fiscal year beginning July 1, 2006, to the state highway fund for use by the department:

(A) for preliminary engineering, purchase of rights of way, or construction of highways, roads, and bridges; and

(B) to study the feasibility of the use of creative financing methods, including the use of public-private agreements, tolls, and debt financing to build road and bridge projects.

After review by the budget committee, the budget agency may augment this distribution from balances available in the fund.

(5) An amount sufficient during each state fiscal year beginning after June 30, 2006, as determined by the budget agency, to reimburse the state general fund for the loss of revenue during the preceding state fiscal year attributable to tax credits claimed under IC 6-3-3-11.

(6) An amount sufficient to make any payments required by IC 5-10.3-6-8.7 as a result of a public-private agreement.

(b) There is annually appropriated from the fund an amount sufficient to make any distributions required by subsection (a).

Sec. 7. In addition to any distributions required by section 6 of this chapter, money in the fund may be used for any of the following purposes:

(1) The payment of any obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15-2 or IC 8-15.5 in connection with the execution and performance of a public-private agreement under IC 8-15.5, including establishing reserves.

(2) Lease payments to the authority, if money for those payments is specifically appropriated by the general assembly.

(3) Distributions to the treasurer of state for deposit in the state highway fund, for the funding of any project in the department's transportation plan.

Sec. 8. The total amount of distributions from the fund under sections 6 and 7 of this chapter for projects or purposes that benefit a county traversed by the Indiana Toll Road may not be less than thirty-four percent (34%) of the money received by the authority under a public-private agreement concerning the Indiana Toll Road entered into under IC 8-15.5. The budget agency shall determine the amount of distributions required by this section. In making the determination, the budget agency shall include the following amounts:

(1) Amounts distributed to counties traversed by the Indiana Toll Road under section 6(a)(1) of this chapter.

(2) Money distributed to the northwest Indiana regional development authority under this chapter.

(3) Money distributed under section 6(a)(3) of this chapter.

(4) Projects carried out by the department in counties traversed by the Indiana Toll Road and funded with money distributed under section 6(a)(4)of this chapter.

(5) Reimbursements paid to the state general fund under section 6(a)(5) of this chapter.

(6) Payments to the public employees' retirement fund required by section 6(a)(6) of this chapter.

Sec. 9. The northwest Indiana regional development authority may submit requests to the budget agency for additional appropriations to be made from the fund for state fiscal years beginning after June 30, 2007.

SECTION 6. IC 8-14-15 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 15. Next Generation Trust Fund

Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority.

Sec. 2. As used in this chapter, "trust" refers to the next generation trust fund established under this chapter.

Sec. 3. As used in this chapter, "trustee" refers to the trustee of the trust designated under section 7 of this chapter.

Sec. 4. (a) The authority shall establish a next generation trust fund to hold title to proceeds transferred to the trust under IC 8-15.5-11 for the benefit of the people of Indiana and the users of highways, streets, roads, and other related transportation facilities.

(b) The trust shall be established as a charitable trust, separate from the state, but for a benevolent public purpose.

(c) The trust consists of the proceeds transferred to the trust under IC 8-15.5-11 and any income that accrues from the investment of these proceeds.

Sec. 5. The chairman of the authority shall enter into a trust agreement on behalf of the authority with the treasurer of state in conformity with IC 30-4-2-1. Any provision of the trust agreement entered into under this section that is inconsistent with the provisions or intent of this chapter are void and of no further force or effect.

Sec. 6. A trust established under this chapter must be an irrevocable trust and may not be revoked or terminated by the authority or any other person, nor may it be amended or altered by the authority or any other person.

Sec. 7. The treasurer of state shall act as the trustee of the trust.

Sec. 8. (a)The trustee shall:

(1) administer and manage the trust;

(2) invest the money in the trust; and

(3) deposit in the trust fund any interest that accrues from the investment of these funds.

(b) The trustee shall invest, in a safe and profitable manner, all parts of the trust. The trustee shall comply with the prudent investor rule set forth in IC 30-4-3.5.

(c) IC 4-9.1-1-8 and IC 4-9.1-1-9 do not apply to a trust established under this chapter.

Sec. 9. IC 30-4 (trust code) applies to a trust established under this chapter.

Sec. 10. (a) The principal of the trust may not be diminished during the term of the trust.

(b) The income that accrues from investment of the trust fund shall be deposited in the trust.

(c) After the balance in the trust reaches one billion dollars ($1,000,000,000), all interest accruing from the investment of the trust shall be distributed to the treasurer of state for deposit in the major moves construction fund. However, the balance of the trust may not be reduced to an amount less than one billion dollars ($1,000,000,000).

Sec. 11. The report required under IC 30-4-5-12 is a public record. The attorney general may petition for an accounting as permitted by IC 30-4-5-12.

Sec. 12. (a) This section applies if a person does any of the following with respect to a trust created under this chapter:

(1) Commits a breach of the trust.

(2) Violates the mandate of the trust or trust agreement.

(3) Violates a duty imposed by this chapter, the trust agreement, or IC 30-4.

(b) The attorney general may petition a court to impose one (1) or more of the remedies described in IC 30-4-5.5-1.

Sec. 13. Any records, files, or documents relating to the trust may be examined by the state board of accounts at a time selected by the state board of accounts. The trustee shall upon request of the state board of accounts:

(1) produce and submit any records, files, or documents related to the trust; and

(2) assist in every way the state board of accounts in its work in making an examination.

SECTION 7. IC 8-14-16 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 16. Local Major Moves Construction Funds

Sec. 1. This chapter applies only to the following counties:

(1) A county having a population of more than thirty-three thousand two hundred (33,200) but less than thirty-three thousand six hundred (33,600).

(2) 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).

(3) A county having a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000).

(4) 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).

(5) A county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

(6) 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).

(7) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

Sec. 2. "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. 3. "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. 4. "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. 5. As used in this chapter, "fund" refers to a local major moves construction fund established by a county under section 3 of this chapter.

Sec. 6. "Project" means an airport authority project, a commuter transportation district project, an economic development project, a regional transportation authority project, or a shoreline development commission project.

Sec. 7. "Regional transportation authority project" means a project that can be financed with the proceeds of bonds issued by a regional transportation authority under IC 36-9-3.

Sec. 8. "Shoreline development commission project" means a project that can be financed with the proceeds of bonds issued by a shoreline development commission.

Sec. 9. (a) Each county described in section 1 of this chapter shall establish a local major moves construction fund.

(b) The fund consists of money distributed to the county from the major moves construction fund under IC 8-14-14.

(c) The county auditor shall administer the fund.

(d) The county fiscal body, after consulting with the county executive, may appropriate money in the fund for a purpose described in section 10 of this chapter. The appropriations of money in the fund must be included as a part of the annual budget for the calendar year in accordance with IC 6-1.1-17.

(e) Money remaining in the fund at the end of a particular calendar year remains in the fund and does not revert to any other fund.

Sec. 10. Money in the fund may be expended only for the following purposes:

(1) Acquiring, constructing, equipping, owning, leasing, and financing projects and facilities.

(2) Funding and developing 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.

(3) Financing and constructing additional improvements to projects or other capital improvements owned by the county and leasing them to or for the benefit of another political subdivision.

(4) Acquiring land or all or a part of one (1) or more projects from a political subdivision by purchase or lease, and leasing the land or projects back to the political subdivision, with any additional improvements that may be made to the land or projects.

(5) Acquiring all or a part of one (1) or more projects from a political subdivision by purchase or lease to fund or refund indebtedness incurred on account of the projects to enable the political subdivision to:

(A) make a savings in debt service obligations or lease rental obligations; or

(B) obtain relief from covenants that the eligible political subdivision considers to be unduly burdensome.

(6) Making 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 transportation authority.

(7) Providing funding to assist a railroad that is providing commuter transportation services in an eligible county.

(8) Providing 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) Providing funding to assist a shoreline development commission in carrying out the purposes of IC 36-7-13.5.

(10) Funding bus services (including fixed route services and flexible or demand-responsive services) and projects related to bus services and bus terminals, stations, or facilities.

(11) Providing funding for economic development projects in an eligible county.

(12) Matching federal grants for a purpose described in this section.

(13) Providing funding for interlocal agreements under IC 36-1-7 for a purpose described in this section.

SECTION 8. IC 8-15-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The authority may do the following:

(1) Construct, maintain, repair, police, and operate toll road projects (as defined in this chapter), public improvements, and arterial streets and roads under section 1 of this chapter and establish rules for the use of any such toll road project, public improvement, or arterial street or road.

(2) Issue toll road revenue bonds of the state, payable solely from an allocation of money from the rural transportation road fund under IC 8-9.5-8-16 or from revenues or from the proceeds of bonds issued under this chapter and earnings thereon, or from all three (3), for the purpose of paying all or any part of the cost of any one (1) or more toll road projects or for the purpose of refunding any other toll road revenue bonds.

(3) Establish reserves from the proceeds of the sale of bonds or from other funds, or both, to secure the payment of the bonds.

(4) Fix and revise from time to time and charge and collect tolls for transit over each toll road project constructed by it.

(5) Acquire in the name of the state by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the right of condemnation in the manner as provided by this chapter, such public or private lands, including public parks, playgrounds or reservations, or parts thereof or rights therein, rights-of-way, property, rights, easements, and interests, as it may deem necessary for carrying out the provisions of this chapter. The authority may also:

(A) sell, transfer, and convey any such land or any interest therein so acquired, or any portion thereof, whether by purchase, condemnation, or otherwise, and whether such land or interest therein had been public or private, when the same shall no longer be needed for such purposes; and

(B) transfer and convey any such lands or interest therein as may be necessary or convenient for the construction and operation of any toll road project, or as otherwise required under the provisions of this chapter.

(6) Designate the locations and establish, limit, and control such points of ingress to and egress from each toll road project as may be necessary or desirable in the judgment of the authority to ensure the proper operation and maintenance of such projects, and to prohibit entrance to such project from any point not so designated. The authority shall not grant, for the operation of transient lodging facilities, either ingress to or egress from any project, including the service areas thereof on which are located service stations and restaurants, and including toll plazas and paved portions of the right-of-way. The authority shall cause to be erected, at its cost, at all points of ingress and egress, large

and suitable signs facing traffic from each direction on the toll road. Such signs shall designate the number and other designations, if any, of all United States or state highways of ingress or egress, the names of all Indiana municipalities with a population of five thousand (5,000) or more within a distance of seventy-five (75) miles on such roads of ingress or egress, and the distance in miles to such designated municipalities.

(7) 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, ~~or~~ IC 8-9.5-8, **or IC 8-15.5.** When the cost under any such contract or agreement, other than:

(A) a contract for compensation for personal services;

(B) a contract with the department under IC 8-9.5-8-7; ~~or~~

(C) a lease with the department under IC 8-9.5-8-8; **or**

(D) a contract, a lease, or another agreement under IC 8-15.5;

involves an expenditure of more than ten thousand dollars ($10,000), the authority 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 such other publications as the authority shall determine. Such notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids. Each bid shall contain the full name of every person or company interested in it and shall 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 its proposal secured. The authority may reject any and all bids. A bond with good and sufficient surety shall be required by the authority 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.

(8) Employ consulting engineers, superintendents, managers, and such other engineers, construction and accounting experts, bond counsel, other attorneys with the approval of the attorney general, and other employees and agents as may be necessary in its judgment to carry out the provisions of this chapter, and to fix their compensation. However, all such expenses shall be payable solely from the proceeds of toll road revenue bonds issued under the provisions of this chapter or from revenues.

(9) Receive and accept from any federal agency, subject to IC 8-23-3, grants for or in aid of the construction of any toll road project, and receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made, and repay any grant to the authority or to the department from a federal agency if such repayment is necessary to free the authority from restrictions which the authority determines to be in the public interest to remove.

(10) Establish fees, charges, terms, or conditions for any expenditures, loans, or other form of financial participation in projects authorized as public improvements on arterial streets and roads under section 1 of this chapter.

(11) 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 conditions attached to the aid.

(12) Accept transfer of a state highway to the authority under IC 8-23-7-23 and pay the cost of conversion of the state highway to a toll road project.

(13) Enter into contracts or leases with the department under IC 8-9.5-8-7 or IC 8-9.5-8-8 and in connection with the contracts or leases agree with the department for coordination of the operation and the repair and maintenance of toll road projects and tollways which are contiguous parts of the same public road, including joint toll collection facilities and equitable division of tolls.

(14) Enter into public-private agreements under IC 8-15.5 and do all acts and things necessary or proper to carry out the purposes set forth in IC 8-15.5.

~~(14)~~ **(15)** Do all acts and things necessary or proper to carry out this chapter.

SECTION 9. IC 8-15-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The authority may:

(1) fix, revise, charge, and collect tolls for the use of each toll road project by any person, partnership, association, limited liability company, or corporation desiring the use of any part thereof, including the right-of-way adjoining the paved portion and for placing thereon telephone, telegraph, electric light, or power lines; ~~and~~

(2) fix the terms, conditions, and rates of charge for such use, **including assessments for the failure to pay required tolls,** subject, however, to the state's police power; **and**

(3) collect tolls, user fees, or other charges through manual or nonmanual methods, including, but not limited to, automatic vehicle identification systems, electronic toll collection systems, and, to the extent permitted by law, including rules adopted by the authority under IC 8-15-2-17.2(a)(10), global positioning systems and photo or video based toll collection or toll collection enforcement systems.

(b) Notwithstanding subsection (a), no toll or charge shall be made by the authority **under this section or under a public-private agreement entered into under IC 8-15.5** for:

(1) the operation of temporary lodging facilities located upon or adjacent to any project, nor may the authority itself operate or gratuitously permit the operation of such temporary lodging facilities by other persons without any toll or charge; or

(2) placing in, on, along, over, or under such project, such telephone, telegraph, electric light or power lines, equipment, or facilities as may be necessary to serve establishments located on the project or as may be necessary to interconnect any public utility facilities on one (1) side of the toll road project with those on the other side.

(c) All contracts executed by the authority shall be preserved in the principal office of the authority.

(d) In the case of a toll road project that is not leased to the department under IC 8-9.5-8-7, the tolls shall be fixed and adjusted for each toll road project so that the aggregate of the tolls from the

project, together with other revenues that are available to the authority without prior restriction or encumbrance, will at least be adequate to pay:

(1) the cost of operating, maintaining, and repairing the toll road project, including major repairs, replacements, and improvements;

(2) the principal of and the interest on bonds issued in connection with the toll road project, as the principal and interest becomes due and payable, including any reserve or sinking fund required for the project; and

(3) the payment of principal of and interest on toll road bonds issued by the authority in connection with any other toll road project, including any reserve or sinking fund required for the project, but only to the extent that the authority provides by resolution and subject to the provisions of any trust agreement relating to the project.

(e) Not less than one (1) year before the date that final payment of all such bonds, interest, and reimbursement is expected by the chairman of the authority to be completed, the chairman shall notify the state budget committee in writing of the expected date of final payment.

(f) Such tolls shall not be subject to supervision or regulation by any other commission, board, bureau, or agency of the state.

(g) The tolls, rents, and all other revenues derived by the authority from the toll road project, **except those received in accordance with a public-private agreement under IC 8-15.5,** shall be used as follows:

(1) To pay the cost of operating, maintaining, and repairing the toll road project, including major repairs, replacements, and improvements, to the extent that those costs are not paid out of other funds.

(2) To the extent provided for in the resolution authorizing the issuance of bonds under this chapter or in the trust agreement securing the bonds, to pay:

(A) the principal of and interest on any bonds as the principal and interest become due; or

(B) the redemption price or purchase price of the bonds retired by call or purchase.

(3) Except as prohibited by the resolution authorizing the issuance of bonds under this chapter or the trust agreement securing them, for any purpose relating to any toll road project, including the subject toll road project, as the authority provides by resolution.

(h) Neither the resolution nor any trust agreement by which a pledge is created needs to be filed or recorded except in the records of the authority.

(i) The use and disposition of moneys to the credit of any sinking fund shall be subject to the provisions of any resolution or resolutions authorizing the issuance of any bonds or of any trust agreement. Except as may otherwise be provided in this chapter or in any resolution or any trust agreement, any sinking fund shall be a fund for all bonds without distinction or priority of one over another, subject, however, to such priorities as may arise from prior pledges.

(j) In the case of a toll road project that is leased to the department under IC 8-9.5-8-8, the lease must require that the department fix tolls for the toll road project that comply with IC 8-9.5-8-8(c)(6).

(k) User fees (as defined in IC 8-15.5-2-10) for a toll road project that is subject to a public-private agreement under IC 8-15.5 shall be set in accordance with IC 8-15.5-7.

SECTION 10. IC 8-15-2-14.5, AS AMENDED BY P.L.214-2005, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14.5. **(a)** 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.

(b) Subsection (a) does not apply to tolls fixed, authorized, or established in accordance with a public-private agreement under IC 8-15.5.

SECTION 11. IC 8-15-2-14.7, AS ADDED BY P.L.214-2005, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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~~ **(b) An appropriation made by the general assembly** to the development authority ~~under subsection (b) or (c)~~ **may be distributed to the development authority** 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~~ **(c) An appropriation made by the general assembly to the development authority may be distributed** to the development authority ~~under subsection (c)~~ only after:

(1) the budget committee has reviewed; ~~the development authority's comprehensive strategic development plan under IC 36-7.5-3-4~~ and

(2) the director of the office of management and budget has approved;

the comprehensive strategic development plan **submitted in accordance with IC 36-7.5-3.4.**

~~(f)~~ **(d)** 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~~ **the amount, if any, appropriated by the general assembly** to the development authority fund established under IC 36-7.5-4-1.

~~(g)~~ **(e)** 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 12. IC 8-15-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) All moneys received pursuant to the authority of this chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds, to be held and applied solely as provided in this chapter. Such funds shall be kept in depositories as selected by the authority and may be invested until expended, all as provided by law.

(b) The resolution authorizing the issuance of bonds of any issue or the trust agreement securing such bonds shall provide that any officer to whom, or any bank or trust company to which, such moneys shall be paid shall:

(1) act as trustee of such moneys; and

(2) hold and apply the same for the purposes of this chapter, subject to such regulations as this chapter and such resolution or trust agreement may provide.

(c) This section does not apply to money paid or received with respect to a toll road project that is the subject of a public-private agreement under IC 8-15.5.

SECTION 13. IC 8-15-2-17.2, AS AMENDED BY P.L.151-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.2. (a) Notwithstanding IC 9, the authority may adopt rules:

(1) Establishing weight and size limitations for vehicles using a toll road project, subject to the following:

(A) The operator of any vehicle exceeding any of the maximum allowable dimensions or weights as set out by the authority in rules and regulations shall apply to the authority in writing, for an application for a special hauling permit, which application must be in compliance with all the terms thereof, and which application must be received at least seven (7) days prior to the time of permitted entry should such permit be granted. Such permit, if granted, will be returned to the applicant in duplicate, properly completed and numbered, and the driver of the vehicle shall have a copy to present to the toll attendant on duty at the point of entry.

(B) The authority shall assess a fee for issuing a special hauling permit. In assessing the fee, the authority shall take into consideration the following factors:

(i) The administrative cost of issuing the permit.

(ii) The potential damage the vehicle represents to the project.

(iii) The potential safety hazard the vehicle represents.

(2) Establishing the minimum speed that a motor vehicle may be driven on the interstate defense network of dual highways.

(3) Designating one-way traffic lanes on a toll road project.

(4) Determining the manner of operation of motor vehicles entering and leaving traffic lanes on a toll road project.

(5) Determining the regulation of U-turns, of crossing or entering medians, of stopping, parking, or standing, and of passing motor vehicles on a toll road project.

(6) Determining the establishment and enforcement of traffic control signs and signals for motor vehicles in traffic lanes, acceleration and deceleration lanes, toll plazas, and interchanges on a toll road project.

(7) Determining the limitation of entry to and exit from a toll road project to designated entrances and exits.

(8) Determining the limitation on use of a toll road project by pedestrians and aircraft and by vehicles of a type specified in such rules and regulations.

(9) Regulating commercial activity on a toll road project, including but not limited to:

(A) the offering or display of goods or services for sale;

(B) the posting, distributing, or displaying of signs, advertisements, or other printed or written material; and

(C) the operation of a mobile or stationary public address system.

(10) Establishing enforcement procedures and making assessments for the failure to pay required tolls.

(b) A person who violates a rule adopted under this section commits a Class C infraction. However, a violation of a weight limitation established by the authority under this section is:

(1) a Class B infraction if the total of all excesses of weight under those limitations is more than five thousand (5,000) pounds but not more than ten thousand (10,000) pounds; and

(2) a Class A infraction if the total of all excesses of weight under those limitations is more than ten thousand (10,000) pounds.

(c) It is a defense to the charge of violating a weight limitation established by the authority under this section that the total of all excesses of weight under those limitations is less than one thousand (1,000) pounds.

(d) The court may suspend the registration of a vehicle that violated:

(1) a size or weight limitation established by the authority under this section; **or**

(2) a rule adopted under subsection (a)(10);

for a period of not more than ninety (90) days.

(e) Upon the conviction of a person for a violation of a weight or size limitation established by the authority under this section, the court may recommend suspension of the person's current chauffeur's license only if the violation was committed knowingly.

SECTION 14. IC 8-15-2-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) The authority may, after adopting a resolution and after receiving the governor's approval, at any time determine under IC 8-23-7 that a toll road project constructed or operated by the authority, **other than a toll road project that is subject to a public-private agreement under IC 8-15.5,** should become a part of the system of state

highways free of tolls or become a tollway under IC 8-15-3.

(b) Any resolution as to any project described in subsection (a) shall not become effective until all bonds to which the revenues of any project were pledged for payment, together with all interest thereon, is paid, or a sufficient amount for the payment of all bonds and the interest thereon to maturity is set aside in trust for the benefit of bondholders.

(c) Until any resolution is adopted by the authority under subsection (a) and becomes effective as provided in subsection (b), **and subject to the terms of any public-private agreement under IC 8-15.5,** any project constructed by the authority or its predecessors remains under the jurisdiction of the authority and the authority shall continue to maintain and operate the project and levy and collect tolls as provided in this chapter. ~~Subject to any agreement entered into by the Secretary of Commerce of the United States, acting by and through the federal highway administrator, the Indiana toll road commission, and the state, acting by and through the Indiana department of transportation,~~ Tolls on any project may be continued after the date of the payment of the principal of and interest on bonds issued for the construction of that project.

SECTION 15. IC 8-15-2-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. **(a) Except as provided in subsection (b), and** notwithstanding any other provision of this chapter, funds generated by tolls or any other means from a toll road project that was in existence and in use on or before January 1, 1986, shall be used exclusively for purposes that are authorized and described in this chapter.

(b) If the authority enters into a public-private agreement with respect to a toll road project under IC 8-15.5, funds generated by tolls or any other means from that project shall be used as provided in IC 8-15.5.

SECTION 16. IC 8-15-2-28 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 28. If the authority is a party to a public-private agreement under IC 8-15.5, the authority may authorize the operator under that agreement to exercise any or all of the powers specified in sections 1, 6, 18, and 24 of this chapter, subject to the terms of that agreement.**

SECTION 17. IC 8-15-2-29 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 29. A United States flag shall be displayed at the primary administrative building of the Indiana Toll Road.**

SECTION 18. IC 8-15-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The governor must approve the location of any tollway.

(b) **Subject to subsection (e),** the department may, **in any combination, plan, design, develop,** construct, reconstruct, maintain, repair, police, **finance,** and operate tollways, public improvements, and arterial streets and roads at those locations that the governor approves.

(c) The department may, **in any combination, plan, design,** develop, construct, reconstruct, improve, **finance, repair,** or maintain public improvements such as roads and streets, sewer lines, ~~and~~ water lines, **and other utilities** if these improvements are:

(1) adjacent **or appurtenant** to a tollway; **or**

(2) necessary or desirable for the financing, construction, operation, or maintenance of a tollway.

(d) The department may, **in any combination, plan, design, develop,** construct, reconstruct, ~~or~~ **improve, maintain, repair, operate, or** finance the construction or reconstruction of an arterial highway or an arterial street that:

(1) is adjacent to, appurtenant to, or interchanges with a tollway; or

(2) intersects with a road or street that interchanges with a tollway.

(e) Notwithstanding any other law, the route of a tollway project may not terminate along any part of a highway that:

(1) has at least four (4) lanes; and

(2) is located in a township having a population of at least eighty thousand (80,000).

SECTION 19. IC 8-15-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) **Subject to subsections (e) and (f),** the governor must approve the location of any tollway.

(b) The department may construct, reconstruct, maintain, repair, police, and operate tollways, public improvements, and arterial streets and roads at those locations that the governor approves.

(c) The department may develop, construct, reconstruct, improve, or maintain public improvements such as roads and streets, sewer lines, and water lines, if these improvements are adjacent to a tollway.

(d) The department may construct, reconstruct, or finance the construction or reconstruction of an arterial highway or an arterial street that interchanges with a tollway or intersects with a road or street that interchanges with a tollway.

(e) Notwithstanding any other law, the route of a tollway may not terminate along any part of a highway that:

(1) has at least four (4) lanes; and

(2) is located in a township having a population of at least eighty thousand (80,000).

(f) The department may not establish a tollway under this chapter unless the general assembly adopts a statute authorizing the establishment of the tollway.

SECTION 20. IC 8-15.5 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

ARTICLE 15.5. PUBLIC-PRIVATE AGREEMENTS FOR TOLL ROAD PROJECTS

Chapter 1. General Provisions

Sec. 1. The powers conferred by this article are in addition and supplemental to the powers conferred by any other law. If any other law or rule is inconsistent with this article, this article is controlling as to any public-private agreement entered into under this article.

Sec. 2. (a) This article contains full and complete authority for public-private agreements between the authority and a private entity. Except as provided in this article, no law, procedure, proceeding, publication, notice, consent, approval, order, or act by the authority or any other officer, department, agency, or instrumentality of the state or any political subdivision is required for the authority to enter into a public-private agreement with a private entity under this article, or for a toll road project that is the subject of a public-private agreement to be constructed, acquired, maintained, repaired, operated, financed, transferred, or conveyed.

(b) Notwithstanding any other law, after August 1, 2006, neither the authority nor the department may:

(1) issue a request for proposals for; or

(2) enter into;

a public-private agreement that would authorize an operator to impose tolls for the operation of motor vehicles on all or part of a project, unless the general assembly adopts a statute authorizing the imposition of tolls.

Chapter 2. Definitions

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

Sec. 2. "Authority" refers to the Indiana finance authority.

Sec. 3. "Department" refers to the Indiana department of transportation.

Sec. 4. "Offeror" means a private entity that has submitted a proposal for a public-private agreement under this article.

Sec. 5. "Operator" means a private entity that has entered into a public-private agreement with the authority.

Sec. 6. "Private entity" means any individual, sole proprietorship, corporation, limited liability company, joint venture, general partnership, limited partnership, nonprofit entity, or other private legal entity. A public agency may provide services to a private entity without affecting the private status of the private entity and the ability to enter into a public-private agreement.

Sec. 7. "Project" or "toll road project" has the meaning set forth in IC 8-15-2-4(4).

Sec. 8. "Public-private agreement" means an agreement under this article between a private entity and the authority under which the private entity, acting on behalf of the authority as lessee, licensee, or franchisee, will plan, design, acquire, construct, reconstruct, improve, extend, expand, lease, operate, repair, manage, maintain, or finance a toll road project.

Sec. 9. "Request for proposals" means all materials and documents prepared by or on behalf of the authority to solicit proposals from offerors to enter into a public-private agreement.

Sec. 10. "User fees" means the rates, tolls, or fees imposed for the use of, or incidental to, all or any part of a toll road project under a public-private agreement.

Chapter 3. Authority to Enter Into Public-Private Agreements

Sec. 1. Subject to the other provisions of this article, the authority and a private entity may enter into a public-private agreement with respect to a toll road project. Subject to the requirements of this article, a public-private agreement may provide that the private entity is partially or entirely responsible for any combination of the following activities with respect to the project:

(1) Planning.

(2) Design.

(3) Acquisition.

(4) Construction.

(5) Reconstruction.

(6) Improvement.

(7) Extension or expansion.

(8) Operation.

(9) Repair.

(10) Management.

(11) Maintenance.

(12) Financing.

Chapter 4. Selection of Operator by Request for Proposals

Sec. 1. Before entering into a public-private agreement under this article, the authority must issue a request for proposals as set forth in this chapter. A request for proposals for a toll road project may be issued by the authority in one (1) or more phases and may include a request for qualifications.

Sec. 2. A request for proposals issued by the authority must include the following:

(1) The factors or criteria that will be used in evaluating the proposals.

(2) A statement that a proposal must be accompanied by evidence of financial responsibility as considered appropriate and satisfactory by the authority.

(3) A statement concerning whether discussions may be conducted with the offerors for the purpose of clarification to assure full understanding of and responsiveness to the solicitation requirements.

(4) A statement concerning any other information that the authority may consider in evaluating the proposals.

(5) A statement that, except as otherwise required by law or under order from a court with jurisdiction, the authority may not disclose the contents of proposals during:

(A) discussions; or

(B) negotiations;

with eligible offerors to other eligible offerors.

Sec. 3. Notice of a request for proposals shall be given by publication in accordance with IC 5-3-1.

Sec. 4. As provided in a request for proposals, discussions may be conducted with the offerors for the purpose of clarification to assure full understanding of and responsiveness to the solicitation requirements.

Sec. 5. Eligible offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals.

Sec. 6. (a) The authority may not disclose the contents of proposals during discussions or negotiations with eligible offerors.

(b) The authority may, in its discretion in accordance with IC 5-14-3, treat as confidential all records relating to discussions or negotiations between the authority and eligible offerors if those records are created while discussions or negotiations are in progress.

(c) Notwithstanding subsections (a) and (b), and with the exception of parts that are confidential under IC 5-14-3, the terms of the selected offer negotiated under this article shall be available for inspection and copying under IC 5-14-3 after negotiations with the offerors have been completed.

(d) When disclosing the terms of the selected offer under subsection (c), the authority shall certify that the information being disclosed accurately and completely represents the terms of the selected offer.

Sec. 7. The authority shall negotiate with one (1) or more responsible offerors who submit proposals that are determined to be reasonably capable of being selected for a public-private agreement and may seek to obtain a final offer from one (1) or more responsible offerors.

Sec. 8. After the final offers from responsible offerors have been negotiated under section 7 of this chapter, the authority shall:

(1) make a preliminary selection of an offeror as the operator for the related toll road project, whose final offer shall be referred to in this article as the "selected offer"; or

(2) terminate the request for proposal process.

Sec. 9. If the authority makes a preliminary selection of an operator under section 8 of this chapter, the authority shall schedule a public hearing on the preliminary selection and publish notice of the hearing one (1) time in accordance with IC 5-3-1 at least seven (7) days before the hearing. The notice must include the following:

(1) The date, time, and place of the hearing.

(2) The subject matter of the hearing.

(3) A description of the related toll road project and of the public-private agreement to be awarded.

(4) The identity of the offeror that has been preliminarily selected as the operator for the project.

(5) The address and telephone number of the authority.

(6) A statement indicating that, subject to section 6 of this chapter, and except for those portions that are confidential under IC 5-14-3, the selected offer and an explanation of the basis upon which the preliminary selection was made are available for public inspection and copying at the principal office of the authority during regular business hours.

Sec. 10. (a) Subject to section 6 of this chapter, and except for those parts that are confidential under IC 5-14-3, the selected offer and a written explanation of the basis upon which the preliminary selection was made shall be made available for inspection and copying in accordance with IC 5-14-3 at least seven (7) days before the hearing scheduled under section 9 of this chapter.

(b) At the hearing, the authority shall allow the public to be heard on the preliminary selection.

Sec. 11. (a) After the procedures required in this chapter have been completed, the authority shall make a determination as to whether the offeror that submitted the selected offer should be designated as the operator for the related toll road project and shall submit the authority's determination to the governor and the budget committee.

(b) After review of the authority's determination by the budget committee, the governor may accept or reject the determination of the authority. If the governor accepts the determination of the authority, the governor shall designate the offeror who submitted the selected offer as the operator for the related toll road project. The authority shall publish notice of the designation of the operator for the related toll road project one (1) time, in accordance with IC 5-3-1.

(c) After the designation of the operator for the related toll road project, the authority may execute the public-private agreement with that operator.

Sec. 12. Any action to contest the validity of a public-private agreement entered into under this chapter may not be brought after the fifteenth day following the publication of the notice of the designation of an operator under the public-private agreement as provided in section 11 of this chapter.

Sec. 13. The authority shall disclose the contents of all proposals, except the portions of the proposals that may be treated as confidential in accordance with IC 5-14-3, when either:

(1) the request for proposal process is terminated under section 8 of this chapter; or

(2) the public-private agreement has been executed and the closing for each financing transaction required to provide funding to carry out the agreement has been conducted.

Chapter 5. Terms and Conditions of Public-Private Agreements

Sec. 1. (a) Before developing or operating a toll road project, a private entity that has been selected as the operator of a toll road project under this article shall enter into a public-private agreement with the authority setting forth the rights and duties of the operator under this article.

(b) A public-private agreement entered into under this article must be approved by the governor before its execution.

Sec. 2. A public-private agreement entered into under this article must provide for the following:

(1) The original term of the public-private agreement, which may not exceed seventy-five (75) years.

(2) Provisions for a:

(A) lease, franchise, or license of the toll road project and the real property owned by the authority upon which the toll road project is located or is to be located; or

(B) management agreement or other contract to operate the toll road project and the real property owned by the authority upon which the toll road project is located or is to be located;

for a predetermined period. The public-private agreement must provide for ownership of all improvements and real property by the authority in the name of the state.

(3) Monitoring of the operator's maintenance practices by the authority and the taking of actions by the authority that it considers appropriate to ensure that the toll road project is properly maintained.

(4) The basis upon which user fees that may be collected by the operator, as determined under this article, are established.

(5) Compliance with applicable state and federal laws and local ordinances.

(6) Grounds for termination of the public-private agreement by the authority or the operator.

(7) The date of termination of the operator's authority and duties under this article.

(8) Procedures for amendment of the agreement.

Sec. 3. In addition to the requirements of section 2 of this chapter, a public-private agreement may include additional provisions concerning:

(1) Review and approval by the authority of the operator's plans for the development and operation of the toll road project.

(2) Inspection by the authority of construction of or improvements to the toll road project.

(3) Maintenance by the operator of a policy or policies of public liability insurance (copies of which shall be filed with the authority, accompanied by proofs of coverage) or self-insurance, each in a form and amount satisfactory to the authority to insure coverage of tort liability to the public and

employees and to enable the continued operation of the toll road project.

(4) Filing by the operator, on a periodic basis, of appropriate financial statements in a form acceptable to the authority.

(5) Filing by the operator, on a periodic basis, of appropriate traffic reports in a form acceptable to the authority.

(6) Payments to the operator. These payments may consist of one (1) or more of the following:

(A) The retention by the operator of the revenues collected by the operator in the operation and management of the toll road project.

(B) Payments made to the operator by the authority.

(C) Other sources of payment or revenue to the operator, if any.

(7) Financing obligations of the operator and the authority, including entering into agreements for the benefit of the financing parties.

(8) Apportionment of expenses between the operator and the authority.

(9) The rights and duties of the operator, the authority, and other state and local governmental entities with respect to use of the toll road project, including the state police department and other law enforcement and public safety agencies.

(10) Arbitration or other dispute resolution mechanisms or remedies for the settlement of claims and other disputes arising under the agreement.

(11) Payment of money to either party upon default or delay, or upon termination of the public-private agreement, with the payments to be used:

(A) in the form of liquidated damages to compensate the operator for demonstrated unamortized costs, lost profits, or other amounts as provided in the agreement;

(B) to retire or refinance indebtedness related to the toll road project or the public-private agreement; or

(C) for any other purpose mutually agreeable to the operator and the authority.

(12) Indemnification of the operator by the authority under conditions specified in the agreement.

(13) Assignment, subcontracting, or other delegation of responsibilities of the operator or the authority under the agreement to third parties, including other private entities, the department, and other state agencies.

(14) Sale or lease to the operator of personal property related to the toll road project.

(15) Other lawful terms and conditions to which the operator and the authority mutually agree.

Sec. 4. (a) The operator may finance its obligations with respect to the toll road project and the public-private agreement in the amounts and upon the terms and conditions determined by the operator.

(b) The operator may:

(1) issue debt, equity, or other securities or obligations;

(2) enter into sale and leaseback transactions; and

(3) secure any financing with a pledge of, security interest in, or lien on any user fees charged and collected for the use of the toll road project and any property interest of the operator toll road project.

However, any bonds, debt, other securities, or other financing issued for the purposes of this article shall not be considered to constitute a debt of the state or any political subdivision of the state or a pledge of the faith and credit of the state or any political subdivision.

(c) The operator may deposit the user fees charged and collected for the use of the toll road project in a separate account held by a trustee or escrow agent for the benefit of the secured parties of the operator.

Sec. 5. Notwithstanding any contrary provision of this article, the authority may enter into a public-private agreement with multiple private entities if the authority determines in writing that it is in the public interest to do so.

Sec. 6. The department or any other state agency may perform any duties and exercise any powers of the authority under this article or the public-private agreement that have been assigned, subcontracted, or delegated to it by the authority.

Chapter 6. Construction and Operating Standards for Toll Road Projects

Sec. 1. The plans and specifications for each toll road project constructed under this article must comply with:

(1) the authority's standards for other projects of a similar nature, except as otherwise provided in the public-private agreement; and

(2) any other applicable state or federal standards.

Sec. 2. Unless otherwise provided by federal law, the operator or any contractor or subcontractor of the operator engaged in the construction of a toll road project is not required to comply with IC 4-13.6 or IC 5-16 concerning state public works, IC 5-17 concerning purchases of materials and supplies, or other statutes concerning procedures for procurement of public works or personal property as a condition of being awarded and performing work on the project.

Sec. 3. The operator or any contractor or subcontractor of the operator engaged in the construction of a toll road project is subject to:

(1) 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; and

(2) the provisions that may be established by the authority in a public-private agreement with respect to awarding contracts to Indiana businesses (as defined in IC 5-22-15-20.5).

Sec. 4. Each toll road project constructed or operated under this article is considered to be part of the state highway system designated under IC 8-23-4-2 for purposes of identification, maintenance standards, and enforcement of traffic laws.

Sec. 5. An operator may enter into agreements for maintenance or other services under this article with the authority, the department, or other state agencies. The authority may:

(1) with the assistance of all applicable state agencies, establish a unified permitting and licensing process for the processing and issuance of all necessary permits and licenses for toll road projects under this article, including, but not limited to, all environmental permits and business and tax licenses; and

(2) provide other services for which the authority is reimbursed, including, but not limited to, preliminary planning, environmental certification (including the procurement of all necessary environmental permits), and preliminary design of toll road projects under this article.

Sec. 6. The authority shall seek the cooperation of federal and local agencies to expedite all necessary federal and local permits, licenses, and approvals necessary for toll road projects under this article.

Chapter 7. User Fees

Sec. 1. (a) Notwithstanding IC 8-9.5-8 and IC 8-15-2-14(j), the authority may fix and revise the amounts of user fees that an operator may charge and collect for the use of any part of a toll road project in accordance with the public-private agreement.

(b) In fixing the amounts referred to in subsection (a), the authority may:

(1) establish maximum amounts for the user fees; and

(2) provide for increases or decreases of the user fees or the maximum amounts established based upon the indices, methodologies, or other factors that the authority considers appropriate.

Sec. 2. A schedule of the current user fees shall be made available by the operator to any member of the public on request.

Sec. 3. User fees established by the authority under this article are not subject to supervision or regulation by any other commission, board, bureau, or agency of the state, or by any political subdivision.

Sec. 4. (a) User fees established by the authority under section 1 of this chapter for the use of a toll road project must be nondiscriminatory and may:

(1) include different user fees based on categories such as vehicle class, vehicle size, vehicle axles, vehicle weight, volume, location, or traffic congestion or such other means or classification as the authority determines to be appropriate;

(2) vary by time of day or year; or

(3) be based on one (1) or more factors considered relevant by the authority, which may include any combination of:

(A) the costs of:

(i) operation;

(ii) maintenance; and

(iii) repair and rehabilitation;

(B) debt service payments on bonds or other obligations;

(C) adequacy of working capital;

(D) depreciation;

(E) payment of user fees, any state, federal, or local taxes, or payments in lieu of taxes; and

(F) the sufficiency of income to:

(i) maintain the toll road project in a sound physical and financial condition to render adequate and efficient service; and

(ii) induce an operator to enter into a public-private agreement.

Sec. 5. A public-private agreement may:

(1) grant an operator a license or franchise to charge and collect tolls for the use of the toll road project;

(2) authorize the operator to adjust the user fees charged and collected for the use of the toll road project, so long as the amounts charged and collected by the operator do not exceed the maximum amounts established by the authority under section 1 of this chapter;

(3) provide that any adjustment by the operator permitted under subdivision (2) may be based on such indices, methodologies, or other factors as described in the public-private agreement or as approved by the authority;

(4) authorize the operator to charge and collect user fees through manual and nonmanual methods, including, but not limited to, automatic vehicle identification systems, electronic toll collection systems, and, to the extent permitted by law, including rules adopted by the authority under IC 8-15-2-17.2(a)(10), global positioning systems and photo or video based toll collection or toll collection enforcement systems; and

(5) authorize the collection of user fees charges by a third party.

Sec. 6. (a) After expiration of a public-private agreement, the authority may:

(1) continue to charge user fees for the use of the toll road project; or

(2) delegate to a third party the authority to continue to collect the user fees.

(b) Revenues collected under this section must first be used for operations and maintenance of the toll road project. Any revenues determined by the authority to be excess must be paid to the authority for deposit in the toll road fund established by IC 8-15.5-11.

Sec. 7. Any action to contest the validity of user fees fixed under this chapter may not be brought after the fifteenth day following the effective date of a rule fixing the user fees adopted under IC 4-22-2-37.1(a)(30).

Chapter 8. Taxation of Operators

Sec. 1. A toll road project and tangible personal property used exclusively in connection with a toll road project that are:

(1) owned by the authority and leased, franchised, licensed or otherwise conveyed to an operator; or

(2) acquired, constructed, or otherwise provided by an operator in connection with the toll road project;

under the terms of a public-private agreement are considered to be public property devoted to an essential public and governmental function and purpose and the property, and an operator's leasehold estate, franchise, license, and other interests in the property are exempt from all ad valorem property taxes and special assessments levied against property by the state or any political subdivision of the state.

Sec. 2. Income received by an operator under the terms of a public-private agreement is subject to taxation in the same manner as income received by other private entities.

Sec. 3. An operator or any other person purchasing tangible personal property for incorporation into or improvement of a structure or facility constituting or becoming part of the land included in the toll road project is not exempt from the application of the gross retail or use tax under IC 6-2.5 with respect to such a purchase.

Chapter 9. Records of Operators

Sec. 1. Records that are provided by an operator to the authority that relate to compliance by an operator with the terms

of a public-private agreement are subject to inspection and copying in accordance with IC 5-14-3.

Chapter 10. Additional Powers of the Authority Concerning Toll Road Projects

Sec. 1. The authority may exercise any powers provided under this article in participation or cooperation with the department or any other governmental entity and enter into any contracts to facilitate that participation or cooperation without compliance with any other statute.

Sec. 2. (a) The authority may make and enter into all contracts and agreements necessary or incidental to the performance of the authority's duties and the execution of the authority's powers under this article. These contracts or agreements are not subject to any approvals other than the approval of the authority and may be for any term of years and contain any terms that are considered reasonable by the authority.

(b) The:

(1) department; and

(2) any other state agency;

may make and enter into all contracts and agreements necessary or incidental to the performance of the duties and the execution of the powers granted to the department or the state agency in accordance with this article or the public-private agreement. These contracts or agreements are not subject to any approvals other than the approval of the department or state agency and may be for any term of years and contain any terms that are considered reasonable by the department or the state agency.

Sec. 3. (a) The authority may pay any amounts owed by the authority under a public-private agreement entered into under this article from any funds available to the authority under this article or any other statute.

(b) Subject to review by the budget committee established by IC 4-12-1-3 and approval by the budget director appointed under IC 4-12-1-3, a public-private agreement entered into under this article may:

(1) establish a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to pay any amounts owed by the authority under a public-private agreement; or

(2) otherwise create a moral obligation of the state to pay any amounts owed by the authority under the public-private agreement.

(c) The authority may issue bonds under IC 4-4-11 or IC 8-15-2 to provide funds for any amounts identified under this section without complying with IC 8-9.5-8-10.

Sec. 4. For purposes of this article, the authority may authorize an operator under a public-private agreement to perform any of its duties under IC 8-15-2-1, IC 8-15-2-6, IC 8-15-2-18, and IC 8-15-2-24.

Sec. 5. The authority may exercise any of its powers under IC 8-15-2 or any other provision of Indiana Code as necessary or desirable for the performance of the authority's duties and the execution of the authority's powers under this article.

Sec. 6. The authority may not take any action under this chapter that would impair the public-private agreement entered into under this article.

Sec. 7. (a) The authority shall enter into an agreement between and among the operator, the authority, and the state police department concerning the provision of law enforcement assistance with respect to a toll road project that is the subject of a public-private agreement under this article.

(b) The authority shall enter into arrangements with the state police department related to costs incurred in providing law enforcement assistance under this article.

(c) All law enforcement officers of the state and any political subdivision have the same powers and jurisdiction within the limits of a toll road project as they have in their respective areas of jurisdiction, including the roads and highways of the state. These law enforcement officers shall have access to a toll road project that is the subject of a public-private agreement to exercise their powers and jurisdiction.

Chapter 11. Toll Road Fund

Sec. 1. As used in this chapter, "account" refers to an account established within the fund.

Sec. 2. As used in this chapter, "fund" refers to the toll road fund established by section 3 of this chapter.

Sec. 3. (a) The toll road fund is established to provide funds to:

(1) pay or defease certain bonds in the manner provided by this chapter;

(2) pay amounts owed by the authority in connection with the execution and performance of a public-private agreement under this article, including operating expenses of the authority; and

(3) make distributions to the next generation trust fund and the major moves construction fund.

(b) The authority shall hold, administer, and manage the fund.

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

(d) The fund consists of the following:

(1) Money received from an operator under a public-private agreement.

(2) Appropriations, if any, made by the general assembly.

(3) Grants and gifts intended for deposit in the fund.

(4) Interest, premiums, gains, or other earnings on the fund.

(e) The authority shall establish the following separate accounts within the fund:

(1) The bond retirement account.

(2) The administration account.

(3) The eligible project account.

(f) Money in the fund shall be deposited, paid, and secured in the manner provided by IC 4-4-11-32. Notwithstanding IC 5-13, the authority shall invest the money in the fund that is not needed to meet the obligations of the fund in the manner provided by an investment policy established by resolution of the authority.

(g) The fund is not part of the state treasury and is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

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

Sec. 4. (a) Before any allocations are made from the fund under this chapter, the authority shall determine:

(1) the extent to which outstanding bonds issued by the authority under IC 8-14.5-6 or IC 8-15-2 should be repaid, defeased, or otherwise retired;

(2) the total amount necessary to repay, defease, or otherwise retire the bonds selected by the authority for repayment, defeasance, or retirement; and

(3) the total amount necessary to pay the amounts owed by the authority related to the execution and performance of a public-private agreement under this article, including establishing reserves.

The authority shall make a separate determination of the amount described in subdivision (3) for each public-private agreement. The amount described in subdivision (3) is payable solely from money received by the authority under the public-private agreement for which the amounts owed were incurred, and are not payable from lease payments received under IC 8-9.5 or IC 8-14.5.

(b) Before making any allocations from the fund under subsection (c) or (d), the authority shall allocate the amount determined under subsection (a)(2) to the bond retirement account. Money in this account may be used only for the purpose described in section 3(a)(1) of this chapter.

(c) After making the allocation required by subsection (b) and before making the allocations required by subsection (d), the authority shall allocate the amount determined under subsection (a)(3) to the administration account. Money in this account may be used only for the purpose described in section 3(a)(2) of this chapter.

(d) After making the allocations required by subsections (b) and (c), the remaining money received during each state fiscal year under a public-private agreement under this article shall be allocated to the eligible project account. Money in this account may be used only for the purposes described in section 3(a)(3) of this chapter. Within thirty (30) days after a public-private agreement concerning the Indiana Toll Road has been executed and the closing for each financing transaction required to provide funding to carry out the agreement has been conducted, the authority shall transfer:

(1) four hundred million dollars ($400,000,000) of the money in the eligible project account to the next generation trust fund; and

(2) the remainder of the money in the eligible project account to major moves construction account.

Sec. 5. (a) The money allocated to the eligible project account must be used to make distributions to the next generation trust fund and the major moves construction fund, as provided by section 4 of this chapter.

Chapter 12. Prohibited Local Action

Sec. 1. A political subdivision (as defined in IC 36-1-2-13) may not take any action that would have the effect of impairing a public-private agreement under this article.

Chapter 13. Prohibited Political Contributions

Sec. 1. The definitions in IC 3-5-2 apply to this chapter to the extent they do not conflict with the definitions in this article.

Sec. 2. As used in this chapter, "candidate" refers to any of the following:

(1) A candidate for a state office.

(2) A candidate for a legislative office.

(3) A candidate for a local office.

Sec. 3. As used in this chapter, "committee" refers to any of the following:

(1) A candidate's committee.

(2) A regular party committee.

(3) A committee organized by a legislative caucus of the house of representatives of the general assembly.

(4) A committee organized by a legislative caucus of the senate of the general assembly.

Sec. 4. As used in this chapter, "officer" refers only to either of the following:

(1) An individual listed as an officer of a corporation in the corporation's most recent annual report.

(2) An individual who is a successor to an individual described in subdivision (1).

Sec. 5. For purposes of this chapter, a person is considered to have an interest in an operator if the person satisfies any of the following:

(1) The person holds any interest in an operator.

(2) The person is an officer of an operator.

(3) The person is an officer of a person that holds any interest in an operator.

(4) The person is a political action committee of an operator.

Sec. 6. An operator is considered to have made a contribution if a contribution is made by a person who has an interest in the operator.

Sec. 7. An operator or a person who has an interest in an operator may not make a contribution to a candidate or a committee during the following periods:

(1) The term during which the operator is a party to a public-private agreement entered into under this article.

(2) The three (3) years following the final expiration or termination of the public-private agreement described in subdivision (1).

Sec. 8. A person who knowingly or intentionally violates this chapter commits a Class D felony.

SECTION 21. IC 8-23-7-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. **(a) Subject to subsections (b) and (c),** the department may, after issuing an order and receiving the governor's approval, determine that a state highway should become a tollway. After the order becomes effective, the department shall maintain and operate the tollway and levy and collect tolls as provided in IC 8-15-3. Before issuing an order under this section, the department shall submit to the governor a plan to bring the tollway to the current design standards of the department for new state highways within a specified period. The specified period may not exceed five (5) years.

(b) The department may not issue an order concerning a state highway under subsection (a) unless the general assembly adopts a statute:

(1) finding that the state highway should be converted to a tollway; and

(2) authorizing the conversion of the state highway to a tollway.

(c) Notwithstanding any other law, the route of a tollway established under this section may not terminate along any part of a highway that:

(1) has at least four (4) lanes; and

(2) is located in a township having a population of at least eighty thousand (80,000).

SECTION 22. IC 8-23-7-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) **Subject to subsections (c) and (d),** the department may, after issuing an order and receiving the governor's approval, determine that a state highway should become a toll road. An order under this section does not become effective unless the authority adopts a resolution to accept the designated state highway, or part of the highway, as a toll road project under the conditions contained in the order. An order issued by the department under this section must set forth the conditions upon which the transfer of the state highway, or part of the highway, to the authority must occur, including the following:

(1) The consideration, if any, to be paid by the authority to the department.

(2) A requirement that the authority:

(A) enter into a contract or lease with the department with respect to the toll road project under IC 8-9.5-8-7 or IC 8-9.5-8-8; **or**

(B) enter into a public-private agreement with an operator with respect to the toll road under IC 8-15.5.

(b) To complete a transfer under this section, the department must, with the governor's approval, execute a certificate describing the real and personal property constituting or to be transferred with the state highway that is to become a toll road project. Upon delivery of the certificate to the authority, the real and personal property described in the certificate is under the jurisdiction and control of the authority.

(c) The department may not issue an order concerning a state highway under subsection (a) unless the general assembly adopts a statute:

(1) finding that the state highway should be converted to a toll road; and

(2) authorizing the conversion of the state highway to a toll road.

(d) Notwithstanding any other law, the route of a toll road established under this section may not terminate along any part of a highway that:

(1) has at least four (4) lanes; and

(2) is located in a township having a population of at least eighty thousand (80,000).

SECTION 23. IC 8-23-9-54 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 54. (a) To provide funds for carrying out the provisions of this chapter, there is created a state highway fund from the following sources:

(1) All money in the general fund to the credit of the state highway account.

(2) All money that is received from the Department of Transportation or other federal agency and known as federal aid.

(3) All money paid into the state treasury to reimburse the state for money paid out of the state highway fund.

(4) All money provided by Indiana law for the construction, maintenance, reconstruction, repair, and control of public highways, as provided under this chapter.

(5) All money that on May 22, 1933, was to be paid into the state highway fund under contemplation of any statute in force as of May 22, 1933.

(6) All money that may at any time be appropriated from the state treasury.

(7) Any part of the state highway fund unexpended at the expiration of any fiscal year, which shall remain in the fund and be available for the succeeding years.

(8) Any money credited to the state highway fund from the motor vehicle highway account under IC 8-14-1-3(4).

(9) Any money credited to the state highway fund from the highway road and street fund under IC 8-14-2-3.

(10) Any money credited to the state highway fund under IC 6-6-1.1-801.5, IC 6-6-4.1-5, or IC 8-16-1-17.1.

(11) Any money distributed to the state highway fund under IC 8-14-14 or IC 8-15.5.

(b) All expenses incurred in carrying out this chapter shall be paid out of the state highway fund.

SECTION 24. IC 9-13-2-6.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.3. "Automated traffic law enforcement system", for purposes of IC 9-21, has the meaning set forth in IC 9-21-3.5-2.**

SECTION 25. IC 9-21-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 3.5. Automated Traffic Law Enforcement System

Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority.

Sec. 2. As used in this chapter, "automated traffic law enforcement system" means a device that:

(1) has one (1) or more motor vehicle sensors; and

(2) is capable of producing a photographically recorded image of a motor vehicle, including an image of the vehicle's front or rear license plate, as the vehicle proceeds through a tollgate, toll zone, or other area on a toll road that is marked as required by the department, the authority, or an operator as a place where a person using the toll road must pay a toll or is otherwise subject to a fee for using the toll road.

Sec. 3. As used in this chapter, "department" refers to the Indiana department of transportation.

Sec. 4. As used in this chapter, "operator" has the meaning set forth in IC 8-15.5-2-5.

Sec. 5. As used in this chapter, "owner" means a person in whose name a motor vehicle is registered under:

(1) IC 9-18;

(2) the laws of another state;

(3) the laws of a foreign country; or

(4) the International Registration Plan.

Sec. 6. As used in this chapter, "toll road" has the meaning set forth in IC 8-15-2-4(4).

Sec. 7. The owner of a motor vehicle, other than an authorized emergency vehicle, that is driven or towed through a toll collection facility on a toll road shall pay the proper toll.

Sec. 8. The department or the authority may adopt and enforce rules concerning:

(1) the placement and use of automated traffic law enforcement systems to enforce collection of user fees;

(2) required notification to owners of toll violations;

(3) the process for collection and enforcement of unpaid amounts;

(4) the amount of fines, charges, and assessments for toll violations; and

(5) other matters relating to automated traffic law enforcement systems that the department or the authority

considers appropriate.

Sec. 9. Before enforcing a rule adopted under section 8 of this chapter, the department, the authority, or an operator must install advance warning signs along the tollways, toll roads, or qualifying projects proceeding to the location at which an automated traffic law enforcement system is located.

Sec. 10. (a) In the prosecution of a toll violation, proof that the motor vehicle was driven or towed through the toll collection facility without payment of the proper toll may be shown by a video recording, a photograph, an electronic recording, or other appropriate evidence, including evidence obtained by an automated traffic law enforcement system.

(b) In the prosecution of a toll violation:

(1) it is presumed that any notice of nonpayment was received on the fifth day after the date of mailing; and

(2) a computer record of the department, the authority, or the operator of the registered owner of the vehicle is prima facie evidence of its contents and that the toll violator was the registered owner of the vehicle at the time of the underlying event of nonpayment.

Sec. 11. (a) For purposes of this section, "transponder" means a device, placed on or within a motor vehicle, that is capable of transmitting information used to assess or collect tolls. A transponder is "insufficiently funded" when there are no remaining funds in the account in connection with which the transponder was issued.

(b) Any police officer of this state may seize a stolen or insufficiently funded transponder and return it to the department, the authority, or an operator, except that an insufficiently funded transponder may not be seized from the holder of an account sooner than the thirtieth day after the date the department, the authority, or an operator has sent a notice of delinquency to the holder of the account.

(c) The department or the authority may enter into an agreement with one (1) or more persons to market and sell transponders for use on toll roads.

(d) The department, the authority, or an operator may charge reasonable fees for initiating, administering, and maintaining electronic toll collection customer accounts.

(e) Electronic toll collection customer account information, including contact and payment information and trip data, is confidential and not subject to disclosure under IC 5-14-3. A contract for the acquisition, construction, maintenance, or operation of a toll road must ensure the confidentiality of all electronic toll collection customer account information.

SECTION 26. IC 34-13-3-3, AS AMENDED BY P.L.208-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A governmental entity or an employee acting within the scope of the employee's employment is not liable if a loss results from the following:

(1) The natural condition of unimproved property.

(2) The condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable.

(3) The temporary condition of a public thoroughfare or extreme sport area that results from weather.

(4) The condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area.

(5) The design, construction, control, operation, or normal condition of an extreme sport area, if all entrances to the extreme sport area are marked with:

(A) a set of rules governing the use of the extreme sport area;

(B) a warning concerning the hazards and dangers associated with the use of the extreme sport area; and

(C) a statement that the extreme sport area may be used only by persons operating extreme sport equipment.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain extreme sports areas in a reasonably safe condition.

(6) The initiation of a judicial or an administrative proceeding.

(7) The performance of a discretionary function; however, the provision of medical or optical care as provided in IC 34-6-2-38 shall be considered as a ministerial act.

(8) The adoption and enforcement of or failure to adopt or enforce a law (including rules and regulations), unless the act of enforcement constitutes false arrest or false imprisonment.

(9) An act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid.

(10) The act or omission of anyone other than the governmental entity or the governmental entity's employee.

(11) The issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law.

(12) Failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety.

(13) Entry upon any property where the entry is expressly or impliedly authorized by law.

(14) Misrepresentation if unintentional.

(15) Theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission.

(16) Injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter.

(17) Injury to the person or property of a person under supervision of a governmental entity and who is:

(A) on probation; or

(B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, a pretrial conditional release program under IC 35-33-8, or a community corrections program under IC 11-12.

(18) Design of a highway (as defined in IC 9-13-2-73) **or toll road project (as defined in IC 8-15-2-4(4))** if the claimed loss occurs at least twenty (20) years after the public highway **or toll road project** was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a

responsible governmental entity from the continuing duty to provide and maintain public highways in a reasonably safe condition.

(19) Development, adoption, implementation, operation, maintenance, or use of an enhanced emergency communication system.

(20) Injury to a student or a student's property by an employee of a school corporation if the employee is acting reasonably under a discipline policy adopted under IC 20-33-8-7(b).

(21) An error resulting from or caused by a failure to recognize the year 1999, 2000, or a subsequent year, including an incorrect date or incorrect mechanical or electronic interpretation of a date, that is produced, calculated, or generated by:

(A) a computer;

(B) an information system; or

(C) equipment using microchips;

that is owned or operated by a governmental entity. However, this subdivision does not apply to acts or omissions amounting to gross negligence, willful or wanton misconduct, or intentional misconduct. For purposes of this subdivision, evidence of gross negligence may be established by a party by showing failure of a governmental entity to undertake an effort to review, analyze, remediate, and test its electronic information systems or by showing failure of a governmental entity to abate, upon notice, an electronic information system error that caused damage or loss. However, this subdivision expires June 30, 2003.

(22) An act or omission performed in good faith under the apparent authority of a court order described in IC 35-46-1-15.1 that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been liable had the court order been valid.

(23) An act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield (as defined in IC 13-11-2-19.3) unless:

(A) the loss is a result of reckless conduct; or

(B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.

SECTION 27. [EFFECTIVE UPON PASSAGE] **Actions taken with respect to a public-private agreement before the effective date of this act that would have been valid under IC 8-15.5, as added by this act, are legalized and validated.**

SECTION 28. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "authority" and "user fees" have the meanings set forth in IC 8-15.5-2, as added by this act.**

(b) The authority shall adopt a rule under IC 4-22-2-37.1, as amended by this act, fixing user fees, including a schedule of the user fees provided for under a public-private agreement entered into under IC 8-15.5-4, as added by this act, on or before January 1, 2007.

(c) This SECTION expires July 1, 2007.

SECTION 29. [EFFECTIVE JULY 1, 2006] **IC 6-3-3-11, as added by this act, applies to taxable years beginning after December 31, 2005, and tolls paid after June 30, 2006.**

SECTION 30. [EFFECTIVE UPON PASSAGE] **The provisions of this act are severable in the manner provided by IC 1-1-1-8(b).**

SECTION 31. **An emergency is declared for this act.**

(Reference is to HB 1008 as reprinted February 1, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 4.

MEEKS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Engrossed House Bill 1306, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 26, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 31. IC 23-18-7-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 10. (a) As used in this section, "other entity" has the meaning set forth in IC 23-1-38.5-1.**

(b) A domestic business corporation, domestic other entity, foreign business corporation, or foreign other entity may convert to a domestic limited liability company in accordance with IC 23-1-38.5.

(c) A domestic limited liability company may convert to a domestic business corporation, domestic other entity, foreign business corporation, or foreign other entity in accordance with IC 23-1-38.5.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1306 as printed January 24, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

BRAY, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Commerce and Transportation, to which was referred Engrossed House Bill 1190, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 2.

Page 2, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 2. IC 7.1-3-7.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The holder of a farm winery brandy distiller's permit may do the following:

(1) Manufacture brandy.

(2) Rectify brandy.

(3) Bottle brandy.

(4) Use brandy that it has manufactured for the purpose of producing fortified wine.

(5) Sell, transport, and deliver brandy that it has manufactured to other wineries.

(6) Sell brandy at ~~wholesale or~~ retail **on the permitted premises.**".

Page 4, line 12, delete "After June 30, 2006, the commission may issue a wine" and insert "**The holder of a farm winery permit that**

also holds a wine wholesaler permit issued under IC 7.1-4-4.1-13(c), may locate the wine wholesaler business within the licensed premises of the farm winery.".

Page 4, delete lines 13 through 41, begin a new paragraph and insert:

"SECTION 7. IC 7.1-3-26 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 26. Direct Wine Seller's Permit

Sec. 1. As used in this chapter, "applicant" means a person that applies to the commission for a direct wine seller's permit.

Sec. 2. As used in this chapter, "consumer" means an individual who purchases wine from a seller.

Sec. 3. As used in this chapter, "seller" means the holder of a direct wine seller's permit issued under this chapter.

Sec. 4. A person located within Indiana or outside Indiana that wants to sell wine directly to a consumer must be the holder of a direct wine seller's permit and comply with this chapter.

Sec. 5. A seller may sell only wine directly to a consumer who meets all of the following requirements:

(1) The consumer is at least twenty-one (21) years of age.

(2) The consumer is an Indiana resident.

(3) The consumer does not hold an interest in an alcoholic beverage permit issued under this title.

(4) The consumer has not been convicted within the last ten (10) years of any state or federal crime relating to:

(A) providing alcoholic beverages to a minor;

(B) engaging in commerce in alcoholic beverages or the transportation of alcoholic beverages; or

(C) acquiring alcoholic beverages.

(5) The consumer intends to use wine purchased under this chapter for personal consumption only and not for resale or other commercial purposes.

(6) Except as provided in subdivision (7), the consumer has certified to the seller in a face-to-face transaction at the seller's place of business all the following:

(A) Name, telephone number, residence address, or consumer's business address.

(B) Proof of age by an Indiana issued driver's license or identification card showing the consumer to be at least twenty-one (21) years of age.

(C) A statement, made under penalties for perjury, that the consumer satisfies the requirements of subdivisions (1) through (5).

(7) If, before July 1, 2006, the consumer has provided to the seller in a face-to-face transaction at the seller's place of business the consumer's:

(A) name;

(B) telephone number;

(C) residence address; or

(D) business address;

the seller may sell wine directly to a consumer who has not complied with subdivision (6).

Sec. 6. The commission may issue a direct wine seller's permit to an applicant who meets all of the following requirements:

(1) The applicant is domiciled and has its principal place of business in the United States.

(2) The applicant is engaged in the manufacture of wine.

(3) The applicant holds and acts within the scope of authority of an alcoholic beverage license or permit to manufacture wine or import wine that is required:

(A) in Indiana or the state where the applicant is domiciled; and

(B) by the Tax and Trade Bureau of the United States Department of the Treasury.

(4) The applicant qualifies with the secretary of state to do business in Indiana and consents to the personal jurisdiction of the commission and the courts of Indiana.

(5) The applicant files a surety bond with the commission in accordance with IC 7.1-3-1 in the amount required of an applicant for a vintner's permit under IC 7.1-3-1-7.

(6) The applicant:

(A) does not hold a permit or license to wholesale alcoholic beverages (other than a permit or license to retail alcoholic beverages at the applicant's permitted premises) issued by any authority; and

(B) is not owned in whole or in part by a person who holds a permit or license to wholesale or retail alcoholic beverages.

(7) The applicant produces not more than five hundred thousand (500,000) gallons of wine per year that are sold within Indiana.

(8) The applicant has not distributed wine through a wine wholesaler in Indiana within the thirty (30) days immediately preceding the applicant's initial application for a direct wine seller's permit or the applicant has operated as a farm winery under IC 7.1-3-12.

(9) The applicant is not the parent, subsidiary, or affiliate of another entity manufacturing any alcoholic beverage.

(10) The applicant completes documentation regarding the applicant's application required by the commission.

Sec. 7. (a) The term of a direct wine seller's permit begins on July 1 and expires on June 30 of the following year. A direct wine seller's permit may be renewed in accordance with rules adopted by the commission.

(b) The annual direct wine seller's permit fee is one hundred dollars ($100).

Sec. 8. A direct wine seller's permit entitles a seller to sell wine to a consumer by receiving and filling orders that the consumer transmits by electronic or other means if all of the following conditions are satisfied before the sale or by the times set forth as follows:

(1) The consumer provides the direct wine seller with the following:

(A) The verification required by section 5(6) of this chapter in an initial face-to-face transaction.

(B) Notwithstanding clause (A), if the consumer provided the information specified in section 5(7) of this chapter in an initial face-to-face transaction with the seller before July 1, 2006, the consumer is not required to comply with section 5(6) of this chapter.

(2) The direct wine seller maintains for two (2) years, all records of wine sales made under this chapter. If the records are requested by the commission, a direct wine seller shall make the records available to the commission during the

direct wine seller's regular business hours.

(3) The direct wine seller stamps, prints, or labels on the outside of the shipping container the following: "CONTAINS WINE. SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY".

(4) The direct wine seller causes the wine to be delivered by the holder of a valid carrier's alcoholic beverage permit under IC 7.1-3-18.

(5) The direct wine seller causes the carrier to verify the individual personally receiving the wine shipment is at least twenty-one (21) years of age.

(6) The direct wine seller does not ship the consumer more than two hundred sixteen (216) liters of wine in any calendar year.

(7) The direct wine seller remits to the department of state revenue monthly all Indiana excise, sales, and use taxes on the shipments made into Indiana by the direct wine seller during the previous month.

Sec. 9. It is unlawful for the holder of a farm winery brandy distiller's permit to ship or cause to be shipped brandy produced under this title to a consumer.

Sec. 10. A consumer shall provide the direct wine seller with information the direct wine seller reasonably requires, including the consumer's name, home street address, telephone number, and other information required by the commission. The consumer shall also verify under penalties for perjury to the direct wine seller that the consumer satisfies every requirement of section 6 of this chapter.

Sec. 11. During a permit year, a direct wine seller may not direct ship in Indiana more than nine thousand (9,000) liters of wine.

Sec. 12. A wine shipment purchased under this chapter must be delivered to:

(1) the consumer, who shall take personal delivery of the shipment at the:

(A) consumer's residence;

(B) consumer's business address;

(C) carrier's business address; or

(D) address displayed on the shipping container; or

(2) an individual who is at least twenty-one (21) years of age who shall take personal delivery of the shipment at:

(A) consumer's residence;

(B) consumer's business address; or

(C) address displayed on the shipping container.

Sec. 13. A consumer may not receive more than two hundred sixteen (216) liters of wine in total from one (1) or more direct wine sellers in a calendar year.

Sec. 14. (a) Except as provided in subsections (b) and (c), a person who knowingly or intentionally violates this chapter commits a Class C misdemeanor.

(b) A person who:

(1) knowingly or intentionally violates this chapter; and

(2) has one (1) prior unrelated conviction under this section for an act or omission that occurred not more than ten (10) years before the act or omission that is the basis for the most recent violation;

commits a Class A misdemeanor.

(c) A person who:

(1) knowingly or intentionally violates this chapter; and

(2) has at least two (2) prior unrelated convictions under this section for acts or omissions that occurred not more than ten (10) years before the act or omission that is the basis for the most recent violation;

commits a Class D felony.

Sec. 15. If a direct wine seller is charged under section 14 of this chapter with selling to a consumer who does not meet the requirements of section 5(1), 5(3), 5(4), or 5(5) of this chapter, it is a defense to the charge if the direct wine seller obtained from the consumer the affidavit required under section 5(6)(C) of this chapter and produces a copy of the affidavit.

SECTION 8. IC 7.1-4-4.1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) This section applies to the following permits:

(1) Beer wholesaler's permit.

(2) Malt wholesaler's permit.

(3) Liquor wholesaler's permit.

(4) Wine wholesaler's permit.

(b) **Except as provided in subsection (c),** a permit fee of two thousand dollars ($2,000) is annually imposed for the issuance of each of the permits described in subsection (a).

(c) A permit fee of one hundred dollars ($100) is annually imposed for the issuance of a wine wholesaler's permit to a permit applicant who:

(1) has never previously held a wine wholesaler's permit and anticipates selling less than twelve thousand (12,000) gallons of wine in a year; or

(2) previously held a wine wholesaler's permit and certifies to the commission that the permit applicant sold less than twelve thousand (12,000) gallons of wine in the previous year.

SECTION 9. IC 7.1-4-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Power of Commission and Department.~~ The chairman and the department shall have the power to examine the books, papers, records, and premises of a manufacturer, wholesaler, retailer, ~~or~~ dealer, **or direct wine shipper's permit holder** under this title for the purpose of determining whether the excise taxes imposed by this title have been paid fully and whether the provisions of the title are being complied with.

SECTION 10. IC 7.1-4-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Collection of Annual License Fees.~~ The chairman shall collect the required annual license fee paid in connection with the issuance of a brewer's permit, a beer wholesaler's permit, a temporary beer permit, a dining car permit of any type, a boat permit of any type, a distiller's permit, a rectifier's permit, a liquor wholesaler's permit, a vintner's permit, a farm winery permit, a farm winery brandy distiller's permit, a wine wholesaler's permit, a wine bottler's permit, a temporary wine permit, **a direct wine shipper's permit,** a salesman's permit, and a carrier's alcoholic permit.

SECTION 11. IC 7.1-5-11-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) **Except as provided in IC 7.1-3-26,** it is unlawful for a person in the business of selling alcoholic beverages in ~~another state or country~~ **Indiana or outside Indiana** to ship or cause to be shipped an alcoholic beverage directly to ~~an Indiana resident~~ **a person in Indiana** who does not hold

a valid wholesaler permit under this title. This includes the ordering and selling of alcoholic beverages over a computer network (as defined by IC 35-43-2-3(a)).

(b) Upon a determination by the commission that a person has violated subsection (a), a wholesaler may not accept a shipment of alcoholic beverages from the person for a period of up to one (1) year as determined by the commission.

(c) The commission shall adopt rules under IC 4-22-2 to implement this section.

SECTION 12. IC 7.1-5-11-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. ~~Transportation of Unowned Goods Limited.~~ It is unlawful for a person to import or transport an alcoholic beverage that is not at that time the absolute property of an authorized permittee under this title. This section shall not apply to the shipment of an alcoholic beverage from another state in continuous transit through this state into another state unless the shipment is intended to evade a provision of this title. This section shall not prohibit a person, other than permittee, from bringing into this state a quantity of liquor or wine not exceeding ~~one (1) quart~~ **eighteen (18) liters** if ~~he~~ **the person** is a traveler in the ordinary course of travel and if it is not intended for sale to another person.".

Page 5, after line 1, begin a new paragraph and insert:

"SECTION 14. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1190 as printed January 24, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

LANDSKE, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Engrossed House Bill 1257, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 5, delete lines 27 through 35, begin a new line block indented and insert:

"**proprietary educational institution has not been convicted of a felony.**

(9) The owner or chief administrator of the postsecondary proprietary educational institution has not been the owner or chief administrator of a postsecondary proprietary institution that has had its accreditation revoked or has been closed involuntarily in the five (5) year period preceding the application for accreditation. However, if the owner or chief administrator of the postsecondary proprietary educational institution has been the owner or chief administrator of a postsecondary proprietary educational institution that has had its accreditation revoked or has been closed involuntarily more than five (5) years before the application for accreditation, the commission may issue full accreditation at the commission's discretion.".

(Reference is to HB 1257 as reprinted January 26, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

LUBBERS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Agriculture and Small Business, to which was referred Engrossed House Bill 1418, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, line 15, delete "acceptable to" and insert "**that complies with**".

Page 1, line 15, delete "inspector." and insert "**standards adopted by the county executive**.".

(Reference is to HB 1418 as printed January 20, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

NUGENT, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Engrossed House Bill 1261, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 12, delete lines 27 to 42.

Delete pages 13 through 15.

Page 16, delete lines 1 through 14.

Page 24, between lines 5 and 6, begin a new line block indented and insert:

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

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

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

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

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

Page 24, delete lines 6 through 42.

Page 25, delete lines 1 through 39.

Page 39, line 21, after "assistance" insert "**to a heating assistance program administered**".

Page 39, line 21, delete "IC 4-4-34" and insert "**IC 4-4-33**".

Page 39, line 24, after "merchant" insert "**to a heating assistance program administered**".

Page 39, line 24, delete "IC 4-4-34" and insert "**IC 4-4-33**".

Page 42, line 32, after "assistance" insert "**to a heating assistance program administered**".

Page 42, line 32, delete "IC 4-4-34" and insert "**IC 4-4-33**".

Page 42, line 40, after "assistance" insert "**from a heating assistance program administered**".

Page 42, line 40, delete "IC 4-4-34" and insert "**IC 4-4-33**".

Page 48, line 13, after "for" insert "**heating**".

Page 48, line 14, delete "IC 4-4-34" and insert "**IC 4-4-33**".

Page 48, line 21, after "governor" insert "**.**".

Page 48, line 21, delete "under IC 4-4-34.".

Page 48, line 27, delete "IC 4-4-34" and insert "**IC 4-4-33**".

Page 48, line 31, delete "IC 4-4-34" and insert "**IC 4-4-33**".

Page 48, line 34, delete "IC 4-4-34" and insert "**IC 4-4-33**".

Page 48, line 40, delete "IC 4-4-34" and insert "**IC 4-4-33**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1261 as printed January 20, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 11, Nays 0.

MEEKS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Engrossed House Bill 1227, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

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

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

"SECTION 1. IC 4-15-1.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. The commission shall meet in rooms provided by the personnel department and assume the duties of office. Three (3) members of the commission shall constitute a quorum for the transaction of business, and a majority of votes cast shall be required for the adoption or approval of any official action. The commission shall elect one (1) of the members as the chairman and another member as vice-chairman and the persons so elected shall hold office for one (1) year and until their successors are elected and qualified. The commission shall hold such regular and special meetings each year as it may prescribe by rule or resolution, shall meet on the call of the chairman, and shall hold at least one (1) meeting each month. ~~Such clerical and staff assistance as is needed by the commission shall be provided through the state director of personnel.~~

SECTION 2. IC 4-15-1.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. The appeals commission shall be totally separate and independent of the personnel board. **To ensure the independence of the commission as required by this chapter, appropriations to support the staff and other assistance needed to operate the commission must be made in a separate line item in the budget.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1227 as printed January 27, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 11, Nays 0.

MEEKS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Engrossed House Bill 1029, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 7, begin a new paragraph and insert:

"SECTION 1. IC 5-1.5-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The bank may issue its bonds or notes in principal amounts that it considers necessary to provide funds for any purposes under this article, including:

(1) the purchase or acquisition of securities;

(2) the making of loans to or agreements with qualified entities through the purchase of securities;

(3) the payment, funding, or refunding of the principal of, or interest or redemption premiums on, bonds or notes issued by it whether the bonds or notes or interest to be paid, funded, or refunded have or have not become due; ~~and~~

(4) the establishment or increase of reserves to secure or to pay bonds or notes or interest on bonds or notes and all other costs or expenses of the bank incident to and necessary or convenient to carry out its corporate purposes and powers; **and**

(5) the acquisition of school buses to be leased or sold to school corporations (as defined in IC 36-1-2-17).

(b) Except as otherwise provided in this article or by the board, every issue of bonds or notes shall be general obligations of the bank payable out of the revenues or funds of the bank, subject only to agreements with the holders of a particular series of bonds or notes pledging a particular revenue or fund. Bonds or notes may be additionally secured by a pledge of a grant or contributions from the United States, a qualified entity, or a person or a pledge of income or revenues, funds, or money of the bank from any source.

(c) Notwithstanding subsections (a) and (b), the total amount of bank bonds and notes outstanding at any one (1) time, except:

(1) bonds or notes issued to fund or refund bonds or notes; and

(2) bonds or notes issued for the purpose of purchasing an agreement executed by a qualified entity under IC 21-1-5;

may not exceed one billion dollars ($1,000,000,000) for qualified entities described in IC 5-1.5-1-8(1) through IC 5-1.5-1-8(4) and IC 5-1.5-1-8(8) through IC 5-1.5-1-8(11).

(d) Notwithstanding subsections (a) and (b), the total amount of bank bonds and notes outstanding at any one (1) time, except bonds or notes issued to fund or refund bonds or notes, may not exceed two hundred million dollars ($200,000,000) for qualified entities described in IC 5-1.5-1-8(5) through IC 5-1.5-1-8(6).

(e) Notwithstanding subsections (a) and (b), the total amount of bank bonds and notes outstanding at any one (1) time, except bonds or notes issued to fund or refund bonds or notes, may not exceed thirty million dollars ($30,000,000) for qualified entities described in IC 5-1.5-1-8(7).

(f) The limitations contained in subsections (c), (d), and (e) do not apply to bonds, notes, or other obligations of the bank if:

(1) the bonds, notes, or other obligations are not secured by a reserve fund under IC 5-1.5-5; or

(2) funds and investments, and the anticipated earned interest on those funds and investments, are irrevocably set aside in amounts sufficient to pay the principal, interest, and premium on the bonds, notes, or obligations at their respective maturities or on the date or dates fixed for redemption.

SECTION 2. IC 5-1.5-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Every qualified entity is authorized and empowered to contract with the bank with respect to the loan or purchase of its securities, and the contracts shall contain the terms and conditions of the loan or purchase and may be in any form agreed to by the bank and the qualified entity, including a customary form of bond ordinance or resolution. Every qualified entity is authorized and empowered to pay fees and charges required to be paid to the bank for its services.

(b) Notwithstanding any statute applicable to or constituting any limitation on the sale of bonds or notes or on entry into an agreement, any qualified entity may sell its securities to the bank, without limitation as to denomination, at a private sale at such price or prices as may be determined by the bank and the qualified entity.

(c) Notwithstanding any law that applies to or constitutes a limitation on the leasing or disposition of materials or other property, **and subject to subsection (d),** any qualified entity, or any purchasing agency (as defined in IC 5-22-2-25) of a qualified entity, may:

(1) assign or sell a lease **or purchase contract** for property to the bank; ~~or~~

(2) enter into a lease **or purchase contract** for property with the bank; **or**

(3) buy property from or sell property to the bank;

at any price and under any other terms and conditions as may be determined by the bank and the qualified entity. ~~However,~~

(d) This subsection does not apply to a school corporation that buys or leases a school bus from the bank under IC 5-1.5-4-1(a)(5). Before ~~making~~ **taking** an ~~assignment or sale of a lease or entering into a lease~~ **action described** under ~~this~~ subsection **(c)(1) through (c)(3)** that would otherwise be subject to IC 5-22, ~~the~~ **a** qualified entity or its purchasing agent must obtain or cause to be obtained a purchase price for the property to be subject to **the sale, purchase contract, or** ~~the~~ lease from the lowest responsible and responsive bidder in accordance with the requirements for the purchase of supplies under IC 5-22.".

Page 3, line 8, delete "IC 6-3-2-20" and insert "IC 6-3-3-12".

Page 3, line 10, delete "20. (a) Each taxable year, an individual" and insert "**12. (a) As used in this section, "college choice 529 education savings plan" refers to a college choice 529 investment plan established under IC 21-9.**

(b) As used in this section, "taxpayer" means:

(1) an individual filing a single return; or

(2) a married couple filing a joint return.

(c) A taxpayer is entitled to a credit against the taxpayer's adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a taxable year equal to the least of the following:".

Page 3, delete lines 11 through 16.

Page 3, line 17, after "(1)" insert "**Twenty percent (20%) of**".

Page 3, line 17, after "amount of" delete "the" and insert "**each**".

Page 3, line17, delete "individual" and insert "**taxpayer to a college choice 529 education savings plan**".

Page 3, line 18, delete "; or" and insert "**.**".

Page 3, line 19, delete "two" and insert "**One**".

Page 3, line 19, delete "($2,000)." and insert "**($1,000).**

(3) The amount of the taxpayer's adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3-1 through IC 6-3-7.

(d) A taxpayer is not entitled to a carryback, carryover, or refund of an unused credit.

(e) A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this section.

(f) To receive the credit provided by this section, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department all information that the department determines is necessary for the calculation of the credit provided by this section.".

Page 3, delete lines 20 through 42.

Delete pages 4 through 14.

Page 15, delete lines 1 through 6.

Page 15, line 7, delete "IC 6-3-2-20," and insert "**IC 6-3-3-12,**".

Page 15, delete lines 10 through 22.

Renumber all SECTIONS consecutively.

(Reference is to HB 1029 as reprinted February 2, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 9, Nays 3.

MEEKS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Engrossed House Bill 1155, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-2-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter:

"Criminal justice" includes activities concerning:

(1) the prevention or reduction of criminal offenses;

(2) the enforcement of criminal law;

(3) the apprehension, prosecution, and defense of persons accused of crimes;

(4) the disposition of convicted persons, including corrections, rehabilitation, probation, and parole; and

(5) the participation of members of the community in corrections.

"Entitlement jurisdictions" include the state and certain local governmental units as defined in Section 402(a) of the Omnibus Act.

"Institute" means the Indiana criminal justice institute.

"Juvenile justice" includes activities concerning:

(1) the prevention or reduction of juvenile delinquency;

(2) the apprehension and adjudication of juvenile offenders;

(3) the disposition of juvenile offenders including protective techniques and practices;

(4) the prevention of child abuse and neglect; and

(5) the discovery, protection, and disposition of children in need of services.

"Juvenile Justice Act" means the Juvenile Justice and Delinquency Prevention Act of 1974 and any amendments made to that act.

"Local governmental entities" include:

(1) trial courts; and

(2) political subdivisions (as defined in IC 36-1-2-13).

~~"Offender" has the meaning set forth in IC 5-2-12-4.~~

"Omnibus Act" means the Omnibus Crime Control and Safe Streets Act of 1968 and any amendments made to that act.

"Trustees" refers to the board of trustees of the institute.

SECTION 2. IC 5-2-6-3, AS AMENDED BY P.L.192-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: 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.~~

(10) Identify grants and other funds that can be used by the department of correction to carry out its responsibilities concerning sex offender registration under IC 11-8-8.

(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)~~ **(12)** Develop and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.

SECTION 3. IC 5-2-6-14, AS AMENDED BY P.L.64-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) The victim and witness assistance fund is established. The institute shall administer the fund. Except as provided in subsection (e), expenditures from the fund may be made only in accordance with appropriations made by the general assembly.

(b) The source of the victim and witness assistance fund is the family violence and victim assistance fund established by IC 12-18-5-2.

(c) The institute may use money from the victim and witness assistance fund when awarding a grant or entering into a contract under this chapter, if the money is used for the support of a program in the office of a prosecuting attorney or in a state or local law enforcement agency designed to:

(1) help evaluate the physical, emotional, and personal needs of a victim resulting from a crime, and counsel or refer the victim to those agencies or persons in the community that can provide the services needed;

(2) provide transportation for victims and witnesses of crime to attend proceedings in the case when necessary; or

(3) provide other services to victims or witnesses of crime when necessary to enable them to participate in criminal proceedings without undue hardship or trauma.

(d) Money in the victim and witness assistance fund at the end of a particular fiscal year does not revert to the general fund.

(e) The institute may use money in the fund to:

(1) pay the costs of administering the fund, including expenditures for personnel and data;

(2) ~~establish and maintain~~ **support** the **Indiana** sex ~~and violent~~ offender ~~directory~~ **registry** under ~~IC 5-2-12,~~ **IC 11-8-8;**

(3) provide training for persons to assist victims; and

(4) establish and maintain a victim notification system under IC 11-8-7 if the department of correction establishes the system.

SECTION 4. IC 10-13-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) As used in this chapter, "criminal history data" means information collected by criminal justice agencies, the United States Department of Justice for the department's information system, or individuals.

(b) The term consists of the following:

(1) Identifiable descriptions and notations of arrests, indictments, informations, or other formal criminal charges.

(2) Information regarding a sex ~~and violent~~ offender (as defined in ~~IC 5-2-12-4)~~ **IC 11-8-8-5)** obtained through sex ~~and violent~~ offender registration under ~~IC 5-2-12.~~ **IC 11-8-8.**

(3) Any disposition, including sentencing, and correctional system intake, transfer, and release.

SECTION 5. IC 10-13-3-27, AS AMENDED BY P.L.234-2005 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 27. (a) Except as provided in subsection (b), on request, **a** law enforcement ~~agencies~~ **agency** shall release ~~or allow inspection of~~ a limited criminal history to **or allow inspection of a limited criminal history by** 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 **has provided** 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;

(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;

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

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

(13) is or was required to register as a sex ~~and violent~~ offender under ~~IC 5-2-12;~~ **IC 11-8-8;** or

(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 6. IC 10-13-3-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 30. (a) Except as provided in subsection (c), on request for release or inspection of a limited criminal history, law enforcement agencies may, if the agency has complied with the reporting requirements in section 24 of this chapter, and the department shall do the following:

(1) Require a form, provided by law enforcement agencies and the department, to be completed. The form shall be maintained for two (2) years and shall be available to the record subject upon request.

(2) Collect a three dollar ($3) fee to defray the cost of processing a request for inspection.

(3) Collect a seven dollar ($7) fee to defray the cost of processing a request for release. However, law enforcement agencies and the department may not charge the fee for requests received from the parent locator service of the child support bureau of the division of family and children.

(b) Law enforcement agencies and the department shall edit information so that the only information released or inspected is information that:

(1) has been requested; and

(2) is limited criminal history information.

(c) The fee required under subsection (a) shall be waived if the request relates to the **Indiana** sex ~~and violent~~ offender ~~directory~~ **registry** under ~~IC 5-2-6~~ **IC 11-8-8** or concerns a person required to register as a sex ~~and violent~~ offender under ~~IC 5-2-12.~~ **IC 11-8-8.**

SECTION 7. IC 10-13-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. As used in this chapter, "juvenile history data" means information collected by criminal or juvenile justice agencies or individuals about a child who is alleged to have committed a reportable act and consists of the following:

(1) Descriptions and notations of events leading to the taking of the child into custody by a juvenile justice agency for a reportable act allegedly committed by the child.

(2) A petition alleging that the child is a delinquent child.

(3) Dispositional decrees concerning the child that are entered under IC 31-37-19 (or IC 31-6-4-15.9 before its repeal).

(4) The findings of a court determined after a hearing is held under IC 31-37-20-2 or IC 31-37-20-3 (or IC 31-6-4-19(h) or IC 31-6-4-19(i) before their repeal) concerning the child.

(5) Information:

(A) regarding a child who has been adjudicated a delinquent child for committing an act that would be an offense described in ~~IC 5-2-12-4~~ **IC 11-8-8-5** if committed by an adult; and

(B) that is obtained through sex ~~and violent~~ offender registration under ~~IC 5-2-12.~~ **IC 11-8-8.**

SECTION 8. IC 10-13-6-10, AS AMENDED BY P.L.142-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) This section applies to the following:

(1) A person convicted of a felony under IC 35-42 (offenses against the person) or IC 35-43-2-1 (burglary):

(A) after June 30, 1996, whether or not the person is sentenced to a term of imprisonment; or

(B) before July 1, 1996, if the person is held in jail or prison on or after July 1, 1996.

(2) A person convicted of a criminal law in effect before October 1, 1977, that penalized an act substantially similar to a felony described in IC 35-42 or IC 35-43-2-1 or that would have been an included offense of a felony described in IC 35-42 or

IC 35-43-2-1 if the felony had been in effect:

(A) after June 30, 1998, whether or not the person is sentenced to a term of imprisonment; or

(B) before July 1, 1998, if the person is held in jail or prison on or after July 1, 1998.

(3) A person convicted of a felony, conspiracy to commit a felony, or attempt to commit a felony:

(A) after June 30, 2005, whether or not the person is sentenced to a term of imprisonment; or

(B) before July 1, 2005, if the person is held in jail or prison on or after July 1, 2005.

(b) A person described in subsection (a) shall provide a DNA sample to the:

(1) department of correction or the designee of the department of correction if the offender is committed to the department of correction; ~~or~~

(2) county sheriff or the designee of the county sheriff if the offender is held in a county jail or other county penal facility, placed in a community corrections program (as defined in IC 35-38-2.6-2), or placed on probation; **or**

(3) agency that supervises the person, or the agency's designee, if the person is on conditional release in accordance with IC 35-38-1-27.

A person is not required to submit a blood sample if doing so would present a substantial and an unreasonable risk to the person's health.

(c) The detention, arrest, or conviction of a person based on a data base match or data base information is not invalidated if a court determines that the DNA sample was obtained or placed in the Indiana DNA data base by mistake.

SECTION 9. IC 10-13-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) The superintendent may issue specific guidelines relating to procedures for DNA sample collection and shipment within Indiana for DNA identification testing.

(b) The superintendent shall issue specific guidelines related to procedures for DNA sample collection and shipment by the:

(1) county sheriff or designee of the county sheriff under section 10(b)(2) of this chapter; **or**

(2) supervising agency or designee of the supervising agency under section 10(b)(3) of this chapter.

The superintendent shall provide each county sheriff **and supervising agency** with the guidelines issued under this subsection. A county sheriff **and supervising agency** shall collect and ship DNA samples in compliance with the guidelines issued under this subsection.

(c) The superintendent may delay the implementation of the collection of DNA samples under section 10(b)(2) **or 10(b)(3)** of this chapter in one (1) or more counties until the earlier of the following:

(1) A date set by the superintendent.

(2) The date funding becomes available by grant through the criminal justice institute.

If the superintendent delays implementation of section 10(b)(2) **or 10(b)(3)** of this chapter or terminates a delay under section 10(b)(2) **or 10(b)(3)** of this chapter in any county, the superintendent shall notify the county sheriff in writing of the superintendent's action.

SECTION 10. IC 11-8-2-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 12. The department shall do the following:**

(1) Maintain the Indiana sex offender registry established under IC 36-2-13-5.5.

(2) Prescribe and approve a format for sex offender registration as required by IC 11-8-8.

(3) Provide:

(A) judges;

(B) law enforcement officials;

(C) prosecuting attorneys;

(D) parole officers;

(E) probation officers; and

(F) community corrections officials;

with information and training concerning the requirements of IC 11-8-8 and the use of the Indiana sex offender registry.

(4) Upon request of a neighborhood association:

(A) transmit to the neighborhood association information concerning sex offenders who reside near the location of the neighborhood association; or

(B) provide instructional materials concerning the use of the Indiana sex offender registry to the neighborhood association.

SECTION 11. IC 11-8-2-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 13. (a) The Indiana sex offender registry established under IC 36-2-13-5.5 and maintained by the department under section 12 of this chapter must include the names of each offender who is or has been required to register under IC 11-8-8.**

(b) The department shall do the following:

(1) Ensure that the Indiana sex offender registry is updated at least once per day with information provided by a local law enforcement authority (as defined in IC 11-8-8-2).

(2) Publish the Indiana sex offender registry on the Internet through the computer gateway administered by the office of technology established by IC 4-13.1-2-1, and ensure that the Indiana sex offender registry displays the following or similar words:

"Based on information submitted to law enforcement, a person whose name appears in this registry has been convicted of a sex offense or has been adjudicated a delinquent child for an act that would be a sex offense if committed by an adult.".

SECTION 12. IC 11-8-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The department may, under IC 4-22-2, classify as confidential the following personal information maintained on a person who has been committed to the department or who has received correctional services from the department:

(1) Medical, psychiatric, or psychological data or opinion which might adversely affect that person's emotional well-being.

(2) Information relating to a pending investigation of alleged criminal activity or other misconduct.

(3) Information which, if disclosed, might result in physical harm to that person or other persons.

(4) Sources of information obtained only upon a promise of confidentiality.

(5) Information required by law or promulgated rule to be maintained as confidential.

(b) The department may deny the person about whom the information pertains and other persons access to information classified as confidential under subsection (a). However, confidential information shall be disclosed:

(1) upon the order of a court;

(2) to employees of the department who need the information in the performance of their lawful duties;

(3) to other agencies in accord with IC 4-1-6-2(m) and IC 4-1-6-8.5;

(4) to the governor or the governor's designee;

(5) for research purposes in accord with IC 4-1-6-8.6(b);

(6) to the department of correction ombudsman bureau in accord with IC 11-11-1.5; or

(7) if the commissioner determines there exists a compelling public interest as defined in IC 4-1-6-1, for disclosure which overrides the interest to be served by nondisclosure.

(c) The department shall disclose information classified as confidential under subsection (a)(1) to a physician, psychiatrist, or psychologist designated in writing by the person about whom the information pertains.

(d) The department may disclose confidential information to the following:

(1) A provider of sex offender management, treatment, or programming.

(2) A provider of mental health services.

(3) Any other service provider working with the department to assist in the successful return of an offender to the community following the offender's release from incarceration.

(e) This subsection does not prohibit the department from sharing information available on the Indiana sex offender registry with another person.

SECTION 13. IC 11-8-8 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 8. Sex Offender Registration

Sec. 1. As used in this chapter, "correctional facility" has the meaning set forth in IC 4-13.5-1-1.

Sec. 2. As used in this chapter, "local law enforcement authority" means the:

(1) chief of police of a consolidated city; or

(2) sheriff of a county that does not contain a consolidated city.

Sec. 3. As used in this chapter, "principal residence" means the residence where a sex offender spends the most time. The term includes a residence owned or leased by another person if the sex offender:

(1) does not own or lease a residence; or

(2) spends more time at the residence owned or leased by the other person than at the residence owned or leased by the sex offender.

Sec. 4. As used in this chapter, "register" means to provide a local law enforcement authority with the information required under section 8 of this chapter.

Sec. 5. (a) As used in this chapter, "sex offender" means a person convicted of any of the following offenses:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2).

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

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

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

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

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

(8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9).

(9) Incest (IC 35-46-1-3).

(10) Sexual battery (IC 35-42-4-8).

(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.

(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.

(13) Possession of child pornography (IC 35-42-4-4(c)), if the person has a prior unrelated conviction for possession of child pornography (IC 35-42-4-4(c)).

(14) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (13).

(15) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (14).

(b) The term includes:

(1) a person who is required to register as a sex offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

Sec. 6. As used in this chapter, "sexually violent predator" has the meaning set forth in IC 35-38-1-7.5.

Sec. 7. (a) Subject to section 19 of this chapter, the following persons must register under this chapter:

(1) A sex offender who resides in Indiana. A sex offender resides in Indiana if either of the following applies:

(A) The sex offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.

(B) The sex offender owns real property in Indiana and returns to Indiana at any time.

(2) A sex offender who works or carries on a vocation or intends to work or carry on a vocation full-time or part-time for a period:

(A) exceeding fourteen (14) consecutive days; or

(B) for a total period exceeding thirty (30) days;

during any calendar year in Indiana, whether the sex offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit.

(3) A sex offender who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education in Indiana.

(b) Except as provided in subsection (e), a sex offender who resides in Indiana shall register with the local law enforcement authority in the county where the sex offender resides. If a sex offender resides in more than one (1) county, the sex offender shall register with the local law enforcement authority of each county in which the sex offender resides. If the sex offender is also required to register under subsection (a)(2) or (a)(3), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under those provisions.

(c) A sex offender described in subsection (a)(2) shall register with the local law enforcement authority of the county where the sex offender is or intends to be employed or carry on a vocation. If a sex offender is or intends to be employed or carry on a vocation in more than one (1) county, the sex offender shall register with the local law enforcement authority of each county. If the sex offender is also required to register under subsection (a)(1) or (a)(3), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under those provisions.

(d) A sex offender described in subsection (a)(3) shall register with the local law enforcement authority of the county where the sex offender is enrolled or intends to be enrolled as a student. If the sex offender is also required to register under subsection (a)(1) or (a)(2), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under those provisions.

(e) A sex offender described in subsection (a)(1)(B) shall register with the local law enforcement authority in the county in which the real property is located. If the sex offender is also required to register under subsection (a)(1), (a)(2), or (a)(3), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under those provisions.

(f) A sex offender committed to the department shall register with the department before the sex offender is released from incarceration. The department shall forward the sex offender's registration information to the local law enforcement authority of every county in which the sex offender is required to register.

(g) This subsection does not apply to a sex offender who is a sexually violent predator. A sex offender not committed to the department shall register not more than seven (7) days after the sex offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21);

(2) is released from a secure private facility (as defined in IC 31-9-2-115);

(3) is released from a juvenile detention facility;

(4) is transferred to a community transition program;

(5) is placed on parole;

(6) is placed on probation;

(7) is placed on home detention; or

(8) arrives at the place where the sex offender is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex offender required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the sex offender's arrival in that county or acquisition of real estate in that county.

(h) This subsection applies to a sex offender who is a sexually violent predator. A sex offender who is a sexually violent predator shall register not more than seventy-two (72) hours after the sex offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21);

(2) is released from a secure private facility (as defined in IC 31-9-2-115);

(3) is released from a juvenile detention facility;

(4) is transferred to a community transition program;

(5) is placed on parole;

(6) is placed on probation;

(7) is placed on home detention; or

(8) arrives at the place where the sexually violent predator is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex offender who is a sexually violent predator required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the offender's arrival in that county or acquisition of real estate in that county.

(i) The local law enforcement authority with whom a sex offender registers under this section shall make and publish a photograph of the sex offender on the Indiana sex offender registry web site established under IC 36-2-13-5.5. The local law enforcement authority shall make a photograph of a sex offender that complies with the requirements of IC 36-2-13-5.5 at least once per year. The sheriff of a county containing a consolidated city shall provide the police chief of a consolidated city with all photographic and computer equipment necessary to enable the police chief of the consolidated city to transmit sex offender photographs (and other identifying information required by IC 36-2-13-5.5) to the Indiana sex offender registry web site established under IC 36-2-13-5.5. In addition, the sheriff of a county containing a consolidated city shall provide all funding for the county's financial obligation for the establishment and maintenance of the Indiana sex offender registry web site established under IC 36-2-13-5.5.

(j) When a sex offender registers, the local law enforcement authority shall:

(1) immediately update the Indiana sex offender registry web site established under IC 36-2-13-5.5; and

(2) notify every law enforcement agency having jurisdiction in the county where the sex offender resides.

The local law enforcement authority shall provide the department and a law enforcement agency described in subdivision (2) with the information provided by the sex offender during registration.

Sec. 8. The registration required under this chapter must include the following information:

(1) The sex offender's full name, alias, any name by which the sex offender was previously known, date of birth, sex, race, height, weight, hair color, eye color, any scars, marks, or

tattoos, Social Security number, driver's license number or state identification number, principal residence address, and mailing address, if different from the sex offender's principal residence address.

(2) A description of the offense for which the sex offender was convicted, the date of conviction, the county of the conviction, the cause number of the conviction, and the sentence imposed, if applicable.

(3) If the person is required to register under section 7(a)(2) or 7(a)(3) of this chapter, the name and address of each of the sex offender's employers in Indiana, the name and address of each campus or location where the sex offender is enrolled in school in Indiana, and the address where the sex offender stays or intends to stay while in Indiana.

(4) A recent photograph of the sex offender.

(5) If the sex offender is a sexually violent predator, that the sex offender is a sexually violent predator.

(6) If the sex offender is required to register for life, that the sex offender is required to register for life.

(7) Any other information required by the department.

Sec. 9. (a) Not more than seven (7) days before an Indiana sex offender who is required to register under this chapter is scheduled to be released from a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility, an official of the facility shall do the following:

(1) Orally inform the sex offender of the sex offender's duty to register under this chapter and require the sex offender to sign a written statement that the sex offender was orally informed or, if the sex offender refuses to sign the statement, certify that the sex offender was orally informed of the duty to register.

(2) Deliver a form advising the sex offender of the sex offender's duty to register under this chapter and require the sex offender to sign a written statement that the sex offender received the written notice or, if the sex offender refuses to sign the statement, certify that the sex offender was given the written notice of the duty to register.

(3) Obtain the address where the sex offender expects to reside after the sex offender's release.

(4) Transmit to the local law enforcement authority in the county where the sex offender expects to reside of the sex offender's name, date of release or transfer, new address, and the offense or delinquent act committed by the sex offender.

(b) Not more than seventy-two (72) hours after a sex offender who is required to register under this chapter is released or transferred as described in subsection (a), an official of the facility shall transmit to the state police the following:

(1) The sex offender's fingerprints, photograph, and identification factors.

(2) The address where the sex offender expects to reside after the sex offender's release.

(3) The complete criminal history data (as defined in IC 10-13-3-5) or, if the sex offender committed a delinquent act, juvenile history data (as defined in IC 10-13-4-4) of the sex offender.

(4) Information regarding the sex offender's past treatment for mental disorders.

(5) Information as to whether the sex offender has been determined to be a sexually violent predator.

(c) This subsection applies if a sex offender is placed on probation or in a community corrections program without confining the sex offender in a penal facility. The probation office serving the court in which the sex offender is sentenced shall perform the duties required under subsections (a) and (b).

Sec. 10. Notwithstanding any other law, upon receiving a sex offender's fingerprints from a correctional facility, the state police shall immediately send the fingerprints to the Federal Bureau of Investigation.

Sec. 11. (a) If a sex offender who is required to register under this chapter changes:

(1) principal residence address; or

(2) if section 7(a)(2) or 7(a)(3) of this chapter applies, the place where the sex offender stays in Indiana;

the sex offender shall register not more than seventy two (72) hours after the address change with the local law enforcement authority with whom the sex offender last registered.

(b) If the sex offender moves to a new county in Indiana, the local law enforcement authority referred to in subsection (a) shall inform the local law enforcement authority in the new county in Indiana of the sex offender's residence and forward all relevant registration information concerning the sex offender to the local law enforcement authority in the new county. The local law enforcement authority receiving notice under this subsection shall verify the address of the sex offender under section 13 of this chapter not more than seven (7) days after receiving the notice.

(c) If a sex offender who is required to register under section 7(a)(2) or 7(a)(3) of this chapter changes the sex offender's principal place of employment, principal place of vocation, or campus or location where the sex offender is enrolled in school, the sex offender shall register not more than seventy two (72) hours after the change with the local law enforcement authority with whom the sex offender last registered.

(d) If a sex offender moves the sex offender's place of employment, vocation, or enrollment to a new county in Indiana, the local law enforcement authority referred to in subsection (c) shall inform the local law enforcement authority in the new county of the sex offender's new principal place of employment, vocation, or enrollment by forwarding relevant registration information to the local law enforcement authority in the new county.

(e) If a sex offender moves the sex offender's residence, place of employment, or enrollment to a new state, the local law enforcement authority shall inform the state police in the new state of the sex offender's new place of residence, employment, or enrollment.

(f) A local law enforcement authority shall make registration information, including information concerning the duty to register and the penalty for failing to register, available to a sex offender.

(g) A local law enforcement authority who is notified of a change under subsection (a) or (c) shall immediately update the Indiana sex offender registry web site established under IC 36-2-13-5.5.

Sec. 12. (a) As used in this section, "temporary residence" means a residence:

(1) that is established to provide transitional housing for a person without another residence; and

(2) in which a person is not typically permitted to reside for more than thirty (30) days in a sixty (60) day period.

(b) This section applies only to a sex offender who resides in a temporary residence. In addition to the other requirements of this chapter, a sex offender who resides in a temporary residence shall register in person with the local law enforcement authority in which the temporary residence is located:

(1) not more than seventy-two (72) hours after the sex offender moves into the temporary residence; and

(2) during the period in which the sex offender resides in a temporary residence, at least once every seven (7) days following the sex offender's initial registration in subdivision (1).

(c) A sex offender's obligation to register in person once every seven (7) days terminates when the sex offender no longer resides in the temporary residence. However, all other requirements imposed on a sex offender by this chapter continue in force, including the requirement that a sex offender register the sex offender's new address with the local law enforcement authority.

Sec. 13. (a) To verify a sex offender's current residence, the local law enforcement authority shall do the following:

(1) Mail a reply form to each sex offender in the county at the sex offender's listed address at least one (1) time per year, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the sex offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;

(B) placed in a community transition program;

(C) placed in a community corrections program;

(D) placed on parole; or

(E) placed on probation;

whichever occurs first.

(2) Mail a reply form to each sex offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the sex offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;

(B) placed in a community transition program;

(C) placed in a community corrections program;

(D) placed on parole; or

(E) placed on probation;

whichever occurs first.

(3) Personally visit each sex offender in the county at the sex offender's listed address at least one (1) time per year, beginning seven (7) days after the local law enforcement authority receives a notice under section 7 of this chapter or the date the sex offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;

(B) placed in a community transition program;

(C) placed in a community corrections program;

(D) placed on parole; or

(E) placed on probation;

whichever occurs first.

(4) Personally visit each sex offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 7 of this chapter or the date the sex offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;

(B) placed in a community transition program;

(C) placed in a community corrections program;

(D) placed on parole; or

(E) placed on probation;

whichever occurs first.

(b) If a sex offender fails to return a signed reply form either by mail or in person, not later than fourteen (14) days after mailing, or appears not to reside at the listed address, the local law enforcement authority shall immediately notify the department and the prosecuting attorney.

Sec. 14. At least once per calendar year, a sex offender who is required to register under this chapter shall:

(1) report in person to the local law enforcement authority;

(2) register; and

(3) be photographed by the local law enforcement authority;

in each location where the offender is required to register.

Sec. 15. (a) A sex offender who is a resident of Indiana shall obtain and keep in the sex offender's possession:

(1) a valid Indiana driver's license; or

(2) a valid Indiana identification card (as described in IC 9-24-16).

(b) A sex offender required to register in Indiana who is not a resident of Indiana shall obtain and keep in the sex offender's possession:

(1) a valid driver's license issued by the state in which the sex offender resides; or

(2) a valid state issued identification card issued by the state in which the sex offender resides.

(c) A person who knowingly or intentionally violates this section commits failure of a sex offender to possess identification, a Class A misdemeanor. However, the offense is a Class D felony if the person:

(1) is a sexually violent predator; or

(2) has a prior unrelated conviction:

(A) under this section; or

(B) based on the person's failure to comply with any requirement imposed on an offender under this chapter.

(d) It is a defense to a prosecution under this section that:

(1) the person has been unable to obtain a valid driver's license or state issued identification card because less than thirty (30) days have passed since the person's release from incarceration; or

(2) the person possesses a driver's license or state issued identification card that expired not more than thirty (30) days before the date the person violated subsection (a) or (b).

Sec. 16. (a) A sex offender who is required to register under this chapter may not petition for a change of name under IC 34-28-2.

(b) If a sex offender who is required to register under this chapter changes the sex offender's name due to marriage, the sex offender must register with the local law enforcement authority not more than seven (7) days after the name change.

Sec. 17. A sex offender who knowingly or intentionally:

(1) fails to register when required to register under this chapter;

(2) fails to register in every location where the sex offender is required to register under this chapter;

(3) makes a material misstatement or omission while registering as a sex offender under this chapter; or

(4) fails to register in person and be photographed at least one (1) time per year as required under this chapter;

commits a Class D felony. However, the offense is a Class C felony if the sex offender has a prior unrelated conviction for an offense under this section or based on the person's failure to comply with any requirement imposed on a sex offender under this chapter.

Sec. 18. (a) A sexually violent predator who will be absent from the sexually violent predator's principal residence for more than seventy-two (72) hours shall inform the local law enforcement authority, in person or in writing, of the following:

(1) That the sexually violent predator will be absent from the sexually violent predator's principal residence for more than seventy-two (72) hours.

(2) The location where the sexually violent predator will be located during the absence from the sexually violent predator's principal residence.

(3) The length of time the sexually violent predator will be absent from the sexually violent predator's principal residence.

(b) A sexually violent predator who will spend more than seventy-two (72) hours in a county in which the sexually violent predator is not required to register shall inform the local law enforcement authority in the county in which the sexually violent predator is not required to register, in person or in writing, of the following:

(1) That the sexually violent predator will spend more than seventy-two (72) hours in the county.

(2) The location where the sexually violent predator will be located while spending time in the county.

(3) The length of time the sexually violent predator will remain in the county.

Upon request of the local law enforcement authority of the county in which the sexually violent predator is not required to register, the sexually violent predator shall provide the local law enforcement authority with any additional information that will assist the local law enforcement authority in determining the sexually violent predator's whereabouts during the sexually violent predator's stay in the county.

(c) A sexually violent predator who knowingly or intentionally violates this section commits failure to notify, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this section based on the person's failure to comply with any requirement imposed on a sex offender under this chapter.

Sec. 19. (a) Except as provided in subsections (b) and (c), a sex offender is required to register under this chapter until the expiration of ten (10) years after the date the sex offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21) or a secure juvenile detention facility of a state or another jurisdiction;

(2) is placed in a community transition program;

(3) is placed in a community corrections program;

(4) is placed on parole; or

(5) is placed on probation;

whichever occurs last. The department shall ensure that an offender who is no longer required to register as a sex offender is notified that the obligation to register has expired.

(b) A sex offender who is a sexually violent predator is required to register for life.

(c) A sex offender who is convicted of at least one (1) sex offense that the sex offender committed:

(1) when the person was at least eighteen (18) years of age; and

(2) against a victim who was less than twelve (12) years of age at the time of the crime;

is required to register for life.

(d) A sex offender who is convicted of at least one (1) sex offense in which the sex offender:

(1) proximately caused serious bodily injury or death to the victim;

(2) used force or the threat of force against the victim or a member of the victim's family; or

(3) rendered the victim unconscious or otherwise incapable of giving voluntary consent;

is required to register for life.

(e) A sex offender who is convicted of at least two (2) unrelated sex offenses is required to register for life.

Sec. 20. (a) The governor may enter into a compact with one (1) or more jurisdictions outside Indiana to exchange notifications concerning the release, transfer, or change of address, employment, vocation, or enrollment of a sex offender between Indiana and the other jurisdiction or the other jurisdiction and Indiana.

(b) The compact must provide for the designation of a state agency to coordinate the transfer of information.

(c) If the state agency receives information that a sex offender has relocated to Indiana to reside, engage in employment or a vocation, or enroll in school, the state agency shall inform in writing the local law enforcement authority where the sex offender is required to register in Indiana of:

(1) the sex offender's name, date of relocation, and new address; and

(2) the sex offense or delinquent act committed by the sex offender.

(d) The state agency shall determine, following a hearing:

(1) whether a person convicted of an offense in another jurisdiction is required to register as a sex offender in Indiana;

(2) whether an out of state sex offender is a sexually violent predator; and

(3) the period in which an out of state sex offender who has moved to Indiana will be required to register as a sex

offender in Indiana.

SECTION 14. IC 11-13-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) A person sentenced under IC 35-50 shall be released on parole or discharged from the person's term of imprisonment under IC 35-50 without a parole release hearing.

(b) A person sentenced for an offense under laws other than IC 35-50 who is eligible for release on parole, or a person whose parole is revoked and is eligible for reinstatement on parole under rules adopted by the parole board shall, before the date of the person's parole eligibility, be granted a parole release hearing to determine whether parole will be granted or denied. The hearing shall be conducted by one (1) or more of the parole board members. If one (1) or more of the members conduct the hearing on behalf of the parole board, the final decision shall be rendered by the full parole board based upon the record of the proceeding and the hearing conductor's findings. Before the hearing, the parole board shall order an investigation to include the collection and consideration of:

(1) reports regarding the person's medical, psychological, educational, vocational, employment, economic, and social condition and history;

(2) official reports of the person's history of criminality;

(3) reports of earlier parole or probation experiences;

(4) reports concerning the person's present commitment that are relevant to the parole release determination;

(5) any relevant information submitted by or on behalf of the person being considered; and

(6) such other relevant information concerning the person as may be reasonably available.

(c) Unless the victim has requested in writing not to be notified, the department shall notify a victim of a felony (or the next of kin of the victim if the felony resulted in the death of the victim) or any witness involved in the prosecution of an offender imprisoned for the commission of a felony when the offender is:

(1) to be discharged from imprisonment;

(2) to be released on parole under IC 35-50-6-1;

(3) to have a parole release hearing under this chapter;

(4) to have a parole violation hearing;

(5) an escaped committed offender; or

(6) to be released from departmental custody under any temporary release program administered by the department, including the following:

(A) Placement on minimum security assignment to a program authorized by IC 11-10-1-3 or IC 35-38-3-6 and requiring periodic reporting to a designated official, including a regulated community assignment program.

(B) Assignment to a minimum security work release program.

(d) The department shall make the notification required under subsection (c):

(1) at least forty (40) days before a discharge, release, or hearing occurs; and

(2) not later than twenty-four (24) hours after the escape of a committed offender.

The department shall supply the information to a victim (or a next of kin of a victim in the appropriate case) and a witness at the address supplied to the department by the victim (or next of kin) or witness. A victim (or next of kin) is responsible for supplying the department with any change of address or telephone number of the victim (or next of kin).

(e) The probation officer conducting the presentence investigation shall inform the victim and witness described in subsection (c), at the time of the interview with the victim or witness, of the right of the victim or witness to receive notification from the department under subsection (c). The probation department for the sentencing court shall forward the most recent list of the addresses or telephone numbers, or both, of victims to the department of correction. The probation department shall supply the department with the information required by this section as soon as possible but not later than five (5) days from the receipt of the information from the victim. A victim (or next of kin) is responsible for supplying the department with the correct address and telephone number of the victim (or next of kin).

(f) Notwithstanding IC 11-8-5-2 and IC 4-1-6, an inmate may not have access to the name and address of a victim and a witness. Upon the filing of a motion by any person requesting or objecting to the release of victim information, witness information, or both that is retained by the department, the court shall review the information that is the subject of the motion in camera before ruling on the motion.

(g) The notice required under subsection (c) must specify whether the prisoner is being discharged, is being released on parole, **is being released on lifetime parole,** is having a parole release hearing, is having a parole violation hearing, or has escaped. The notice must contain the following information:

(1) The name of the prisoner.

(2) The date of the offense.

(3) The date of the conviction.

(4) The felony of which the prisoner was convicted.

(5) The sentence imposed.

(6) The amount of time served.

(7) The date and location of the interview (if applicable).

(h) The parole board shall adopt rules under IC 4-22-2 and make available to offenders the criteria considered in making parole release determinations. The criteria must include the:

(1) nature and circumstances of the crime for which the offender is committed;

(2) offender's prior criminal record;

(3) offender's conduct and attitude during the commitment; and

(4) offender's parole plan.

(i) The hearing prescribed by this section may be conducted in an informal manner without regard to rules of evidence. In connection with the hearing, however:

(1) reasonable, advance written notice, including the date, time, and place of the hearing shall be provided to the person being considered;

(2) the person being considered shall be given access, in accord with IC 11-8-5, to records and reports considered by the parole board in making its parole release decision;

(3) the person being considered may appear, speak in the person's own behalf, and present documentary evidence;

(4) irrelevant, immaterial, or unduly repetitious evidence shall be excluded; and

(5) a record of the proceeding, to include the results of the parole board's investigation, notice of the hearing, and evidence adduced at the hearing, shall be made and preserved.

(j) If parole is denied, the parole board shall give the person written notice of the denial and the reasons for the denial. The parole board may not parole a person if it determines that there is substantial reason to believe that the person:

(1) will engage in further specified criminal activity; or

(2) will not conform to appropriate specified conditions of parole.

(k) If parole is denied, the parole board shall conduct another parole release hearing not earlier than five (5) years after the date of the hearing at which parole was denied. However, the board may conduct a hearing earlier than five (5) years after denial of parole if the board:

(1) finds that special circumstances exist for the holding of a hearing; and

(2) gives reasonable notice to the person being considered for parole.

(l) The parole board may parole a person who is outside Indiana on a record made by the appropriate authorities of the jurisdiction in which that person is imprisoned.

(m) If the board is considering the release on parole of an offender who is serving a sentence of life in prison, a determinate term of imprisonment of at least ten (10) years, or an indeterminate term of imprisonment with a minimum term of at least ten (10) years, in addition to the investigation required under subsection (b), the board shall order and consider a community investigation, which must include an investigation and report that substantially reflects the attitudes and opinions of:

(1) the community in which the crime committed by the offender occurred;

(2) law enforcement officers who have jurisdiction in the community in which the crime occurred;

(3) the victim of the crime committed by the offender, or if the victim is deceased or incompetent for any reason, the victim's relatives or friends; and

(4) friends or relatives of the offender.

If the board reconsiders for release on parole an offender who was previously released on parole and whose parole was revoked under section 10 of this chapter, the board may use a community investigation prepared for an earlier parole hearing to comply with this subsection. However, the board shall accept and consider any supplements or amendments to any previous statements from the victim or the victim's relatives or friends.

(n) As used in this section, "victim" means a person who has suffered direct harm as a result of a violent crime (as defined in IC 5-2-6.1-8).

SECTION 15. IC 11-13-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

(1) retained by the parolee;

(2) forwarded to any person charged with the parolee's supervision; and

(3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

(1) consider:

(A) the residence of the parolee prior to the parolee's incarceration; and

(B) the parolee's place of employment; and

(2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

(1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and

(2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

(1) may require a parolee who is a sex ~~and violent~~ offender (as defined in ~~IC 5-2-12-4)~~ **IC 11-8-8-5)** to:

(A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is ~~an~~ **a sex** offender (as defined in ~~IC 5-2-12-4)~~ **IC 11-8-8-5)** to register with a ~~sheriff (or the police chief of a consolidated city) under IC 5-2-12-5;~~ **local law enforcement authority under IC 11-8-8;**

(B) prohibit the **sex** offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the **sex** offender obtains written approval from the parole board; ~~and~~

(C) prohibit a parolee who is ~~an~~ **a sex** offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the **sex** offender's sex offense unless the **sex** offender obtains a waiver under IC 35-38-2-2.5; **and**

(D) prohibit a parolee from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age.

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) a waiver under subdivision (2)(B) or (2)(C). If the parole board allows the **sex** offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the **sex** offender's residence of the order.

(h) The address of the victim of a parolee who is ~~an~~ **a sex** offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the **sex** offender obtains a waiver under IC 35-38-2-2.5.

(i) As a condition of parole, the parole board:

(1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and

(2) may require a parolee who is a sex offender (as defined in IC 11-8-8-5);

to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location.

(j) As a condition of parole, the parole board may prohibit, in accordance with IC 35-38-2-2.6, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

SECTION 16. IC 11-13-6-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5.5. (a) This section shall not be construed to limit ~~victim's~~ **victims'** rights granted by IC 35-40 or any other law.

(b) As used in this section, "sex offense" refers to a sex offense described in ~~IC 5-2-12-4(1).~~ **IC 11-8-8-5.**

(c) As used in this section, "victim" means a person who has suffered direct harm as a result of a delinquent act that would be a sex offense if the delinquent offender were an adult. The term includes a victim's representative appointed under IC 35-40-13.

(d) Unless a victim has requested in writing not to be notified, the department shall notify the victim involved in the adjudication of a delinquent offender committed to the department for a sex offense of the delinquent offender's:

(1) discharge from the department of correction;

(2) release from the department of correction under any temporary release program administered by the department;

(3) release on parole;

(4) parole release hearing under this chapter;

(5) parole violation hearing under this chapter; or

(6) escape from commitment to the department of correction.

(e) The department shall make the notification required under subsection (d):

(1) at least forty (40) days before a discharge, release, or hearing occurs; and

(2) not later than twenty-four (24) hours after the escape of a delinquent offender from commitment to the department of correction.

The department shall supply the information to a victim at the address supplied to the department by the victim. A victim is responsible for supplying the department with any change of address or telephone number of the victim.

(f) The probation officer or caseworker preparing the predispositional report under IC 31-37-17 shall inform the victim before the predispositional report is prepared of the right of the victim to receive notification from the department under subsection (d). The probation department or county office of family and children shall forward the most recent list of the addresses or telephone numbers, or both, of victims to the department. The probation department or county office of family and children shall supply the department with the information required by this section as soon as possible but not later than five (5) days after the receipt of the information. A victim is responsible for supplying the department with the correct address and telephone number of the victim.

(g) Notwithstanding IC 11-8-5-2 and IC 4-1-6, a delinquent offender may not have access to the name and address of a victim. Upon the filing of a motion by a person requesting or objecting to the release of victim information or representative information, or both, that is retained by the department, the court shall review in camera the information that is the subject of the motion before ruling on the motion.

(h) The notice required under subsection (d) must specify whether the delinquent offender is being discharged, is being released under a temporary release program administered by the department, is being released on parole, is having a parole release hearing, is having a parole violation hearing, or has escaped. The notice must contain the following information:

(1) The name of the delinquent offender.

(2) The date of the delinquent act.

(3) The date of the adjudication as a delinquent offender.

(4) The delinquent act of which the delinquent offender was adjudicated.

(5) The disposition imposed.

(6) The amount of time for which the delinquent offender was committed to the department.

(7) The date and location of the interview (if applicable).

SECTION 17. IC 31-19-11-1, AS AMENDED BY P.L.129-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Whenever the court has heard the evidence and finds that:

(1) the adoption requested is in the best interest of the child;

(2) the petitioner or petitioners for adoption are of sufficient ability to rear the child and furnish suitable support and education;

(3) the report of the investigation and recommendation under IC 31-19-8-5 has been filed;

(4) the attorney or agency arranging an adoption has filed with the court an affidavit prepared by the state department of health under IC 31-19-5-16 indicating whether a man is entitled to notice of the adoption because the man has registered with the putative father registry in accordance with IC 31-19-5;

(5) proper notice arising under subdivision (4), if notice is necessary, of the adoption has been given;

(6) the attorney or agency has filed with the court an affidavit prepared by the state department of health under:

(A) IC 31-19-6 indicating whether a record of a paternity determination; or

(B) IC 16-37-2-2(g) indicating whether a paternity affidavit executed under IC 16-37-2-2.1;

has been filed in relation to the child;

(7) proper consent, if consent is necessary, to the adoption has been given;

(8) the petitioner for adoption is not prohibited from adopting the child as the result of an inappropriate criminal history described in subsection (c) or (d); and

(9) the person, licensed child placing agency, or county office of family and children that has placed the child for adoption has provided the documents and other information required under IC 31-19-17 to the prospective adoptive parents;

the court shall grant the petition for adoption and enter an adoption decree.

(b) A court may not grant an adoption unless the department's affidavit under IC 31-19-5-16 is filed with the court as provided under subsection (a)(4).

(c) A conviction of a felony or a misdemeanor related to the health and safety of a child by a petitioner for adoption is a permissible basis for the court to deny the petition for adoption. In addition, the court may not grant an adoption if a petitioner for adoption has been convicted of any of the felonies described as follows:

(1) Murder (IC 35-42-1-1).

(2) Causing suicide (IC 35-42-1-2).

(3) Assisting suicide (IC 35-42-1-2.5).

(4) Voluntary manslaughter (IC 35-42-1-3).

(5) Reckless homicide (IC 35-42-1-5).

(6) Battery as a felony (IC 35-42-2-1).

(7) Aggravated battery (IC 35-42-2-1.5).

(8) Kidnapping (IC 35-42-3-2).

(9) Criminal confinement (IC 35-42-3-3).

(10) A felony sex offense under IC 35-42-4.

(11) Carjacking (IC 35-42-5-2).

(12) Arson (IC 35-43-1-1).

(13) Incest (IC 35-46-1-3).

(14) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).

(15) Child selling (IC 35-46-1-4(d)).

(16) A felony involving a weapon under IC 35-47 or IC 35-47.5.

(17) A felony relating to controlled substances under IC 35-48-4.

(18) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.

(19) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (18) for which the conviction was entered in another state.

However, the court is not prohibited from granting an adoption based upon a felony conviction under subdivision (6), (11), (12), (16), or (17), or its equivalent under subdivision (19), if the offense was not committed within the immediately preceding five (5) year period.

(d) A court may not grant an adoption if the petitioner is ~~an~~ **a sex** offender (as defined in ~~IC 5-2-12-4).~~ **IC 11-8-8-5).**

SECTION 18. IC 31-37-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) The juvenile court may, in addition to an order under section 6 of this chapter, enter at least one (1) of the following dispositional decrees:

(1) Order supervision of the child by:

(A) the probation department; or

(B) the county office of family and children.

As a condition of probation under this subdivision, the juvenile court shall after a determination under ~~IC 5-2-12-4~~ **IC 11-8-8-5** require a child who is adjudicated a delinquent child for an act that would be an offense described in ~~IC 5-2-12-4~~ **IC 11-8-8-5** if committed by an adult to register with the ~~sheriff (or the police chief of a consolidated city)~~ **local law enforcement authority** under ~~IC 5-2-12.~~ **IC 11-8-8.**

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Order the child to surrender the child's driver's license to the court for a specified period of time.

(4) Order the child to pay restitution if the victim provides reasonable evidence of the victim's loss, which the child may challenge at the dispositional hearing.

(5) Partially or completely emancipate the child under section 27 of this chapter.

(6) Order the child to attend an alcohol and drug services program established under IC 12-23-14.

(7) Order the child to perform community restitution or service for a specified period of time.

(8) Order wardship of the child as provided in section 9 of this chapter.

SECTION 19. IC 31-37-19-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) After a juvenile court makes a determination under ~~IC 5-2-12-4,~~ **IC 11-8-8-5,** the juvenile court may, in addition to an order under section 6 of this chapter, and if the child:

(1) is at least thirteen (13) years of age and less than sixteen (16) years of age; and

(2) committed an act that, if committed by an adult, would be:

(A) murder (IC 35-42-1-1);

(B) kidnapping (IC 35-42-3-2);

(C) rape (IC 35-42-4-1);

(D) criminal deviate conduct (IC 35-42-4-2); or

(E) robbery (IC 35-42-5-1) if the robbery was committed while armed with a deadly weapon or if the robbery resulted in bodily injury or serious bodily injury;

order wardship of the child to the department of correction for a fixed period that is not longer than the date the child becomes eighteen (18) years of age, subject to IC 11-10-2-10.

(c) Notwithstanding IC 11-10-2-5, the department of correction may not reduce the period ordered under this section (or IC 31-6-4-15.9(b)(8) before its repeal).

SECTION 20. IC 35-38-1-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7.5. (a) As used in this section, "sexually violent predator" ~~has the meaning set forth in IC 5-2-12-4.5.~~ **means a person who suffers from a mental abnormality or personality disorder that makes the individual likely to repeatedly engage in any of the offenses described in IC 11-8-8-4. The term includes a person convicted in another jurisdiction who is identified as a sexually violent predator under**

IC 11-8-8-20.

(b) A person who:

(1) commits an offense described in:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2;

(C) IC 35-42-4-3;

(D) IC 35-42-4-5(a)(1);

(E) IC 35-42-4-5(a)(2);

(F) IC 35-42-4-5(a)(3); or

(G) IC 35-42-4-5(b)(2); or

(2) commits an offense described in IC 11-8-8-4 while having a previous unrelated conviction for an offense described in IC 11-8-8-4 for which the person is required to register as an offender under IC 11-8-8;

is a sexually violent predator.

~~(b)~~ **(c)** This section applies whenever a court sentences a person for a sex offense listed in ~~IC 5-2-12-4(a)(1) through IC 5-2-12-4(a)(10)~~ **IC 11-8-8-4** for which the person is required to register with the ~~sheriff (or the police chief of a consolidated city)~~ **local law enforcement authority** under ~~IC 5-2-12-5~~ **IC 11-8-8.**

~~(c)~~ **(d)** At the sentencing hearing, the court shall determine whether the person is a sexually violent predator ~~Before making a determination under this section, the court shall~~ **under subsection (b).**

(e) If the court does not find the person to be a sexually violent predator under subsection (b), the court shall consult with a board of experts consisting of two (2) board certified psychologists or psychiatrists who have expertise in criminal behavioral disorders **to determine if the person is a sexually violent predator under subsection (a).**

~~(d)~~ **(f)** If the court finds that a person is a sexually violent predator:

(1) the person is required to register with the ~~sheriff (or the police chief of a consolidated city)~~ **local law enforcement authority** as provided in ~~IC 5-2-12-13(b);~~ **IC 11-8-8;** and

(2) the court shall send notice of its finding under this subsection to the ~~criminal justice institute.~~ **department of correction.**

~~(e)~~ **(g)** A person who is found by a court to be a sexually violent predator under subsection ~~(c)~~ **(e)** may petition the court to consider whether the person is no longer a sexually violent predator. The person may file a petition under this subsection not earlier than ten (10) years after the sentencing court makes its finding under subsection ~~(c).~~ **(e).** A person may file a petition under this subsection not more than one (1) time per year. If a court finds that the person is no longer a sexually violent predator, the court shall send notice to the ~~Indiana criminal justice institute~~ **department of correction** that the person is no longer considered a sexually violent predator.

SECTION 21. IC 35-38-1-27 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 27. (a) If a court imposes a sentence that does not involve a commitment to the department of correction, the court shall require a person:**

(1) convicted of an offense described in IC 10-13-6-10; and

(2) who has not previously provided a DNA sample in accordance with IC 10-13-6;

to provide a DNA sample as a condition of the sentence.

(b) If a person described in subsection (a) is confined at the time of sentencing, the court shall order the person to provide a DNA sample immediately after sentencing.

(c) If a person described in subsection (a) is not confined at the time of sentencing, the agency supervising the person after sentencing shall establish the date, time, and location for the person to provide a DNA sample. However, the supervising agency must require that the DNA sample be provided not more than seven (7) days after sentencing. A supervising agency's failure to obtain a DNA sample not more than seven (7) days after sentencing does not permit a person required to provide a DNA sample to challenge the requirement that the person provide a DNA sample at a later date.

(d) A person's failure to provide a DNA sample is grounds for revocation of the person's probation, community corrections placement, or other conditional release.

SECTION 22. IC 35-38-2-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.2. As a condition of probation for ~~an~~ **a sex** offender (as defined in ~~IC 5-2-12-4~~ **IC 11-8-8-5),** the court shall:

(1) require the **sex** offender to register with the ~~sheriff (or the police chief of a consolidated city)~~ **local law enforcement authority** under ~~IC 5-2-12-5;~~ **IC 11-8-8;** and

(2) prohibit the **sex** offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of probation, unless the **sex** offender obtains written approval from the court.

If the court allows the **sex** offender to reside within one thousand (1,000) feet of school property under subdivision (2), the court shall notify each school within one thousand (1,000) feet of the **sex** offender's residence of the order.

SECTION 23. IC 35-38-2-2.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.3. (a) As a condition of probation, the court may require a person to do a combination of the following:

(1) Work faithfully at suitable employment or faithfully pursue a course of study or vocational training that will equip the person for suitable employment.

(2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

(3) Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.

(4) Support the person's dependents and meet other family responsibilities.

(5) Make restitution or reparation to the victim of the crime for damage or injury that was sustained by the victim. When restitution or reparation is a condition of probation, the court shall fix the amount, which may not exceed an amount the person can or will be able to pay, and shall fix the manner of performance.

(6) Execute a repayment agreement with the appropriate governmental entity to repay the full amount of public relief or assistance wrongfully received, and make repayments according to a repayment schedule set out in the agreement.

(7) Pay a fine authorized by IC 35-50.

(8) Refrain from possessing a firearm or other deadly weapon unless granted written permission by the court or the person's probation officer.

(9) Report to a probation officer at reasonable times as directed by the court or the probation officer.

(10) Permit the person's probation officer to visit the person at reasonable times at the person's home or elsewhere.

(11) Remain within the jurisdiction of the court, unless granted permission to leave by the court or by the person's probation officer.

(12) Answer all reasonable inquiries by the court or the person's probation officer and promptly notify the court or probation officer of any change in address or employment.

(13) Perform uncompensated work that benefits the community.

(14) Satisfy other conditions reasonably related to the person's rehabilitation.

(15) Undergo home detention under IC 35-38-2.5.

(16) Undergo a laboratory test or series of tests approved by the state department of health to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:

(A) the person had been convicted of a sex crime listed in IC 35-38-1-7.1(e) and the crime created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV) as described in IC 35-38-1-7.1(b)(8); or

(B) the person had been convicted of an offense related to a controlled substance listed in IC 35-38-1-7.1(f) and the offense involved the conditions described in IC 35-38-1-7.1(b)(9)(A).

(17) Refrain from any direct or indirect contact with an individual.

(18) Execute a repayment agreement with the appropriate governmental entity or with a person for reasonable costs incurred because of the taking, detention, or return of a missing child (as defined in IC 10-13-5-4).

(19) Periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of chemical tests as specified by the court to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9). The person on probation is responsible for any charges resulting from a test and shall have the results of any test under this subdivision reported to the person's probation officer by the laboratory.

(20) If the person was confined in a penal facility, execute a reimbursement plan as directed by the court and make repayments under the plan to the authority that operates the penal facility for all or part of the costs of the person's confinement in the penal facility. The court shall fix an amount that:

(A) may not exceed an amount the person can or will be able to pay;

(B) does not harm the person's ability to reasonably be self supporting or to reasonably support any dependent of the person; and

(C) takes into consideration and gives priority to any other restitution, reparation, repayment, or fine the person is required to pay under this section.

(21) Refrain from owning, harboring, or training an animal.

(b) When a person is placed on probation, the person shall be given a written statement specifying:

(1) the conditions of probation; and

(2) that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

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

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

(c) As a condition of probation, the court may require that the person serve a term of imprisonment in an appropriate facility at the time or intervals (consecutive or intermittent) within the period of probation the court determines.

(d) Intermittent service may be required only for a term of not more than sixty (60) days and must be served in the county or local penal facility. The intermittent term is computed on the basis of the actual days spent in confinement and shall be completed within one (1) year. A person does not earn credit time while serving an intermittent term of imprisonment under this subsection. When the court orders intermittent service, the court shall state:

(1) the term of imprisonment;

(2) the days or parts of days during which a person is to be confined; and

(3) the conditions.

(e) Supervision of a person may be transferred from the court that placed the person on probation to a court of another jurisdiction, with the concurrence of both courts. Retransfers of supervision may occur in the same manner. This subsection does not apply to transfers made under IC 11-13-4 or IC 11-13-5.

(f) When a court imposes a condition of probation described in subsection (a)(17):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

(g) As a condition of probation, a court shall require a person:

(1) convicted of an offense described in IC 10-13-6-10;

(2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and

(3) whose sentence does not involve a commitment to the department of correction;

to provide a DNA sample as a condition of probation.

SECTION 24. IC 35-38-2-2.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.4. As a condition of probation, the court may require ~~an~~ **a sex** offender (as defined in ~~IC 5-2-12-4)~~ **IC 11-8-8-5)** to:

(1) participate in a treatment program for sex offenders approved by the court; and

(2) avoid contact with any person who is less than sixteen (16) years of age unless the probationer:

(A) receives the court's approval; or

(B) successfully completes the treatment program referred to in subdivision (1).

SECTION 25. IC 35-38-2-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.5. (a) As used in this section, "offender" means an individual convicted of a sex offense.

(b) As used in this section, "sex offense" means any of the following:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2).

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

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

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

(6) Child solicitation (IC 35-42-4-6).
(7) Child seduction (IC 35-42-4-7).
(8) Sexual battery (IC 35-42-4-8).
(9) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
(10) Incest (IC 35-46-1-3).

(c) A condition of remaining on probation or parole after conviction for a sex offense is that the offender not reside within one (1) mile of the residence of the victim of the offender's sex offense.

(d) An offender:

(1) who will be placed on probation shall provide the sentencing court and the probation department with the address where the offender intends to reside during the period of probation:

(A) at the time of sentencing if the offender will be placed on probation without first being incarcerated; or

(B) before the offender's release from incarceration if the offender will be placed on probation after completing a term of incarceration; or

(2) who will be placed on parole shall provide the parole board with the address where the offender intends to reside during the period of parole.

(e) An offender, while on probation or parole, may not establish a new residence within one (1) mile of the residence of the victim of the offender's sex offense unless the offender first obtains a waiver from the:

(1) court, if the offender is placed on probation; or

(2) parole board, if the offender is placed on parole;

for the change of address under subsection (f).

(f) The court or parole board may waive the requirement set forth in subsection (c) only if the court or parole board, at a hearing at which the offender is present and of which the prosecuting attorney has been notified, determines that:

(1) the offender has successfully completed a sex offender treatment program during the period of probation or parole;

(2) the offender is in compliance with all terms of the offender's probation or parole; and

(3) good cause exists to allow the offender to reside within one (1) mile of the residence of the victim of the offender's sex offense.

However, the court or parole board may not grant a waiver under this subsection if the offender is a sexually violent predator under IC 35-38-1-7.5.

(g) If the court or parole board grants a waiver under subsection (f), the court or parole board shall state in writing the reasons for granting the waiver. The court's written statement of its reasons shall be incorporated into the record.

(h) The address of the victim of the offender's sex offense is confidential, even if the court or parole board grants a waiver under subsection (f).

SECTION 26. IC 35-38-2-2.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2.6. (a) As a condition of remaining on probation or parole after a conviction for stalking (IC 35-45-10-5), a court may prohibit a person from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.**

(b) A person:

(1) who will be placed on probation shall provide the sentencing court and the probation department with the address where the person intends to reside during the period of probation:

(A) at the time of sentencing if the person will be placed on probation without first being incarcerated; or

(B) before the person's release from incarceration if the person will be placed on probation after completing a term of incarceration; or

(2) who will be placed on parole shall provide the parole board with the address where the person intends to reside during the period of parole.

(c) A person, while on probation or parole, may not reside within one thousand (1,000) feet of the residence of the victim of the stalking unless the person first obtains a waiver under subsection (d) from the:

(1) court, if the person is placed on probation; or

(2) parole board, if the person is placed on parole.

(d) The court or parole board may waive the requirement set forth in subsection (c) only if the court or parole board, at a hearing at which the person is present and of which the prosecuting attorney has been notified, determines that:

(1) the person is in compliance with all terms of the person's probation or parole; and

(2) good cause exists to allow the person to reside within one thousand (1,000) feet of the residence of the victim of the stalking.

(e) If the court or parole board grants a waiver under subsection (d), the court or parole board shall state in writing the reasons for granting the waiver. The court's written statement of its reasons shall be incorporated into the record.

(f) The address of the victim of the stalking is confidential even if the court or parole board grants a waiver under subsection (d).

SECTION 27. IC 35-38-2.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. An order for home detention of an offender under section 5 of this chapter must include the following:

(1) A requirement that the offender be confined to the offender's home at all times except when the offender is:

(A) working at employment approved by the court or traveling to or from approved employment;

(B) unemployed and seeking employment approved for the offender by the court;

(C) undergoing medical, psychiatric, mental health treatment, counseling, or other treatment programs approved for the offender by the court;

(D) attending an educational institution or a program approved for the offender by the court;

(E) attending a regularly scheduled religious service at a place of worship; or

(F) participating in a community work release or community restitution or service program approved for the offender by the court.

(2) Notice to the offender that violation of the order for home detention may subject the offender to prosecution for the crime of escape under IC 35-44-3-5.

(3) A requirement that the offender abide by a schedule prepared by the probation department, or by a community corrections program ordered to provide supervision of the offender's home detention, specifically setting forth the times when the offender

may be absent from the offender's home and the locations the offender is allowed to be during the scheduled absences.

(4) A requirement that the offender is not to commit another crime during the period of home detention ordered by the court.

(5) A requirement that the offender obtain approval from the probation department or from a community corrections program ordered to provide supervision of the offender's home detention before the offender changes residence or the schedule described in subdivision (3).

(6) A requirement that the offender maintain:

(A) a working telephone in the offender's home; and

(B) if ordered by the court, a monitoring device in the offender's home or on the offender's person, or both.

(7) A requirement that the offender pay a home detention fee set by the court in addition to the probation user's fee required under IC 35-38-2-1 or IC 31-40. However, the fee set under this subdivision may not exceed the maximum fee specified by the department of correction under IC 11-12-2-12.

(8) A requirement that the offender abide by other conditions of probation set by the court under IC 35-38-2-2.3.

(9) A requirement that an offender:

(1) convicted of an offense described in IC 10-13-6-10;

(2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and

(3) whose sentence does not involve a commitment to the department of correction;

provide a DNA sample.

SECTION 28. IC 35-38-2.6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The court may, at the time of sentencing, suspend the sentence and order a person to be placed in a community corrections program as an alternative to commitment to the department of correction. The court may impose reasonable terms on the placement. **A court shall require a person:**

(1) convicted of an offense described in IC 10-13-6-10;

(2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and

(3) whose sentence does not involve a commitment to the department of correction;

to provide a DNA sample as a term of placement.

(b) Placement in a community corrections program under this chapter is subject to the availability of residential beds or home detention units in a community corrections program.

(c) A person placed under this chapter is responsible for the person's own medical care while in the placement program.

(d) Placement under this chapter is subject to the community corrections program receiving a written presentence report or memorandum from a county probation agency.

SECTION 29. IC 35-41-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as otherwise provided in this section, a prosecution for an offense is barred unless it is commenced:

(1) within five (5) years after the commission of the offense, in the case of a Class B, Class C, or Class D felony; or

(2) within two (2) years after the commission of the offense, in the case of a misdemeanor.

(b) A prosecution for a Class B or Class C felony that would otherwise be barred under this section may be commenced within one (1) year after the earlier of the date on which the state:

(1) first discovers ~~the identity of~~ **evidence sufficient to charge** the offender with **the offense through** DNA (deoxyribonucleic acid) ~~evidence;~~ **analysis;** or

(2) could have discovered ~~the identity of~~ **evidence sufficient to charge** the offender with **the offense through** DNA (deoxyribonucleic acid) ~~evidence~~ **analysis** by the exercise of due diligence.

~~However, for a Class B or Class C felony in which the state first discovered the identity of an offender with DNA (deoxyribonucleic acid) evidence after the time otherwise allowed for prosecution and before July 1, 2001, the one (1) year period provided in this subsection is extended to July 1, 2002.~~

(c) A prosecution for a Class A felony may be commenced at any time.

(d) A prosecution for murder may be commenced:

(1) at any time; and

(2) regardless of the amount of time that passes between:

(A) the date a person allegedly commits the elements of murder; and

(B) the date the alleged victim of the murder dies.

(e) A prosecution for the following offenses is barred unless commenced before the date that the alleged victim of the offense reaches thirty-one (31) years of age:

(1) IC 35-42-4-3(a) (Child molesting).

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

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

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

(5) IC 35-46-1-3 (Incest).

(f) A prosecution for forgery of an instrument for payment of money, or for the uttering of a forged instrument, under IC 35-43-5-2, is barred unless it is commenced within five (5) years after the maturity of the instrument.

(g) If a complaint, indictment, or information is dismissed because of an error, defect, insufficiency, or irregularity, a new prosecution may be commenced within ninety (90) days after the dismissal even if the period of limitation has expired at the time of dismissal, or will expire within ninety (90) days after the dismissal.

(h) The period within which a prosecution must be commenced does not include any period in which:

(1) the accused person is not usually and publicly resident in Indiana or so conceals himself **or herself** that process cannot be served; ~~on him;~~

(2) the accused person conceals evidence of the offense, and evidence sufficient to charge ~~him~~ **the person** with that offense is unknown to the prosecuting authority and could not have been discovered by that authority by exercise of due diligence; or

(3) the accused person is a person elected or appointed to office under statute or constitution, if the offense charged is theft or conversion of public funds or bribery while in public office.

(i) For purposes of tolling the period of limitation only, a prosecution is considered commenced on the earliest of these dates:

(1) The date of filing of an indictment, information, or complaint before a court having jurisdiction.

(2) The date of issuance of a valid arrest warrant.

(3) The date of arrest of the accused person by a law enforcement officer without a warrant, if the officer has authority to make the arrest.

(j) A prosecution is considered timely commenced for any offense to which the defendant enters a plea of guilty, notwithstanding that the period of limitation has expired.

SECTION 30. IC 35-42-4-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 10. (a) As used in this section, "sexually violent predator" means a person who is a sexually violent predator under IC 35-38-1-7.5.**

(b) A sexually violent predator who knowingly or intentionally works for compensation or as a volunteer:

(1) on school property;

(2) at a youth program center; or

(3) at a public park;

commits unlawful employment near children by a sexual predator, a Class D felony. However, the offense is a Class C felony if the person has a prior unrelated conviction based on the person's failure to comply with any requirement imposed on an offender under this chapter.

SECTION 31. IC 35-42-4-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 11. (a) As used in this section, "offender against children" means a person required to register as an offender under IC 11-8-8 who has been:**

(1) found to be a sexually violent predator under IC 35-38-1-7.5; or

(2) convicted of one (1) or more of the following offenses:

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

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

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

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

(E) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.

(F) An offense in another jurisdiction that is substantially similar to an offense described in clauses (A) through (E).

(b) As used in this section, "reside" means to spend more than two (2) nights in a residence in any thirty (30) day period.

(c) An offender against children who knowingly or intentionally:

(1) resides within one thousand (1,000) feet of:

(A) school property;

(B) a youth program center; or

(C) a public park; or

(2) establishes a residence within one (1) mile of the residence of the victim of the offender's sex offense;

commits a sex offender residency offense, a Class D felony.

SECTION 32. IC 35-43-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) A person who:

(1) recklessly, knowingly, or intentionally damages or defaces property of another person without the other person's consent; or

(2) knowingly or intentionally causes another to suffer pecuniary loss by deception or by an expression of intention to injure another person or to damage the property or to impair the rights of another person;

commits criminal mischief, a Class B misdemeanor. However, the offense is:

(A) a Class A misdemeanor if:

(i) the pecuniary loss is at least two hundred fifty dollars ($250) but less than two thousand five hundred dollars ($2,500);

(ii) the property damaged was a moving motor vehicle;

(iii) the property damaged ~~or defaced was a copy of the sex and violent offender directory (IC 5-2-6-3)~~ **contained data relating to a person required to register as a sex offender under IC 11-8-8** and the person is not a sex offender or was not required to register as a sex offender;

(iv) the property damaged was a locomotive, a railroad car, a train, or equipment of a railroad company being operated on a railroad right-of-way;

(v) the property damaged was a part of any railroad signal system, train control system, centralized dispatching system, or highway railroad grade crossing warning signal on a railroad right-of-way owned, leased, or operated by a railroad company;

(vi) the property damaged was any rail, switch, roadbed, viaduct, bridge, trestle, culvert, or embankment on a right-of-way owned, leased, or operated by a railroad company; or

(vii) the property damage or defacement was caused by paint or other markings; and

(B) a Class D felony if:

(i) the pecuniary loss is at least two thousand five hundred dollars ($2,500);

(ii) the damage causes a substantial interruption or impairment of utility service rendered to the public;

(iii) the damage is to a public record;

(iv) the property damaged ~~or defaced was a copy of the sex and violent offender directory (IC 5-2-6-3)~~ **contained data relating to a person required to register as a sex offender under IC 11-8-8** and the person is a sex offender or was required to register as a sex offender;

(v) the damage causes substantial interruption or impairment of work conducted in a scientific research facility;

(vi) the damage is to a law enforcement animal (as defined in IC 35-46-3-4.5); or

(vii) the damage causes substantial interruption or impairment of work conducted in a food processing facility.

(b) A person who recklessly, knowingly, or intentionally damages:

(1) a structure used for religious worship;

(2) a school or community center;

(3) the grounds:

(A) adjacent to; and

(B) owned or rented in common with;

a structure or facility identified in subdivision (1) or (2); or

(4) personal property contained in a structure or located at a facility identified in subdivision (1) or (2);

without the consent of the owner, possessor, or occupant of the property that is damaged, commits institutional criminal mischief, a Class A misdemeanor. However, the offense is a Class D felony if the pecuniary loss is at least two hundred fifty dollars ($250) but less than two thousand five hundred dollars ($2,500), and a Class C felony if the pecuniary loss is at least two thousand five hundred dollars ($2,500).

(c) If a person is convicted of an offense under this section that involves the use of graffiti, the court may, in addition to any other penalty, order that the person's operator's license be suspended or

invalidated by the bureau of motor vehicles for not more than one (1) year.

(d) The court may rescind an order for suspension or invalidation under subsection (c) and allow the person to receive a license or permit before the period of suspension or invalidation ends if the court determines that:

(1) the person has removed or painted over the graffiti or has made other suitable restitution; and

(2) the person who owns the property damaged or defaced by the criminal mischief or institutional criminal mischief is satisfied with the removal, painting, or other restitution performed by the person.

SECTION 33. IC 35-44-3-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 13. (a) A person who is being supervised on lifetime parole (as described in IC 35-50-6-1) and who knowingly or intentionally violates a condition of lifetime parole that involves direct or indirect contact with a child less than sixteen (16) years of age or with the victim of a sex crime described in IC 11-8-8-4 that was committed by the person commits a Class D felony if, at the time of the violation:**

(1) the person's lifetime parole has been revoked two (2) or more times; or

(2) the person has completed the person's sentence, including any credit time the person may have earned.

(b) The offense described in subsection (a) is a Class C felony if the person has a prior unrelated conviction under this section.

SECTION 34. IC 35-50-2-2, AS AMENDED BY P.L.213-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence, unless the court has approved placement of the offender in a forensic diversion program under IC 11-12-3.7:

(1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.

(2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.

(3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

(4) The felony committed was:

(A) murder (IC 35-42-1-1);

(B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;

(C) sexual battery (IC 35-42-4-8) with a deadly weapon;

(D) kidnapping (IC 35-42-3-2);

(E) confinement (IC 35-42-3-3) with a deadly weapon;

(F) rape (IC 35-42-4-1) as a Class A felony;

(G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;

(H) child molesting (IC 35-42-4-3) as a Class A or Class B felony;

(I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;

(J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;

(K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;

(L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;

(M) escape (IC 35-44-3-5) with a deadly weapon;

(N) rioting (IC 35-45-1-2) with a deadly weapon;

(O) dealing in cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center;

(P) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center;

(Q) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5;

(R) an offense under IC 9-30-5-5(b) (operating a vehicle while intoxicated causing death); or

(S) aggravated battery (IC 35-42-2-1.5).

(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.

(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.

(e) Whenever the court suspends that part of ~~an~~ **a sex** offender's (as defined in ~~IC 5-2-12-4)~~ **IC 11-8-8-5)** sentence that is suspendible under subsection (b), the court shall place the **sex** offender on probation under IC 35-38-2 for not more than ten (10) years.

(f) An additional term of imprisonment imposed under IC 35-50-2-11 may not be suspended.

(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowing or intentional.

(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) may not be suspended.

SECTION 35. IC 35-50-2-14, AS AMENDED BY P.L.71-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) The state may seek to have a person sentenced as a repeat sexual offender for a sex offense under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3, **or for an offense committed in another jurisdiction that is substantially similar to a sex offense under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3,** by alleging, on a page separate from the rest of the charging instrument, that the person has accumulated one (1) prior unrelated felony conviction for a sex offense under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3, **or for an offense committed in another jurisdiction that is substantially similar to a sex offense under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3.**

(b) After a person has been convicted and sentenced for a felony committed after sentencing for a prior unrelated felony conviction under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3, **or for an offense committed in another jurisdiction that is substantially similar to a sex offense under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3,** the person has accumulated one (1) prior unrelated felony conviction. However, a conviction does not count for purposes of this subsection, if:

(1) it has been set aside; or

(2) it is one for which the person has been pardoned.

(c) If the person was convicted of the offense in a jury trial, the jury shall reconvene to hear evidence in the enhancement hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall hear evidence in the enhancement hearing.

(d) A person is a repeat sexual offender if the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person had accumulated one (1) prior unrelated felony conviction under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3, **or had accumulated one (1) prior unrelated conviction for an offense committed in another jurisdiction that is substantially similar to a sex offense under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3.**

(e) The court may sentence a person found to be a repeat sexual offender to an additional fixed term that is the advisory sentence for the underlying offense. However, the additional sentence may not exceed ten (10) years.

SECTION 36. IC 35-50-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Except as provided in subsection (d) **or (e),** when a person imprisoned for a felony completes ~~his~~ **the person's** fixed term of imprisonment, less the credit time ~~he~~ **the person** has earned with respect to that term, ~~he~~ **the person** shall be:

(1) released on parole for not more than twenty-four (24) months, as determined by the parole board;

(2) discharged upon a finding by the committing court that the person was assigned to a community transition program and may be discharged without the requirement of parole; or

(3) released to the committing court if ~~his~~ **the** sentence included a period of probation.

(b) ~~Except as provided in subsection (d),~~ **This subsection does not apply to a person described in subsection (d), (e), or (f).** A person released on parole remains on parole from the date of ~~his~~ release until ~~his~~ **the person's** fixed term expires, unless ~~his~~ **the person's** parole is revoked or ~~he~~ **the person** is discharged from that term by the parole board. In any event, if ~~his~~ **the person's** parole is not revoked, the parole board shall discharge ~~him~~ **the person** after the period set under subsection (a) or the expiration of the person's fixed term, whichever is shorter.

(c) A person whose parole is revoked shall be imprisoned for **all or part of** the remainder of ~~his~~ **the person's** fixed term. However, ~~he~~ **the person** shall again be released on parole when ~~he~~ **the person** completes that remainder, less the credit time ~~he~~ **the person** has earned since the revocation. The parole board may reinstate ~~him~~ **the person** on parole at any time after the revocation.

(d) **This subsection does not apply to a person who is a sexually violent predator under IC 35-38-1-7.5.** When ~~an offender~~ **a sex offender** (as defined in ~~IC 5-2-12-4)~~ **IC 11-8-8-4)** completes the **sex** offender's fixed term of imprisonment, less credit time earned with respect to that term, the **sex** offender shall be placed on parole for not more than ten (10) years.

(e) This subsection applies to a person who is a sexually violent predator under IC 35-38-1-7.5. When a sexually violent predator completes the person's fixed term of imprisonment, less credit time earned with respect to that term, the person shall be placed on parole for the remainder of the person's life.

(f) This subsection applies to a parolee in another jurisdiction who is a sexually violent predator under IC 35-38-1-7.5 and whose parole supervision is transferred to Indiana from another jurisdiction. In accordance with IC 11-13-4-1(2) (Interstate Compact for Out-of-State Probationers and Parolees) and rules adopted under Article VII (d)(8) of the Interstate Compact for Adult Offender Supervision (IC 11-13-4.5), a parolee who is a sexually violent predator and whose parole supervision is transferred to Indiana is subject to the same conditions of parole as a sexually violent predator convicted in Indiana, including:

(1) lifetime parole (as described in subsection (e)); and

(2) the requirement that the person wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location, if applicable.

(g) If a person being supervised on lifetime parole as described in subsection (e) is also required to be supervised by a court, a probation department, a community corrections program, a community transition program, or another similar program upon the person's release from imprisonment, the parole board may:

(1) supervise the person while the person is being supervised by the other supervising agency; or

(2) permit the other supervising agency to exercise all or part of the parole board's supervisory responsibility during the period in which the other supervising agency is required to

supervise the person, if supervision by the other supervising agency will be, in the opinion of the parole board:

(A) at least as stringent; and

(B) at least as effective;

as supervision by the parole board.

(h) The parole board is not required to supervise a person on lifetime parole during any period in which the person is imprisoned. However, upon the person's release from imprisonment, the parole board shall recommence its supervision of a person on lifetime parole.

SECTION 37. IC 35-50-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) A person may, with respect to the same transaction, be deprived of any part of the credit time ~~he~~ **the person** has earned for any of the following:

(1) A violation of one (1) or more rules of the department of correction.

(2) If the person is not committed to the department, a violation of one (1) or more rules of the penal facility in which the person is imprisoned.

(3) A violation of one (1) or more rules or conditions of a community transition program.

(4) If a court determines that a civil claim brought by the person in a state or an administrative court is frivolous, unreasonable, or groundless.

(5) If the person is a sex offender (as defined in IC 11-8-8-5) and refuses to register before being released from the department as required under IC 11-8-8-7.

(6) If the person is a sex offender (as defined in IC 11-8-8-5) and refuses to participate in a sex offender treatment program specifically offered to the sex offender by the department of correction while the person is serving a period of incarceration with the department of correction.

However, the violation of a condition of parole or probation may not be the basis for deprivation. Whenever a person is deprived of credit time, he may also be reassigned to Class II or Class III.

(b) Before a person may be deprived of earned credit time, the person must be granted a hearing to determine ~~his~~ **the person's** guilt or innocence and, if found guilty, whether deprivation of earned credit time is an appropriate disciplinary action for the violation. In connection with the hearing, the person is entitled to the procedural safeguards listed in section 4(c) of this chapter. The person may waive ~~his~~ **the person's** right to the hearing.

(c) Any part of the credit time of which a person is deprived under this section may be restored.

SECTION 38. IC 36-2-13-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5.5. (a) The sheriffs shall jointly establish and maintain ~~a~~ **an Indiana** sex offender web site, known as the Indiana ~~sheriffs'~~ sex offender registry, to inform the general public about the identity, location, and appearance of every sex offender residing within Indiana. The web site must provide information regarding each sex offender, organized by county of residence. The web site shall be updated at least ~~every seven (7) days.~~ **daily.**

(b) The **Indiana** sex offender web site must include the following information:

(1) A recent photograph of every sex offender who has registered with a sheriff after the effective date of this chapter.

(2) The home address of every sex offender.

(3) The information required to be included in the **Indiana** sex offender ~~directory (IC 5-2-12-6).~~ **registry under IC 11-8-8-8.**

(c) Every time a sex offender ~~submits a new registration form to the sheriff~~ **registers**, but at least once per year, the sheriff shall photograph the sex offender. The sheriff shall place this photograph on the **Indiana** sex offender web site.

(d) The photograph of a sex offender described in subsection (c) must meet the following requirements:

(1) The photograph must be full face, front view, with a plain white or off-white background.

(2) The image of the offender's face, measured from the bottom of the chin to the top of the head, must fill at least seventy-five percent (75%) of the photograph.

(3) The photograph must be in color.

(4) The photograph must show the offender dressed in normal street attire, without a hat or headgear that obscures the hair or hairline.

(5) If the offender normally and consistently wears prescription glasses, a hearing device, wig, or a similar article, the photograph must show the offender wearing those items. A photograph may not include dark glasses or nonprescription glasses with tinted lenses unless the offender can provide a medical certificate demonstrating that tinted lenses are required for medical reasons.

(6) The photograph must have sufficient resolution to permit the offender to be easily identified by a person accessing the **Indiana** sex offender web site.

(e) The **Indiana** sex offender web site may be funded from:

(1) the jail commissary fund (IC 36-8-10-21);

(2) a grant from the criminal justice institute; and

(3) any other source, subject to the approval of the county fiscal body.

SECTION 39. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 5-2-6-3.5; IC 5-2-12.

SECTION 40. [EFFECTIVE JULY 1, 2006] **IC 11-8-8-15, IC 11-8-8-17, IC 11-8-8-18, IC 35-42-4-10, and IC 35-42-3-11, all as added by this act, and IC 35-43-1-2, and IC 35-44-3-13, both as amended by this act, apply only to crimes committed after June 30, 2006.**

SECTION 41. [EFFECTIVE JULY 1, 2006] **IC 35-50-6-1, as amended by this act, applies only to a person who commits a crime after June 30, 2006.**

SECTION 42. [EFFECTIVE UPON PASSAGE] **(a) The department of correction shall report to the budget committee on or before August 1, 2006, concerning the estimated costs of implementing IC 11-13-3-4(i), as added by this act, and the feasibility of recovering those costs from offenders.**

(b) This SECTION expires July 1, 2007.

SECTION 43. [EFFECTIVE JULY 1, 2006] **(a) The department of correction shall report to the legislative council before November 1 of each year concerning the department's implementation of lifetime parole and GPS monitoring for child molesters. The report must include information relating to:**

(1) the expense of lifetime parole and GPS monitoring;

(2) recidivism; and

(3) any proposal to make the program of lifetime parole and GPS monitoring less expensive or more effective, or both.

(b) The report described in subsection (a) must be in an electronic format under IC 5-14-6.

(c) This SECTION expires November 2, 2010.

SECTION 44. [EFFECTIVE JULY 1, 2006] **Notwithstanding IC 10-13-6-10, IC 10-13-6-11, IC 35-38-2-2.3, IC 35-38-2.5-6, and IC 35-38-2.6-3, all as amended by this act, and IC 35-38-1-27, as added by this act, a probation department, community corrections department, or other agency supervising an offender on conditional release is not required to collect a DNA sample before October 1, 2006. However, a probation department, community corrections department, or other agency supervising an offender on conditional release is authorized to collect a DNA sample before October 1, 2006, and a DNA sample collected before October 1, 2006, may be analyzed and placed in the convicted offender data base.**

SECTION 45. P.L.61-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 1. (a) As used in this SECTION, "committee" refers to the sentencing policy study committee established by subsection (c).

(b) The general assembly finds that a comprehensive study of sentencing laws and policies is desirable in order to:

(1) ensure that sentencing laws and policies protect the public safety;

(2) establish fairness and uniformity in sentencing laws and policies;

(3) determine whether incarceration or alternative sanctions are appropriate for various categories of criminal offenses; and

(4) maximize cost effectiveness in the administration of sentencing laws and policies.

(c) The sentencing policy study committee is established to evaluate sentencing laws and policies as they relate to:

(1) the purposes of the criminal justice and corrections systems;

(2) the availability of sentencing options; and

(3) the inmate population in department of correction facilities.

If, based on the committee's evaluation under this subsection, the committee determines changes are necessary or appropriate, the committee shall make recommendations to the general assembly for the modification of sentencing laws and policies and for the addition, deletion, or expansion of sentencing options.

(d) The committee shall do the following:

(1) Evaluate the existing classification of criminal offenses into felony and misdemeanor categories. In determining the proper category for each felony and misdemeanor, the committee shall consider, to the extent they have relevance, the following:

(A) The nature and degree of harm likely to be caused by the offense, including whether the offense involves property, irreplaceable property, a person, a number of persons, or a breach of the public trust.

(B) The deterrent effect a particular classification may have on the commission of the offense.

(C) The current incidence of the offense in Indiana.

(D) The rights of the victim.

(2) Recommend structures to be used by a sentencing court in determining the most appropriate sentence to be imposed in a criminal case, including any combination of imprisonment, probation, restitution, community service, or house arrest. The committee shall also consider the following:

(A) The nature and characteristics of the offense.

(B) The severity of the offense in relation to other offenses.

(C) The characteristics of the defendant that mitigate or aggravate the seriousness of the criminal conduct and the punishment deserved for that conduct.

(D) The defendant's number of prior convictions.

(E) The available resources and capacity of the department of correction, local confinement facilities, and community based sanctions.

(F) The rights of the victim.

The committee shall include with each set of sentencing structures an estimate of the effect of the sentencing structures on the department of correction and local facilities with respect to both fiscal impact and inmate population.

(3) Review community corrections and home detention programs for the purpose of:

(A) standardizing procedures and establishing rules for the supervision of home detainees; and

(B) establishing procedures for the supervision of home detainees by community corrections programs of adjoining counties.

(4) Determine the long range needs of the criminal justice and corrections systems and recommend policy priorities for those systems.

(5) Identify critical problems in the criminal justice and corrections systems and recommend strategies to solve the problems.

(6) Assess the cost effectiveness of the use of state and local funds in the criminal justice and corrections systems.

(7) Recommend a comprehensive community corrections strategy based on the following:

(A) A review of existing community corrections programs.

(B) The identification of additional types of community corrections programs necessary to create an effective continuum of corrections sanctions.

(C) The identification of categories of offenders who should be eligible for sentencing to community corrections programs and the impact that changes to the existing system of community corrections programs would have on sentencing practices.

(D) The identification of necessary changes in state oversight and coordination of community corrections programs.

(E) An evaluation of mechanisms for state funding and local community participation in the operation and implementation of community corrections programs.

(F) An analysis of the rate of recidivism of clients under the supervision of existing community corrections programs.

(8) Propose plans, programs, and legislation for improving the effectiveness of the criminal justice and corrections systems.

(9) Evaluate the use of faith based organizations as an alternative to incarceration.

(10) Study issues related to sex offenders, including:

(A) lifetime parole;

(B) GPS or other electronic monitoring;

(C) a classification system for sex offenders;

(D) recidivism; and

(E) treatment.

(e) The committee may study other topics assigned by the legislative council or as directed by the committee chair. **The committee may meet as often as necessary.**

(f) The committee consists of nineteen (19) members appointed as follows:

(1) Four (4) members of the senate, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the president pro tempore of the senate.
(2) Four (4) members of the house of representatives, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the speaker of the house of representatives.
(3) The chief justice of the supreme court or the chief justice's designee.
(4) The commissioner of the department of correction or the commissioner's designee.
(5) The director of the Indiana criminal justice institute or the director's designee.
(6) The executive director of the prosecuting attorneys council of Indiana or the executive director's designee.
(7) The executive director of the public defender council of Indiana or the executive director's designee.
(8) One (1) person with experience in administering community corrections programs, appointed by the governor.
(9) One (1) person with experience in administering probation programs, appointed by the governor.
(10) Two (2) judges who exercise juvenile jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.
(11) Two (2) judges who exercise criminal jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.

(g) The chairman of the legislative council shall appoint a legislative member of the committee to serve as chair of the committee. Whenever there is a new chairman of the legislative council, the new chairman may remove the chair of the committee and appoint another chair.

(h) If a legislative member of the committee ceases to be a member of the chamber from which the member was appointed, the member also ceases to be a member of the committee.

(i) A legislative member of the committee may be removed at any time by the appointing authority who appointed the legislative member.

(j) If a vacancy exists on the committee, the appointing authority who appointed the former member whose position is vacant shall appoint an individual to fill the vacancy.

(k) The committee shall submit a final report of the results of its study to the legislative council before November 1, 2006. The report must be in an electronic format under IC 5-14-6.

(l) The Indiana criminal justice institute shall provide staff support to the committee.

(m) Each member of the committee is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative and lay members, respectively, of interim study committees established by the legislative council.

(n) The affirmative votes of a majority of the members appointed to the committee are required for the committee to take action on any measure, including the final report.

(o) Except as otherwise specifically provided by this act, the committee shall operate under the rules of the legislative council. All funds necessary to carry out this act shall be paid from appropriations to the legislative council and legislative services agency.

(p) This SECTION expires December 31, 2006.

SECTION 46. **An emergency is declared for this act.**

(Reference is to HB 1155 as reprinted February 1, 2006.)
and when so amended that said bill do pass.
Committee Vote: Yeas 11, Nays 0.

LONG, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Engrossed House Bill 1080, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, line 3, delete "Before January 1, 2007, the physical" and insert "**An abortion clinic must meet the following requirements:**

(1) Be constructed, arranged, modified, or maintained to ensure the safety and well being of patients, employees, and visitors to the clinic.
(2) Provide a physical plant and equipment that meet state fire prevention and building safety codes or rules established by the fire prevention and building safety commission or the state department.
(3) Provide a safe and healthy environment that minimizes infection exposure and risk to patients, employees, and visitors to the clinic.

(b) The state department shall inspect an abortion clinic at least one (1) time per calendar year.".

Page 1, delete lines 4 through 17.
Delete pages 2 through 4.
(Reference is to HB 1080 as printed January 27, 2006.)
and when so amended that said bill do pass.
Committee Vote: Yeas 11, Nays 0.

MILLER, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Engrossed House Bill 1329, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, line 37, delete "or a recipient who has a".
Page 2, line 38, delete "known family history of kidney disease".
Page 2, line 38, delete "the following:".
Page 2, delete lines 39 through 41.
Page 2, line 42, delete "(2) Education" and insert "**education**".
Page 2, run in lines 38 through 42.
(Reference is to HB 1329 as printed January 26, 2006.)
and when so amended that said bill do pass.
Committee Vote: Yeas 10, Nays 0.

MILLER, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Engrossed House Bill 1172, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, delete lines 16 through 31.

Page 3, line 3, delete "available" and insert "**available, that there are many couples who are willing and waiting to adopt a child,**".

Page 3, delete lines 8 through 9.

(Reference is to HB 1172 as reprinted January 31, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 11, Nays 0.

MILLER, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred Engrossed House Bill 1362, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, delete line 42, begin a new paragraph and insert:

"**Sec. 2. This article contains full and complete authority for the following:**

(1) Reorganization of political subdivisions.

(2) Exercise of governmental functions under a cooperative agreement under this article.

(3) Transfer of responsibilities between offices and officers under this article.".

Page 3, delete line 1.

Page 3, line 6, delete "to reorganize under this article." and insert "**to:**

(1) reorganize;

(2) exercise governmental functions under a cooperative agreement; or

(3) transfer responsibilities between offices and officers; under this article.".

Page 3, delete lines 17 through 19, begin a new paragraph and insert:

"**Sec. 7. This article does not prohibit the:**

(1) reorganization of one (1) or more political subdivisions;

(2) exercise of governmental functions under a cooperative agreement; or

(3) transfer of responsibilities between offices and officers; under another law that is not included in this article.".

Page 3, between lines 21 and 22, begin a new paragraph and insert:

"**Sec. 9. Political subdivisions and reorganization committees acting under this article are subject to IC 5-14-1.5 (open door law) and IC 5-14-3 (public records law).**".

Page 5, line 9, after "1." insert "**(a)**".

Page 5, line 13, delete "." and insert "**located entirely within the same county.**".

Page 5, line 36, delete "and the" and insert "**and a**".

Page 5, line 36, after "county" insert "**having a population of not more than one hundred seventy thousand (170,000)**".

Page 5, between lines 37 and 38, begin a new line block indented and insert:

"**(10) A municipality and a county:**

(A) that has a population of more than one hundred seventy thousand (170,000);

(B) that does not contain a consolidated city; and

(C) in which a majority of the population of the municipality resides.".

Page 5, line 38, delete "(10)" and insert "**(11)**".

Page 5, line 41, delete "(11)" and insert "**(12)**".

Page 6, between lines 1 and 2, begin a new paragraph and insert:

"**(b) If a political subdivision reorganizes under this article with one (1) or more other political subdivisions:**

(1) any political subdivisions that did not participate in the public question on the reorganization are not reorganized under this article;

(2) the reorganization affects only those political subdivisions in which the reorganization is approved as specified in this article; and

(3) the reorganization does not affect the rights, powers, and duties of any political subdivisions in the county in which the reorganization is not approved as specified in this article.".

Page 6, line 35, after "subdivision" insert "**or (in the case of a reorganization described in section 1(10) of this chapter) by the voters of the entire county**".

Page 7, line 39, delete "." and insert "**, subject to section 40 of this chapter.**".

Page 9, line 2, delete "ten percent (10%)" and insert "**five percent (5%)**".

Page 9, delete line 17.

Page 9, line 18, delete "(2)" and insert "**(1)**".

Page 9, line 20, delete "(3)" and insert "**(2)**".

Page 9, delete line 30.

Page 9, line 31, delete "(2)" and insert "**(1)**".

Page 9, line 33, delete "(3)" and insert "**(2)**".

Page 9, line 37, delete "(4)" and insert "**(3)**".

Page 14, line 12, after "subdivisions" delete "." and insert "**or (in the case of a reorganization described in section 1(10) of this chapter) for consideration by the voters of the entire county.**".

Page 14, line 29, delete "At" and insert "**(a) Except as provided in subsection (b), at**".

Page 15, between lines 6 and 7, begin a new paragraph and insert:

"**(b) In the case of a public question on a reorganization described in section 1(10) of this chapter:**

(1) the vote on the public question shall be tabulated on a countywide basis;

(2) the circuit court clerk shall issue, in a form prescribed by the state election board, a certificate declaring whether the public question is approved by a majority of the voters of the county voting on the public question;

(3) the reorganization is approved if a majority of the voters of the county voting on the public question approve the reorganization; and

(4) it is not required for approval of the reorganization that a majority of the voters of each of the reorganizing political subdivisions approve the reorganization.".

Page 15, line 11, after "32." insert "**(a) This subsection does not apply to a reorganization described in section 1(10) of this**

chapter.".

Page 15, line 15, delete "township)" and insert "**city)**".

Page 15, line 16, delete "county)" and insert "**township)**".

Page 15, between lines 20 and 21, begin a new paragraph and insert:

"**(b) This subsection applies only to a reorganization described in section 1(10) of this chapter. The reorganization is approved if a majority of the voters of the county voting on the public question on the reorganization approve the reorganization.**".

Page 15, line 33, after "reorganization" delete "." and insert "**or (in the case of a reorganization described in section 1(10) of this chapter) if a majority of the voters of the entire county approve the public question concerning the reorganization.**".

Page 17, delete lines 27 through 42, begin a new paragraph and insert:

"**Sec. 40. The following apply in the case of a reorganization under this article:**

(1) Indebtedness that was incurred by a political subdivision before the reorganization:

(A) may not be imposed on taxpayers that were not responsible for payment of the indebtedness before the reorganization; and

(B) must be paid by the taxpayers that were responsible for payment of the indebtedness before the reorganization.

(2) Pension obligations existing as of the effective date of the reorganization:

(A) may not be imposed on taxpayers that were not responsible for payment of the pension obligations before the reorganization; and

(B) must be paid by the taxpayers that were responsible for payment of the pension obligations before the reorganization.".

Page 18, delete lines 1 through 34.

Page 20, between lines 28 and 29, begin a new paragraph and insert:

"**Chapter 5. Cooperative Agreements and Transfers of Responsibilities**

Sec. 1. Notwithstanding any other law, two (2) or more political subdivisions may enter into a cooperative agreement under this chapter by using the same procedures set forth in this article for the initiation and approval of a reorganization under this article. A cooperative agreement under this chapter may be initiated and approved only in the manner set forth in this article for the initiation and approval of a reorganization under this article.

Sec. 2. (a) A cooperative agreement under this chapter must provide at least for the following:

(1) Its duration.

(2) Its purpose.

(3) The manner of financing, staffing, and supplying any joint undertaking and of establishing and maintaining a budget for any joint undertaking that is the subject of the cooperative agreement.

(4) The methods that may be employed in accomplishing the partial or complete termination of the cooperative agreement and for disposing of property upon partial or complete termination of the cooperative agreement.

(5) The manner in which the cooperative agreement is to be administered.

(6) The manner of acquiring, holding, and disposing of real and personal property that is the subject of the cooperative agreement.

(b) A cooperative agreement may include any condition or term that is necessary or appropriate.

Sec. 3. (a) The cooperative agreement may transfer the functions of an employee or a department of a political subdivision, including an elected office, to another employee or department of any political subdivision that has entered into the cooperative agreement.

(b) The functions of an elected office may be transferred only to another elected office.

(c) The cooperative agreement may provide for the abolishment of an elected office that is not required by the Constitution of the State of Indiana.

Sec. 4. A political subdivision may enter into a cooperative agreement with an entity to share the services of an employee employed by any party to the agreement.

Sec. 5. A cooperative agreement may provide that a political subdivision:

(1) may appropriate and pledge any legally available revenues to the payment of the bonds, leases, or other obligations of another political subdivision that is a party to the cooperative agreement; and

(2) will appropriate legally available revenues for any other payment under the cooperative agreement;

if the political subdivision's fiscal body finds that it is necessary, desirable, and in the best interests of the residents of that political subdivision.

Sec. 6. (a) A cooperative agreement may not permit an entity or another instrumentality established to administer the cooperative agreement to take any action that at least one (1) of the parties to the cooperative agreement could not carry out on its own.

(b) A cooperative agreement may permit the transfer of money from one (1) fund of a political subdivision for a use authorized by the cooperative agreement.

Sec. 7. (a) A cooperative agreement transferring the functions of an elected office becomes effective only at the end of the term of the incumbent that holds the office.

(b) Any law, rule, or agreement that requires or permits an action by an employee or elected officer after the functions of the employee or elected officer are transferred shall be treated as referring to the employee or elected officer to which the functions have been transferred by the cooperative agreement.

Sec. 8. The department of local government finance shall adjust as necessary tax rates, tax levies, and budgets of political subdivisions that enter into a cooperative agreement under this chapter in the same manner as tax rates, tax levies, and budgets are adjusted under IC 36-1.5-3 for reorganizing political subdivisions.".

(Reference is to HB 1362 as reprinted January 24, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 6, Nays 5.

RIEGSECKER, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Engrossed House Bill 1281, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, line 20, after "who" insert "**, in a rude, angry, or insolent manner,**".

(Reference is to HB 1281 as printed January 27, 2006.)
and when so amended that said bill do pass.
Committee Vote: Yeas 9, Nays 1.

LONG, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Engrossed House Bill 1420, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Page 1, line 2, delete "An" and insert "**(a) Except as provided in subsection (b),** an".

Page 1, line 6, delete ", other than" and insert ";".

Page 1, line 7, delete "health benefits provided by the employer;".

Page 1, run in lines 6 and 7.

Page 1, after line 11, begin a new paragraph and insert:

"**(b) An employer may implement financial incentives:**

(1) intended to reduce tobacco use; and

(2) related to employee health benefits provided by the employer.".

(Reference is to HB 1420 as printed January 26, 2006.)
and when so amended that said bill do pass.
Committee Vote: Yeas 7, Nays 0.

MILLER, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Utilities, and Public Policy, to which was referred Engrossed House Bill 1123, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

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

Page 2, line 3, delete "nine (9)" and insert "**ten (10)**".

Page 2, line 14, delete "collection." and insert "**collection recommended by the Indiana chapter of the International Association of Forensic Nurses.**".

Page 2, between lines 17 and 18, begin a new line block indented and insert:

"**(10) A member who is a physician (as defined in IC 25-22.5-1-1.1) with experience in examining sexually abused children.**".

Page 2, line 20, after "members" insert "**appointed under subsection (c)(1) through (c)(10)**".

Page 2, line 22, delete "The board shall meet at the call".

Page 2, delete line 23.

Page 2, line 24, delete "Five (5)" and insert "**Six (6)**".

Page 3, delete lines 18 through 19.

Page 3, line 20, delete "(l)" and insert "**(k)**".

Page 3, line 23, delete "(m)" and insert "**(l)**".

Page 3, delete lines 25 through 26.

Page 3, line 27, delete "(o)" and insert "**(m)**".

Page 3, line 31, delete "(p)" and insert "**(n)**".

Page 6, line 19, delete "nine (9)" and insert "**ten (10)**".

Page 6, line 23, delete "Two (2)" and insert "**Three (3)**".

(Reference is to HB 1123 as reprinted February 1, 2006.)
and when so amended that said bill do pass.
Committee Vote: Yeas 8, Nays 0.

WYSS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Utilities, and Public Policy, to which was referred Engrossed House Bill 1315, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, line 3, after "(a)" insert "**This section does not apply to the Indiana Veterans' Home.**

(b)".

Page 1, line 3, after "IC 16-28" insert "**as a comprehensive care facility**".

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

Page 1, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 2. IC 16-28-11-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 6. The state department shall disclose, in the department's consumer guide to nursing homes, whether a health facility is:**

(1) fully;

(2) partially; or

(3) not;

equipped with sprinklers.

SECTION 3. IC 16-28-11-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 7. The state department shall disclose the following information in the department's consumer guide to nursing homes:**

(1) Whether a health facility has:

(A) battery operated;

(B) hard wired; or

(C) no;

smoke detectors in each resident's room.

(2) If a health facility has hard wired or wireless smoke detectors in each resident's room, whether the smoke detectors:

(A) provide an unusual and audible signal at the nurses' stations that attend each room; and

(B) transmit to a central station service or connect to the facility's fire alarm system.".

Page 2, delete lines 9 through 25.

Renumber all SECTIONS consecutively.

(Reference is to HB 1315 as printed January 25, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

WYSS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Engrossed House Bill 1024, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, line 8, reset in roman "Class D".

Page 1, line 8, delete "Class C".

Page 1, line 11, reset in roman "Class C".

Page 1, line 11, delete "Class B".

Page 1, line 14, delete "or".

Page 1, line 15, strike "and" and insert "**or**".

Page 1, between lines 15 and 16, begin a new line double block indented and insert:

"**(C) it results in bodily injury to a person other than the confining or removing person; and**".

Page 1, line 16, reset in roman "Class B".

Page 1, line 16, delete "Class A".

(Reference is to HB 1024 as printed January 20, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 9, Nays 1.

LONG, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Engrossed House Bill 1028, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 3.

Page 4, delete lines 1 through 4.

Renumber all SECTIONS consecutively.

(Reference is to HB 1028 as reprinted January 31, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 9, Nays 2.

LONG, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Engrossed House Bill 1176, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

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

Page 1, line 3, delete "The criminal history data fund is established" and insert "**The department may use the appropriations described in subsection (b) for either or both of the following purposes:**

(1) Operating and maintaining the central repository for criminal history data.

(2) Establishing, operating, or maintaining an electronic log to record the sale of drugs containing ephedrine or pseudoephedrine in accordance with IC 35-48-4-14.7.

(b) If the amount of money that is deposited in the state general fund during a state fiscal year from handgun license fees (as described in IC 35-47-2-4) exceeds one million one hundred thousand dollars ($1,100,000), the excess is appropriated from the state general fund to the department for the purposes described in subsection (a). An appropriation under this section is subject to allotment by the budget agency.".

Page 1, delete lines 4 through 17.

Page 2, delete lines 1 through 8.

Page 6, line 42, delete "as" and insert "**in the state general fund.**".

Page 7, delete lines 1 through 20.

(Reference is to EHB 1176 as printed February 17, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 11, Nays 0.

MEEKS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Engrossed House Bill 1414, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 15.

Delete pages 2 through 4.

Page 5, delete lines 1 through 40.

Page 19, line 32, delete "is" and insert "**the person knows has been**".

Page 19, line 37, delete "Class B" and insert "**Class C**".

Page 25, after line 4, begin a new paragraph and insert:

"SECTION 13. [EFFECTIVE JULY 1, 2006] **(a) The sentencing policy study committee shall study issues related to human and sexual trafficking.**

(b) This SECTION expires December 31, 2006.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1414 as printed January 27, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

LONG, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy,

to which was referred Engrossed House Bill 1099, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

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

Page 5, delete lines 13 through 14.

Page 6, line 1, after "individuals" insert "**in accordance with rules adopted under section 3.5 of this chapter**".

Page 7, line 18, delete "(a) After application to" and insert "**The fire prevention and building safety commission may adopt rules under IC 4-22-2 that specify the conditions under which the chief of a municipal or township fire department may grant a permit to a person to sponsor a special discharge location in the municipality or township.**".

Page 7, delete lines 19 through 42.

Page 8, delete lines 1 through 33.

Page 11, delete lines 34 through 39, begin a new line block indented and insert:

"(3) an annual registration fee of:

(A) one thousand dollars ($1,000) **for the first location;**

(B) five hundred dollars ($500) for each additional sales location in a tent; and

(C) two hundred dollars ($200) for each additional sales location in a structure;".

Page 11, line 41, after "be" insert "**collected by the department of state revenue and**".

Page 12, line 37, delete "8(d),".

Page 12, delete lines 38 through 42, begin a new paragraph and insert:

"**(b) A person who ignites, discharges, or uses consumer fireworks other than those described in section 8(a) of this chapter at a site other than:**

(1) a special discharge location;

(2) the property of the person; or

(3) the property of another who has given permission to use the consumer fireworks;

commits a Class C infraction. However, if a person takes an action described in this subsection not later than five (5) years after the person previously took an action described in this subsection, whether or not there has been a judgment that the person committed an infraction in taking the previous action, the person commits a Class C misdemeanor.

(c) A person less than eighteen (18) years of age who:

(1) possesses a:

(A) consumer firework;

(B) novelty; or

(C) trick noisemaker;

other than those set forth in section 8(a) of this chapter; or

(2) uses a consumer firework when an adult is not present and responsible at the location of the use;

commits a Class C infraction. However, if a person possesses as described in subdivision (1) or uses as described in subdivision (2) not later than five (5) years after a previous possession or use by the person as described in this subsection, whether or not there has been a judgment that the person committed an infraction in the previous possession or use, the person commits a Class C misdemeanor.

(d) A person commits a Class A misdemeanor if the person recklessly, knowingly, or intentionally uses consumer fireworks other than those described in section 8(a) of this chapter and the violation causes harm to the property of a person.

(e) A person commits a Class D felony if the person recklessly, knowingly, or intentionally uses consumer fireworks other than those described in section 8(a) of this chapter and the violation results in serious bodily injury to a person.

(f) A person commits a Class C felony if the person recklessly, knowingly, or intentionally uses consumer fireworks other than those described in section 8(a) of this chapter and the violation results in the death of a person.

(g) A person commits a Class D felony if the person knowingly fails to collect or remit to the state the public safety fees due under section 11 of this chapter.

SECTION 8. IC 22-11-14-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE] 1: Sec. 7. (a) A retailer selling fireworks at one (1) or more temporary stands must obtain a fireworks stand retail sales permit, referred to in this section as a "permit", from the state fire marshal.

(b) An application for a permit must be made before June 1 of each year and must require that at least the following information be supplied by the retailer:

(1) The retailer's retail merchant certificate number or proof of application for a certificate number.

(2) The location of each stand.

The state fire marshal shall, within seven (7) days after the receipt of an application for a permit, either issue the permit or notify the applicant of the denial of the permit.

(c) The retailer must pay to the state fire marshal an annual permit fee set under IC 22-12-6-8. If the state fire marshal approves an application for a permit, he shall issue a permit to the retailer. The permit expires one (1) year after the date of issuance.

(d) The permit shall be posted by the retailer at the stand so that it is easily seen by the public. However, the state fire marshal's issuance of a permit does not constitute approval of the fireworks offered for sale by the retailer. The retailer is responsible for determining that all fireworks which he offers for sale conform to applicable law.

(e) At each stand, the retailer shall provide:

(1) a posted certificate of compliance, including a descriptive list of approved fireworks; and

(2) a supervisor who is at least sixteen (16) years of age.

(f) Fireworks may not be sold at retail from ~~trucks, vans, or automobiles.~~ **a motor vehicle (as defined in IC 9-13-2-105).**

SECTION 9. IC 22-11-14-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. **(a)** A person shall not sell at retail, ~~or~~ offer for sale at retail, **or deliver** any **consumer** fireworks, novelties, or trick noisemakers **to a person less than eighteen (18) years of age** other than the following:

(1) Dipped sticks or wire sparklers. However, total pyrotechnic composition may not exceed one hundred (100) grams per item. Devices containing chlorate or perchlorate salts may not exceed five (5) grams in total composition per item.

(2) Cylindrical fountains.

(3) Cone fountains.

(4) Illuminating torches.

(5) Wheels.

(6) Ground spinners.

(7) Flitter sparklers.
(8) Snakes or glow worms.
(9) Smoke devices.
(10) Trick noisemakers, which include:
(A) Party poppers.
(B) Booby traps.
(C) Snappers.
(D) Trick matches.
(E) Cigarette loads.
(F) Auto burglar alarms.

(b) A retailer or wholesaler of consumer fireworks may sell consumer fireworks to a person at least eighteen (18) years of age.

(c) An individual who sells consumer fireworks other than those listed in subsection (a) must be at least eighteen (18) years of age.

(d) The fire prevention and building safety commission may adopt rules under IC 4-22-2 establishing procedures to ensure compliance with the age limitations set forth in this section.

SECTION 10. IC 22-11-14-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.5. A person is strictly liable for death, bodily injury, or property damage caused by that person's use of consumer fireworks.**".

Delete page 13.

Page 14, delete lines 1 through 20.

Page 15, line 14, delete "paid to the department to be" and insert "**deposited in the state general fund.**".

Page 15, delete lines 15 through 25.

Page 15, line 26, delete "fire prevention and building safety commission" and insert "**department of state revenue**".

Page 15, line 27, delete "administration of the".

Page 15, line 28, delete "and distribution".

Page 16, delete lines 10 through 32.

Page 16, line 39, delete "homeland".

Page 16, line 40, delete "security;" and insert "**state revenue;**".

Page 17, line 5, after "commission" insert "**and the department of state revenue**".

Page 18, delete lines 1 through 13, begin a new paragraph and insert:

"SECTION 18. [EFFECTIVE UPON PASSAGE] **The department of homeland security shall report to the budget committee by July 1, 2006, on the feasibility of the following:**

(1) Creating a regional program to:

(A) train public safety service providers under IC 10-19-9-3; and

(B) provide advanced training programs in public safety and homeland security matters under IC 10-19-9-4.

The report must set out the need for the training, identify possible locations where training could take place, provide an estimate of the costs for providing such training, and include other things the department determines to be relevant.

(2) Establishing a state disaster relief fund to provide:

(A) matching financial assistance to state agencies and political subdivisions under any federal program; and

(B) direct aid to individuals, families, or communities in the event that an emergency event does not receive a presidential major disaster declaration.

SECTION 19. [EFFECTIVE UPON PASSAGE] **There is appropriated from the fees collected under IC 22-11-14-11, as added by this act, one million dollars ($1,000,000) to the department of homeland security to provide regional training for public safety service providers or advanced training programs during the period beginning July 1, 2006, and ending June 30, 2007. Funds appropriated by this SECTION may be allotted by the budget agency after review by the budget committee.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1099 as reprinted February 3, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 2.

KENLEY, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Utilities, and Public Policy, to which was referred Engrossed House Bill 1220, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

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

Page 1, line 3, delete "JULY 1, 2006]:" and insert "UPON PASSAGE]:".

Page 2, line 17, delete "JULY 1, 2006]:" and insert "UPON PASSAGE]:".

Page 2, line 42, delete "JULY 1, 2006]:" and insert "UPON PASSAGE]:".

Page 3, line 15, delete "JULY 1, 2006]:" and insert "UPON PASSAGE]:".

Page 3, line 34, delete "JULY 1, 2006]:" and insert "UPON PASSAGE]:".

Page 3, line 38, delete "JULY 1, 2006]:" and insert "UPON PASSAGE]:".

Page 4, line 21, delete "JULY 1, 2006]:" and insert "UPON PASSAGE]:".

Page 4, line 40, delete "JULY 1, 2006]:" and insert "UPON PASSAGE]:".

Page 5, line 29, delete "JULY 1, 2006]:" and insert "UPON PASSAGE]:".

Page 6, after line 9, begin a new paragraph and insert:

"SECTION 10. IC 25-34.1-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) Except as provided in subsection (b), all funds collected under this article shall, at the end of each month, be reported to the auditor of state and deposited with the treasurer of state for deposit in the general fund. All expenses incurred in the administration of this article shall be paid from the general fund.

(b) The commission shall establish a fee of not more than ~~ten~~ **twenty** dollars ~~($10)~~ **($20)** for real estate brokers and salespersons to provide funds for the purpose of administering and enforcing the provisions of this article, including investigating and taking enforcement action against real estate fraud and real estate appraisal fraud. All funds collected under this subsection shall be deposited in the investigative fund established by IC 25-34.1-8-7.5.

SECTION 11. IC 25-34.1-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) The commission shall establish fees under IC 25-1-8-2 to implement section 8 of this chapter.

(b) Notwithstanding IC 25-1-8-2, a fee established under IC 25-1-8-2 to implement section 8 of this chapter may not be less than fifty dollars ($50).

(c) The commission shall establish fees to provide funding for the investigative fund established by IC 25-34.1-8-7.5. The fees under this subsection may not be more than ~~ten~~ **twenty** dollars ~~($10).~~ **($20).**

(d) The board may collect a fee required by federal law and transmit the fees to the federal government as required by federal law.

(e) A fee described in subsection (a) is in addition to any fees required by federal law.

SECTION 12. IC 25-34.1-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. The board shall submit recommendations to the commission concerning the following:

(1) Implementation and operation of the real estate appraiser licensure and certification program under IC 25-34.1-3-8.

(2) Rules governing real estate appraisers licensed and certified under IC 25-34.1-3-8.

(3) Establishing a fee in an amount necessary to fund the investigative fund established by section 7.5 of this chapter but not more than ~~ten~~ **twenty** dollars ~~($10).~~ **($20).**

(4) Rules governing the administration of the investigative fund established by section 7.5 of this chapter.

SECTION 13. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1220 as printed January 25, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 7, Nays 1.

WYSS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Engrossed House Bill 1156, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 16, delete lines 34 through 42.

Delete pages 17 through 22.

Page 23, delete lines 1 through 4, begin a new paragraph, and insert:

"SECTION 14. IC 33-37-5-27, AS ADDED BY P.L.176-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 27. (a) This subsection does not apply to the following:

(1) A criminal proceeding.

(2) A proceeding to enforce a statute defining an infraction.

(3) A proceeding for an ordinance violation.

In each action filed in a court described in IC 33-37-1-1 and in each small claims action in a court described in IC 33-34, the clerk shall collect a court administration fee of ~~two~~ **three** dollars ~~($2).~~ **($3).**

(b) In each action in which a person is:

(1) convicted of an offense;

(2) required to pay a pretrial diversion fee;

(3) found to have committed an infraction; or

(4) found to have violated an ordinance;

the clerk shall collect a court administration fee of ~~two~~ **three** dollars ~~($2).~~ **($3).**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1156 as reprinted February 1, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 12, Nays 0.

MEEKS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Agriculture and Small Business, to which was referred Engrossed House Bill 1022, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 14, begin a new paragraph and insert:

"SECTION 1. IC 15-1.5-2-2, AS AMENDED BY P.L.241-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The commission consists of eight (8) members as follows:

(1) Five (5) members appointed by the governor.

(2) The presiding officer of the board.

(3) The ~~commissioner~~ **director of the department** of agriculture or the ~~commissioner's~~ **director's** designee.

(4) The presiding officer of the trustees or the presiding officer's designee who must be selected from the membership of the trustees.

(b) The chairman of the state fair advisory committee appointed under IC 15-1-1.5-5(c) or a member of the state fair advisory committee designated by the chairman may serve as an ex officio nonvoting member of the commission.

~~(b)~~ **(c)** Not more than one (1) member appointed under subsection (a)(1) may reside in the same district. Each district is not required to have a member of the commission represent it.

~~(c)~~ **(d)** Not more than three (3) members appointed under subsection (a)(1) may be affiliated with the same political party.

~~(d)~~ **(e)** Two (2) members appointed under subsection (a)(1) must have a recognized interest in agriculture or agribusiness.".

Page 3, line 11, delete "SECTION1" and insert "**SECTION**".

(Reference is to HB 1022 as printed January 18, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

NUGENT, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Utilities, and Public Policy, to which was referred Engrossed House Bill 1259, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

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

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

"SECTION 1. IC 4-3-21-2, AS ADDED BY P.L.5-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. As used in this chapter, "military base" means a United States **or Indiana** government military installation that:

(1) has an area of at least ~~sixty thousand (60,000)~~ **nine hundred (900)** acres; and

(2) is used for:

(A) the design, construction, maintenance, and testing of electronic devices and ordnance; **and**

(B) the training of active and reserve component forces of the United States military.".

Page 2, delete lines 28 through 42, begin a new paragraph and insert:

"SECTION 3. IC 4-3-21-11, AS ADDED BY P.L.203-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: 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 **and state** 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.".

Delete page 3.

Renumber all SECTIONS consecutively.

(Reference is to HB 1259 as printed January 26, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

WYSS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Engrossed House Bill 1338, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, delete lines 37 through 42.

Page 3, delete lines 1 through 12.

Page 4, delete line 42.

Page 5, delete lines 1 through 10.

Renumber all SECTIONS consecutively.

(Reference is to HB 1338 as reprinted January 31, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

LUBBERS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred Engrossed House Bill 1114, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, line 6, delete "any" and insert "**either**".

Page 2, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 3. IC 36-2-7-10 IS AMENDED TO READ AS FOLLOW [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) The county recorder shall tax and collect the fees prescribed by this section for recording, filing, copying, and other services the recorder renders, and shall pay them into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other recording fees required by law to be charged for services rendered by the county recorder.

(b) The county recorder shall charge the following:

(1) Six dollars ($6) for the first page and two dollars ($2) for each additional page of any document the recorder records if the pages are not larger than eight and one-half (8 ½) inches by fourteen (14) inches.

(2) Fifteen dollars ($15) for the first page and five dollars ($5) for each additional page of any document the recorder records, if the pages are larger than eight and one-half (8 ½) inches by fourteen (14) inches.

(3) For attesting to the release, partial release, or assignment of any mortgage, judgment, lien, or oil and gas lease contained on a multiple transaction document, the fee for each transaction after the first is the amount provided in subdivision (1) plus the amount provided in subdivision (4) and one dollar ($1) for marginal mortgage assignments or marginal mortgage releases.

(4) One dollar ($1) for each cross-reference of a recorded document.

(5) One dollar ($1) per page not larger than eight and one-half (8 1/2) inches by fourteen (14) inches for furnishing copies of records produced by a photographic process, and two dollars ($2) per page that is larger than eight and one-half (8 1/2) inches

by fourteen (14) inches.

(6) Five dollars ($5) for acknowledging or certifying to a document.

(7) Five dollars ($5) for each deed the recorder records, in addition to other fees for deeds, for the county surveyor's corner perpetuation fund for use as provided in IC 32-19-4-3 or IC 36-2-12-11(e).

(8) A fee in an amount authorized under IC 5-14-3-8 for transmitting a copy of a document by facsimile machine.

(9) A fee in an amount authorized by an ordinance adopted by the county legislative body for duplicating a computer tape, a computer disk, an optical disk, microfilm, or similar media. This fee may not cover making a handwritten copy or a photocopy or using xerography or a duplicating machine.

(10) A supplemental fee of three dollars ($3) for recording a document that is paid at the time of recording. The fee under this subdivision is in addition to other fees provided by law for recording a document.

(11) Three dollars ($3) for each mortgage on real estate recorded, in addition to other fees required by this section, distributed as follows:

(A) Fifty cents ($0.50) is to be deposited in the recorder's record perpetuation fund.

(B) Two dollars and fifty cents ($2.50) is to be distributed to the auditor of state on or before June 20 and December 20 of each year as provided in IC 24-9-9-3.

(c) The county recorder shall charge a two dollar ($2) county identification security protection fee for recording or filing a document. This fee shall be deposited under IC 36-2-7.5-6.

~~(c)~~ **(d)** The county treasurer shall establish a recorder's records perpetuation fund. All revenue received under subsection (b)(5), (b)(8), (b)(9), and (b)(10), and fifty cents ($0.50) from revenue received under subsection (b)(11), shall be deposited in this fund. The county recorder may use any money in this fund without appropriation for the preservation of records and the improvement of record keeping systems and equipment.

~~(d)~~ **(e)** As used in this section, "record" or "recording" includes the functions of recording, filing, and filing for record.

~~(e)~~ **(f)** The county recorder shall post the fees set forth in subsection (b) in a prominent place within the county recorder's office where the fee schedule will be readily accessible to the public.

~~(f)~~ **(g)** The county recorder may not tax or collect any fee for:

(1) recording an official bond of a public officer, a deputy, an appointee, or an employee; or

(2) performing any service under any of the following:

(A) IC 6-1.1-22-2(c).

(B) IC 8-23-7.

(C) IC 8-23-23.

(D) IC 10-17-2-3.

(E) IC 10-17-3-2.

(F) IC 12-14-13.

(G) IC 12-14-16.

~~(g)~~ **(h)** The state and its agencies and instrumentalities are required to pay the recording fees and charges that this section prescribes.

SECTION 4. IC 36-2-7-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10.1. (a) As used in this section, "bulk form" means:

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

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

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

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

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

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

(2) reproducing on microfilm.

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

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

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

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

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

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

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

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

time after the recorder's archival process is completed and bulk form copies become available in the office of the county recorder.

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

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

(2) by customers of the bulk user.

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

(k) All revenue generated by the county recorder under this section shall be deposited in the recorder's record perpetuation fund and used by the recorder in accordance with ~~IC 36-2-7-10(c).~~ **section 10(c) of this chapter.**

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

SECTION 5. IC 36-2-7.5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. This chapter does not apply to a federal lien on real property or federal tax lien on personal property as described in IC 36-2-11-25.**

SECTION 6. IC 36-2-7.5-2, AS ADDED BY P.L.91-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "redacting technology" refers to technology that has the ability to:

(1) search recorded **and filed** documents; and

(2) redact Social Security numbers from recorded **and filed** documents.

SECTION 7. IC 36-2-7.5-4, AS ADDED BY P.L.91-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. A document may not be submitted to the county recorder for recording **or filing** if the document contains the Social Security number of an individual, unless required by law.

SECTION 8. IC 36-2-7.5-5, AS ADDED BY P.L.91-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) An individual preparing a document for recording **or filing** shall ~~affirm, under the penalties for perjury, that the individual has:~~

~~(1) reviewed the entire document before submitting the document for recording for the purpose of identifying and, to the extent permitted by law, redacting all Social Security numbers; and~~

~~(2) taken reasonable care to redact each Social Security number in the document.~~

~~(b) An individual shall make the affirmation required under subsection (a) on a form prescribed by the state board of accounts.~~ **make the affirmation and statement required by IC 36-2-11-15(c) and IC 36-2-11-15(d).**".

Page 2, line 17, after "charge a" insert "**two dollar ($2) county identification security protection**".

Page 2, line 17, after "recording" insert "**or filing**".

Page 2, line 18, strike "accordance with" and insert "**addition to the fees required by**".

Page 2, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 9. IC 36-2-7.5-7, AS ADDED BY P.L.91-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. The state board of accounts shall establish reasonable procedures for a county recorder to follow:

(1) when receiving and reviewing a document submitted for recording **or filing;** and

(2) in order to comply with this chapter.".

Page 2, line 27, "practicable," and insert "**practicable and as permitted by law,**".

Page 2, line 28, after "recorded" insert "**or filed**".

Page 2, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 10. IC 36-2-7.5-9, AS ADDED BY P.L.91-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. A county recorder shall post a notice in the county recorder's office that states the:

(1) duties of:

(A) an individual preparing **or reviewing** a document for recording **or filing;** and

(B) the county recorder;

under this chapter; and

(2) penalties under section 12 of this chapter.".

Page 3, line 11, after "recorded" insert "**or filed**".

Page 3, line 13, delete "practicable," and insert "**practicable and as permitted by law,**".

Page 3, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 13. IC 36-2-11-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. (a) This section does not apply to:

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

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

(3) a will or death certificate; ~~or~~

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

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

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

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

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

(c) An instrument complies with ~~this section~~ **subsection (b)(1)** if it contains a statement in the following form: "This instrument was prepared by (name)".

(d) An instrument complies with subsection (b)(2) if it contains a statement in the following form: "I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. (name)".

SECTION 14. IC 36-2-11-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 25. (a) This section applies to:

(1) a lien arising under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq. (commonly known as the Superfund Law); and

(2) any other federal lien on real property or any federal tax lien on personal property provided for in the statutes or regulations

of the United States.

In order for a lien covered by this section to be perfected, notice of the lien must be filed in the office of the recorder of the county in which the real or personal property subject to the lien is located.

(b) When a notice of a lien covered by this section is presented to the recorder for filing, the recorder shall enter it appropriately in the entry book and in the miscellaneous record. The entries made under this subsection must show the date of filing, the book and page number or instrument number, the name of the person named in the notice, a legal description of the property, if appropriate, and any serial number or other identifying number given in the notice.

(c) When a certificate of discharge of a federal lien covered by this section is issued by the proper officer and presented for filing in the office of the recorder of the county where the notice of lien was filed, the recorder shall record the certificate of discharge as a release of the lien. However, to be recorded under this subsection, the certificate must refer to the recorder's book and page number or instrument number under which the lien was recorded.

(d) When recording a release of a lien under subsection (c), the recorder shall inscribe, in the margin of each entry made to record the lien under subsection (a), a reference to the place where the release is recorded.

(e) Upon the recording of the certificate of discharge as a release under subsection (c) and the inscribing of the references to the release under subsection (d), a certificate of discharge of a lien covered by this section operates as a full discharge and satisfaction of the lien, unless the references to the release inscribed under subsection (d) specifically note the release as a partial lien release.

(f) A federal lien on real property and a federal tax lien on personal property are not subject to the:

(1) requirement to redact Social Security numbers as described in IC 36-2-7.5-1.5; or

(2) requirements to include statements in a recorded or filed instrument as described in section 15(c) and 15(d) of this chapter.".

Page 4, delete lines 3 through 4.

Renumber all SECTIONS consecutively.

(Reference is to HB 1114 as reprinted January 18, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

RIEGSECKER, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred Engrossed House Bill 1089, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 3, line 4, after "agricultural." insert "**However, if the annexation ordinance annexing the territory is adopted after June 30, 2006, the property tax liability under IC 6-1.1 for municipal purposes may be exempted for a period of not more than ten (10) years.**".

(Reference is to HB 1089 as printed January 27, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 11, Nays 0.

RIEGSECKER, Chair

Report adopted.

REPORT OF THE PRESIDENT PRO TEMPORE

Madam President: Pursuant to Senate Rule 65(b), I hereby report that, subsequent to the adoption of the Commerce and Transportation Committee Report on February 23, 2006, Engrossed House Bill 1190 was reassigned to the Committee on Rules and Legislative Procedure.

GARTON

Report adopted.

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 42

House Concurrent Resolution 42, sponsored by Senator Delph:

A CONCURRENT RESOLUTION honoring Power Soccer of Indy.

Whereas, Power Soccer of Indy began in the fall of 2003;

Whereas, Power soccer is a team sport for individuals with various disabilities usually played in a gymnasium or on a regulation basketball court;

Whereas, The game is played by two teams of four power chair users who attack, defend, and maneuver an oversized soccer ball;

Whereas, Power soccer has been in existence for over 17 years, but has just recently become popular locally;

Whereas, The United States, Canada, Japan, and Denmark currently have teams and tournaments;

Whereas, Power Soccer of Indy has helped to inspire people with disabilities and to allow them to again enjoy the thrill and joy of playing the game; and

Whereas, Power soccer allows the participants to display their skills and the speed and power of their chairs, and to play an organized sport totally independently: 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 accomplished by Power Soccer of Indy and the benefits the players receive from their involvement with this organization and the sport.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to Karen Russo.

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 45

House Concurrent Resolution 45, sponsored by Senators Breaux, Smith, Rogers, and Howard:

A CONCURRENT RESOLUTION honoring David C. Lewis.

Whereas, David C. Lewis was sworn in as the 34th Clerk of the Supreme Court, Court of Appeals, and Tax Court for the state of Indiana on November 24, 2003, making him only the second African-American man to hold this position and the fourth to be a statewide elected official;

Whereas, As the Clerk of the Courts, David C. Lewis is responsible for issuing the orders and opinions of those courts, collecting filing fees, certifying documents, processing appeal bonds, preserving the record of the appellate courts , and maintaining the records of the roll of attorneys;

Whereas, David C. Lewis graduated from Ball State University in 1996 with a bachelor of science degree in legal administration and received a master of public affairs degree from Indiana University-Purdue University Indianapolis in 2004;

Whereas, David began his career as a Governor's Fellow for Governor Evan Bayh;

Whereas, Upon the conclusion of his fellowships, David C. Lewis worked for the Indiana Department of Commerce, was appointed by Lieutenant Governor Joseph E. Kernan as a special assistant for legislation, and returned to the Department of Commerce to serve as the deputy director of the Community Development Division, where he and his staff were responsible for managing the Neighborhood Assistance Program, the Community Development Action Grant Program, the Individual Development Account Program, and the Indiana Urban Enterprise Zone Program;

Whereas, In 2002, David C. Lewis joined the staff of U.S. Senator Evan Bayh, serving as his regional director for Central Indiana and serving as liaison to 26 counties within the central part of the state;

Whereas, David and his wife, Tralicia, are the proud parents of a daughter, Logan Elise; and

Whereas, It is fitting, indeed, that David C. Lewis be recognized for his many contributions to the state of Indiana: 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 David C. Lewis for his many accomplishments and wishes him continued success in his future endeavors.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to David C. Lewis and his family.

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.

2:12 p.m.

The Chair declared a recess until the fall of the gavel.

Recess

The Senate reconvened at 3:17 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 House Concurrent Resolutions 50, 51, and 52 and the same are herewith transmitted for further action.

M. CAROLINE SPOTTS
Principal Clerk of the House

SENATE MOTION

Madam President: I move that Engrossed House Bill 1018, which is eligible for third reading, be returned to second reading for purposes of amendment.

HERSHMAN

Motion prevailed.

ENGROSSED HOUSE BILLS ON SECOND READING

Engrossed House Bill 1011

Senator Lawson called up Engrossed House Bill 1011 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 1011–1)

Madam President: I move that Engrossed House Bill 1011 be amended to read as follows:

Page 65, line 27, after "Sec. 3." insert "**(a)**".

Page 65, between lines 34 and 35, begin a new paragraph and insert:

"**(b) The application must include:**

(1) a resolution adopted by the county executive; and

(2) a resolution adopted by the county fiscal body;

approving the submission of the application.".

(Reference is to EHB 1011 as printed February 15, 2006.)

LAWSON

Motion prevailed.

SENATE MOTION
(Amendment 1011–2)

Madam President: I move that Engrossed House Bill 1011 be amended to read as follows:

Page 74, between lines 3 and 4, begin a new paragraph and insert:

"**(b) A vacancy in a legislative office that was last held by a person elected or selected as a candidate of a political party described by IC 3-8-4-10 shall be filled by the state committee of the political party. The state chairman of the party shall certify the selection of an individual to fill the vacancy in the manner prescribed under section 6 of this chapter.**".

Page 74, line 4, delete "(b)" and insert "**(c)**".

Page 74, line 5, after "(a)" insert "**or (b)**".

(Reference is to EHB 1011 as printed February 15, 2006.)

M. YOUNG

Motion prevailed.

SENATE MOTION
(Amendment 1011–5)

Madam President: I move that Engrossed House Bill 1011 be amended to read as follows:

Page 46, delete lines 31 through 42.

Page 47, delete lines 1 through 12.

Renumber all SECTIONS consecutively.

(Reference is to EHB 1011 as printed February 15, 2006.)

LAWSON

Motion prevailed.

SENATE MOTION
(Amendment 1011–6)

Madam President: I move that Engrossed House Bill 1011 be amended to read as follows:

Page 2, delete lines 29 through 42.

Page 3, delete lines 1 through 35.

Page 23, delete lines 41 through 42.

Page 24, delete lines 1 through 7.

Page 30, delete lines 40 through 42.

Page 31, delete lines 1 through 23.

Page 35, line 29, delete "[EFFECTIVE UPON PASSAGE]" and insert "[EFFECTIVE JULY 1, 2006]".

Page 35, line 41, reset in roman "IC 3-11-8-22,".

Page 35, line 41, delete "IC 3-11-8-22.1,".

Page 37, delete lines 6 through 22.

Page 38, delete lines 5 through 13.

Page 47, delete lines 13 through 42.

Page 48, delete lines 1 through 40.

Page 48, line 42, delete "[EFFECTIVE UPON PASSAGE]" and insert "[EFFECTIVE JULY 1, 2006]".

Page 48, line 42, delete "(a) If a".

Page 49, delete lines 1 through 4.

Page 49, line 5, delete "(b)".

Run in page 48, line 42, through page 49, line 5.

Page 49, line 5, reset in roman "section 22".

Page 49, line 6, delete "section 22.1".

Page 49, line 27, reset in roman "and the individual is not entitled to".

Page 49, reset in roman line 28.

Page 49, line 29, reset in roman "IC 3-10-11-2, or IC 3-10-12,".

Page 49, line 42, delete "UPON PASSAGE]" and insert "JULY 1, 2006]".

Page 50, line 19, reset in roman "section 22".

Page 50, line 19, delete "section 22.1".

Page 51, line 14, reset in roman "section".

Page 51, line 15, reset in roman "22".

Page 51, line 15, delete "section 22.1".

Page 70, delete lines 4 through 22.

Page 70, line 24, delete "[EFFECTIVE UPON PASSAGE]" and insert "[EFFECTIVE JULY 1, 2006]".

Page 70, line 28, reset in roman "not permitted to vote".

Page 70, line 28, delete "challenged under IC 3-10-1".

Page 70, delete lines 29 through 30.

Page 70, line 31, delete "voter produces a certificate of error".

Page 70, reset in roman lines 32 through 33.

Page 71, delete lines 23 through 42.

Page 72, delete lines 1 through 31.

Page 79, delete lines 22 through 23.

Renumber all SECTIONS consecutively.

(Reference is to EHB 1011 as printed February 15, 2006.)

BREAUX

Upon request of Senator Breaux the President ordered the roll of the Senate to be called. Roll Call 230: yeas 17, nays 31.

Motion failed.

SENATE MOTION
(Amendment 1011–11)

Madam President: I move that Engrossed House Bill 1011 be amended to read as follows:

Page 72, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 124. IC 3-12-1-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 17. (a) This section applies only to an absentee ballot sent by mail.**

(b) Notwithstanding IC 3-11-10-14 and IC 3-11.5-4-10, an absentee ballot received from an overseas voter is not considered as arriving too late if both of the following apply:

(1) The absentee ballot envelope is postmarked not later than the date of the election.

(2) The absentee ballot is received not later than the deadline for counting provisional ballots under IC 3-11.7-5-1.

(c) If the postmark on the absentee ballot envelope is unclear, the county election board, by unanimous vote of the entire membership of the board, determines the postmark date. If the board is unable to determine the postmark date, the absentee ballot may not be counted.".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1011 as printed February 15, 2006.)

LAWSON

Motion prevailed.

SENATE MOTION
(Amendment 1011–12)

Madam President: I move that Engrossed House Bill 1011 be amended to read as follows:

Page 46, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 96. IC 3-11-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. ~~If a voter votes a straight party ticket and also votes for one (1) or more individual candidates who are all of the same political party as the straight ticket vote,~~ A ballot card voting system must count ~~the~~ **a ballot in accordance with IC 3-12-1-7 when a voter votes a** straight ticket vote and ~~not the~~ **votes for** individual ~~candidate votes~~ **candidates** as ~~required~~ **described** by ~~IC 3-12-1-7(a).~~ **IC 3-12-1-7.**".

Page 72, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 125. IC 3-12-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 7. (a) ~~If~~ **This subsection applies whenever** a voter:

(1) votes a straight party ticket; and ~~also~~

(2) votes **only** for one (1) or more individual candidates who are all of the same political party as the straight ticket vote.

The straight ticket vote shall be counted and the individual candidate votes may not be counted.

(b) ~~The vote for an office on a ballot shall be counted in accordance with~~ This subsection **applies** whenever:

(1) a voter has voted a straight party ticket for the candidates of one (1) political party;

(2) only one (1) person may be elected to ~~that~~ **an** office; and

(3) the voter has voted for one (1) ~~or more~~ individual ~~candidates~~ **candidate** for the office described in subdivision (2) who ~~are in~~ **is:**

(A) a candidate of a political party other than the party for which the voter voted a straight ticket; **or**

(B) an independent candidate for the office.

If the voter has voted for one (1) individual candidate for the office described in subdivision (2), the individual candidate vote for that office shall be counted, the straight party ticket vote for that office may not be counted, and the straight party ticket votes for other offices on the ballot shall be counted. ~~If~~

(c) This subsection applies whenever:

(1) a voter has voted a straight party ticket for the candidates of one (1) political party; and

(2) the voter has voted for more ~~than one (1)~~ individual ~~candidate~~ **candidates** for the office ~~described in subdivision (2),~~ **than the number of persons to be elected to that office.**

The individual candidate votes for that office may not be counted, the straight party ticket vote for that office may not be counted, and the straight party ticket votes for other offices on the ballot shall be counted.

~~(c) If there is an office to which more than one (1) person can be elected, and a voter votes a straight party ticket and then votes both for individual candidates in the same political party as the straight ticket vote and in a different party for that office, or votes for only individuals in a different party for that office, the individual candidate votes shall be counted and the straight ticket votes for that office may not be counted. However, if the number of individual candidate votes for that office exceeds the number of openings for that office, none of the votes concerning that office may be counted.~~

(d) This subsection applies whenever:

(1) a voter has voted a straight party ticket for the candidates of one (1) political party;

(2) more than one (1) person may be elected to an office; and

(3) the voter has voted for individual candidates for the office described in subdivision (2) who are:

(A) independent candidates;

(B) candidates of a political party other than the political party for which the voter cast a straight party ticket under subdivision (1); or

(C) a combination of candidates described in clauses (A) and (B).

The individual votes cast by the voter for the office for the independent candidates and the candidates of a political party other than the political party for which the voter cast a straight party ticket shall be counted. The straight party ticket vote cast by that voter for that office shall be counted unless the total number of votes cast for the office by the voter, when adding the voter's votes for the individual candidates for the office and the voter's straight party ticket votes for the office, is greater than the number of persons to be elected to the office. If the total number of votes cast for the office is greater than the number of persons to be elected to the office, the straight party ticket votes for the office may not be counted. The straight party ticket votes for other offices on the voter's ballot shall be counted.

(e) This subsection applies whenever:

(1) a voter has voted a straight party ticket for the candidates of one (1) political party;

(2) more than one (1) person may be elected to an office; and

(3) the voter has voted for individual candidates for the office described in subdivision (2) who are:

(A) independent candidates or candidates of a political party other than the political party for which the voter cast a straight party ticket under subdivision (1); and

(B) candidates of the same political party for which the voter cast a straight party ticket under subdivision (1).

The individual votes cast by the voter for the office for the independent candidates and the candidates of a political party other than the political party for which the voter cast a straight party ticket shall be counted. The individual votes cast by the voter for the office for the candidates of the same political party for which the voter cast a straight party ticket may not be counted. The straight party ticket vote cast by that voter for that office shall be counted unless the total number of votes cast for the office by the voter, when adding the voter's votes for the individual candidates for the office and the voter's straight party ticket vote for the office is greater than the number of persons to be elected to the office. If the total number of votes cast for the office is greater than the number of persons to be elected to the office, the straight party ticket votes for that office may not be counted. The straight party ticket votes for other offices on the voter's ballot shall be counted.

~~(d)~~ **(f)** If a voter votes a straight party ticket for more than one (1) political party, the whole ballot is void with regard to all candidates nominated by a political party or designated as independent candidates on the ballot. However, the voter's vote for a school board

candidate or on a public question shall be counted if otherwise valid under this chapter.

~~(c)~~ **(g)** If a voter does not vote a straight party ticket and the number of votes cast by that voter for the candidates for an office are less than or equal to the number of openings for that office, the individual candidates votes shall be counted.

~~(f)~~ **(h)** If a voter does not vote a straight party ticket and the number of votes cast by that voter for an office exceeds the number of openings for that office, none of the votes concerning that office may be counted.".

Page 79, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 142. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2007]: IC 3-11-7-7; 3-11-7-8; IC 3-11-7-9; IC 3-11-7-10; IC 3-11-7-11.".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1011 as printed February 15, 2006.)

LAWSON

Motion prevailed. The bill was ordered engrossed.

Engrossed House Bill 1101

Senator Hershman called up Engrossed House Bill 1101 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 1101–4)

Madam President: I move that Engrossed House Bill 1101 be amended to read as follows:

Page 2, line 1, delete "Information collected for the purpose of issuing a license" and insert "**The following information collected, submitted, or gathered as part of a license or permit application:**

(A) An individual's date of birth.

(B) The name of an individual's minor child.

(C) A confidential medical record.

(D) Any information described in subdivision (1)(B)(i) through (1)(B)(iii).".

Page 2, delete lines 2 through 8.

Page 2, delete lines 14 through 22.

(Reference is to EHB 1101 as printed February 10, 2006.)

HERSHMAN

Motion prevailed.

SENATE MOTION
(Amendment 1101–3)

Madam President: I move that Engrossed House Bill 1101 be amended to read as follows:

Page 6, line 27, after "person." insert "**The term includes the unauthorized acquisition of computerized data that have been transferred to another medium, including paper, microfilm, or a similar medium, even if the transferred data are no longer in a computerized format.**".

(Reference is to EHB 1101 as printed February 10, 2006.)

M. YOUNG

Motion prevailed.

SENATE MOTION
(Amendment 1101–1)

Madam President: I move that Engrossed House Bill 1101 be amended to read as follows:

Page 10, line 32, delete "either" and insert "**any**".

Page 10, line 32, delete "both" and insert "**all**".

Page 10, between lines 35 and 36, begin a new line block indented and insert:

"**(3) The attorney general's reasonable costs in:**

(A) the investigation of the deceptive act; and

(B) maintaining the action.".

(Reference is to EHB 1101 as printed February 10, 2006.)

BRAY

Motion prevailed.

SENATE MOTION
(Amendment 1101–2)

Madam President: I move that Engrossed House Bill 1101 be amended to read as follows:

Page 5, line 37, after "Sec. 7." insert "**(a)**".

Page 5, delete line 40.

Page 5, line 41, delete "(2)" and insert "**(1)**".

Page 5, line 42, delete "(3)" and insert "**(2)**".

Page 6, line 1, delete "(4)" and insert "**(3)**".

Page 6, between lines 2 and 3, begin a new paragraph and insert:

"**(b) For purposes of this article, personal information is "redacted" if the personal information has been altered or truncated so that not more than five (5) digits of a social security number are accessible as part of personal information.**".

Page 7, line 36, after "Sec. 11." insert "**(a)**".

Page 7, delete line 39.

Page 7, line 40, delete "(2)" and insert "**(1)**".

Page 7, line 41, delete "(3)" and insert "**(2)**".

Page 7, line 42, delete "(4)" and insert "**(3)**".

Page 8, between lines 1 and 2, begin a new paragraph and insert:

"**(b) For purposes of this article, personal information is "redacted" if the personal information has been altered or truncated so that not more than five (5) digits of a social security number are accessible as part of personal information.**".

(Reference is to EHB 1101 as printed February 10, 2006.)

HERSHMAN

Motion prevailed. The bill was ordered engrossed.

Engrossed House Bill 1240

Senator Lubbers called up Engrossed House Bill 1240 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed House Bill 1395

Senator Miller called up Engrossed House Bill 1395 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 1395–2)

Madam President: I move that Engrossed House Bill 1395 be

amended to read as follows:

Page 1, line 5, strike "those present at the meeting." and insert "**the board.**".

Page 1, line 14, before "passage" insert "**final**".

Page 1, line 15, after "business" insert "**and on any other item**".

(Reference is to EHB 1395 as printed February 17, 2006.)

M. YOUNG

Motion prevailed. The bill was ordered engrossed.

ENGROSSED HOUSE BILLS ON THIRD READING

Engrossed House Bill 1076

Senator Hershman called up Engrossed House Bill 1076 for third reading:

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

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

Roll Call 231: yeas 47, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1267

Senator Harrison called up Engrossed House Bill 1267 for third reading:

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

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

Roll Call 232: yeas 47, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1299

Senator Paul called up Engrossed House Bill 1299 for third reading:

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

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

Roll Call 233: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1307

Senator Harrison called up Engrossed House Bill 1307 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

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

Roll Call 234: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1392

Senator Paul called up Engrossed House Bill 1392 for third reading:

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

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

Roll Call 235: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 51

House Concurrent Resolution 51, sponsored by Senators Kenley, Ford, and Dillon:

A CONCURRENT RESOLUTION honoring Michael Kiley.

Whereas, Michael Kiley was appointed to the Natural Resources Commission (NRC) on August 31, 1978;

Whereas, On July 26, 1990, Michael Kiley was elected chairman of the NRC, a position he held until September 20, 2005, when he resigned;

Whereas, Michael Kiley, who served under three Republican and three Democratic governors, was originally appointed by Governor Otis Bowen;

Whereas, Michael Kiley's area of expertise was wetlands preservation, public freshwater lake protection, and the coal industry;

Whereas, Michael Kiley was born in Marion, Indiana, on July 15, 1934, and has been married for 47 years to Carol Jones Kiley; they have three children, Ann, Daniel, and Matthew;

Whereas, Michael Kiley received a bachelor of arts degree in political science from the University of Notre Dame and a Juris doctor degree from Georgetown University;

Whereas, In addition to his duties on the Natural Resources Commission, Michael Kiley has also served as a municipal judge in

Marion, a trustee of the Culver Military Educational Foundation, a member of the board of directors of the National Alumni Association of the University of Notre Dame, and a trustee and past board chairman of the Holy Cross College in Notre Dame, Indiana;

Whereas, Michael Kiley is a partner at Kiley, Kiley, Harker, Michael & Certain; and

Whereas, Michael Kiley has dedicated much of his life to helping preserve the natural resources of Indiana: 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 wishes to thank Michael Kiley for his dedication and service to the citizens of Indiana.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to Michael Kiley and his family.

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 50

House Concurrent Resolution 50, sponsored by Senator Miller:

A CONCURRENT RESOLUTION honoring Warren Central High School, Indianapolis, Indiana, on the occasion of its third consecutive victory in the Indiana High School Athletic Association's Class 5A state football championship.

Whereas, The Warren Central Warriors marched to a 55-20 victory over Hamilton Southeastern for their third consecutive Class 5A state championship on Saturday, November 26, in the RCA Dome in Indianapolis capping off a 14-1 season;

Whereas, The Warriors were led by senior quarterback Dexter Taylor, who ran for 158 yards and three touchdowns; an imposing offensive line; and junior safety Jerimy Finch, who set up the third score with a 41-yard interception return and added the sixth touchdown with a 55-yard punt return;

Whereas, At halftime, Warren Central was ahead of Hamilton Southeastern 41-7, had outgained its opponent by nearly 200 yards (266-67), and scored on all five of its possessions with the other offensive touchdowns coming on seven-yard runs by juniors Darren Evans and Brad Ellington;

Whereas, The team dedicated this victory to teammate Andre Nicholson, who was injured in the semistate win over Avon;

Whereas, With this victory, Coach Kevin Wright joined his father, Sheridan coach Larry "Bud" Wright, as the first father-son coaching duo to have title wins in the same season;

Whereas, Excellence at this level requires teamwork and cooperation, and it is fitting that this effort be recognized: Therefore,

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

SECTION 1. That the Indiana General Assembly congratulates the Warren Central Warriors on their third consecutive Class 5A state football championship and wishes them well in their future endeavors.

SECTION 2. That the Principal Clerk of the House of Representatives transmit copies of this resolution to team members, coaches, managers, Warren Central's school principal, and the school's superintendent.

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 52

House Concurrent Resolution 52, sponsored by Senator Miller:

A CONCURRENT RESOLUTION honoring the Warren Central High School cross country team on its victory in the Indiana High School Athletic Association state championship.

Whereas, Warren Central High School captured its first state championship in the Indiana High School Athletic Association (IHSAA) cross country finals on Saturday, October 29, at the LaVern Gibson Championship Cross Country Course in Terre Haute;

Whereas, Two Warrior runners placed in the top seven, junior De'Sean Turner finished second and junior Ondraius Richardson finished seventh;

Whereas, The remaining team members for the Warren Central Warriors were Tim Armstrong (40th), Cody Smith (75th), and Jimmy Hodges (78th);

Whereas, The 118-130 victory over Valparaiso was the closest one-two finish since a four-point difference separated Ben Davis and Portage in 1995;

Whereas, In his 23rd year as head coach, Joe Brooks won his first state championship title and was named Coach of the Year; and

Whereas, Dedication and hard work on the part of team members and coaches culminated in a state championship for the Warren Warriors, a fitting ending to an outstanding season: Therefore,

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

SECTION 1. That the members of the Indiana General Assembly congratulate the Warren Central High School cross country team on its first cross country state championship and wish the members and

coaches continued success in future endeavors.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the Warren Central cross country team members, coach Joe Brooks, principal Tony Burchett, and superintendent Dr. Peggy Hinckley.

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 Breaux and Sipes be added as cosponsors of Engrossed House Bill 1314.

LAWSON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Skinner be added as cosponsor of Engrossed House Bill 1029.

KENLEY

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Broden be added as cosponsor of Engrossed House Bill 1114.

STEELE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Wyss be added as cosponsor of Engrossed House Bill 1008.

MEEKS

Motion prevailed.

SENATE MOTION

Madam President: I move we adjourn until 1:30 p.m., Monday, February 27, 2006.

GARTON

Motion prevailed.

The Senate adjourned at 3:54 p.m.

MARY C. MENDEL
Secretary of the Senate

REBECCA S. SKILLMAN
President of the Senate