Journal of the Senate

State of Indiana

115th General Assembly Second Regular Session

Thirty-first Meeting Day Thursday Afternoon March 13, 2008

The Senate convened at 2:10 p.m., with the President of the Senate, Rebecca S. Skillman, in the Chair.

Prayer was offered by Senator Dennis K. Kruse.

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

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

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

Roll Call 330: present 47; 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.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: Pursuant to Senate Rule 83(k) your Committee on Rules and Legislative Procedure to which was referred Conference Committee Reports filed on Engrossed Senate Bills 78, 227, 302, 329, 350, and Engrossed House Bills 1096, 1187, and 1290 has had the same under consideration and begs leave to report back to the Senate with the recommendation that said Conference Committee Reports are eligible for consideration.

LONG, Chair

Report adopted.

SENATE MOTION

Madam President: I move that the Senate rescind its action whereby it adopted the Conference Committee Report #1 on Engrossed Senate Bill 72.

KRUSE

Motion prevailed.

RESOLUTIONS ON FIRST READING

Senate Resolution 45

Senate Resolution 45, introduced by Senators Broden, Zakas, and Mishler:

A SENATE RESOLUTION honoring the Mishawaka Cavemen Grapplers on their State Wrestling Title.

Whereas, The Mishawaka Cavemen completed their wrestling season with an overall record of 31-1 after defeating Evansville Mater Dei 28-22;

Whereas, The Mishawaka Cavemen, under the leadership of head coach Darrick Snyder, has won the state championship for the first time since 1991;

Whereas, The Mishawaka Cavemen became the first team in the 13-year history of the IHSAA's dual meet format to beat Mater Dei in a championship match;

Whereas, Mishawaka's junior varsity squad was undefeated for a fifth straight season; and

Whereas, The Cavemen received keys to the city from Mayor Jeff Rea and was honored by others: Therefore,

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

SECTION 1. That the Senate of the General Assembly congratulate the Mishawaka Cavemen Grapplers on their State Wrestling Title.

SECTION 2. That the Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Mishawaka High School Wrestling Coach, Darrick Snyder; Athletic Director, Robert Shriner; and Principal, Dr. George Marzotto.

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

Senate Resolution 46

Senate Resolution 46, introduced by Senators Zakas, Broden, and Mishler:

A SENATE RESOLUTION congratulating Pat Naples on winning the Indiana State Debate Tournament.

Whereas, For the past three years, Pat Naples has been invited to the Indiana State Debate Tournament and although he always finished in the top five, his dream was to win;

Whereas, As a senior, Pat was again invited to participate in the Indiana State Debate Tournament. This year, his dream came true as he won in the congress debate category;

Whereas, In the congress debate category, speakers are given congressional bills and must argue for or against them. Pat's strategy was to use logic in his arguments; and

Whereas, Pat won the James Hawker Scholarship for debate and will go on to study political science in college: Therefore,

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

SECTION 1. That the Indiana Senate congratulates Pat Naples on winning the Indiana State Debate Tournament.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Penn High School Principal, Steve Hope, Coach, Dawn Troyer, and Pat Naples.

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

Senate Resolution 47

Senate Resolution 47, introduced by Senators Zakas, Broden, and Mishler:

A SENATE RESOLUTION congratulating Steve Stahl on winning the Individual State Wrestling Title.

Whereas, Steve Stahl completed his wrestling career as a Junior. Although he had a successful record, he decided to pursue other interests;

Whereas, When Steve Stahl was a Senior, Coach Brian Seltzer convinced him to come back and wrestle. After finishing second in the sectional, regional, and semi-state, Steve Stahl went on to win the Individual State Wrestling Title at 189 pounds; and

Whereas, In considering his decision, Steve said, "I started thinking about what I've gotten from the coaches and the sport. I learned a lot about discipline, about pushing my body and my mind beyond their limits. I owed it to the coaches and the team to come back and finish it out.": Therefore,

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

SECTION 1. That the Indiana Senate congratulates Steve Stahl on winning the Individual State Wrestling Title.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Elkhart Memorial High School Principal, Mark Tobolski; Coach, Brian Seltzer; Superintendent, Mark Mow; and Steve Stahl.

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

Senate Resolution 48

Senate Resolution 48, introduced by Senator Charbonneau:

A SENATE RESOLUTION congratulating the Plymouth High School Girl's Basketball Team on winning the IHSAA Class 3A State Finals.

Whereas, On March 1, 2008, the Plymouth High School Girl's Basketball Team beat Indianapolis Bishop Chatard to win the IHSAA Class 3A State Finals at Conseco Fieldhouse in Indianapolis;

Whereas, The championship game was thrilling, keeping fans on the edge of their seats. The score was tied 11 times, and the game winning shot, a free throw, was scored with only 3.5 seconds left to play. The final score was 47-46;

Whereas, This victory marks the first time the Lady Pilgrims have won the State Finals. In recognition of the win, fans attended a celebration in the Plymouth High School Gymnasium; and

Whereas, Hoosiers take great pride in basketball and appreciate the dedication and determination displayed by each member of the Plymouth High School Girl's Basketball Team: Therefore,

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

SECTION 1. That the Indiana Senate congratulates the Plymouth High School Girl's Basketball Team on winning the IHSAA Class 3A State Finals.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Plymouth High School Principal, James Condon; Coach, Dave Cox; Superintendent, Dr. John Hill; and each member of the team.

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

Senate Resolution 49

Senate Resolution 49, introduced by Senator Long:

A SENATE RESOLUTION to express the Indiana Senate's appreciation to Joe Lackey and the Hoosier Beverage Association.

Whereas, Enacting legislation can be an arduous process, requiring many hours in committee hearings, meetings, and in

session;

Whereas, Soft drinks give us energy to continue the legislative process. They taste great and provide much needed refreshment; and

Whereas, The soft drinks supplied to the Senate by Joe Lackey and the Hoosier Beverage Association have been enjoyed and appreciated by the members and staff: Therefore,

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

SECTION 1. That the Indiana Senate expresses its sincere appreciation to Joe Lackey and the Hoosier Beverage Association for their generosity.

SECTION 2. The Secretary of the Senate is hereby directed to transmit copies of this Resolution to Joe Lackey and to the Hoosier Beverage Association.

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

Senate Resolution 50

Senate Resolution 50, introduced by Senator Long:

A SENATE RESOLUTION to express the Indiana Senate's sincere appreciation to the staff of the Indiana Legislative Services Agency.

Whereas, The staff of the Indiana Legislative Services Agency has extended full cooperation and devoted much time and effort to assure the viability and function of the legislative process and also to help members of the Senate with legislative problem solving; and

Whereas, The staff of the Indiana Legislative Services Agency has served the Senate of Indiana loyally and capably: Therefore,

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

SECTION 1. That the members of the Indiana Senate express their full appreciation and sincere commendation to the entire staff of the Indiana Legislative Services Agency for their loyal and capable service.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to all staff members of the Legislative Services Agency.

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

Senate Resolution 51

Senate Resolution 51, introduced by Senator Long:

A SENATE RESOLUTION to express the Indiana Senate's sincere appreciation for the "Chiropractor of the Day" program and the chiropractors who participated in it.

Whereas, The Indiana State Chiropractic Association has provided a great service to the Indiana Senate during this legislative session by operation of the "Chiropractor of the Day" program;

Whereas, The Indiana State Chiropractic Association has provided competent and experienced chiropractors who have donated their time and expertise to provide care to the members and staff of the legislature; and

Whereas, Each member of the Indiana Senate is appreciative of the fine efforts of the dedicated chiropractors who have contributed their services to this program: Therefore,

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

SECTION 1. That the Indiana Senate hereby expresses gratitude to Pat McGuffy, the Indiana State Chiropractic Association, and the dedicated chiropractors who participated in the "Chiropractor of the Day" program during this Second Regular Session of the One Hundred Fifteenth Indiana General Assembly.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Pat McGuffy, the Indiana State Chiropractic Association, and each Chiropractor who participated in the "Chiropractor of the Day" program.

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

Senate Resolution 52

Senate Resolution 52, introduced by Senator Long:

A SENATE RESOLUTION to express the Indiana Senate's sincere appreciation for the invaluable contribution of the "Doctor of the Day" program and the doctors who participate in it.

Whereas, The Indiana State Medical Association and the Indiana Academy of Family Physicians have provided an invaluable service to the Indiana Senate and the General Assembly during this legislative session by the operation of the "Doctor of the Day" program;

Whereas, The Indiana State Medical Association and the Indiana Academy of Family Physicians have provided competent and experienced physicians who have donated their time and expertise to provide on-the-spot medical care to the members and staff of the legislature;

Whereas, The "Doctor of the Day" program is invaluable in that the presence of a physician contributes to the smooth operation of the Indiana Senate which results in quality legislation on behalf of the citizens of the State of Indiana; and

Whereas, Each member of this body is appreciative of the fine efforts of the dedicated physicians who have contributed their services for this program. The security of having a competent

physician within steps of the Senate Chamber is of great value to the members of the Senate: Therefore,

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

SECTION 1. That the Indiana Senate hereby expresses its deepest gratitude to the Indiana State Medical Association, the Indiana Academy of Family Physicians, and the dedicated physicians who participated in the "Doctor of the Day" program during this Second Regular Session of the One Hundred Fifteenth Indiana General Assembly. We look forward to a continued relationship with these worthwhile organizations and dedicated individuals.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to the Executive Director of the Indiana State Medical Association, to the President of the Indiana Academy of Family Physicians, and to each of the physicians who participated in the "Doctor of the Day" program this session.

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

Senate Resolution 54

Senate Resolution 54, introduced by Senator Long:

A SENATE RESOLUTION to express the Indiana Senate's appreciation to Mark Medley and Steve Bebee.

Whereas, Senators spend many hours in committee hearings, meetings, and in session, which sometimes makes eating meals difficult;

Whereas, Snacks help give the Senators energy to continue the legislative process;

Whereas, The Frito Lay snacks supplied by Mark Medley of Bell Vending and Steve Bebee of the Indiana Vending Council have been enjoyed and appreciated by the members and staff: Therefore,

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

SECTION 1. The Indiana Senate expresses its sincere appreciation to Mark Medley with Bell Vending and Steve Bebee with the Indiana Vending Council for their generosity.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Mark Medley of Bell Vending and Steve Bebee of the Indiana Vending Council.

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

Senate Resolution 55

Senate Resolution 55, introduced by Senator Long:

A SENATE RESOLUTION to express the Indiana Senate's appreciation to the Meijer Corporation.

Whereas, The "Doctor of the Day" program is invaluable in that the presence of a well-trained and well-equipped physician contributes to the smooth operation of the Indiana Senate which results in quality legislation on behalf of the citizens of the State of Indiana;

Whereas, An automatic blood pressure cuff is an important tool used by the Doctor of the Day to monitor the health of Indiana legislators; and

Whereas, Each member of this body appreciates the donation of an automatic blood pressure cuff by the Meijer Corporation: Therefore,

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

SECTION 1. The Indiana Senate extends its deep appreciation to the Meijer Corporation for the donation of an automatic blood pressure cuff.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Stacie Behler of Meijer Corporation.

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

Senate Resolution 56

Senate Resolution 56, introduced by Senator Long:

A SENATE RESOLUTION to express the Indiana Senate's appreciation to the KWK Management Group and the Meijer Corporation.

Whereas, Enacting legislation can be an arduous process, requiring many hours in committee hearings, meetings, and in session;

Whereas, Bottled water and candy help to quench the thirst and quell the hunger of those who work so hard for Indiana's future; and

Whereas, The bottled water and candy supplied to the Senate by the KWK Management Group and the Meijer Corporation have been enjoyed and appreciated by the members and staff: Therefore,

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

SECTION 1. That the Indiana Senate expresses its sincere appreciation to the KWK Management Group and the Meijer Corporation for their generosity.

SECTION 2. The Secretary of the Senate is hereby directed to transmit copies of this Resolution to the KWK Management Group and the Meijer Corporation.

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

Senate Resolution 57

Senate Resolution 57, introduced by Senator Long:

A SENATE RESOLUTION to recognize the outstanding work of the employees of the Indiana Senate.

Whereas, The Senate of the Indiana General Assembly recognizes its employees for their consistent standard of excellent service;

Whereas, The staff and personnel of the Senate deserve praise and commendation from all members of this body and from the public at large for their courteous performance of duties; and

Whereas, The Senate and the State of Indiana have benefitted from the expedient and efficient work of the Senate employees: Therefore,

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

SECTION 1. The devotion to duty, excellent service, and courteous demeanor of the Senate's employees are deeply appreciated by us all. We commend the staff for their service to the State of Indiana during the Second Regular Session of the One Hundred Fifteenth Indiana General Assembly.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to each person who served as a Senate employee.

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

Senate Resolution 58

Senate Resolution 58, introduced by Senator Long:

A SENATE RESOLUTION to express the Indiana Senate's appreciation to Douglas J. Simmons and the SDS Group, Ltd.

Whereas, Senators spend many hours in committee hearings, meetings, and in session, which sometimes makes eating meals difficult; and

Whereas, The popcorn supplied to the Senate has been enjoyed by the members and staff: Therefore,

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

SECTION 1. That the Indiana Senate expresses its sincere appreciation to Douglas J. Simmons and the SDS Group, Ltd. for their generosity.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Douglas J. Simmons of SDS Group, Ltd.

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

Senate Resolution 59

Senate Resolution 59, introduced by Senator Long:

A SENATE RESOLUTION to express appreciation to John B. Livengood of the Restaurant and Hospitality Association of Indiana and Robert D. Kraft of the Indiana Farm Bureau for the milk provided.

Whereas, Enacting legislation requires a high level of physical stamina and mental acuity;

Whereas, Milk, being nature's most nearly perfect food, has helped provide the legislature with stamina and fortitude; and

Whereas, The Restaurant and Hospitality Association of Indiana and the Indiana Farm Bureau have provided the Indiana Senate with a considerable quantity of milk: Therefore,

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

SECTION 1. That the Indiana Senate extends its deep appreciation to John B. Livengood of the Restaurant and Hospitality Association of Indiana and Robert D. Kraft of the Indiana Farm Bureau.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to John B. Livengood of the Restaurant and Hospitality Association of Indiana and to Robert D. Kraft of the Indiana Farm Bureau.

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

Senate Resolution 68

Senate Resolution 68, introduced by Senators Long, Lawson, R. Young, and Simpson:

A SENATE RESOLUTION honoring Senator Thomas K. Weatherwax upon his retirement from the Indiana Senate.

Whereas, Senator Thomas K. Weatherwax began his career in the Indiana General Assembly when he was elected to serve in the House of Representatives in 1984;

Whereas, In 1988, after two terms in the House of Representatives, Senator Weatherwax was elected to serve in the Indiana Senate representing Senate District 18;

Whereas, Throughout his 24 year tenure in the Indiana General Assembly, Senator Weatherwax has been a champion for the people of the State of Indiana and has honestly and faithfully served his constituency;

Whereas, Senator Weatherwax has served as a member on numerous legislative standing committees, including Agriculture and Small Business, Appropriations, Commerce, Public Policy and Interstate Cooperation, Finance, Insurance and Financial Institutions, and Pensions and Labor. In addition, he has served in the role of ranking member for the committees on Commerce

and Consumer Affairs and Tax and Fiscal Policy and has served as chair of the Local Government Financing subcommittee and the committees on Education, Transportation and Interstate Cooperation, Energy and Economic Development and Natural Resources. In each of these roles, Senator Weatherwax has played an integral part in the passage of a wide variety of legislation;

Whereas, While he has been recognized for his dedication to public service on many occasions throughout his career, in February, Governor Mitch Daniels recognized Senator Weatherwax's commitment to serving the people of Indiana by presenting him with The Sagamore of the Wabash Award;

Whereas, After 24 years, Senator Weatherwax has decided to retire from the Indiana Senate in order to spend more time with his wife, Kay, his six children, and fifteen grandchildren; and

Whereas, Senator Weatherwax is admired and respected by everyone in the Indiana Senate and he will be missed in the State House: Therefore,

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

SECTION 1. That on behalf of the people of the State of Indiana, we hereby extend our sincere appreciation to Senator Thomas K. Weatherwax for his 24 years of dedicated service in the Indiana General Assembly.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Senator Weatherwax and his family.

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

SENATE MOTION

Madam President: I move that Senators Alting, Arnold, Becker, Boots, Bray, Breaux, Broden, Charbonneau, Deig, Delph, Dillon, Drozda, Errington, Gard, Hershman, Hume, Jackman, Kenley, Kruse, Lanane, Landske, Lewis, Lubbers, Meeks, Merritt, Miller, Mishler, Mrvan, Nugent, Paul, Riegsecker, Rogers, Sipes, Skinner, Smith, Steele, Tallian, Walker, Waltz, Waterman, Wyss, M. Young, and Zakas be added as coauthors of Senate Resolution 68.

LONG

Motion prevailed.

Senate Resolution 65

Senate Resolution 65, introduced by Senators Long, Lawson, R. Young, and Simpson:

A SENATE RESOLUTION honoring Senator Marvin Riegsecker upon his retirement from the Indiana Senate.

Whereas, Senator Marvin Riegsecker was first elected to the Indiana Senate to represent Senate District 12 in 1988;

Whereas, Senator Riegsecker has been a champion for the people of the State of Indiana and has honestly and faithfully served his constituency throughout his 20 year tenure;

Whereas, Senator Riegsecker has served on many legislative standing committees during his tenure, including Appropriations and Energy and Environmental Affairs. In addition, he chaired the Commerce, Public Policy and Interstate Cooperation committee, was the ranking member of Health and Provider Services committee, and worked on the Provider Services Subcommittee;

Whereas, Prior to his service in the Indiana Senate, Senator Riegsecker served as the Elkhart County Coroner from 1977 to 1984 and as an Elkhart County Commissioner from 1985 to 1988;

Whereas, Senator Riegsecker has decided to retire from the Indiana Senate in order to spend more time with his wife, Norma, his two sons and their families; and

Whereas, Senator Riegsecker is admired and respected by everyone in the Indiana Senate and his retirement will be felt by all for many years to come: Therefore,

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

SECTION 1. That on behalf of the people of the State of Indiana, we hereby extend our sincere appreciation to Senator Marvin Riegsecker for his dedicated service in the Indiana Senate.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Senator Riegsecker and his family.

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

SENATE MOTION

Madam President: I move that Senators Alting, Arnold, Becker, Boots, Bray, Breaux, Broden, Charbonneau, Deig, Delph, Dillon, Drozda, Errington, Gard, Hershman, Hume, Jackman, Kenley, Kruse, Lanane, Landske, Lewis, Lubbers, Meeks, Merritt, Miller, Mishler, Mrvan, Nugent, Paul, Rogers, Sipes, Skinner, Smith, Steele, Tallian, Walker, Waltz, Waterman, Weatherwax, Wyss, M. Young, and Zakas be added as coauthors of Senate Resolution 65.

LONG

Motion prevailed.

Senate Resolution 66

Senate Resolution 66, introduced by Senators Long, Lawson, R. Young, and Simpson:

A SENATE RESOLUTION honoring Senator Robert N. Jackman upon his retirement from the Indiana Senate.

Whereas, Senator Robert N. Jackman was first elected to the Indiana Senate to represent Senate District 42 in 1996;

Whereas, Throughout his 12 year tenure, Senator Jackman has served on numerous legislative standing committees, including Appropriations, Agriculture and Small Business, and Commerce, Public Policy and Interstate Cooperation. In addition, he has served as chair of the Senate Natural Resources Committee for many years;

Whereas, Senator Jackman has been an advocate for Agriculture and Rural Development. He carried the bill to establish the Department of Agriculture in 2005. He has also steadfastly sought to help Indiana horsemen establish themselves as serious competitors within the national horse-racing industry;

Whereas, Senator Jackman has been a tireless advocate for the development of high speed rail transportation in Indiana and has worked to keep Knauf Insulation, one of the fastest growing insulation manufacturers in the world, located in Shelbyville, Indiana;

Whereas, In addition to his service in the Indiana Senate, Senator Jackman has also served on the State Agricultural and Rural Leaders and the EPA/USDA Agricultural Air Quality Task Force;

Whereas, When Senator Jackman is not working hard for the citizens of Indiana, he works at his farming operation and as a veterinarian with his son and a very knowledgeable staff;

Whereas, Senator Jackman will be retiring from the Indiana Senate in order to spend more time with his family; and

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

SECTION 1. That on behalf of the people of the State of Indiana, we hereby extend our sincere appreciation to Senator Robert N. Jackman for his dedicated service in the Indiana Senate.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Senator Jackman and his family.

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

SENATE MOTION

Madam President: I move that Senators Alting, Arnold, Becker, Boots, Bray, Breaux, Broden, Charbonneau, Deig, Delph, Dillon, Drozda, Errington, Gard, Hershman, Hume, Kenley, Kruse, Lanane, Landske, Lewis, Lubbers, Meeks, Merritt, Miller, Mishler, Mrvan, Nugent, Paul, Riegsecker, Rogers, Sipes, Skinner, Smith, Steele, Tallian, Walker, Waltz, Waterman, Weatherwax, Wyss, M. Young, and Zakas be added as coauthors of Senate Resolution 66.

LONG

Motion prevailed.

Senate Resolution 67

Senate Resolution 67, introduced by Senators Long, Lawson, R. Young, and Simpson:

A SENATE RESOLUTION honoring Senator Jeff Drozda upon his retirement from the Indiana Senate.

Whereas, Senator Jeff Drozda was first elected to the Indiana Senate to represent Senate District 21 in 2002;

Whereas, During his tenure, Senator Drozda has focused on fighting for homeowner property rights and opposing eminent domain by state government; saving Hoosier children from predators and molesters; and protecting the unborn and Second Amendment rights;

Whereas, Senator Drozda has served on numerous legislative standing committees, including Corrections, Criminal and Civil Matters, Education and Career Development, Energy and Environmental Affairs, and Judiciary. He also chaired the Civil Matters and the Courts and Juvenile Justice Subcommittees;

Whereas, Prior to his service in the Indiana Senate, Senator Drozda served as a legislative assistant for the President George H.W. Bush Administration and the Ohio House of Representatives. He was also an Executive Assistant for the Public Utilities Commission of Ohio, the Manager of Government Affairs for American Electric Power, and the Executive Vice President for Indiana Right to Life;

Whereas, Senator Drozda will be resigning from the Indiana Senate to follow his career path with UnitedHealthcare which has required him to relocate to South Carolina; and

Whereas, The members of the Indiana Senate wish Senator Drozda and his family well in this new endeavor: Therefore,

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

SECTION 1. That on behalf of the people of the State of Indiana, we hereby extend our sincere appreciation to Senator Jeff Drozda for his dedicated service in the Indiana Senate.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Senator Drozda and his family.

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

SENATE MOTION

Madam President: I move that Senators Alting, Arnold, Becker, Boots, Bray, Breaux, Broden, Charbonneau, Deig, Delph, Dillon, Errington, Gard, Hershman, Hume, Jackman, Kenley, Kruse, Lanane, Landske, Lewis, Lubbers, Meeks, Merritt, Miller, Mishler, Mrvan, Nugent, Paul, Riegsecker, Rogers, Sipes, Skinner, Smith, Steele, Tallian, Walker, Waltz, Waterman, Weatherwax, Wyss, M. Young, and Zakas be added as coauthors of Senate Resolution 67.

LONG

Motion prevailed.

Senate Resolution 60

Senate Resolution 60, introduced by Senator R. Young, Arnold, Breaux, Broden, Deig, Errington, Hume, Lanane, Lewis, Mrvan, Rogers, Simpson, Sipes, Skinner, and Tallian:

A SENATE RESOLUTION honoring Senator Samuel Smith, Jr. upon his retirement from the Indiana State Senate.

Whereas, Senator Samuel Smith Jr. was first elected to the Indiana State Senate to represent Senate District 2 and the people of Lake County in 1998;

Whereas, Senator Smith is a successful business man and respected community leader and has served his Lake County constituency throughout his 10 year tenure;

Whereas, Senator Smith has served on numerous legislative standing committees and interim committees during his tenure, covering a wide range of topics. He most recently served as Ranking Minority member on the Senate Insurance & Financial Institutions committee and also as a member on the Appointments & Claims, Local Government & Elections, Judiciary, and Rules and Legislative Procedure committees and is Senate Democrat Caucus Chairman and a member of the Indiana Black Legislative Caucus;

Whereas, Senator Smith will be resigning from the Indiana State Senate in order to expand his business;

Whereas, Prior to his service in the Indiana State Senate, Senator Smith served his community as the owner and operator of the Divinity Funeral Home in East Chicago;

Whereas, Senator Smith is a committed husband to his wife, Diane and a devoted father to his daughters Emerald and Danielle; and

Whereas, Senator Smith, with his hospitality and generosity, will be felt by his retirement for many years to come: Therefore,

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

SECTION 1. That on behalf of the people of the State of Indiana, we hereby extend our sincere appreciation to Senator Samuel Smith Jr. for his dedicated service in the Indiana State Senate and the Indiana General Assembly.

SECTION 2. That the secretary of the senate is hereby directed to transmit a copy of this resolution to Senator Smith; daughters Emerald Smith and Danielle Smith; mother, Griselda Smith; and brother, Eric Metcalf.

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

SENATE MOTION

Madam President: I move that Senators Alting, Becker, Boots, Bray, Charbonneau, Delph, Dillon, Drozda, Gard, Hershman, Jackman, Kenley, Kruse, Landske, Lawson, Long, Lubbers, Meeks, Merritt, Miller, Mishler, Nugent, Paul, Riegsecker, Steele, Walker, Waltz, Waterman, Weatherwax, Wyss, M. Young, and Zakas be added as coauthors of Senate Resolution 60.

R. YOUNG

Motion prevailed.

Senate Resolution 61

Senate Resolution 61, introduced by Senators R. Young, Arnold, Breaux, Broden, Deig, Errington, Hume, Lanane, Lewis, Mrvan, Rogers, Simpson, Sipes, Skinner, Smith, and Tallian:

A SENATE RESOLUTION honoring Senator Glenn Howard upon his retirement from the Indiana State Senate.

Whereas, Senator Howard was first elected to the Indiana State Senate to represent Senate District 33 and the people of Marion County in 1992;

Whereas, Senator Howard has been an active community leader known for his vigilant and vocal advocacy throughout his 18 year tenure and is considered a champion of the less fortunate;

Whereas, Senator Howard worked hard to bring employment opportunities to his constituency, was never afraid to raise an issue which impacted his people, and was outspoken in his advocacy. He passionately chaired the Glenn Howard Junior Golf Outing for Youth and the Marbles Luncheon;

Whereas, Senator Howard has served on numerous legislative standing committees and interim committees during his tenure, covering a wide range of topics. He most recently served as ranking Minority member on the Senate Commerce Public Policy & Interstate Cooperation Committee and also as a member on the Economic Development & Technology, Corrections, Criminal & Civic Matters, and Insurance & Financial Institutions committees and is a member of the Indiana Black Legislative Caucus;

Whereas, Prior to his service in the Indiana State Senate, Senator Howard served his community as an Indianapolis City-County Councilman for 16 years;

Whereas, Senator Howard is a committed husband to his wife, Florence, and a devoted father to his children, and grandfather to his grandchildren; and

Whereas, Senator Howard is respected by everyone in the Indiana General Assembly and his retirement will be felt by all for many years to come: Therefore,

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

SECTION 1. That on behalf of the people of the State of Indiana, we hereby extend our sincere appreciation to Senator

Glenn Howard for his dedicated service in the Indiana State Senate and the Indiana General Assembly.

SECTION 2. That the secretary of the senate is hereby directed to transmit a copy of this resolution to Senator Howard; wife, Florence Howard; son, Glenn L. Howard, Jr.; daughter, Tamara Golden; United Northwest Area Corporation Pastors and Ministers on the Move; Concerned Clergy; and Barnes United Methodist Church.

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

SENATE MOTION

Madam President: I move that Senators Alting, Becker, Boots, Bray, Charbonneau, Delph, Dillon, Drozda, Gard, Hershman, Jackman, Kenley, Kruse, Landske, Lawson, Long, Lubbers, Meeks, Merritt, Miller, Mishler, Nugent, Paul, Riegsecker, Steele, Walker, Waltz, Waterman, Weatherwax, Wyss, M. Young, and Zakas be added as coauthors of Senate Resolution 61.

R. YOUNG

Motion prevailed.

Senate Resolution 69

Senate Resolution 69, introduced by Senator Merritt:

A SENATE RESOLUTION honoring Joyce Christmas upon her retirement from the staff of the Indiana Senate.

Whereas, Joyce Christmas was first hired by the Indiana Senate in 1980. Her responsibilities included working as a session receptionist and later supervising the staff and functions of the phone center. In 2003, she retired from this position;

Whereas, In 2004, Joyce returned to the Indiana Senate to supervise the Senate Proofreading Department, which reviews all bills to help ensure their accuracy at each stage of the legislative process;

Whereas, Joyce is known throughout the State House for her colorful yet sophisticated attire, always with matching hats or headwear and unique jewelry; and

Whereas, Joyce is a charming, caring, and loving individual and will be missed by everyone who has had the opportunity to know her and work with her: Therefore,

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

SECTION 1. That on behalf of the people of the State of Indiana, we hereby extend our sincere appreciation to Joyce Christmas upon her retirement from the staff of the Indiana Senate.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Joyce Christmas.

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

Senate Resolution 63

Senate Resolution 63, introduced by Senators Zakas and Broden:

A SENATE RESOLUTION congratulating Adams High School on winning the Indiana High School Mock Trial State Championship.

Whereas, Adams High School's mock trial team, "The Board of Shadowy Figures" beat out St. Joseph High School to win their eighth consecutive Indiana High School Mock Trial State Championship;

Whereas, "The Board of Shadowy Figures" achieved a competition score of 5-0 and won all eleven judges' scorecards at the City/County Building in Indianapolis;

Whereas, Three Adams High School mock trial teams placed in the top five and five of the school's teams placed in the top ten; and

Whereas, Members of "The Board of Shadowy Figures" include Josh Courtney, Jennifer Deeter, Adam Kern, Nicholas Murray Vachon, Chris Silvestri, Eilis Smyth, and Gabe Young: Therefore,

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

SECTION 1. That the Indiana Senate congratulates Adams High School on winning the Indiana High School Mock Trial State Championship.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Adams High School Principal, Todd F. Wiedemann; Coach, Jay Tidmarsh; Teacher, Judith Overmyer; and each member of the team.

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

MOTIONS TO CONCUR IN HOUSE AMENDMENTS

SENATE MOTION

Madam President: I move that the Senate do concur with the House amendments to Engrossed Senate Bill 208.

TALLIAN

Roll Call 331: yeas 43, nays 0. Motion prevailed.

SENATE MOTION

Madam President: I move that the Senate do concur with the

House amendments to Engrossed Senate Bill 226.

HERSHMAN

Roll Call 332: yeas 44, nays 0. Motion prevailed.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT

ESB 78–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 78 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Page 3, line 34, delete ", including a future interest,".

Page 4, delete lines 5 through 13.

(Reference is to ESB 78 as reprinted February 26, 2008.)

Zakas, Chair	Van Haaften
Broden	Foley
Senate Conferees	House Conferees

Roll Call 333: yeas 45, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 227–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 227 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-23-25-9, AS AMENDED BY P.L.126-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The department of workforce development established by IC 22-4.1-2 shall provide staff and administrative support to

~~(1)~~ the commission. ~~and~~

~~(2) the sexual assault standards and certification board.~~

SECTION 2. IC 4-33-5-1.5, AS ADDED BY P.L.125-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. **(a)** The following information submitted, collected, or gathered as part of an application to the commission for a license is confidential for purposes of IC 5-14-3-4:

(1) Any information concerning a minor child of an applicant.

(2) The Social Security number of an applicant or the spouse of an applicant.

(3) The home telephone number of an applicant, or the spouse **or children** of an applicant.

(4) An applicant's birth certificate.

(5) An applicant's **or applicant's spouse's** driver's license number.

(6) The name or address of a previous spouse of the applicant.

(7) The date of birth of the spouse of an applicant.

(8) The place of birth of the spouse of an applicant.

(9) The personal financial records of an applicant or the spouse or minor child of an applicant.

(10) Any information concerning a victim of domestic violence, sexual assault, or stalking.

(11) The electronic mail address of an applicant or spouse or family member of the applicant.

(b) Except as provided in subsections (c) and (d), in addition to information that is confidential under subsection (a), all information maintained by the commission concerning an individual who holds, held, or has applied for an occupational license under this article:

(1) is confidential for purposes of IC 5-14-3; and

(2) may be released by the commission only for law enforcement purposes or to a state or local public agency.

(c) The following information concerning an individual who holds, held, or has applied for an occupational license under this article is not confidential:

(1) The individual's name.

(2) The individual's place of employment.

(3) The individual's job title.

(4) The individual's gaming experience.

(5) The reason for denial or revocation of a license or for disciplinary action against the individual.

(6) Information submitted by the individual for a felony waiver request under IC 4-33-8-11.

(d) An individual who holds, held, or has applied for an occupational license under this article may waive the confidentiality requirements of subsection (b).

SECTION 3. IC 4-35-10-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3. (a) The following information submitted, collected, or gathered as part of an application to the commission for a license is confidential for purposes of IC 5-14-3-4:**

(1) Any information concerning a minor child of an applicant.

(2) The Social Security number of an applicant or the spouse of an applicant.

(3) The home telephone number of an applicant or the spouse or children of an applicant.

(4) An applicant's birth certificate.

(5) An applicant's or applicant's spouse's driver's license number.

(6) The name or address of a previous spouse of the applicant.

(7) The date of birth of the spouse of an applicant.

(8) The place of birth of the spouse of an applicant.

(9) The personal financial records of an applicant or the spouse or minor child of an applicant.

(10) Any information concerning a victim of domestic violence, sexual assault, or stalking.

(11) The electronic mail address of an applicant or spouse or family member of the applicant.

(b) Except as provided in subsections (c) and (d), in addition to information that is confidential under subsection (a), all information maintained by the commission concerning an individual who holds, held, or has applied for an occupational license under this article:

(1) is confidential for purposes of IC 5-14-3; and

(2) may be released by the commission only for law enforcement purposes or to a state or local public agency.

(c) The following information concerning an individual who holds, held, or has applied for an occupational license under this article is not confidential:

(1) The individual's name.

(2) The individual's place of employment.

(3) The individual's job title.

(4) The individual's gaming experience.

(5) The reason for denial or revocation of a license or for disciplinary action against the individual.

(6) Information submitted by the individual for a felony waiver request under IC 4-33-8-11.

(d) An individual who holds, held, or has applied for an occupational license under this article may waive the confidentiality requirements of subsection (b).

SECTION 4. IC 5-2-6-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 23. (a) As used in this section, "board" refers to the sexual assault victim advocate standards and certification board established by subsection (c).**

(b) As used in this section, "rape crisis center" means an organization that provides a full continuum of services, including hotlines, victim advocacy, and support services from the onset of the need for services through the completion of healing, to victims of sexual assault.

(c) The sexual assault victim advocate standards and certification board is established. The board consists of the following twelve (12) members appointed by the governor:

(1) A member recommended by the prosecuting attorneys council of Indiana.

(2) A member from law enforcement.

(3) A member representing a rape crisis center.

(4) A member recommended by the Indiana Coalition Against Sexual Assault.

(5) A member representing mental health professionals.

(6) A member representing hospital administration.

(7) A member who is a health care professional (as defined in IC 16-27-1-1) qualified in forensic evidence collection and recommended by the Indiana chapter of the International Association of Forensic Nurses.

(8) A member who is an employee of the Indiana criminal justice institute.

(9) A member who is a survivor of sexual violence.

(10) A member who is a physician (as defined in IC 25-22.5-1-1.1) with experience in examining sexually abused children.

(11) A member who is an employee of the office of family and social services.

(12) A member who is an employee of the state department of health, office of women's health.

(d) Members of the board serve a four (4) year term. Not more than seven (7) members appointed under this subsection may be of the same political party.

(e) The board shall meet at the call of the chairperson. Seven (7) members of the board constitute a quorum. The affirmative vote of at least seven (7) members of the board is required for the board to take any official action.

(f) The board shall:

(1) develop standards for certification as a sexual assault victim advocate;

(2) set fees that cover the costs for the certification process;

(3) adopt rules under IC 4-22-2 to implement this section;

(4) administer the sexual assault victims assistance account established by subsection (h); and

(5) certify sexual assault victim advocates to provide advocacy services.

(g) Members of the board may not receive a salary per diem. Members of the board are entitled to receive reimbursement for mileage for attendance at meetings. Any other funding for the board is paid at the discretion of the director of the office of management and budget.

(h) The sexual assault victims assistance account is established within the state general fund. The board shall administer the account to provide financial assistance to rape crisis centers. Money in the account must be distributed to a statewide nonprofit sexual assault coalition as designated by the federal Centers for Disease Control and Prevention under 42 U.S.C. 280 et seq. The account consists of:

(1) amounts transferred to the account from sexual assault victims assistance fees collected under IC 33-37-5-23;

(2) appropriations to the account from other sources;

(3) fees collected for certification by the board;

(4) grants, gifts, and donations intended for deposit in the account; and

(5) interest accruing from the money in the account.

(i) The expenses of administering the account shall be paid from money in the account. The board shall designate not more than ten percent (10%) of the appropriation made each year to the nonprofit corporation for program administration. The board may not use more than ten

percent (10%) of the money collected from certification fees to administer the certification program.

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

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

(l) The governor shall appoint a member of the commission each year to serve a one (1) year term as chairperson of the board.

SECTION 5. IC 33-37-7-2, AS AMENDED BY P.L.174-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-3(a) (juvenile costs fees).

(4) IC 33-37-4-4(a) (civil costs fees).

(5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).

(6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).

(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).

(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance account established by ~~IC 4-23-25-11(i)~~ **IC 5-2-6-23(h)** one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in the county general fund.

(2) One hundred percent (100%) of the small claims garnishee service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.

(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The judicial salaries fees collected under IC 33-37-5-26.

(3) The DNA sample processing fees collected under IC 33-37-5-26.2.

(4) The court administration fees collected under IC 33-37-5-27.

(j) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(k) The proceeds of the service fee collected under IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(l) The proceeds of the garnishee service fee collected under IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

SECTION 6. IC 35-33-8-3.2, AS AMENDED BY P.L.1-2007, SECTION 226, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3.2. (a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety:

(1) Require the defendant to:

(A) execute a bail bond with sufficient solvent sureties;

(B) deposit cash or securities in an amount equal to the bail;

(C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail;

(D) post a real estate bond; or

(E) perform any combination of the requirements described in clauses (A) through (D).

If the court requires the defendant to deposit cash or cash and another form of security as bail, the court may require the defendant and each person who makes the deposit on behalf of the defendant to execute an agreement that allows the court to retain all or a part of the cash to pay publicly paid costs of representation and fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted. The defendant must also pay the fee required by subsection (d).

(2) Require the defendant to execute:

(A) a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail; and

(B) an agreement that allows the court to retain all or a part of the cash or securities to pay fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted.

A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars ($50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision fines, costs, fees, and restitution as ordered by the court, publicly paid costs of representation that shall be disposed of in accordance with subsection (b), and the fee required by subsection (d). In the event of the posting of a real estate bond, the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution. The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b).

(3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.

(4) Require the defendant to refrain from any direct or indirect contact with an individual, **including if the defendant has not been released from lawful detention.**

(5) Place the defendant under the reasonable supervision of a probation officer, pretrial services agency, or other appropriate public official. If the court places the defendant under the supervision of a probation officer or pretrial services agency, the court shall determine whether the defendant must pay the pretrial services fee under section 3.3 of this chapter.

(6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

(i) of nonappearance; or

(ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community.

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-40-3.

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed or the defendant is acquitted or convicted of the charges.

(d) Except as provided in subsection (e), the clerk of the court shall:

(1) collect a fee of five dollars ($5) from each bond or deposit required under subsection (a)(1); and

(2) retain a fee of five dollars ($5) from each deposit under subsection (a)(2).

The clerk of the court shall semiannually remit the fees collected under this subsection to the board of trustees of the public employees' retirement fund for deposit in the special death benefit fund. The fee required by subdivision (2) is in addition to the administrative fee retained under subsection (a)(2).

(e) With the approval of the clerk of the court, the county sheriff may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day and remit monthly the five dollar ($5) special death benefit fee to the county auditor.

(f) When a court imposes a condition of bail described in subsection (a)(4):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 7. IC 35-37-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a)** As used in this chapter, "confidential communication" means any information:

(1) exchanged between a victim and a victim ~~counselor~~ **advocate** in ~~private or in the presence of a third party who is necessary to facilitate communication or further the counseling process; and~~ **the course of the relationship between the victim and the victim advocate;**

(2) **exchanged or** disclosed in ~~the course of the counselor's treatment of the victim for any emotional or psychological condition resulting from a covered act;~~ **a support group in which a victim is or was a participant; or**

(3) exchanged in the presence of a third person who facilitates or facilitated communication between a victim and a victim advocate.

(b) The term includes communication that is verbal or written and includes:

(1) advice;

(2) notes;

(3) reports;

(4) statistical data;

(5) memoranda;

(6) working papers;

(7) records; and

(8) personally identifying information;

produced in the course of advocating for a victim.

SECTION 8. IC 35-37-6-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.5. (a) As used in this chapter, "confidential information" includes:**

(1) personally identifying information;

(2) descriptions of physical appearance;

(3) the case file; and

(4) the case history;

of a person who seeks, receives, or has received services from a victim advocate.

(b) The term does not include:

(1) information disclosed to a victim service provider or a victim advocate if the victim:

(A) files criminal charges;

(B) institutes a civil lawsuit; or

(C) reports allegations of criminal conduct to a law enforcement agency;

against the victim service provider or victim advocate; and

(2) alleged child abuse or neglect that is required to be reported under IC 31-33.

SECTION 9. IC 35-37-6-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. (a) As used in this chapter, "personally identifying information" means information that identifies a victim or the location where domestic violence, dating violence, sexual assault, or stalking occurred, including the victim's:**

(1) name;

(2) mailing and physical address;

(3) electronic mail address;

(4) Internet protocol address;

(5) telephone numbers, including facsimile numbers;

(6) Social Security number;

(7) date of birth;

(8) racial or ethnic background; and

(9) religious affiliation.

(b) The term includes any other information that, in combination with other nonpersonally identifying information, would identify an individual.

SECTION 10. IC 35-37-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "victim" means: ~~an individual~~

(1) **an individual** against whom ~~a covered act~~ **an act of:**

(A) domestic or family violence;

(B) dating violence;

(C) sexual assault (as defined in IC 5-26.5-1-8);

(D) human and sexual trafficking (IC 35-42-3.5); or

(E) stalking (IC 35-45-10-5);

is committed; or

(2) **an individual:**

(A) ~~other than an individual who is~~ **who is not** accused of committing ~~a covered act,~~ **an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5); and**

(B) who:

(i) is ~~the parent, stepparent, child, stepchild, grandparent, grandchild, sibling, aunt, uncle, niece, or nephew of the individual described in subdivision (1).~~ **a member of the family of an individual described in subdivision (1); but**

(ii) is not a family member who is accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5).

SECTION 11. IC 35-37-6-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 3.5. (a) As used in this chapter, "victim advocate" means an individual employed or appointed by or who volunteers for a victim services provider.**

(b) The term does not include:

(1) a law enforcement officer;

(2) an employee or agent of a law enforcement officer;

(3) a prosecuting attorney; or

(4) an employee or agent of a prosecuting attorney's office.

(c) The term includes an employee, an appointee, or a volunteer of a:

(1) victim services provider;

(2) domestic violence program;

(3) sexual assault program;

(4) rape crisis center;

(5) battered women's shelter;

(6) transitional housing program for victims of domestic violence; or

(7) program that has as one (1) of its primary purposes to provide services to an individual:

(A) against whom an act of:

(i) domestic or family violence;

(ii) dating violence;

(iii) sexual assault (as defined in IC 5-26.5-1-8);

(iv) human and sexual trafficking (IC 35-42-3.5); or

(v) stalking (IC 35-45-10-5);

is committed; or

(B) who:

(i) is not accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5); and

(ii) is a member of the family of an individual described in clause (A) other than a family member who is accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5).

SECTION 12. IC 35-37-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. As used in this chapter, "victim ~~counseling center"~~ **service provider"** means **a person:**

(1) that is:

~~(1)~~ **(A)** a public agency;

~~(2)~~ **(B)** a unit of a public agency; or

~~(3)~~ **(C)** an organization that is exempt from federal income taxation under Section 501 of the Internal Revenue Code;

(2) that is not affiliated with a law enforcement agency; ~~and~~

(3) that has, as one (1) of its primary purposes, ~~the treatment of~~ **to provide services** ~~victims~~ for emotional and psychological conditions that occur ~~as a result of covered acts.~~ **to an individual:**

(A) against whom an act of:

(i) domestic or family violence;

(ii) dating violence;

(iii) sexual assault (as defined in IC 5-26.5-1-8);

(iv) human and sexual trafficking (IC 35-42-3.5); or

(v) stalking (IC 35-45-10-5);

is committed; or

(B) who:

(i) is not accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5); and

(ii) is a member of the family of an individual described in clause (A) other than a family member who is accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5).

SECTION 13. IC 35-37-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. This chapter does not relieve a victim ~~counselor~~ **advocate** of any duty to report suspected abuse, neglect, battery, or exploitation under IC 12-10-3, IC 31-33, or IC 35-46-1-13.

SECTION 14. IC 35-37-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) The following persons **or entities** may not be compelled to give testimony, ~~or~~ to produce records, **or to disclose any information** concerning confidential communications **and confidential information to anyone or** in any judicial, legislative, or administrative proceeding:

(1) A victim.

(2) A victim ~~counselor,~~ **advocate or victim service provider** unless the victim **specifically** consents to the disclosure **in a written authorization that contains the date the consent expires.**

~~(3) An unemancipated child less than eighteen (18) years of age or an incapacitated victim, unless a custodial parent, custodian, guardian, or guardian ad litem who is not accused of a covered act consents to the disclosure.~~

(b) A victim ~~counselor~~ **advocate, victim service provider,** or ~~a~~ victim may not be compelled to provide testimony in any judicial, legislative, or administrative proceeding that would identify the name, address, location, or telephone number of any facility that provided temporary emergency shelter to the victim of the offense or transaction that is the subject of the proceeding unless the facility is a party to the proceeding.

(c) A victim service provider or victim advocate may not require a victim to consent to the disclosure of information concerning confidential communications and confidential information as a condition of the victim receiving services.

(d) This section does not prohibit a victim from providing testimony concerning an offense.

(e) The consent to disclose information on behalf of:

(1) a child who is less than eighteen (18) years of age and is unemancipated; or

(2) an incapacitated victim;

may be made by a custodial parent, custodian, guardian, or guardian ad litem in a written authorization that contains the date the consent expires.

(f) A consent under subsection (e) may not be given by a custodial parent, custodian, guardian, or guardian ad litem of the victim if the custodial parent, custodian, guardian, or guardian ad litem:

(1) committed; or

(2) is alleged to have committed;

an offense against the victim.

SECTION 15. IC 35-37-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. A victim ~~counselor~~ **advocate** may not waive the protections afforded to a victim under this chapter. However, if:

(1) a victim brings suit against a victim ~~counselor,~~ **advocate** or victim ~~counseling center~~ **service provider** in which the victim ~~counselor~~ **advocate** was employed or served as a volunteer at the time of the counseling relationship; and

(2) the suit alleges malpractice during the ~~counseling~~ relationship;

the victim ~~counselor~~ **advocate** may testify or produce records regarding confidential communications with the victim and is not liable for doing so.

SECTION 16. IC 35-37-6-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 13. (a) Except as provided in subsection (d):**

(1) a victim; or

(2) in the case of a deceased victim, the victim's personal representative;

may authorize a victim advocate or victim service provider to release confidential information or other information by signing a written authorization that specifies what information will be released and to whom the information will be released.

(b) The authorization described in subsection (a) must include a date the authorization expires.

(c) A victim advocate shall make reasonable attempts to notify a victim when a victim service provider or victim advocate is required to disclose confidential information or confidential communications.

(d) A consent for release may not be given by a personal representative of the victim if the personal representative:

(1) abused or killed the victim;

(2) is alleged to have abused or killed the victim; or

(3) assisted another person in abusing or killing the victim.

SECTION 17. IC 35-37-6-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. **(a) This section does not:**

(1) relieve a prosecuting attorney of the constitutional and ethical obligation to disclose exculpatory evidence; and

(2) prohibit impeachment of a victim as permitted by the Indiana Rules of Evidence.

(b) A victim does not waive any privileges or confidentiality protections under this chapter if the victim:

(1) testifies about underlying acts of domestic violence, dating violence, sexual assault, or stalking; or

(2) reveals that he or she used or attempted to use the services of a victim service provider or victim advocate.

SECTION 18. IC 35-37-6-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 15. The partial disclosure of a confidential communication under this chapter does not waive any privilege concerning the remainder of the confidential communication.**

SECTION 19. IC 35-37-6-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 16. The fact that a victim or**

victim advocate refuses to testify or disclose information because of a privilege under this chapter does not raise any negative inferences or presumptions.

SECTION 20. IC 35-37-6-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 17. A victim service provider may disclose information in the aggregate that does not identify a victim regarding services and demographic information to comply with federal or state data collection requirements.**

SECTION 21. IC 35-38-1-30 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 30. A sentencing court may require that, as a condition of a person's executed sentence, the person shall refrain from any direct or indirect contact with an individual.**

SECTION 22. IC 35-46-1-15.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15.1. A person who knowingly or intentionally violates:

(1) a protective order to prevent domestic or family violence issued under IC 34-26-5 (or, if the order involved a family or household member, under IC 34-26-2 or IC 34-4-5.1-5 before their repeal);

(2) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);

(3) a workplace violence restraining order issued under IC 34-26-6;

(4) a no contact order in a dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the person to refrain from direct or indirect contact with a child in need of services or a delinquent child;

(5) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion;

(6) a no contact order issued as a condition of probation;

(7) a protective order to prevent domestic or family violence issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before their repeal);

(8) a protective order to prevent domestic or family violence issued under IC 31-14-16-1 in a paternity action;

(9) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding;

(10) an order issued in another state that is substantially similar to an order described in subdivisions (1) through (9); ~~or~~

(11) an order that is substantially similar to an order described in subdivisions (1) through (9) and is issued by an Indian:

(A) tribe;

(B) band;

(C) pueblo;

(D) nation; or

(E) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians;

(12) an order issued under IC 35-33-8-3.2; or

(13) an order issued under IC 35-38-1-30;

commits invasion of privacy, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction for an offense under this section.

SECTION 23. IC 4-23-25-11 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 24. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 35-37-6-2; IC 35-37-6-4; IC 35-37-6-6.

SECTION 25. [EFFECTIVE UPON PASSAGE] **(a) All appropriations made to the sexual assault victims assistance account established by IC 4-23-25-11(i), before its repeal by this act, are transferred to the sexual assault victims assistance account established by IC 5-2-6-23(h), as added by this act.**

(b) All balances in the sexual assault victims assistance account established by IC 4-23-25-11(i), before its repeal by this act, are transferred to the sexual assault victims assistance account established by IC 5-2-6-23(h), as added by this act.

(c) Any obligations or encumbrances incurred by the sexual assault victims assistance account established by IC 4-23-25-11(i), before its repeal by this act, are obligations or encumbrances of the sexual assault victims assistance account established by IC 5-2-6-23(h), as added by this act.

(d) This SECTION expires July 1, 2009.

SECTION 26. [EFFECTIVE UPON PASSAGE] **(a) Members appointed to the sexual assault standards and certification board under IC 4-23-25-11, before its repeal by this act, are members of the sexual assault victim advocate standards and certification board established by IC 5-2-6-23, as added by this act.**

(b) Members appointed under subsection (a) shall serve for the terms for which they were originally appointed.

(c) The members appointed to the sexual assault victim advocate standards and certification board under IC 5-2-6-23(c)(11) and IC 5-2-6-23(c)(12), as added by this act, are initially appointed for a term of four (4) years.

(d) This SECTION expires December 31, 2012.

SECTION 27. **An emergency is declared for this act.**

(Reference is to ESB 227 as reprinted February 27, 2008.)

Becker, Chair	Lawson
Sipes	Crouch
Senate Conferees	House Conferees

Roll Call 334: yeas 45, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT
ESB 302–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 302 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 16-42-21-3, AS AMENDED BY P.L.157-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "practitioner" means any of the following:

(1) A licensed physician.
(2) A dentist licensed to practice dentistry in Indiana.
(3) A podiatrist licensed to practice podiatry in Indiana.
(4) A veterinarian licensed to practice veterinary medicine in Indiana.
(5) An optometrist who is:
(A) licensed to practice optometry in Indiana; and
(B) certified under IC 25-24-3.
(6) An advanced practice nurse licensed and granted the authority to prescribe legend drugs under IC 25-23.

SECTION 2. IC 25-1-8-6, AS AMENDED BY P.L.185-2007, SECTION 6, AND AS AMENDED BY P.L.197-2007, SECTION 20, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) As used in this section, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).
(2) Board of registration for architects **and** landscape architects ~~and registered interior designers~~ (IC 25-4-1-2).
(3) Indiana athletic trainers board (IC 25-5.1-2-1).
(4) Indiana auctioneer commission (IC 25-6.1-2-1).
(5) State board of barber examiners (IC 25-7-5-1).
(6) State boxing commission (IC 25-9-1).
(7) Board of chiropractic examiners (IC 25-10-1).
(8) State board of cosmetology examiners (IC 25-8-3-1).
(9) State board of dentistry (IC 25-14-1).
(10) Indiana dietitians certification board (IC 25-14.5-2-1).
(11) State board of registration for professional engineers (IC 25-31-1-3).
(12) Board of environmental health specialists (IC 25-32-1).
(13) State board of funeral and cemetery service (IC 25-15-9).
(14) Indiana state board of health facility administrators (IC 25-19-1).
(15) Committee ~~on~~ **of** hearing aid dealer examiners (IC 25-20-1-1.5).
(16) Home inspectors licensing board (IC 25-20.2-3-1).
(17) Indiana hypnotist committee (IC 25-20.5-1-7).
(18) State board of registration for land surveyors (IC 25-21.5-2-1).
(19) Manufactured home installer licensing board (IC 25-23.7).
(20) Medical licensing board of Indiana (IC 25-22.5-2).
(21) Indiana state board of nursing (IC 25-23-1).
(22) Occupational therapy committee (IC 25-23.5).
(23) Indiana optometry board (IC 25-24).
(24) Indiana board of pharmacy (IC 25-26).
(25) Indiana physical therapy committee (IC 25-27).
(26) Physician assistant committee (IC 25-27.5).
(27) Indiana plumbing commission (IC 25-28.5-1-3).
(28) Board of podiatric medicine (IC 25-29-2-1).
(29) Private ~~*detectives*~~ *investigator and security guard* licensing board ~~*(IC 25-30-1-5.1).*~~ *(IC 25-30-1-5.2).*
(30) State psychology board (IC 25-33).
(31) Indiana real estate commission (IC 25-34.1-2).
(32) Real estate appraiser licensure and certification board (IC 25-34.1-8).
(33) Respiratory care committee (IC 25-34.5).
(34) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
(35) Speech-language pathology and audiology board (IC 25-35.6-2).
(36) Indiana board of veterinary medical examiners ~~(IC 15-5-1.1).~~ **(IC 25-38.1).**
(37) State board of massage therapy (IC 25-21.8-2-1).

(b) This section does not apply to a license, certificate, or registration that has been revoked or suspended.

(c) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration *and except as provided in section 8 of this chapter,* the holder of a license, certificate, or registration that was issued by the board that is three (3) years or less delinquent must be reinstated upon meeting the following requirements:

(1) Submission of the holder's completed renewal application.
(2) Payment of the current renewal fee established by the board under section 2 of this chapter.
(3) Payment of a reinstatement fee established by the Indiana professional licensing agency.
(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder:
(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; ~~*for the current renewal period.*~~ *or*
(B) shall, if the holder has not complied with the continuing education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6.

(d) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration *and*

except as provided in section 8 of this chapter, unless a statute specifically does not allow a license, certificate, or registration to be reinstated if it has lapsed for more than three (3) years, the holder of a license, certificate, or registration that was issued by the board that is more than three (3) years delinquent must be reinstated upon meeting the following requirements:

(1) Submission of the holder's completed renewal application.

(2) Payment of the current renewal fee established by the board under section 2 of this chapter.

(3) Payment of a reinstatement fee equal to the current initial application fee.

(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder:

(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; ~~*for the current renewal period.*~~ *or*

(B) shall, if the holder has not complied with the continuing education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6.

(5) Complete such remediation and additional training as deemed appropriate by the board given the lapse of time involved.

(6) Any other requirement that is provided for in statute or rule that is not related to fees.

SECTION 3. IC 25-1-14-2, AS ADDED BY P.L.179-2007, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. **(a)** A member of a board, committee, or commission may participate in a meeting of the board, committee, or commission:

(1) **except as provided in subsections (b) and (c),** at which at least a quorum is physically present at the place where the meeting is conducted; and

(2) by using a means of communication that permits:

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

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

to simultaneously communicate with each other during the meeting.

(b) A member of a board, committee, or commission may participate in an emergency meeting of the board, committee, or commission to consider disciplinary sanctions under IC 25-1-9-10 or IC 25-1-11-13 by using a means of communication that permits:

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

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

to simultaneously communicate with each other during the meeting.

(c) A member of the state boxing commission may participate in meetings of the commission to consider the final approval of a permit for a particular boxing or sparring match or exhibition under IC 25-9-1-6(b) by using a means of communication that permits:

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

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

to simultaneously communicate with each other during the meeting.

(d) A member who participates in a meeting under subsection (b) or (c):

(1) is considered to be present at the meeting;

(2) shall be counted for purposes of establishing a quorum; and

(3) may vote at the meeting.

SECTION 4. IC 25-2.1-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The board consists of six (6) members appointed by the governor.

(b) ~~Four (4)~~ **Five (5)** members must meet the following conditions:

(1) Be a resident of Indiana.

(2) Be a certified public accountant under IC 25-2.1-3 or IC 25-2.1-4.

~~(c) One (1) member must meet the following conditions:~~

~~(1) Be a resident of Indiana.~~

~~(2) Be certified as a public accountant or an accounting practitioner under IC 25-2.1-6.~~

~~(d)~~ **(c)** One (1) member must meet the following conditions:

(1) Be a resident of Indiana.

(2) Be a consumer who is not certified under this article but has professional or practical experience in the use of accounting services and financial statements that qualify the individual to make judgments about the qualifications and conduct of individuals and firms under this article.

SECTION 5. IC 25-2.1-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. **(a)** An initial and renewed certificate expires ~~at the earlier of the following:~~

~~(1) Three (3) years after issuance.~~

~~(2) At a time established by the board.~~

on the date established by the licensing agency under IC 25-1-6-4.

(b) An individual may renew a certificate by paying a renewal fee and complying with the continuing education requirements established under section 5 of this chapter on or before the expiration date of the certificate.

(c) If an individual fails to pay a renewal fee on or before the expiration date of a certificate, the certificate becomes invalid without further action by the board.

(d) If an individual holds a certificate that has been invalid for not more than three (3) years, the board shall reinstate the certificate if the individual meets the requirements of IC 25-1-8-6(c).

(e) If more than three (3) years have elapsed since the date a certificate expired, the individual who holds the certificate may seek reinstatement of the certificate by satisfying the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 6. IC 25-2.1-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The board

shall issue a CPA certificate to a holder of a certificate issued by another state if the holder meets the requirements under subsection (b) or (c).

(b) With regard to applicants who do not qualify for reciprocity under the substantial equivalency standard set forth in section 10(a)(2) of this chapter, the board shall issue a CPA certificate to a holder of a certificate issued by another state upon a showing that:

(1) the applicant has:

(A) passed the examination required for issuance of the applicant's certificate; and

(B) the applicant:

(i) had four (4) years of experience in Indiana or another state of the type described in IC 25-2.1-3-10 or meets equivalent requirements prescribed by the board after passing the examination on which the applicant's certificate was based and during the ten (10) years immediately preceding the applicant's application; and

(ii) if the applicant's certificate was issued by the other state more than four (4) years before the application for issuance of an initial certificate under this chapter, fulfilled the requirements for continuing professional education that would have been applicable under section 5 of this chapter.

(c) The board shall issue a CPA certificate to a CPA certified by another state ~~that seeks to establish the individual's principal place of business in Indiana if the:~~

~~(1) individual requests the issuance of a certificate from the board before establishing the individual's principal place of business in Indiana; and~~

~~(2)~~ board or its designee **if the board** determines that the individual's CPA qualifications are substantially equivalent to the CPA licensure requirements of Indiana.

SECTION 7. IC 25-2.5-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) An applicant may, upon the payment of a fee established by the board, be granted a license if the applicant:

(1) submits satisfactory evidence to the board that the applicant has been licensed to practice acupuncture in another state or authorized in another country ~~under qualifications substantially equivalent to those specified in this chapter for a license~~ to practice acupuncture;

(2) meets the requirements of section 1(1) through 1(4) of this chapter; and

(3) shows to the satisfaction of the board that the applicant has:

(A) successfully completed a clean needle technique course substantially equivalent to a clean needle technique course approved by a national acupuncture association approved by the board;

(B) successfully completed a three (3) year postsecondary training program or acupuncture college program that meets the standards substantially equivalent to the standards for a three (3) year postsecondary training program or acupuncture college program approved by a national acupuncture association approved by the board; and

(C) passed an examination substantially equivalent to the examination required by a national acupuncture association approved by the board.

(b) An applicant may, upon the payment of a fee established by the board, be granted a professional's license to practice acupuncture if the applicant submits satisfactory evidence to the board that the applicant is a:

(1) chiropractor licensed under IC 25-10;

(2) dentist licensed under IC 25-14; or

(3) podiatrist licensed under IC 25-29;

with at least two hundred (200) hours of acupuncture training.

(c) The board shall:

(1) compile, at least once every two (2) years, a list of courses and institutions that provide training approved for the purpose of qualifying an individual for a professional's license under subsection (b); and

(2) adopt rules that set forth procedures for the case by case approval of training under subsection (b).

(d) If an individual's license described in subsection (b)(1), (b)(2), or (b)(3) is subject to any restrictions as the result of disciplinary action taken against the individual by the board that regulates the individual's profession, the same restrictions shall be applied to the individual's professional's license to practice acupuncture.

(e) An individual's professional's license issued under subsection (b) shall be suspended if the individual's license described under subsection (b)(1), (b)(2), or (b)(3) is suspended.

(f) An individual's professional's license issued under subsection (b) shall be revoked if the individual's license described under subsection (b)(1), (b)(2), or (b)(3) is revoked.

(g) The practice of acupuncture by an individual issued a professional's license under subsection (b) is limited to the scope of practice of the individual's license described in subsection (b)(1), (b)(2), or (b)(3).

SECTION 8. IC 25-2.5-2-5, AS AMENDED BY P.L.1-2006, SECTION 419, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) A license issued by the board expires on the date established by the agency under IC 25-1-5-4 in each even-numbered year.

(b) To renew a license, an acupuncturist must:

(1) pay a renewal fee not later than the expiration date of the license; and

(2) submit proof of current active licensure in acupuncture by the National Certification Commission for Acupuncture and Oriental Medicine.

(c) If an individual fails to pay a renewal fee on or before the expiration date of a license, the license becomes invalid without further action by the board.

(d) If an individual holds a license that has been invalid for not more than three (3) years, the board shall reinstate the license if the individual meets the requirements of IC 25-1-8-6(c).

(e) If more than three (3) years have elapsed since the date a license expired, the individual who holds the license may seek reinstatement of the license by satisfying the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 9. IC 25-4-1-6, AS AMENDED BY P.L.194-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) A person desiring to engage ~~or continue~~ in the practice of architecture: ~~shall:~~

(1) **shall** apply to the board for a certificate of registration **in compliance with this chapter;** ~~and~~

(2) **shall** submit evidence to the board that the person is qualified to engage ~~or continue~~ in the practice of architecture in compliance with the requirements of this chapter, **including evidence that the person:**

(A) graduated with a professional degree from a school or college of architecture accredited by the National Architectural Accrediting Board, Inc., or its successor;

(B) successfully completed the required examination; and

(C) successfully completed the intern development program required under section 7.5 of this chapter; and

(3) must not have been convicted of:

(A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11; or

(B) a felony that has direct bearing on the applicant's ability to practice competently.

(b) The application for a certificate of registration shall be:

(1) made on a form prescribed and furnished by the board;

(2) verified; and

(3) accompanied by a fee established by the board under IC 25-1-8-2.

SECTION 10. IC 25-4-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. ~~(a)~~ Any person who is at least eighteen (18) years of age shall be qualified for an examination for a certificate of registration as a registered architect, ~~provided he shall~~

~~(1)~~ ~~have~~ **if the individual has** graduated with a professional degree from a school or college of architecture ~~recognized by the board; and~~ **accredited by the National Architectural Accrediting Board, Inc., or its successor.**

~~(2) either:~~

~~(A) have had at least three (3) years practical experience in the office or offices of reputable, registered, practicing architects; or~~

~~(B) have had a combination of training and practical experience which shall be found by the board to be fully equivalent to clause (A).~~

~~(b) The applicant must not have a conviction for:~~

~~(1) an act that would constitute a ground for disciplinary sanction under IC 25-1-11; or~~

~~(2) a felony that has a direct bearing on the applicant's ability to practice competently.~~

SECTION 11. IC 25-4-1-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 7.5. An applicant for a certificate of registration under this chapter shall furnish evidence that the applicant has successfully completed an intern development program. The intern development program must:**

(1) provide practical, supervised experience in the practice of architecture; and

(2) meet all other requirements established by the board in rules adopted under IC 4-22-2.

SECTION 12. IC 25-4-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) As used in this section, "out-of-state applicant" means an individual who is an architect registered or licensed under the laws of another state, a foreign country, or a province in a foreign country and who is an applicant for a certificate of registration as a registered architect.

(b) This section applies only to an out-of-state applicant.

(c) The board shall grant a certificate of registration to an out-of-state applicant upon the following conditions:

(1) The out-of-state applicant must be at least eighteen (18) years of age. ~~and must not have been convicted of:~~

~~(A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11; or~~

~~(B) a felony that has a direct bearing on the applicant's ability to practice competently.~~

(2) The out-of-state applicant's registration in the other jurisdiction is valid and in good standing.

(3) The out-of-state applicant must have passed the examination required in the other state, or the equivalent offered in the other state, at the time the out-of-state applicant was registered in the other state.

(4) The out-of-state applicant has not been convicted of:

(A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11; or

(B) a felony that has a direct bearing on the applicant's ability to practice competently.

~~(2)~~ **(5)** If registered in the other jurisdiction after June 30, 1979, the out-of-state applicant must: ~~meet both of the following conditions:~~

~~(A) Have:~~

~~(i)~~ **(A) have** met the requirements specified by ~~section 7(a)(1) and 7(a)(2)~~ **section 6** of this chapter; or

~~(ii)~~ **(B)** ~~earned a bachelor's degree in a design discipline and~~ have at least seven (7) years of experience as a registered architect **and have:**

(i) a bachelor's degree in a design discipline; or

(ii) a combination of training and experience that the board finds to be equivalent to a bachelor's degree in a design discipline.

~~(B) Have passed the examination required in Indiana, or the equivalent, at the time the out-of-state applicant was registered in the other jurisdiction.~~

~~(3)~~ **(6)** If registered in the other jurisdiction before July 1, 1979, the out-of-state applicant must ~~meet the following conditions:~~

~~(A)~~ have met the education and work experience requirements in effect in Indiana when the out-of-state applicant was registered in the other jurisdiction.

~~(B) Have passed the examination required in Indiana, or the equivalent, at the time the out-of-state applicant was registered in the other jurisdiction.~~

~~(4)~~ **(7)** The out-of-state applicant must pay fees established by the board.

(d) If an out-of-state applicant does not meet the examination requirements under subsection ~~(c)(2) or~~ (c)(3), the board may require the out-of-state applicant to pass a written examination ~~and an oral interview necessary~~ to achieve equivalence to the examination required in Indiana at the time the out-of-state applicant was registered in the other jurisdiction.

SECTION 13. IC 25-4-1-14, AS AMENDED BY P.L.157-2006, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) Every registered architect who continues in active practice shall, biennially, on or before the date established by the licensing agency under IC 25-1-6-4, renew the registered architect's certificate of registration and pay the required renewal fee. ~~A registered architect whose certificate of registration has expired may have the certificate restored only upon payment of the required fee under IC 25-1-8-6.~~

(b) ~~Subject to subsection (c), any~~ **An** architect registered or licensed in ~~this state~~ **Indiana** who has failed to renew the architect's certificate of registration for a period of not more than five (5) years may have the certificate **of registration** ~~renewed at any time within a period of five (5) years after the registration expired upon:~~

~~(1) making application to the board for renewal of the registration; and~~

~~(2) paying a fee required under IC 25-1-8-6.~~

reinstated by meeting the requirements of IC 25-1-8-6(c).

(c) An architect registered in Indiana who has failed to renew the architect's certificate of registration for more than five (5) years may have the certificate of registration reinstated by satisfying the requirements for reinstatement under IC 25-1-8-6(d).

~~(c)~~ **(d)** If any registered architect desires to retire from the practice of architecture in Indiana, the architect may submit to the board the architect's verified statement of intention to withdraw from practice. The statement shall be entered upon the records of the board. During the period of the architect's retirement, the architect is not liable for any renewal or restoration fees.

(e) If any retired architect desires to return to the practice of architecture in Indiana, ~~within a period of~~ **the retired architect must meet the following requirements:**

(1) If the certificate of registration has been expired for not more than five (5) years, ~~from the date that the architect files a statement under this subsection,~~ the retired architect must:

~~(1)~~ **(A)** file with the board a verified statement indicating the architect's desire to return to the practice of architecture; and

~~(2)~~ **(B)** pay a renewal fee equal to the fee set by the board to renew an unexpired registration under this chapter.

(2) If the certificate of registration has been expired for more than five (5) years, the retired architect must:

(A) file with the board a verified statement indicating the architect's desire to return to the practice of architecture;

(B) pay a renewal fee equal to the fee set by the board to renew an unexpired registration under this chapter; and

(C) complete remediation and additional training established by the board based on the length of time the certificate of registration has been expired.

SECTION 14. IC 25-4-2-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 8.5. (a) Every registered landscape architect who continues in active practice shall biennially, on or before the date established by the licensing agency under IC 25-1-6-4, renew the registered landscape architect's certificate of registration and pay the required renewal fee.**

(b) A landscape architect registered in Indiana who has failed to renew the landscape architect's certificate of registration for a period of not more than five (5) years may have the certificate of registration reinstated by meeting the requirements of IC 25-1-8-6(c).

(c) A landscape architect registered in Indiana who has failed to renew the landscape architect's certificate of registration for a period of more than five (5) years may have the certificate of registration reinstated by satisfying the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 15. IC 25-5.1-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Except as provided in subsection (b), an individual whose license has expired may have the license ~~renewed for not more than~~ **reinstated not later than** three (3) years after the date of expiration upon meeting the requirements under ~~IC 25-1-8-6.~~ **IC 25-1-8-6(c).**

~~(b) If an individual's license has been expired for more than three (3) years, the individual must file a new application.~~

(b) A license that has been expired for more than three (3) years may be reinstated if the individual holding the license satisfies the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 16. IC 25-6.1-3-2, AS AMENDED BY P.L.157-2006, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) Every individual, before acting as an auctioneer, must obtain a license from the commission.

(b) An applicant for a license must:

(1) be at least eighteen (18) years of age;

(2) have completed at least eighty (80) actual hours of auction instruction from a course provider approved by the commission;

(3) not have a conviction for:

(A) an act which would constitute a ground for disciplinary sanction under IC 25-1-11; or

(B) a felony that has a direct bearing on the applicant's ability to practice competently.

(c) Auction instruction required under subsection (b) must provide the applicant with knowledge of all of the following:

(1) The value of real estate and of various goods commonly sold at an auction.

(2) Bid calling.

(3) Sale preparation, sale advertising, and sale summary.

(4) Mathematics.

(5) The provisions of this article and the commission's rules.

(6) Any other subject matter approved by the commission.

(d) An individual seeking an initial license as an auctioneer under this article shall file with the commission a completed application on the form prescribed by the commission. When filing an application for an auctioneer license, each individual shall pay a nonrefundable examination fee established by the commission under IC 25-1-8-2.

(e) When applying for a renewal of an auctioneer license, each individual shall do the following:

(1) Apply in a manner required by the commission, including certification by the applicant that the applicant has complied with the requirements of IC 25-6.1-9-8, unless the commission has granted the applicant a waiver under IC 25-6.1-9-9.

(2) Pay the ~~license~~ **renewal** fee ~~prescribed by section 5 of this chapter.~~ **established by the commission under IC 25-1-8-2.**

(f) Upon the receipt of a completed application for an initial or a renewal license, the commission shall examine the application and **may** verify the information contained therein.

(g) An applicant who is seeking an initial license must pass an examination approved by the commission that covers subjects and topics of knowledge required to practice as an auctioneer. The commission shall hold examinations as the commission may prescribe.

(h) The commission shall issue an auctioneer's license, in such form as it may prescribe, to each individual who meets all of the requirements for licensing and pays the appropriate fees.

(i) Auctioneer licenses shall be issued for a term of four (4) years. A license expires at midnight on the date established by the licensing agency under IC 25-1-6-4 and every fourth year thereafter, unless renewed before that date. If the license has expired, it may be reinstated ~~not more than one (1) year~~ **not later than four (4) years** after the date it expired ~~upon the payment of the renewal fee plus the reinstatement fee established under IC 25-1-8-6 and submission of proof that the applicant has complied with the continuing education requirement.~~ **if the license holder meets the requirements of IC 25-1-8-6(c).**

(j) If ~~the~~ **a** license has expired for a period of more than ~~one (1) year, the person must file an application and take the required examination. However, an applicant for reinstatement of an expired license is not required to complete the initial eighty (80) hour education requirement under this section in order to reinstate the expired license. The holder of an expired license shall cease to display the original wall certificate at the holder's place of business and shall return the wall certificate to the commission upon notification by the commission of the expiration of the holder's license.~~ **four (4) years, the holder of the license may have the license reinstated by satisfying the requirements for reinstatement under IC 25-1-8-6(d).**

~~(j)~~ **(k)** The commission may waive the requirement that a nonresident applicant pass an examination and that the nonresident submit written statements by two (2) individuals, if the nonresident applicant:

(1) is licensed to act as an auctioneer in the state of the applicant's domicile;

(2) submits with the application a duly certified letter of certification issued by the licensing board of the applicant's domiciliary state;

(3) is a resident of a state whose licensing requirements are substantially equal to the requirements of Indiana;

(4) is a resident of a state that grants the same privileges to the licensees of Indiana; and

(5) includes with the application an irrevocable consent that actions may be commenced against the applicant. The consent shall stipulate that service of process or pleadings on the commission shall be taken and held in all courts as valid and binding as if service of process had been made upon the applicant personally within this state. If any process or pleading mentioned in this subsection is served upon the commission, it shall be by duplicate copies. One (1) of the duplicate copies shall be filed in the office of the commission and one (1) shall be immediately forwarded by the commission by registered or certified mail to the applicant against whom the process or pleadings are directed.

~~(k)~~ **(l)** The commission may enter into a reciprocal agreement with another state concerning nonresident applicants.

~~(l)~~ **(m)** The commission may, for good cause shown, upon the receipt of an application for a license, issue a temporary permit for such reasonable period of time, not to exceed one (1) year, as the commission deems appropriate. A temporary permit has the same effect as a license and entitles and subjects the permittee to the same rights and obligations as if the individual had obtained a license.

~~(m)~~ **(n)** An applicant for a temporary permit must do the following:

(1) File an examination application.

(2) Pass the examination at one (1) of the next two (2) regularly scheduled examinations.

~~(n)~~ **(o)** An individual who does not pass the examination required under ~~subsection (m)~~ **subsection (n)** may not be issued a temporary permit.

SECTION 17. IC 25-6.1-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) This section does not apply to an organization that operates a wholesale dealer automobile auction.

(b) Every person, before operating an auction house, must obtain a license from the commission for that auction house.

(c) Except as provided in subsection (d), before applying for a license from the commission to operate an auction house, the following must obtain a license as an auctioneer as provided in section 2 of this chapter:

(1) An individual who seeks to operate an auction house.

(2) One (1) or more individuals designated by an organization that seeks to operate an auction house.

(d) Subsection (c) does not apply to:

(1) a person that holds a valid license for an auction house as of June 30, 1998; or

(2) a person that holds a valid renewal of a license described in subdivision (1).

(e) Every applicant seeking to operate an auction house shall file with the commission a completed application on a form provided by the commission for a license for each auction house to be operated by that person. Each application shall be accompanied by the license fee prescribed by section 5 of this chapter and a surcharge described in IC 25-6.1-8-2.

(f) Upon the receipt of a completed application for an initial or a renewal license, the commission shall examine the application and may verify the information contained therein.

(g) If the commission determines that the application has been completed and that the statements made therein by the applicant are true, the commission shall issue a license, in such form as it may prescribe, for such auction house.

(h) Auction house licenses shall expire ~~at midnight, February 28, 2004,~~ **on a date established by the licensing agency under IC 25-1-6-4,** and every fourth year thereafter. ~~A renewal license with a term of four (4) years shall be issued if an application is for a renewal license.~~

(i) If the holder of an auction house license does not renew the license by the date established by the licencing agency, the license expires and becomes invalid without any action taken by the commission.

(j) The holder of an auction house license that has been expired for not more than four (4) years may have the license reinstated by meeting the requirements under IC 25-1-8-6(c).

(k) The holder of an auction house license that has been expired for more than four (4) years may have the license reinstated by satisfying the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 18. IC 25-6.1-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) Every person other than:

(1) an individual who is a licensed auctioneer; or

(2) an individual who has a licensed auction house;

who is seeking to operate as an auction company must obtain a license from the commission. Notwithstanding the fact that an individual who is a licensed auctioneer or an individual who has a licensed auction house also has an interest in an organization, every organization which seeks to operate an auction company must obtain a license for that auction company.

(b) Every such person shall file with the commission a completed application on the form prescribed by the commission. Each application shall be accompanied by the license fee prescribed by section 5 of this chapter and a surcharge described in IC 25-6.1-8-2.

(c) Upon the receipt of a completed application for an initial or renewal license, the commission shall examine the application and **may** verify the information contained therein.

(d) Upon a determination by the commission that an application is completed and duly verified, the commission shall issue an auction company license, in such form as it may prescribe, to the applicant.

(e) Auction company licenses shall expire ~~at midnight, February 28, 2004,~~ **on a date established by the licensing agency under IC 25-1-6-4,** and every fourth year thereafter. ~~A renewal license with a term of four (4) years shall be issued if the application is for a renewal license.~~

(f) If the holder of an auction company license does not renew the license by the date established by the licensing agency, the license expires and becomes invalid without any action taken by the commission.

(g) The holder of an auction company license that has been expired for not more than four (4) years may have the license reinstated by meeting the requirements under IC 25-1-8-6(c).

(h) The holder of an auction company license that has been expired for more than four (4) years may have the license reinstated by satisfying the requirements for reinstatement under IC 25-1-8-6(d).

~~(f)~~ **(i)** Any individual who wishes to operate an auction company, and who is exempt under subsection (a) from obtaining an auction company license, shall, ~~on February 28, 1978, or on~~ **not more than thirty (30) days before** the date on which the individual begins to operate an auction company, ~~whichever is later,~~ notify the ~~secretary of the~~ commission, in a writing signed by the individual, that the individual is operating as an auction company or as more than one (1) auction company. The individual shall specify in such written notification the trade or business name, and the address of the principal place of business, of each auction company which the individual operates. Whenever an individual to whom this subsection applies shall discontinue the operation of an auction company theretofore operated by the individual, or shall change its address or trade or business name, the individual shall promptly notify the secretary of the commission of such discontinuance or change, in a writing signed by the individual.

SECTION 19. IC 25-7-6-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) A person who holds a license under this article may apply for renewal of the license.

(b) A license expires on the date established by the licensing agency under IC 25-1-6-4.

~~(b)~~ **(c)** The board shall renew a license if the license holder pays the fee ~~set forth in IC 25-7-11~~ **established by the board under IC 25-1-8-2** to renew the license before the license expires.

SECTION 20. IC 25-7-6-14, AS AMENDED BY P.L.157-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. **(a) The holder of** an expired ~~barber~~ license may ~~be~~ **have the license** reinstated by ~~payment of the reinstatement and renewal fees required under IC 25-1-8-2 and IC 25-1-8-6~~ **meeting the requirements of IC 25-1-8-6(c)** ~~within~~ **not later than** five (5) years ~~of~~ **after** the expiration date of the license.

(b) ~~After~~ **If more than** five (5) years ~~from~~ **have elapsed since** the date ~~that~~ a ~~barber~~ license ~~expires~~ **expired** under this ~~section,~~ **chapter,** the ~~person whose license has expired may reinstate the~~ license **may be reinstated** only ~~by~~ **if the holder of the license satisfies the requirements for reinstatement under IC 25-1-8-6(d).**

~~(1) applying for reinstatement of the license;~~

~~(2) paying the fees set forth under IC 25-7-11 and IC 25-1-8-6; and~~

~~(3) taking the same examination required under IC 25-7-10 for an applicant for a license to practice as a registered barber.~~

SECTION 21. IC 25-8-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. **(a)** Except as provided in IC 25-8-9-11, a person who holds a license under this article may apply for its renewal.

(b) A license expires on a date established by the licensing agency under IC 25-1-6-4.

SECTION 22. IC 25-8-4-19, AS AMENDED BY P.L.157-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. The board shall renew a license if the license holder pays the fee ~~set forth in IC 25-8-13~~ **established by the board under IC 25-1-8-2** to renew the license before the license is to expire.

SECTION 23. IC 25-8-4-21, AS AMENDED BY P.L.197-2007, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. (a) Except as provided in IC 25-8-9-11, the board may, upon application, reinstate a license under this ~~chapter~~ **article** that has **been** expired **for not more than three (3) years** if the person holding the license **meets the requirements of IC 25-1-8-6(c).**

~~(1) pays renewal fees established by the board under IC 25-1-8-2;~~

~~(2) pays the license reinstatement fee established under IC 25-1-8-6; and~~

~~(3) complies with all of the requirements established under IC 25-1-8-6.~~

(b) ~~Except as provided in subsection (c) and (f),~~ The board may not reinstate a license issued under this article if the person holding the license does not apply for reinstatement ~~within~~ **not more than** three (3) years after the expiration date of the license, unless the person holding the license **meets the requirements for reinstatement under IC 25-1-8-6(d).**

~~(1) receives a satisfactory grade (as described in section 9 of this chapter) on an examination prescribed by the board;~~

~~(2) pays the examination fee set forth in IC 25-1-8-2;~~

~~(3) pays the renewal fees established by the board under IC 25-1-8-2; and~~

~~(4) pays the reinstatement fee established under IC 25-1-8-6.~~

~~(c) If a person does not receive a satisfactory grade on the examination described in subsection (b)(1), the person may repeat the examination subject to the rules governing the examination as adopted by the board.~~

~~(d) If a person does not receive a satisfactory grade on a repeat examination as provided in subsection (c), the board may:~~

~~(1) permit the person to take the examination again;~~

~~(2) require the person to complete remediation and additional training as required by the board before the person is permitted to take the examination again; or~~

~~(3) refuse to permit the person to take the examination again and deny the application for reinstatement of the license.~~

~~(e) The board may not reinstate:~~

~~(1) a cosmetology salon license issued under IC 25-8-7;~~

~~(2) an electrology salon license issued under IC 25-8-7.2;~~

~~(3) an esthetic salon license issued under IC 25-8-12.6; or~~

~~(4) a manicurist salon license issued under IC 25-8-7.1;~~

~~unless the license holder submits an application for reinstatement of the license not later than three (3) years after the date the license expires.~~

~~(f) The board may not reinstate a cosmetology school license issued under IC 25-8-5 unless the license holder submits an application for reinstatement of the license not later than three (3) years after the date the license expires.~~

SECTION 24. IC 25-8-15.4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) A license issued under this chapter expires ~~July 1 following the July 1 following the date the license is issued.~~ **every fourth year on a date established by the licensing agency under IC 25-1-6-4.**

(b) The board shall renew a license issued under this chapter if the person that operates the facility ~~does the following:~~

~~(1) Submits a renewal application to the board on a form prescribed by the board before the license expires.~~

~~(2) Has complied with this chapter and rules adopted under this chapter.~~

~~(3) Has allowed the board to inspect the tanning facility.~~

pays the fee for renewal established by the board under IC 25-1-8-2 on or before the date established by the licensing agency.

(c) If the holder of a license does not renew the license on or before the renewal date established by the licensing agency, the license expires and becomes invalid without any action by the board.

SECTION 25. IC 25-8-15.4-9.5, AS ADDED BY P.L.197-2007, SECTION 44, IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9.5. **(a)** The board may, upon application, reinstate a license under this chapter that has **been** expired **for not more than three (3) years** if the person holding the license **meets the requirements for reinstatement established under IC 25-1-8-6(c).**

~~(1) pays the current renewal fee established by the board under IC 25-1-8-2;~~

~~(2) pays the license reinstatement fee established under IC 25-1-8-6; and~~

~~(3) complies with all requirements established under this article for an applicant for an initial license.~~

(b) If more than three (3) years have elapsed since the date a license under this chapter expired, the individual holding the license may have the license reinstated by satisfying the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 26. IC 25-10-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) A license issued under this chapter is valid until the next renewal date described under subsection (b).

(b) All licenses issued by the board shall be subject to renewal ~~on July 1 in each even-numbered year.~~ **biennially on a date established by the licensing agency under IC 25-1-5-4.** A renewal license fee established by the board ~~shall~~ **under IC 25-1-8-2 must** be paid ~~before July 1 in each even-numbered year~~ to the board **on or before the date established by the licensing agency,** and if not paid on or before that date, the license expires and becomes invalid without any action taken by the board. ~~A new license may be issued only upon application and the payment of a fee established by the board. All licenses shall be displayed in the office or the place of practice of the licensee.~~

(c) An individual whose license has been expired for not more than three (3) years may have the license reinstated upon meeting the requirements for reinstatement under IC 25-1-8-6(c).

(d) If more than three (3) years have elapsed since the date a license under this chapter expired, the individual holding the license may have the license reinstated by satisfying the requirements for reinstatement under IC 25-1-8-6(d).

(e) A license must be displayed in the office or the place of practice of the licensee.

~~(c)~~ **(f)** Each applicant for renewal shall furnish evidence of attendance during each preceding licensing year at not less than one (1) chiropractic educational conference or seminar approved by the board. The conference or seminar may be conducted by an established chiropractic organization or college. This requirement does not apply to the applicant's first licensing year. If an applicant fails to comply with this subsection, the applicant's license expires and becomes invalid at midnight of the renewal date and may be reinstated only upon application and the payment of a fee established by the board and proper showing to the board that there has been a makeup by the applicant of the omitted educational work.

~~(d)~~ **(g)** Any chiropractor licensed to practice chiropractic in this state who intends to retire from practice shall notify the board in writing of the chiropractor's intention to retire and shall surrender the license to the board. Upon receipt of this notice and license, the board shall record the fact that the chiropractor is retired and excuse the person from further payment of license renewal fees and attendance at license renewal seminars. If any chiropractor surrenders the license to practice chiropractic in this state, the chiropractor's reinstatement may be considered by the board on the chiropractor's written request. If any disciplinary proceedings under this chapter are pending against a chiropractor, the chiropractor may not surrender the license without the written approval of the board.

~~(e)~~ **(h)** Any chiropractor licensed to practice chiropractic in this state who intends to become inactive in the practice of chiropractic shall notify the board in writing that the chiropractor will not maintain an office or practice chiropractic in Indiana. The board shall then classify the chiropractor's license as inactive. The renewal fee of the inactive license is one-half (1/2) of the license renewal fee, and the chiropractor shall not be required to attend license renewal seminars. If a chiropractor holding an inactive license intends to maintain an office or practice chiropractic, the chiropractor shall notify the board of that intent. The board may reinstate that chiropractor's license upon notification and receipt of:

(1) an application;

(2) payment of the current renewal fee;

(3) payment of the current reinstatement fee; and

(4) evidence of attendance of one (1) educational conference approved by the board for each year or portion of a year of inactive license classification.

~~(f)~~ **(i)** The board shall discipline a practitioner of the chiropractic in accordance with IC 25-1-9.

SECTION 27. IC 25-13-1-8, AS AMENDED BY P.L.1-2006, SECTION 429, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) A license to practice dental hygiene in Indiana shall be issued to candidates who pass the board's examinations. The license shall be valid for the remainder of the renewal period in effect on the date the license was issued.

(b) Prior to the issuance of the license, the applicant shall pay a fee set by the board under section 5 of this chapter. A license issued by the board expires on a date specified by the Indiana professional licensing agency under IC 25-1-5-4(k) of each even-numbered year.

(c) An applicant for license renewal must satisfy the following conditions:

(1) Pay the renewal fee set by the board under section 5 of this chapter on or before the renewal date specified by the Indiana professional licensing agency in each even-numbered year.

(2) Subject to IC 25-1-4-3, provide the board with a sworn statement signed by the applicant attesting that the applicant has fulfilled the continuing education requirements under IC 25-13-2.

(3) Be currently certified or successfully complete a course in basic life support through a program approved by the

board. The board may waive the basic life support requirement for applicants who show reasonable cause.

~~(c)~~ **(d)** If the holder of a license does not renew the license on or before the renewal date specified by the Indiana professional licensing agency, the license expires and becomes invalid without any action by the board.

~~(d)~~ **(e)** A license invalidated under ~~subsection (c)~~ **subsection (d)** may be reinstated by the board ~~up to~~ **in** three (3) years **or less** after such invalidation ~~upon meeting~~ **if the holder of the license meets** the requirements under ~~IC 25-1-8-6.~~ **IC 25-1-8-6(c).**

~~(e)~~ **(f)** If a license remains invalid under ~~subsection (c)~~ **subsection (d)** for more than three (3) years, the holder of the invalid license may obtain a reinstated license ~~if the holder meets the following requirements:~~

~~(1) Meets~~ **by meeting** the requirements **for reinstatement** under ~~IC 25-1-8-6.~~ **IC 25-1-8-6(d).**

~~(2) Passes an examination on state and federal laws that are relevant to the practice of dental hygiene as determined by the board.~~

~~(3) Has been continuously engaged in the practice of dental hygiene from the date the holder's license was invalidated through the date the holder applies for reinstatement.~~

~~(4) Other than failing to renew the license, has complied with this chapter and the rules adopted under this chapter during the time specified under subdivision (3).~~

~~(5) Complies with any other requirements established by the board under subsection (g).~~

(g) The board may require the holder of an invalid license who files an application under this subsection to appear before the board and explain why the holder failed to renew the license.

~~(f) If the lapse of time in revalidating the license continues beyond three (3) years, and the holder of the invalid license does not meet the requirements under subsection (e), the holder of the invalid license must apply for licensure under section 4 or 17 of this chapter. In addition, the board may require the holder of the expired license to pay all past due renewal fees and a penalty fee set by the board under section 5 of this chapter.~~

~~(g)~~ **(h)** The board may adopt rules under section 5 of this chapter establishing requirements for the reinstatement of a license that has been invalidated for more than three (3) years.

~~(h)~~ **(i)** The license to practice must be displayed at all times in plain view of the patients in the office where the holder is engaged in practice. No person may lawfully practice dental hygiene who does not possess a license and its current renewal.

~~(i)~~ **(j)** Biennial renewals of licenses are subject to the provisions of IC 25-1-2.

SECTION 28. IC 25-13-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) A dental hygienist must complete at least fourteen (14) credit hours in continuing education courses each license period.

(b) Credit hours may be applied under this section only toward the credit hour requirement for the license period during which the credit hours are earned.

(c) During a license period, a dental hygienist may not earn more than five (5) credit hours toward the requirements under this section for continuing education courses that relate specifically to the area of practice management.

(d) Not more than two (2) credit hours for certification programs in basic life support required under ~~IC 25-13-1-8(b)(3)~~ **IC 25-13-1-8(c)(3)** may be applied toward the credit hour requirement during each license period.

SECTION 29. IC 25-14-1-10, AS AMENDED BY P.L.1-2006, SECTION 432, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) Unless renewed, a license issued by the board expires on a date specified by the agency under IC 25-1-5-4(k). An applicant for renewal shall pay the renewal fee set by the board under section 13 of this chapter on or before the renewal date specified by the agency.

(b) The license shall be properly displayed at all times in the office of the person named as the holder of the license, and a person may not be considered to be in legal practice if the person does not possess the license and renewal card.

(c) If a holder of a dental license does not ~~secure the renewal card~~ **renew the license** on or before the renewal date specified by the agency, without any action by the board the license together with any related renewal card is invalidated.

(d) Except as provided in section 27.1 of this chapter, a license invalidated under subsection (c) may be reinstated by the board ~~up to~~ **in** three (3) years **or less** after its invalidation ~~upon meeting~~ **if the holder of the license meets** the requirements under ~~IC 25-1-8-6.~~ **IC 25-1-8-6(c).**

(e) Except as provided in section 27.1 of this chapter, if a license remains invalid under subsection (c) for more than three (3) years, the holder of the invalid license may obtain a reinstated license ~~if the holder meets the following requirements:~~

~~(1) Meets the~~ **by satisfying the** requirements **for reinstatement** under ~~IC 25-1-8-6.~~ **IC 25-1-8-6(d).**

~~(2) Passes an examination on state and federal laws that are relevant to the practice of dentistry as determined by the board.~~

~~(3) Has been continuously engaged in the practice of dentistry from the date the holder's license was invalidated through the date the holder applies for reinstatement.~~

~~(4) Other than failing to obtain a renewal card, has complied with this chapter and the rules adopted under this chapter during the time specified under subdivision (3).~~

~~(5) Complies with any other requirements established by the board under subsection (g).~~

(f) The board may require the holder of an invalid license who files an application under this subsection to appear before the board and explain why the holder failed to renew the license.

~~(f) If a license remains invalid under subsection (c) for more than three (3) years and the holder of the invalid license does not meet the requirements under subsection (e), the holder of the invalid license may be issued a license only by reapplying for a license under section 3 or 16 of this chapter. In addition, the board may require the holder of the invalidated license to pay all past due renewal fees and a penalty fee set by the board under section 13 of this chapter.~~

(g) The board may adopt rules under section 13 of this chapter establishing requirements for the reinstatement of a license that has been invalidated for more than three (3) years. The fee for a duplicate license to practice as a dentist is subject to IC 25-1-8-2.

(h) Biennial renewal of licenses is subject to IC 25-1-2.

(i) Subject to IC 25-1-4-3, an application for renewal of a license under this section must contain a sworn statement signed by the applicant attesting that the applicant has fulfilled the continuing education requirements under IC 25-14-3.

SECTION 30. IC 25-14.5-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. **(a)** A certificate may be reinstated by the board ~~up to~~ **not later than** three (3) years after its expiration if the applicant for reinstatement meets the requirements under ~~IC 25-1-8-6.~~ **IC 25-1-8-6(c).**

(b) A certificate that has been expired for more than three (3) years may be reinstated by the board if the holder of the certificate satisfies the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 31. IC 25-15-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a) Except as provided in subsection (b),** a license issued under this article expires on ~~December 31 in either:~~

~~(1) the next even-numbered year after it is issued; or~~

~~(2) the second even-numbered year after it is issued;~~

~~as set by the board. However,~~ **the date established by the licensing agency under IC 25-1-6-4.**

(b) A funeral director intern license expires two (2) years after it is issued by the board.

SECTION 32. IC 25-15-6-4, AS AMENDED BY P.L.157-2006, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. **(a)** The board shall reinstate the expired license of: ~~an individual who:~~

(1) ~~was licensed as~~ a funeral director; ~~or embalmer;~~

(2) **an embalmer;**

(3) a funeral director intern; or

(4) a funeral home;

that applies for reinstatement of the ~~funeral director license or embalmer~~ license ~~within two (2) years or four (4) years~~ **not later than three (3) years** ~~of~~ **after** the date ~~that~~ the license expired ~~as set by the board;~~

~~(3) pays a fee established~~ **and meets the requirements for reinstatement** under ~~IC 25-1-8-6; and~~ **IC 25-1-8-6(c).**

~~(4) meets the continuing education requirements set by the board.~~

(b) If the license of:

(1) a funeral director;

(2) an embalmer;

(3) a funeral director intern; or

(4) a funeral home;

has been expired for more than three (3) years, the board shall reinstate the license if the holder of the license applies for reinstatement of the license and meets the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 33. IC 25-19-1-2, AS AMENDED BY P.L.145-2006, SECTION 161, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) There is created the Indiana state board of health facility administrators composed of ~~fourteen (14)~~ **thirteen (13)** members as follows:

(1) The state health commissioner or the commissioner's designee.

(2) The director of the division of family resources or the director's designee.

(3) The state long term care ombudsman or the state long term care ombudsman's designee.

(4) The chief administrative officer of the Indiana University medical center at Indianapolis or the chief administrative officer's designee.

(5) One (1) member of the medical profession holding an unlimited license to practice medicine in Indiana.

~~(6) One (1) hospital administrator who must hold an executive position in an Indiana hospital.~~

~~(7)~~ **(6)** Four (4) administrators of licensed proprietary health facilities.

~~(8)~~ **(7)** Two (2) administrators of licensed nonproprietary health facilities.

~~(9)~~ **(8)** Two (2) members representing the public at large, who:

(A) are residents of Indiana; and

(B) have never been associated with health facility services or administration in any way other than as a resident or a family member of a resident of a health facility.

(b) Those members of the board other than the representatives of state agencies and institutions shall be appointed by the governor after consultation with the associations and societies appropriate to the disciplines and professions representative of the position to be filled. The original and all subsequent physician and hospital administrator appointments shall be for terms of four (4) years. All appointments shall be for four (4) year terms, except that in case of a vacancy prior to term completion, the appointment shall be for the remainder of the unexpired term. Any vacancy, either prior to or at term completion, shall be filled by the governor after consultation with the associations and societies appropriate to the discipline or professions representative of the vacancy. In all cases, the appointees shall serve until their successors are appointed and qualified.

(c) The governor may remove any member of the board other than the representative of a state agency or institution for misconduct, incapacity, incompetence, or neglect of duty after the member has been served with a written statement of charges and has been given an opportunity to be heard. Designated representatives of the state agencies or institutions may be removed by the original appointing authority for any of those causes.

SECTION 34. IC 25-19-1-6, AS AMENDED BY P.L.1-2006, SECTION 439, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) The board shall elect

from its membership annually a ~~chairman, vice chairman and secretary~~ **chairperson and vice chairperson** and shall adopt rules to govern its proceedings.

(b) Each member of the board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Such a member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency.

(c) The Indiana professional licensing agency shall supply necessary personnel to assist the board in the performance of its duties.

~~(b) Eight (8)~~ **(d) Seven (7)** members of the board ~~including three (3) members who are health facility administrators and one (1) member who is an officer of the board,~~ constitute a quorum for consideration of all matters before the board. A majority vote of the quorum is required for action of the board.

SECTION 35. IC 25-19-1-9, AS AMENDED BY P.L.1-2006, SECTION 440, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) Every holder of a health facility administrator's license shall renew ~~it biennially, on or before August 31 of even-numbered years by making an application to the board.~~ **the license on the date established by the licensing agency under IC 25-1-5-4.** The renewals shall be granted as a matter of course, unless the board finds, after due notice and hearing, that the applicant has acted or failed to act in a manner or under circumstances that would constitute grounds for nonrenewal, suspension, or revocation of a license.

(b) A health facility administrator's license expires at midnight on the renewal date specified by the Indiana professional licensing agency. Failure to renew a license on or before the renewal date automatically renders the license invalid.

(c) A person who fails to renew a license before it expires and becomes invalid at midnight of the renewal date shall be reinstated by the board ~~upon meeting~~ **if the person applies for reinstatement not later than three (3) years after the expiration of the license and meets** the requirements under ~~IC 25-1-8-6.~~ **IC 25-1-8-6(c).**

(d) ~~However,~~ **The board may reinstate** a person who ~~fails to apply~~ **applies** to reinstate a license under this section ~~within~~ **more than** three (3) years after the date the license expires and becomes invalid ~~shall be issued a license by meeting~~ **if the person applies to the board for reinstatement and meets** the requirements **for reinstatement established by the board** under ~~IC 25-1-8-6.~~ **IC 25-1-8-6(d).**

~~(d)~~ **(e)** The board may require an applicant under ~~subsection (c)~~ **subsection (d)** to appear before the board to explain the applicant's failure to renew.

SECTION 36. IC 25-20-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) The ~~board~~ **committee** shall issue hearing aid dealer certificates of registration ~~which~~ **that** expire ~~on June 30 of each even-numbered year.~~ **biennially on the date established by the licensing agency under IC 25-1-5-4.** To renew a hearing aid dealer certificate of registration, the holder of the certificate must pay a renewal fee set by the ~~board~~ **committee on or** before ~~June 30 of each even-numbered year.~~ **the date established by the licensing agency.**

(b) If the holder of a certificate does not renew the holder's hearing aid dealer certificate of registration **on or** before ~~June 30 of an even-numbered year,~~ **the date established by the licensing agency,** the certificate expires without any action taken by the board.

(c) A holder of a hearing aid dealer certificate of registration that expires under this section ~~shall~~ **may** have the certificate reinstated by the ~~board~~ **committee** if, **not later than three (3) years after the license expires,** the holder meets the requirements under ~~IC 25-1-8-6.~~ **IC 25-1-8-6(c).**

(d) A person who applies for reinstatement of a certificate of registration under this section more than three (3) years after the date the registration expires and becomes invalid may apply for reinstatement by meeting the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 37. IC 25-20.2-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. **(a)** An individual who applies to renew a license as a licensed home inspector must:

(1) furnish evidence showing successful completion of the continuing education requirements of this chapter; and

(2) pay the renewal fee established by the board.

(b) If the holder of a license does not renew the license on or before the renewal date specified by the licensing agency, the license expires and becomes invalid without any action by the board.

(c) A license may be reinstated by the board not later than (3) years after the expiration of the license if the applicant for reinstatement meets the requirements for reinstatement under IC 25-1-8-6(c).

(d) If a license has been expired for more than three (3) years, the license may be reinstated by the board if the holder meets the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 38. IC 25-20.5-1-18, AS AMENDED BY P.L.1-2006, SECTION 442, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. (a) A certificate issued by the committee expires on a date established by the Indiana professional licensing agency under IC 25-1-5-4 in the next even-numbered year following the year in which the certificate was issued.

(b) An individual may renew a certificate by paying a renewal fee on or before the expiration date of the certificate.

(c) If an individual fails to pay a renewal fee on or before the expiration date of a certificate, the certificate becomes invalid **without any action of the committee.**

(d) A certificate may be reinstated by the committee not later than three (3) years after its expiration if the applicant for reinstatement meets the requirements for reinstatement under IC 25-1-8-6(c).

(e) If a certificate has been expired for more than three (3) years, the certificate may be reinstated by the committee if the holder meets the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 39. IC 25-21.5-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a)** A certificate of registration expires ~~on July 31 in each even-numbered year.~~ **biennially on the date established by the licensing agency under IC 25-1-6-4.**

(b) An individual may renew a certificate of registration by paying a renewal fee on or before the expiration date established by the licensing agency.

(c) If an individual fails to pay a renewal fee on or before the expiration date of a certificate of registration, the certificate of registration becomes invalid without any action of the board.

(d) A certificate of registration may be reinstated by the board not later than three (3) years after its expiration if the applicant for reinstatement meets the requirements for reinstatement under IC 25-1-8-6(c).

(e) If a certificate of registration has been expired for more than three (3) years, the certificate of registration may be reinstated by the board if the holder meets the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 40. IC 25-22.5-5-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.5. (a) The board may:

(1) refuse to issue a license;

(2) issue an unlimited license; or

(3) issue a probationary license to an applicant for licensure by examination or endorsement;

if the applicant has had a license revoked under this chapter and is applying for a new license after the expiration of the period prescribed by IC 25-1-9-12.

(b) Before making a determination under subsection (a), the board may require the applicant to engage in full-scale assessments, formal training programs, supervised practice arrangements, formal testing, or other proof of competence as provided under section 2.7 of this chapter.

~~(b)~~ **(c)** When issuing a probationary license under this section, the board may require the individual holding the license to perform any of the following acts as a condition for the issuance of a probationary license:

(1) Submit a regular report to the board concerning matters that are the basis of probation.

(2) Limit the practice of the individual to the areas prescribed by the board.

(3) Continue or renew the individual's professional education.

(4) Perform or refrain from performing acts, as the board considers appropriate to the public interest or the rehabilitation of the individual.

(5) Engage in community restitution or service without compensation for a number of hours specified by the board.

(6) Any combination of these conditions.

~~(c)~~ **(d)** If the board determines following a hearing that the deficiency requiring disciplinary action concerning the individual has been remedied, the board shall remove any limitation placed on the individual's license under subsection ~~(b).~~ **(c).**

SECTION 41. IC 25-22.5-5-2.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.7. (a) The board may issue a provisional license to an applicant who:**

(1) has not practiced medicine or has not maintained continued competency for at least two (2) years immediately preceding the filing of an application for an initial license;

(2) has applied for reinstatement of a license under IC 25-1-8-6 that has been lapsed for at least three (3) years; or

(3) has submitted a request, petition, motion, or application to reactivate an inactive license previously issued by the board.

(b) For an applicant to qualify for a provisional license under subsection (a), the board must find the following:

(1) The applicant's practice is deficient in one (1) or more areas.

(2) The nature of the applicant's deficiency is such that it does not constitute a violation of the practice act, other than a de minimis violation, as determined by the board.

(3) The nature of the applicant's identified practice deficiency is such that it may be monitored until resolved to the satisfaction of the board.

(4) The applicant's practice deficiency did not result in death, serious harm, or other serious outcome for a patient or patients.

(5) The applicant's practice deficiency did not represent an intentional or willful commission or omission of an act that constitutes a violation of IC 25-1-9-4, IC 25-22.5, or the rules of the board.

(6) The applicant's practice deficiency did not involve sexual misconduct.

(c) As a condition for an applicant to hold a provisional license, the board may require full-scale assessments, engagement in formal training programs, supervised practice arrangements, formal testing, or other proof of competence.

(d) An applicant under this section shall develop an individualized practice reentry program subject to the approval of the board.

(e) The duration of a provisional license shall be determined by the board and reviewed at least annually by the board.

(f) When an applicant has demonstrated to the board that the applicant has satisfactorily met the terms of the individualized practice reentry program, the applicant shall be released from terms of the provisional license and is entitled to hold an unlimited license under IC 25-22.5-3-1.

(g) A provisional license is a nonrestricted license, and the issuance of a provisional license issued under this section may

not be construed as a disciplinary action taken by the board.

(h) The board may take disciplinary action against an applicant who holds a provisional license if, after a hearing, the board finds any of the following:

(1) Failure to comply with any term of the provisional license.

(2) Receipt of evidence from an appointed supervisor or workplace monitor that the holder of the provisional license has failed to make satisfactory progress or successfully complete the requirements of the provisional license.

(3) Receipt of evidence from an appointed supervisor or workplace monitor that the holder of the provisional license has failed to incorporate learned knowledge and skills into the holder's practice or has continued to demonstrate the same practice deficiency that led to the issuance of the provisional license.

(4) A violation of IC 25-1-9.

(i) The holder of a provisional license may petition the board for modification, withdrawal, or retirement of the provisional license.

SECTION 42. IC 25-22.5-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A license issued under this article expires ~~on June 30 of each odd-numbered year. Before June 30 of an odd-numbered year,~~ **biennially on the date established by the licensing agency under IC 25-1-5-4. On or before the date established by the licensing agency,** an applicant for renewal shall pay the biennial renewal fee set by the board under ~~IC 25-22.5-2-7.~~ **IC 25-1-8-2.**

(b) If the holder of a license does not renew the license ~~by June 30 of each odd-numbered year,~~ **on or before the date established by the licensing agency,** the license expires and becomes invalid without any action taken by the board.

(c) A license that becomes invalid under ~~this~~ subsection **(b)** may be reinstated by the board ~~up to~~ **not later than** three (3) years after the invalidation if the holder of the invalid license ~~pays:~~ **meets the requirements for reinstatement under IC 25-1-8-6(c).**

~~(1) the penalty fee set by the board under IC 25-22.5-2-7, and~~

~~(2) the renewal fee for the biennium.~~

~~(c)~~ **(d)** If a license that becomes invalid under this section is not reinstated by the board ~~within~~ **not later than** three (3) years ~~of~~ **after** its invalidation, the holder of the invalid license ~~may be required by the board to take an examination for competence before the board will reinstate the holder's license.~~ **must meet the requirements for reinstatement established by the board under IC 25-1-8-6(d).**

(e) A licensee whose license is reinstated under subsection (d) may be issued a provisional license under IC 25-22.5-5-2.7.

~~(d)~~ **(f)** The board may adopt rules under IC 25-22.5-2-7 establishing requirements for the reinstatement of a lapsed license.

SECTION 43. IC 25-23-1-19.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19.4. (a) As used in this section, "practitioner" has the meaning set forth in IC 16-42-19-5. However, the term does not include the following:

(1) A veterinarian.

(2) An advanced practice nurse.

(3) A physician assistant.

(b) An advanced practice nurse shall operate in collaboration with a licensed practitioner as evidenced by a practice agreement, or by privileges granted by the governing board of a hospital licensed under IC 16-21 with the advice of the medical staff of the hospital that sets forth the manner in which an advanced practice nurse and a licensed practitioner will cooperate, coordinate, and consult with each other in the provision of health care to their patients.

SECTION 44. IC 25-23.7-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. **(a)** An individual who applies to renew a license as an installer of a manufactured home must:

(1) furnish evidence showing successful completion of the continuing education requirements of this chapter; and

(2) pay the renewal fee established by the board.

(b) If the holder of a license does not renew the license before the date established by the licensing agency, the certificate expires without any action taken by the board.

(c) If a license has been expired for not more than three (3) years, the license may be reinstated by the board if the holder of the license meets the requirements for reinstatement under IC 25-1-8-6(c).

(d) If a license has been expired for more than three (3) years, the license may be reinstated by the board if the holder of the license meets the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 45. IC 25-24-1-14, AS AMENDED BY P.L.1-2006, SECTION 459, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) In each even-numbered year, the Indiana professional licensing agency shall issue a sixty (60) day notice of expiration and a license renewal application in accordance with ~~IC 25-1-5-4~~ **IC 25-1-2-6** to each optometrist licensed in Indiana. The application shall be mailed to the last known address of the optometrist. ~~and shall contain spaces for the insertion of the licensee's name, address, date, and number of the license, and such other information and questions as the board considers necessary. The licensee shall complete, sign, and return the application for license renewal, together with a fee set by the board under section 1 of this chapter, before April 1 of each even-numbered year.~~

~~(b) Upon the receipt of the application and fee, and upon the same being properly verified, the board shall issue a renewal of license.~~

~~(c)~~ **(b)** The payment of the renewal fee must be made on or before ~~April 1 of each even-numbered year.~~ **the date established by the licensing agency under IC 25-1-5-4.** The applicant's

license expires and becomes invalid if the applicant has not paid the renewal fee by ~~April 1 of each even-numbered year.~~ **the date established by the licensing agency.**

(c) The license shall be reinstated by the board ~~up to~~ **not later than** three (3) years after its expiration if the applicant for reinstatement meets the requirements under ~~IC 25-1-8-6.~~ **IC 25-1-8-6(c).**

(d) Reinstatement of an expired license after the expiration of the three (3) year period provided in subsection (c) is dependent upon ~~reexamination of the applicant by the board.~~ **the applicant satisfying the requirements for reinstatement under IC 25-1-8-6(d).**

(e) The board may classify a license as inactive if the board receives written notification from a licensee stating that the licensee will not maintain an office or practice optometry in Indiana. The renewal fee for an inactive license is one-half (1/2) the license renewal fee set by the board under section 1 of this chapter.

(f) The holder of an inactive license is not required to fulfill continuing education requirements set by the board. The board may issue a license to the holder of an inactive license if the applicant:

(1) pays the renewal fee set by the board under section 1 of this chapter;

(2) pays the reinstatement fee set by the board under section 1 of this chapter; and

(3) subject to IC 25-1-4-3, attests that the applicant obtained the continuing education required by the board under section 1 of this chapter for each year, or portion of a year during which the applicant's license has been classified as inactive.

SECTION 46. IC 25-26-13-14, AS AMENDED BY P.L.98-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) A pharmacist's license expires ~~July 1 of each even-numbered year,~~ **biennially on the date established by the licensing agency under IC 25-1-5-4,** unless renewed before that date.

(b) If an application for renewal is not filed and the required fee paid before ~~July 1 of each even-numbered year,~~ **the established biennial renewal date,** the license expires and becomes invalid ~~and may be reinstated only by meeting the requirements under IC 25-1-8-6.~~ **without any action taken by the board.**

(c) Subject to IC 25-1-4-3, a statement attesting that the pharmacist has met the continuing education requirements shall be submitted with the application for license renewal.

(d) If a pharmacist surrenders the pharmacist's license to practice pharmacy in Indiana, the board may subsequently consider reinstatement of the pharmacist's license upon written request of the pharmacist. The board may impose any conditions it considers appropriate to the surrender or to the reinstatement of a surrendered license. The practitioner may not voluntarily surrender the practitioner's license to the board without the written consent of the board if any disciplinary proceedings are pending against the practitioner under this chapter or IC 25-1-9.

(e) If a ~~person fails to renew a license that expires under subsection (a) within~~ **license has been expired for not more than** three (3) years, ~~after the date the license expires,~~ the board may reinstate the license only if the person

~~(1)~~ meets the requirements under ~~IC 25-1-8-6,~~ **IC 25-1-8-6(c).** ~~and~~

~~(2) passes an examination concerning state and federal laws that the board considers relevant to the practice of pharmacy.~~

(f) If a license has been expired for more than three (3) years, the license may be reinstated by the board if the holder of the license meets the requirements for reinstatement under IC 25-1-8-6(d).

~~(f)~~ **(g)** The board may require a person who applies for a license under subsection (e) to appear before the board and explain the reason the person failed to renew the person's license.

~~(g) If a person fails to renew a license that expires under subsection (a) within seven (7) years after the date the license expires, the person must apply for a new license.~~

SECTION 47. IC 25-26-13-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. (a) A pharmacy permit shall expire ~~on December 31 of the odd-numbered year next succeeding the date of issuance.~~ **biennially on a date established by the agency under IC 25-1-5-4.**

(b) If ~~an application for renewal has not been filed and the required fee paid by January 1 following the date of expiration, the~~ **a** pharmacy permit ~~shall lapse and~~ **lapses for not more than three (3) years, it** may be reinstated ~~only by paying the lapsed permit fee and the appropriate permit fee.~~ **by the board if the holder of the permit meets the requirements established under IC 25-1-8-6(c).**

(c) If a pharmacy permit has been expired for more than three (3) years, the permit may be reinstated by the board if the holder of the permit meets the requirements for reinstatement under IC 25-1-8-6(d).

~~(c)~~ **(d)** No pharmacy may be open for business after ~~December 31 of the renewal year, until the renewal is perfected.~~ **the established biennial renewal date until the permit is reinstated.**

SECTION 48. IC 25-26-17-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 4.5. A nonresident pharmacy that dispenses more than twenty-five percent (25%) of the pharmacy's total prescription volume as a result of an original prescription order received or solicited through the Internet:**

(1) must be accredited:

(A) through the National Association of Boards of Pharmacy's Verified Internet Pharmacy Practice Sites (VIPPS); or

(B) under a program that is substantially similar to the program under clause (A) and that has been approved by the board; and

(2) shall obtain and display a seal of approval for:

(A) the National Association of Boards of Pharmacy; or

(B) the substantially similar program described in subdivision (1)(B);

anywhere that the nonresident pharmacy advertises.

SECTION 49. IC 25-26-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. The board may deny, revoke, or suspend the registration of a nonresident pharmacy for:

(1) failing to comply with sections 3, 4, **4.5,** and 6 of this chapter; or

(2) conduct that causes serious bodily or psychological harm to a customer who lives in Indiana or purchased drugs from the nonresident pharmacy while in Indiana, if the board reports the matter to the pharmacy regulatory or licensing agency in the state in which the nonresident pharmacy is located.

SECTION 50. IC 25-26-21-2, AS ADDED BY P.L.122-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. **(a)** As used in this chapter, "home medical equipment" means ~~technologically sophisticated medical devices that may be used in a residence, including the following:~~

~~(1) Oxygen and oxygen delivery systems.~~

~~(2) Ventilators.~~

~~(3) Respiratory disease management devices.~~

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

~~(5) Electronic and computerized wheelchairs and seating systems.~~

~~(6) Apnea monitors.~~

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

~~(8) Low air loss cutaneous pressure management devices.~~

~~(9) Sequential compression devices.~~

~~(10) Feeding pumps.~~

~~(11) Home phototherapy devices.~~

~~(12) Infusion delivery devices.~~

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

~~(14) Hospital beds.~~

~~(15) Nebulizers.~~

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

(1) is prescribed by a health care provider;

(2) sustains, restores, or supplants a vital bodily function; and

(3) is technologically sophisticated and requires individualized adjustment or regular maintenance.

(b) The term does not include the following:

(1) Walkers.

(2) Ambulatory aids.

(3) Commodes.

(4) Any other home medical equipment determined by the board in rules adopted under section 7 of this chapter.

SECTION 51. IC 25-26-21-3, AS ADDED BY P.L.122-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "home medical equipment services" means the:

(1) sale, **rental, delivery, or installation; and**

~~(2) rental,~~

~~(3) delivery,~~

~~(4) installation,~~

~~(5)~~ **(2) installation,** maintenance, ~~or replacement, or~~ **and instruction in the use;**

~~(6) instruction in the use,~~

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

SECTION 52. IC 25-26-21-7, AS ADDED BY P.L.122-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The board may adopt rules under IC 4-22-2 to do the following:

(1) Specify home medical equipment ~~in addition to the home medical equipment set forth in section 2 of this chapter~~ that is **or is not** to be regulated under this chapter.

(2) Set standards for the licensure of providers.

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

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

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

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

SECTION 53. IC 25-26-21-8, AS AMENDED BY P.L.98-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) ~~After June 30, 2006,~~ A provider must be licensed by the board before the provider may provide home medical equipment services. If a provider provides home medical equipment services from more than one (1) location in Indiana, the provider must obtain a license under this chapter for each location.

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

(c) If the board determines that the applicant:

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

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

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

(d) A license issued under this chapter ~~is effective for not more than two (2) years, beginning on a date determined by the~~

~~board.~~ **expires biennially on a date established by the agency under IC 25-1-5-4.** An entity that is licensed under this chapter shall display the license or a copy of the license on the licensed premises.

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

(e) A license lapses without any action by the board if an application for renewal has not been filed and the required fee has not been paid by the established biennial renewal date.

(f) If a license under this chapter has been expired for not more than three (3) years, the license may be reinstated by the board if the holder of the license meets the requirements of IC 25-1-8-6(c).

(g) If a license under this chapter has been expired for more than three (3) years, the license may be reinstated by the board if the holder of the license meets the requirements for reinstatement under IC 25-1-8-6(d).

~~(f)~~ **(h)** The board may adopt rules that permit an out-of-state provider to obtain a license on the basis of reciprocity if:

(1) the out-of-state provider possesses a valid license granted by another state;

(2) the legal standards for licensure in the other state are comparable to the standards under this chapter; and

(3) the other state extends reciprocity to providers licensed in Indiana.

However, if the requirements for licensure under this chapter are more restrictive than the standards of the other state, the out-of-state provider must comply with the additional requirements of this chapter to obtain a reciprocal license under this chapter.

SECTION 54. IC 25-27.5-6-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 8. (a) This section applies to a physician assistant:**

(1) licensed in Indiana or licensed or authorized to practice in any other state or territory of the United States; or

(2) credentialed as a physician assistant by a federal employer.

(b) As used in this section, "emergency" means an event or a condition that is an emergency, a disaster, or a public health emergency under IC 10-14.

(c) A physician assistant who responds to a need for medical care created by an emergency may render care that the physician assistant is able to provide without the supervision required under this chapter, but with such supervision as is available.

(d) A physician who supervises a physician assistant providing medical care in response to an emergency is not required to meet the requirements under this chapter for a supervising physician.

SECTION 55. IC 25-28.5-1-22, AS AMENDED BY P.L.194-2005, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. (a) Every license or certificate of registration issued under this chapter expires on a date established by the licensing agency under IC 25-1-6-4 and shall be renewed biennially thereafter upon payment of the required renewal fees.

(b) Applications for renewal shall be filed with the commission in the form and manner provided by the commission. The application shall be accompanied by the required renewal fee. The commission, upon the receipt of the application for renewal and the required renewal fee, shall issue to the renewal applicant a license or certificate of registration in the category said applicant has previously held. Unless a license is renewed, a license issued by the commission expires on the date specified by the licensing agency under IC 25-1-6-4.

(c) A license or certificate of registration lapses without any action by the commission if an application for renewal has not been filed and the required fee has not been paid by the established biennial renewal date.

(d) If a license or certificate of registration has been expired for not more than three (3) years, the license or certificate of registration may be reinstated by the commission if the holder of the license or certificate of registration meets the requirements of IC 25-1-8-6(c).

(e) If a license or certificate of registration has been expired for more than three (3) years, the license or certificate of registration may be reinstated by the commission if the holder of the license or certificate of registration meets the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 56. IC 25-29-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The failure on the part of a podiatrist to renew a license as required does not deprive the individual of the right of renewal ~~until~~ **of** the individual's license. ~~has remained invalid for four (4) consecutive years.~~

(b) The board may ~~issue a renewed~~ **reinstate a** license to a podiatrist who has not renewed the individual's license ~~within~~ **not later than** four (4) years **after the expiration** if the individual

~~(1) passes an examination established by the board;~~

~~(2) pays a fee; and~~

~~(3) meets other conditions the board may establish.~~

meets the requirements under IC 25-1-8-6(c).

(c) If a license has been expired for more than four (4) years, the license may be reinstated by the board if the holder of the license meets the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 57. IC 25-30-1-16, AS AMENDED BY P.L.185-2007, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) Unless a license is renewed, a license issued under this chapter expires on a date specified by the licensing agency under IC 25-1-6-4 and expires every four (4) years after the initial expiration date. An applicant for renewal shall pay the renewal fee established by the board under IC 25-1-8-2 on or before the renewal date specified by the licensing agency.

(b) If the holder of a license does not renew the license by the date specified by the licensing agency, the license expires and becomes invalid without any action taken by the board.

(c) **If** a license **has been expired for not more than three (3) years, the license** may be reinstated ~~not later than thirty (30) days after the expiration of the license if the applicant does the following:~~

~~(1) Files an application for renewal with the board.~~

~~(2) Pays the renewal fee and restoration fee established under IC 25-1-8-6.~~

by the board if the holder of the license meets the requirements under IC 25-1-8-6(c).

(d) If a license has been expired for more than three (3) years, the license may be reinstated by the board if the holder of the license meets the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 58. IC 25-30-1.3-17, AS ADDED BY P.L.185-2007, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) Unless a license is renewed, a license issued under this chapter expires on a date specified by the licensing agency under IC 25-1-6-4 and expires every four (4) years after the initial expiration date. An applicant for renewal shall pay the renewal fee established by the board under IC 25-1-8-2 on or before the renewal date specified by the licensing agency.

(b) If the holder of a license does not renew the license by the date specified by the licensing agency, the license expires and becomes invalid without any action taken by the board.

(c) **If** a license **has been expired for not more than three (3) years, the license** may be reinstated ~~within three (3) years after the expiration of the license~~ if the ~~applicant does the following:~~

~~(1) Files an application for renewal with the board.~~

~~(2) Pays the fees established under IC 25-1-8-6.~~

holder of the license meets the requirements under IC 25-1-8-6(c).

(d) If a license has been expired for more than three (3) years, the license may be reinstated by the board if the holder of the license meets the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 59. IC 25-31-1-17, AS AMENDED BY P.L.194-2005, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) Unless a certificate is renewed, a certificate issued under this chapter expires on a date specified by the licensing agency under IC 25-1-6-4 and expires biennially after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the board and pay the renewal fee established by the board under IC 25-1-8-2 on or before the renewal date specified by the licensing agency.

(b) If the holder of a certificate does not renew the ~~license~~ **certificate** by the date specified by the licensing agency, the certificate expires and becomes invalid without the board taking any action.

(c) The failure on the part of a registrant to renew a certificate does not deprive the registrant of the right of renewal. ~~until the registrant's certificate has remained invalid during two (2) biennial renewal periods if the registrant pays the appropriate delinquent and renewal fees. After two (2) successive biennial renewal periods have elapsed renewal shall be denied.~~

(d) If a certificate has been expired for not more than three (3) years, the certificate may be reinstated by the board if the holder of the certificate meets the requirements for reinstatement under IC 25-1-8-6(c).

(e) If a certificate has been expired for more than three (3) years, the certificate may be reinstated by the board if the holder of the certificate meets the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 60. IC 25-32-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) The board shall prescribe and provide an application form for the use of all applicants for registration. The applicant shall deposit a fee in an amount set by the board at the time of making application for registration.

(b) All certificates of registration issued by the board expire ~~in each odd-numbered year on July 31.~~ **biennially on the date established by the licensing agency under IC 25-1-5-4.** A renewal fee specified by the board by rule must be paid biennially on or before ~~July 31 of each odd-numbered year.~~ **the date established by the licensing agency.** If the renewal fee is not paid on or before ~~July 31 of each odd-numbered year,~~ **the date established by the licensing agency,** the certificate of registration expires and becomes invalid without further action by the board. A certificate of registration that ~~expires and becomes invalid under this subsection may be reinstated by the board up to three (3) years after the invalidation~~ **has been expired for not more than three (3) years may be reinstated by the board** if the holder of the invalid certificate ~~pays.~~ **meets the requirements under IC 25-1-8-6(c).**

~~(1) the penalty fee set by the board; and~~

~~(2) the renewal fee for the biennium.~~

~~(c) A registration expired in excess of three (3) years is not eligible for renewal. If more than three (3) years have elapsed since the expiration of the registration, an environmental health specialist must:~~

~~(1) submit a new application;~~

~~(2) submit all appropriate application fees; and~~

~~(3) meet all requirements of this chapter.~~

(c) If a certificate of registration has been expired for more than three (3) years, the certificate of registration may be reinstated by the board if the holder of the certificate of registration meets the requirements for reinstatement under IC 25-1-8-6(d).

SECTION 61. IC 25-33-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) A license issued under this article expires ~~September 1 of each even-numbered year.~~ **on the date established by the licensing agency under IC 25-1-5-4.** A renewal fee established by the board under section 3 of this chapter must be paid by an applicant for renewal before the license expires.

(b) If the holder of an expired license fails to renew the license on or before the renewal date, the license expires and becomes invalid without any further action by the board.

(c) A license that expires and becomes invalid under this section may be renewed by the board ~~up to~~ **not more than** three (3) years after the date of the expiration of the license if the applicant meets the requirements under ~~IC 25-1-8-6.~~ **IC 25-1-8-6(c).**

(d) If a license has been invalidated under this section for more than three (3) years, the holder of the license may ~~receive a new license from the board only if the holder:~~

~~(1) meets the requirements under IC 25-1-8-6; and~~

~~(2) passes an examination concerning state and federal laws that the board considers relevant to the practice of psychology.~~ **have the license reinstated by meeting the requirements for reinstatement under IC 25-1-8-6(d).**

(e) The board may adopt rules establishing requirements for reinstatement of a license invalidated for more than three (3) years under this section.

(f) An initial license issued under this article is valid for the remainder of the renewal period in effect on the date of issuance.

(g) The board may require a person who applies for a license under subsection (d) to appear before the board and explain the reason the person failed to renew the person's license.

SECTION 62. IC 25-34.1-3-3.1, AS AMENDED BY P.L.157-2006, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3.1. (a) To obtain a salesperson license, an individual must:

(1) be at least eighteen (18) years of age before applying for a license and must not have a conviction for:

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

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

(C) a crime that indicates the individual has the propensity to endanger the public;

(2) have successfully completed courses in the principles, practices, and law of real estate, totaling eight (8) semester credit hours, or their equivalent, as a student at an accredited college or university or have successfully completed an approved salesperson course as provided in IC 25-34.1-5-5(a);

(3) apply for a license by submitting the fee prescribed by the commission and an application containing the name, address, and age of the applicant, the name under which the applicant intends to conduct business, the principal broker's address where the business is to be conducted, proof of compliance with subdivision (2), and any other information the commission requires;

(4) pass a written examination prepared and administered by the commission or its duly appointed agent; and

(5) submit not more than one (1) year after passing the written examination under subdivision (4) a sworn certification of a principal broker that the principal broker intends to associate with the applicant and maintain that association until notice of termination of the association is given to the commission.

(b) Upon the applicant's compliance with the requirements of subsection (a), the commission shall:

(1) issue a wall certificate in the name of the salesperson to the principal broker who certified the applicant's association with the principal broker; and

(2) issue to the salesperson a pocket identification card which certifies that the salesperson is licensed and indicates the expiration date of the license and the name of the principal broker.

~~(c) Notice of passing the commission examination serves as a temporary permit to act as a salesperson as soon as the applicant sends, by registered or certified mail with return receipt requested, the certification as prescribed in subsection (a)(5). The temporary permit expires the earliest of the following:~~

~~(1) The date the license is issued.~~

~~(2) The date the applicant's association with the certifying principal broker is terminated.~~

~~The temporary permit may not be renewed, extended, reissued, or otherwise effective for any association other than with the initial certifying principal broker.~~

~~(d)~~ **(c)** A salesperson shall:

(1) act under the auspices of the principal broker responsible for that salesperson's conduct under this article;

(2) be associated with only one (1) principal broker;

(3) maintain evidence of licensure in the office, branch office, or sales outlet of the principal broker;

(4) advertise only in the name of the principal broker, with the principal broker's name in letters of advertising larger than that of the salesperson's name; and

(5) not maintain any real estate office apart from that office provided by the principal broker.

~~(e)~~ **(d)** Upon termination of a salesperson's association with a principal broker, the salesperson's license shall be returned to the commission within five (5) business days. The commission shall reissue the license to any principal broker whose certification, as prescribed in subsection (a)(5), is filed with the commission, and the commission shall issue a new identification card to the salesperson reflecting that change.

~~(f)~~ **(e)** Unless a license is renewed, a salesperson license expires on a date specified by the licensing agency under IC 25-1-6-4 and expires biennially after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the board and pay the renewal fee established by the board under IC 25-1-8-2 on or before the renewal date specified by the licensing agency. If the holder of a license does not renew the license by the date specified by the licensing agency, the license expires and becomes invalid without the board taking any action.

(f) If ~~a salesperson~~ **the holder of a license under this section** fails to ~~reinstate a~~ **renew the license on or before the date specified by the licensing agency, the** license **may be reinstated by the commission** ~~within eighteen (18) months after expiration a~~ **if the holder of the** license, ~~may not be issued~~

~~unless that salesperson again complies with the requirements of subsection (a)(3), (a)(4), and (a)(5).~~ **not later than three (3) years after the expiration of the license, meets the requirements of IC 25-1-8-6(c).**

(g) If a license under this section has been expired for more than three (3) years, the license may be reinstated by the commission if the holder meets the requirements for reinstatement under IC 25-1-8-6(d).

~~(g)~~ **(h)** A salesperson license may be issued to an individual who is not yet associated with a principal broker but who otherwise meets the requirements of subsection (a). A license issued under this subsection shall be held by the commission in an unassigned status until the date the individual submits the certification of a principal broker required by subsection (a)(5). If the individual does not submit the application for licensure within one (1) year after passing the commission examination, the commission shall void the application and may not issue a license to that applicant unless the applicant again complies with the requirements of subsection (a)(4) through (a)(5).

~~(h)~~ **(i)** If an individual holding a salesperson license is not associated with a principal broker for two (2) successive renewal periods, the commission shall notify the individual in writing that the individual's license will become void if the individual does not associate with a principal broker within thirty (30) days from the date the notification is mailed. A void license may not be renewed.

SECTION 63. IC 25-34.1-3-4.1, AS AMENDED BY P.L.157-2006, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.1. (a) To obtain a broker license, an individual must:

(1) be at least eighteen (18) years of age before applying for a license and must not have a conviction for:

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

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

(C) a crime that indicates the individual has the propensity to endanger the public;

(2) have satisfied section 3.1(a)(2) of this chapter and have had continuous active experience for one (1) year immediately preceding the application as a licensed salesperson in Indiana. However, this one (1) year experience requirement may be waived by the commission upon a finding of equivalent experience;

(3) have successfully completed an approved broker course of study as prescribed in IC 25-34.1-5-5(b);

(4) apply for a license by submitting the application fee prescribed by the commission and an application specifying the name, address, and age of the applicant, the name under which the applicant intends to conduct business, the address where the business is to be conducted, proof of compliance with subdivisions (2) and (3), and any other information the commission requires;

(5) pass a written examination prepared and administered by the commission or its duly appointed agent; and

(6) within one (1) year after passing the commission examination, submit the license fee established by the commission under IC 25-1-8-2. If an individual applicant fails to file a timely license fee, the commission shall void the application and may not issue a license to that applicant unless that applicant again complies with the requirements of subdivisions (4) and (5) and this subdivision.

(b) To obtain a broker license, a partnership must:

(1) have as partners only individuals who are licensed brokers;

(2) have at least one (1) partner who:

(A) is a resident of Indiana; or

(B) is a principal broker under IC 25-34.1-4-3(b);

(3) cause each employee of the partnership who acts as a broker or salesperson to be licensed; and

(4) submit the license fee established by the commission under IC 25-1-8-2 and an application setting forth the name and residence address of each partner and the information prescribed in subsection (a)(4).

(c) To obtain a broker license, a corporation must:

(1) have a licensed broker:

(A) residing in Indiana who is either an officer of the corporation or, if no officer resides in Indiana, the highest ranking corporate employee in Indiana with authority to bind the corporation in real estate transactions; or

(B) who is a principal broker under IC 25-34.1-4-3(b);

(2) cause each employee of the corporation who acts as a broker or salesperson to be licensed; and

(3) submit the license fee established by the commission under IC 25-1-8-2, an application setting forth the name and residence address of each officer and the information prescribed in subsection (a)(4), a copy of the certificate of incorporation, and a certificate of good standing of the corporation issued by the secretary of state.

(d) To obtain a broker license, a limited liability company must:

(1) if a member-managed limited liability company:

(A) have as members only individuals who are licensed brokers; and

(B) have at least one (1) member who is:

(i) a resident of Indiana; or

(ii) a principal broker under IC 25-34.1-4-3(b);

(2) if a manager-managed limited liability company, have a licensed broker:

(A) residing in Indiana who is either a manager of the company or, if no manager resides in Indiana, the highest ranking company officer or employee in Indiana with authority to bind the company in real estate transactions; or

(B) who is a principal broker under IC 25-34.1-4-3(b);

(3) cause each employee of the limited liability company who acts as a broker or salesperson to be licensed; and

(4) submit the license fee established by the commission under IC 25-1-8-2 and an application setting forth the

information prescribed in subsection (a)(4), together with:

(A) if a member-managed company, the name and residence address of each member; or

(B) if a manager-managed company, the name and residence address of each manager, or of each officer if the company has officers.

(e) Licenses granted to partnerships, corporations, and limited liability companies are issued, expire, are renewed, and are effective on the same terms as licenses granted to individual brokers, except as provided in subsection (h), and except that expiration or revocation of the license of:

(1) any partner in a partnership or all individuals in a corporation satisfying subsection (c)(1); or

(2) a member in a member-managed limited liability company or all individuals in a manager-managed limited liability company satisfying subsection (d)(2);

terminates the license of that partnership, corporation, or limited liability company.

(f) Upon the applicant's compliance with the requirements of subsection (a), (b), or (c), the commission shall issue the applicant a broker license and an identification card which certifies the issuance of the license and indicates the expiration date of the license. The license shall be displayed at the broker's place of business.

~~(g) Notice of passing the commission examination serves as a temporary permit for an individual applicant to act as a broker as soon as the applicant sends, by registered or certified mail with return receipt requested, a timely license fee as prescribed in subsection (a)(6). The temporary permit expires the earlier of one (1) year after the date of the notice of passing the examination or the date a license is issued.~~

~~(h)~~ **(g)** Unless the license is renewed, a broker license expires, for individuals, on a date specified by the licensing agency under IC 25-1-6-4 and expires biennially after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the board and pay the renewal fee established by the commission under IC 25-1-8-2 on or before the renewal date specified by the licensing agency. If the holder of a license does not renew the license by the date specified by the licensing agency, the license expires and becomes invalid without the board taking any action.

(h) If ~~a broker~~ **the holder of a license under this section** fails to ~~reinstate a~~ **renew the license on or before the date specified by the licensing agency, the** license ~~within eighteen (18) months~~ **may be reinstated by the commission** ~~after expiration a~~ **if the holder of the** license, ~~may not be issued unless the broker again complies with the requirements of subsection (a)(4), (a)(5), and (a)(6).~~ **not later than three (3) years after the expiration of the license, meets the requirements of IC 25-1-8-6(c).**

(i) If a license under this section has been expired for more than three (3) years, the license may be reinstated by the commission if the holder meets the requirements for reinstatement under IC 25-1-8-6(d).

~~(i)~~ **(j)** A partnership, corporation, or limited liability company may not be a broker-salesperson except as authorized in IC 23-1.5. An individual broker who associates as a broker-salesperson with a principal broker shall immediately notify the commission of the name and business address of the principal broker and of any changes of principal broker that may occur. The commission shall then change the address of the broker-salesperson on its records to that of the principal broker.

SECTION 64. IC 25-35.6-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) Licenses issued under this article expire, if not renewed, ~~before January 1 of each even-numbered year.~~ **on the date established by the licensing agency under IC 25-1-5-4.**

(b) Every person licensed under this article shall pay a fee for renewal of the person's license before ~~January 1 of each even-numbered year. The board may reinstate a lapsed license upon the person's meeting the requirements under IC 25-1-8-6. No person who requests reinstatement of the person's license, whose license has expired, shall be required to submit to examination as a condition to reinstatement, if the application for reinstatement is made within three (3) years from the date of the expiration.~~ **the date established by the licensing agency.**

(c) If the holder of a license fails to renew the license on or before the date specified by the licensing agency, the license may be reinstated by the board if the holder of the license, not later than three (3) years after the expiration of the license, meets the requirements of IC 25-1-8-6(c).

(d) If a license has been expired for more than three (3) years, the license may be reinstated by the board if the holder meets the requirements for reinstatement under IC 25-1-8-6(d).

~~(c)~~ **(e)** A suspended license is subject to expiration and may be renewed or reinstated as provided in this section, but a renewal or reinstatement shall not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other conduct or activity in violation of the order or judgment by which the license was suspended.

~~(d) Any person who fails to renew the person's license within three (3) years after the date of its expiration may not renew it, and it may not be subsequently restored, reissued, or reinstated, but the person may apply for and obtain a new license if the person meets the requirements of this article.~~

SECTION 65. IC 35-48-7-2.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 2.9. (a) As used in this chapter, "dispense" has the meaning set forth in IC 35-48-1-12.**

(b) The term does not apply to the following:

(1) A drug administered directly to a patient.

(2) A drug dispensed by a practitioner, if the quantity dispensed is not more than a seventy-two (72) hour supply of a controlled substance listed in schedule II, III, IV, or V as set forth in IC 35-48-3-9.

SECTION 66. IC 35-48-7-3 IS REPEALED [EFFECTIVE JANUARY 1, 2009].

SECTION 67. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 25-7-6-13; IC 25-7-6-15;

IC 25-8-2-3.5; IC 25-8-2-17; IC 25-8-4-20; IC 25-8-4-27; IC 25-8-4-28; IC 25-14.5-6-5; IC 25-15-6-6; IC 25-21.5-8-5; IC 25-26-13-8.

(Reference is to SB 302 as reprinted February 27, 2008.)

Mishler, Chair	Welch
Simpson	Frizzell
Senate Conferees	House Conferees

Roll Call 335: yeas 45, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 350–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 350 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 12-15-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A provider that is an acute care hospital licensed under IC 16-21, a state mental health institution under IC 12-24-1-3, or a private psychiatric institution licensed under IC 12-25 is a disproportionate share provider if the provider meets either of the following conditions:

(1) The provider's Medicaid inpatient utilization rate is at least one (1) standard deviation above the mean Medicaid inpatient utilization rate for providers receiving Medicaid payments in Indiana. However, the Medicaid inpatient utilization rate of providers whose low income utilization rate exceeds twenty-five percent (25%) must be excluded in calculating the statewide mean Medicaid inpatient utilization rate.

(2) The provider's low income utilization rate exceeds twenty-five percent (25%).

(b) An acute care hospital licensed under 16-21 is a municipal disproportionate share provider if the hospital:

(1) has a Medicaid utilization rate greater than one percent (1%); and

(2) is established and operated under IC 16-22-2 or IC 16-23.

(c) A community mental health center: ~~that:~~

(1) **that** is identified in IC 12-29-2-1;

(2) ~~receives funding under:~~ **for which a county provides funds under:**

(A) IC 12-29-1-7(b) before January 1, 2004; or

(B) ~~IC 12-29-2-20(c)~~ **IC 12-29-2-20(d)** after December 31, 2003;

or from other county sources; and

(3) **that** provides inpatient services to Medicaid patients;

is a community mental health center disproportionate share provider if the community mental health center's Medicaid inpatient utilization rate is greater than one percent (1%).

(d) A disproportionate share provider under IC 12-15-17 must have at least two (2) obstetricians who have staff privileges and who have agreed to provide obstetric services under the Medicaid program. For a hospital located in a rural area (as defined in Section 1886 of the Social Security Act), an obstetrician includes a physician with staff privileges at the hospital who has agreed to perform nonemergency obstetric procedures. However, this obstetric service requirement does not apply to a provider whose inpatients are predominantly individuals less than eighteen (18) years of age or that did not offer nonemergency obstetric services as of December 21, 1987.

(e) The determination of a provider's status as a disproportionate share provider under this section shall be based on utilization and revenue data from the most recent year for which an audited cost report from the provider is on file with the office.

SECTION 2. IC 12-15-18-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5.1. (a) For state fiscal years ending on or after June 30, 1998, the trustees and each municipal health and hospital corporation established under IC 16-22-8-6 are authorized to make intergovernmental transfers to the Medicaid indigent care trust fund in amounts to be determined jointly by the office and the trustees, and the office and each municipal health and hospital corporation.

(b) The treasurer of state shall annually transfer from appropriations made for the division of mental health and addiction sufficient money to provide the state's share of payments under IC 12-15-16-6(c)(2).

(c) The office shall coordinate the transfers from the trustees and each municipal health and hospital corporation established under IC 16-22-8-6 so that the aggregate intergovernmental transfers, when combined with federal matching funds:

(1) produce payments to each hospital licensed under IC 16-21 that qualifies as a disproportionate share provider under IC 12-15-16-1(a); and

(2) both individually and in the aggregate do not exceed limits prescribed by the federal Centers for Medicare and Medicaid Services.

The trustees and a municipal health and hospital corporation are not required to make intergovernmental transfers under this section. The trustees and a municipal health and hospital corporation may make additional transfers to the Medicaid indigent care trust fund to the extent necessary to make additional payments from the Medicaid indigent care trust fund apply to a prior federal fiscal year as provided in IC 12-15-19-1(b).

(d) A municipal disproportionate share provider (as defined in IC 12-15-16-1) shall transfer to the Medicaid indigent care trust fund an amount determined jointly by the office and the municipal disproportionate share provider. A municipal

disproportionate share provider is not required to make intergovernmental transfers under this section. A municipal disproportionate share provider may make additional transfers to the Medicaid indigent care trust fund to the extent necessary to make additional payments from the Medicaid indigent care trust fund apply to a prior federal fiscal year as provided in IC 12-15-19-1(b).

(e) A county making a payment under:

(1) IC 12-29-1-7(b) before January 1, 2004; or

(2) ~~IC 12-29-2-20(c)~~ **IC 12-29-2-20(d)** after December 31, 2003;

or from other county sources to a community mental health center qualifying as a community mental health center disproportionate share provider shall certify that the payment represents expenditures that are eligible for federal financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county in making this certification.

SECTION 3. IC 12-29-2-2, AS AMENDED BY P.L.224-2007, SECTION 102, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: 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) Except as provided in subsection (c), for 2005 and each year thereafter, the result equal to:

(A) the amount that was levied 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) the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2.

(c) This subsection applies only to property taxes first due and payable after December 31, 2007. This subsection applies only to a county for which a county adjusted gross income tax rate is first imposed or is increased in a particular year under IC 6-3.5-1.1-24 or a county option income tax rate is first imposed or is increased in a particular year under IC 6-3.5-6-30. Notwithstanding any provision in this section or any other section of this chapter, for a county subject to this subsection, the county's maximum property tax levy under this section to fund the operation of community mental health centers for the ensuing calendar year is equal to the county's maximum property tax levy to fund the operation of community mental health centers for the current calendar year.

(d) Except as provided in subsection (h), the county shall pay to the division of mental health and addiction the part of the funding determined under subsection (b) that is appropriated solely for funding the operations of a community health center. The funding required under this section for operations of a community health center shall be paid by the county to the division of mental health and addiction. These funds shall be used solely for satisfying the non-federal share of medical assistance payments to community mental health centers serving the county for:

(1) allowable administrative services; and

(2) community mental health rehabilitation services.

All other funding appropriated for the purposes allowed under section 1.2(b)(1) of this chapter shall be paid by the county directly to the community mental health center semiannually at the times that the payments are made under subsection (e).

(e) The county shall appropriate and disburse the funds for operations semiannually not later than December 1 and June 1 in an amount equal to the amount determined under subsection (b) and requested in writing by the division of mental health and addiction. The total funding amount paid to the division of mental health and addiction for a county for each calendar year may not exceed the amount that is calculated in subsection (b) and set forth in writing by the division of mental health and addiction for the county. Funds paid to the division of mental health and addiction by the county shall be submitted by the county in a timely manner after receiving the written request from the division of mental health and addiction, to ensure current year compliance with the community mental health rehabilitation program and any administrative requirements of the program.

(f) The division of mental health and addiction shall ensure that the non-federal share of funding received from a county under this program is applied only for matching federal funds for the designated community mental health centers to the extent a center is eligible to receive county funding under IC 12-21-2-3(a)(5)(E).

(g) The division of mental health and addiction:

(1) shall first apply state funding to a community mental health center's non-federal share of funding

under this program; and

(2) may next apply county funding received under IC 12-29-2-2 to any remaining non-federal share of funding for the community mental health center.

The division shall distribute any excess state funds that exceed the community mental health rehabilitation services non-federal share applied to a community mental health center that is entitled to the excess state funds.

(h) The health and hospital corporation of Marion County created by IC 16-22-8-6 may make payments to the division for the operation of a community mental health center as described in this chapter.

SECTION 4. IC 12-29-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. (a) A community mental health center that:

(1) is certified by the division of mental health and addiction; **and**

~~(2) receives county funding from one (1) or more counties under this chapter; and~~

~~(3)~~ **(2)** is not administered by a hospital licensed under IC 16-21-2;

shall include a member of a county fiscal body, or a county fiscal body's designee, on the center's governing board. The member shall be selected by the county fiscal body of the county where the community mental health center maintains its corporate mailing address. The county fiscal body representative must reside in one (1) of the counties in the community mental health center's primary service area.

(b) A community mental health center that:

(1) is certified by the division of mental health and addiction; **and**

(2) ~~receives county funding from one (1) or more counties under this chapter; and~~

~~(3)~~ is administered by a hospital licensed under IC 16-21-2;

shall include a member of a county fiscal body, or a county fiscal body's designee, on the center's advisory board. The member shall be selected by the county fiscal body of the county where the community mental health center maintains its corporate mailing address. The county fiscal body representative must reside in one (1) of the counties in the community mental health center's primary service area.

SECTION 5. IC 12-29-2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. A community mental health center that is certified by the division of mental health and addiction shall provide an annual report to the fiscal body of each county **located in the community mental health center's primary service area.** ~~from which the center receives funding under this chapter.~~

SECTION 6. IC 12-29-2-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. (a) **The county payment for operations of a community mental health center shall be paid by the county treasurer to the division as described in section 2 of this chapter.**

(b) To the extent that money is appropriated by a county for purposes allowed under section 1.2(b)(1) of this chapter or is no longer required or requested for programs under section 2 of this chapter, on the first Monday in October, the county auditor shall certify to:

(1) the division of mental health and addiction, for a community mental health center; and

(2) the president of the board of directors of each community mental health center;

the amount of money that will be provided to the community mental health center under this chapter.

~~(b)~~ **(c)** The county payment to the community mental health center shall be paid by the county treasurer to the treasurer of each community mental health center's board of directors in the following manner:

(1) One-half (1/2) of the county payment to the community mental health center shall be made on the second Monday in July.

(2) One-half (1/2) of the county payment to the community mental health center shall be made on the second Monday in December.

~~(c)~~ **(d)** A county making a payment under this section or from other county sources to a community mental health center that qualifies as a community mental health center disproportionate share provider under IC 12-15-16-1 shall certify that the payment represents expenditures eligible for financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county in making this certification.

~~(d)~~ **(e)** Payments by the county fiscal body:

(1) must be in the amounts:

(A) determined by sections 2 through 5 of this chapter; and

(B) authorized by sections 1.2 and 13 of this chapter; and

(2) are in place of grants from agencies supported within the county solely by county tax money.

SECTION 7. IC 12-29-4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 4. SEA 350-2008 Moratorium

Sec. 1. As used in this chapter, "restricted rules" means the rules that the United States Secretary of Health and Human Services is restricted from implementing under the congressional moratorium enacted as part of H.R. 2206 (Iraq War Supplement; May 25, 2007), including the following:

(1) The proposed rule published on January 18, 2007, in volume 72 of the Federal Register (relating to 42 CFR, parts 433, 447, and 457).

(2) The final form of the proposed rule described in subdivision (1) as published in volume 72 of the Federal Register on May 29, 2007.

Sec. 2. Notwithstanding any other law, the additions and amendments to the Indiana Code set forth in SEA 350-2008 are applicable only to the extent that:

(1) the congressional moratorium on the implementation of the restricted rules by the United States Secretary of Health and Human Services is not

extended; and

(2) the restricted rules are implemented.

SECTION 8. **An emergency is declared for this act.**

(Reference is to ESB 350 as printed February 22, 2008.)

Lawson, Chair	Goodin
Broden	Noe
Senate Conferees	House Conferees

Roll Call 336: yeas 44, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 329–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 329 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 33-23-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. **(a) Except as provided in subsection (b),** a magistrate may:

(1) participate in the public employees' retirement fund as provided in IC 5-10.3; or

(2) elect to remain in the judges' retirement system under IC 33-38 if the magistrate had previously participated in the system.

(b) A person who:

(1) is serving as a full-time magistrate on July 1, 2010, and makes an election under IC 33-38-8-10.5; or

(2) begins serving as a full-time magistrate after July 1, 2010;

shall, beginning January 1, 2011, participate in the judges' 1985 benefit system under IC 33-38-8.

SECTION 2. IC 33-34-8-3, AS AMENDED BY P.L.174-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) Payment for all costs made as a result of proceedings in a small claims court shall be to the _____ Township of Marion County Small Claims Court (with the name of the township inserted). The court shall issue a receipt for all money received on a form numbered serially in duplicate. All township docket fees and late fees received by the court shall be paid to the township trustee at the close of each month.

(b) The court shall:

(1) semiannually distribute to the auditor of state:

(A) all automated record keeping fees (IC 33-37-5-21) received by the court for deposit in the state user fee fund established under IC 33-37-9;

(B) all public defense administration fees collected by the court under IC 33-37-5-21.2 for deposit in the state general fund;

(C) **sixty percent (60%) of** all court administration fees collected by the court under IC 33-37-5-27 for deposit in the state general fund;

(D) all judicial insurance adjustment fees collected by the court under IC 33-37-5-25 for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2; and

(E) seventy-five percent (75%) of all judicial salaries fees collected by the court under IC 33-37-5-26 for deposit in the state general fund; and

(2) distribute monthly to the county auditor all document storage fees received by the court.

The remaining twenty-five percent (25%) of the judicial salaries fees described in subdivision (1)(E) shall be deposited monthly in the township general fund of the township in which the court is located. The county auditor shall deposit fees distributed under subdivision (2) into the clerk's record perpetuation fund under IC 33-37-5-2.

(c) The court semiannually shall pay to the township trustee of the township in which the court is located the remaining forty percent (40%) of the court administration fees described under subsection (b)(1)(C) to fund the operations of the small claims court in the trustee's township.

SECTION 3. IC 33-37-5-27, AS AMENDED BY P.L.80-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: 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 ~~three~~ **five** dollars ~~($3).~~ **($5).**

(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 ~~three~~ **five** dollars ~~($3).~~ **($5).**

SECTION 4. IC 33-37-7-2, AS AMENDED BY P.L.174-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-3(a) (juvenile costs fees).

(4) IC 33-37-4-4(a) (civil costs fees).

(5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).

(6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).

(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).

(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance account established by IC 4-23-25-11(i) one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in the county general fund.

(2) One hundred percent (100%) of the small claims garnishee service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.

(i) **This subsection does not apply to court administration fees collected in small claims actions filed in a court described in IC 33-34.** The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The judicial salaries fees collected under IC 33-37-5-26.

(3) The DNA sample processing fees collected under IC 33-37-5-26.2.

(4) The court administration fees collected under IC 33-37-5-27.

(j) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(k) The proceeds of the service fee collected under IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(l) The proceeds of the garnishee service fee collected under IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

SECTION 5. IC 33-37-7-9, AS AMENDED BY P.L.174-2006, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state ~~eight~~ **nine** million two hundred seventy-seven thousand twenty-three dollars ~~($8,277,023)~~ **($9,277,023)** for distribution under subsection (b).

(b) On June 30 and on December 31 of each year, the treasurer of state shall deposit into:

(1) the family violence and victim assistance fund established by IC 12-18-5-2 an amount equal to eight and ~~ninety-nine hundredths~~ **three-hundredths** percent ~~(8.99%);~~ **(8.03%);**

(2) the Indiana judges' retirement fund established by IC 33-38-6-12 an amount equal to ~~thirty-one~~ **thirty-eight** and ~~eighteen~~ **fifty-five** hundredths percent ~~(31.18%);~~ **(38.55%);**

(3) the law enforcement academy building fund established by IC 5-2-1-13 an amount equal to two and ~~eighty-six~~ **fifty-six** hundredths percent ~~(2.86%);~~ **(2.56%);**

(4) the law enforcement training fund established by IC 5-2-1-13 an amount equal to ~~eleven~~ **ten** and ~~fifty-one~~ **twenty-seven** hundredths percent ~~(11.51%);~~ **(10.27%);**

(5) the violent crime victims compensation fund established by IC 5-2-6.1-40 an amount equal to ~~thirteen~~ **eleven** and ~~thirty-seven~~ **ninety-three** hundredths percent ~~(13.37%);~~ **(11.93%);**

(6) the motor vehicle highway account an amount equal to ~~twenty-one~~ **nineteen** and ~~eighty-four~~ **forty-nine** hundredths percent ~~(21.84%);~~ **(19.49%);**

(7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to ~~twenty-seven~~ **twenty-five** hundredths percent ~~(.27%);~~ **(0.25%);**

(8) the Indiana judicial center drug and alcohol programs fund established by IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to one and ~~eighty-two~~ **sixty-three** hundredths percent ~~(1.82%);~~ **(1.63%);** and

(9) the DNA sample processing fund established under IC 10-13-6-9.5 for the funding of the collection, shipment, analysis, and preservation of DNA samples and the conduct of a DNA data base program under IC 10-13-6 an amount equal to ~~eight~~ **seven** and ~~sixteen~~ **twenty-nine** hundredths percent ~~(8.16%);~~ **(7.29%);**

of the amount transferred by the auditor of state under subsection (a).

(c) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state for deposit into the public defense fund established under IC 33-40-6-1:

(1) after June 30, 2004, and before July 1, 2005, one million seven hundred thousand dollars ($1,700,000); and

(2) after June 30, 2005, two million seven hundred thousand dollars ($2,700,000).

SECTION 6. IC 33-38-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. As used in this chapter, "participant" means a judge who participates in the fund. **After December 31, 2010, "participant" means a judge or full-time magistrate who participates in the fund.**

SECTION 7. IC 33-38-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. As used in this chapter, "services" means the period beginning on the first day a person first becomes a judge ~~whether the date is before, on, or after March 11, 1953,~~ **or, after December 31, 2010, a judge or full-time magistrate,** and ending on the date under consideration and includes all intervening employment as a judge **or, after December 31, 2010, a judge or full-time magistrate.**

SECTION 8. IC 33-38-6-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 25. (a) A judge **or, after December 31, 2010, a judge or full-time magistrate,** is entitled to a month of service credit for services performed in any fraction of a calendar month. However, a judge **or, after December 31, 2010, a judge or full-time magistrate,** is not entitled to more than one (1) month of credit for services performed in a calendar month.

(b) Except as otherwise provided in this chapter, if a judge is elected or appointed and serves one (1) or more terms or part of a term, then retires from office but at a later period or periods is appointed or elected and serves as judge, the judge shall pay into the fund during all the periods served as judge, whether the periods are served consecutively or not.

(c) Except as otherwise provided in this chapter, a judge is not required to pay into the fund:

(1) at any time when the judge is not serving as judge; or

(2) during any period of service as a senior judge under IC 33-23-3.

(d) Except as otherwise provided in this chapter, after December 31, 2010, a full-time magistrate:

(1) shall pay into the fund during all periods served as a full-time magistrate, whether the periods are served consecutively or not; and

(2) is not required to pay into the fund at any time when the magistrate is not serving as a full-time magistrate.

SECTION 9. IC 33-38-7-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. (a) This section applies only to a person who:

(1) is a judge participating under this chapter;

(2) before becoming a judge was a member of an Indiana public employees' retirement fund;

(3) received credited service under an Indiana public employees' retirement fund for the employment described in subdivision (2), and the credited service is not eligible for ~~prior~~ service credit under section 18 of this chapter;

(4) has not attained vested status under a public employees' retirement fund for the employment described in subdivision (2); and

(5) has at least eight (8) years of service credit in the judges' retirement system.

(b) If a person becomes a participant in the judges' 1977 benefit system under this chapter, credit for service described in subsection (a) shall be granted under this chapter by the board if:

(1) the prior service was credited under an Indiana public employees' retirement fund; and

(2) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the 1977 benefit system as the total actual cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the 1977 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) If the requirements of subsection (b) are satisfied, the appropriate board shall transfer from the retirement fund described in subsection (a)(2) to the judges' 1977 benefit system the amount credited to the judge's annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(f) The amount a participant must contribute to the judges' 1977 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1977 benefit system by the appropriate board under subsection (e).

(g) If the requirements of subsection (b) are satisfied, credit for prior service in a public employees' retirement fund is waived.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(i) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 10. IC 33-38-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. This chapter applies only to an individual who:

(1) begins service as a judge after August 31, 1985;

(2) is serving as a full-time magistrate on July 1, 2010, and makes an election under section 10.5 of this chapter; or

(3) begins service as a full-time magistrate after July 1, 2010.

SECTION 11. IC 33-38-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. As used in this chapter, "participant" means a judge who participates in the fund. **After December 31, 2010, "participant" means a judge or full-time magistrate who participates in the fund.**

SECTION 12. IC 33-38-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. As used in this chapter, "services" means the period beginning on the first day a person first becomes a judge ~~whether the date is before, on, or after March 11, 1953,~~ **or, after December 31, 2010, a judge or full-time magistrate,** and ending on the date under consideration and includes all intervening employment as a judge **or, after December 31, 2010, a judge or full-time magistrate.**

SECTION 13. IC 33-38-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. **(a)** A person who:

(1) begins service as a judge after August 31, 1985; and

(2) is not a participant in the fund;

shall become a participant in the fund.

(b) A person who is serving as a full-time magistrate on July 1, 2010, and makes an election under section 10.5 of this chapter is, beginning January 1, 2011, a participant in the judges' 1985 benefit system under this chapter.

(c) A person who begins serving as a full-time magistrate after July 1, 2010, is a participant in the judges' 1985 benefit system under this chapter beginning on the later of the following:

(1) January 1, 2011.

(2) The date the person begins service as a full-time magistrate.

SECTION 14. IC 33-38-8-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 10.5. A person who is serving as a full-time magistrate on July 1, 2010, may elect to become a member of the judges' 1985 benefit system under this chapter. An election under this section:**

(1) must be made in writing;

(2) must be filed with the board, on a form prescribed by the board, before October 1, 2010; and

(3) is irrevocable.

SECTION 15. IC 33-38-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) A participant shall make contributions to this fund of six percent (6%) of each payment of salary received for services as judge **or, after December 31, 2010, as a judge or full-time magistrate.** However, the employer may elect to pay the contribution for the participant as a pickup under Section 414(h) of the Internal Revenue Code.

(b) Participants' contributions, other than participants' contributions paid by the employer, shall be deducted from the monthly salary of each participant by the auditor of state and by the county auditor and credited to the fund as provided in IC 33-38-6-21 and IC 33-38-6-22. However, a contribution is not required:

(1) because of any salary received after the participant has contributed to the fund for twenty-two (22) years; or

(2) during any period that the participant is not serving as judge **or, after December 31, 2010, as a judge or full-time magistrate.**

SECTION 16. IC 33-38-8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) A participant who:

(1) ceases service:

(A) as a judge; **or**

(B) after December 31, 2010, as a judge or full-time magistrate;

other than by death or disability; and

(2) is not eligible for a retirement benefit under this chapter;

is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. The date on which the withdrawal begins may not be before the date of final termination of employment or the date thirty (30) days before the receipt of the application by the board.

(b) Upon the withdrawal, the participant is entitled to receive the total sum contributed, payable within sixty (60) days from **the** date of **the** withdrawal application or in monthly installments as the participant may elect.

SECTION 17. IC 33-38-8-13, AS AMENDED BY P.L.28-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. A participant whose employment as **a** judge **or, after December 31, 2010, as a judge or full-time magistrate,** is terminated is entitled to a retirement benefit computed under section 14 of this chapter, beginning on the date specified by the participant in a written application, if the following conditions are met:

(1) The date on which the benefit begins is not:

(A) before the date of final termination of employment of the participant; or

(B) the date thirty (30) days before the receipt of the application by the board.

(2) The participant:

(A) is at least sixty-two (62) years of age and has at least eight (8) years of service credit;

(B) is at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85); or

(C) has become permanently disabled.

(3) The participant is not receiving a salary from the state for services currently performed as:

(A) a judge (as defined in IC 33-38-6-7); or

(B) a magistrate under IC 33-23-5.

SECTION 18. IC 33-38-8-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) A participant who:

(1) applies for a retirement benefit; and

(2) is at least:

(A) sixty-five (65) years of age; or

(B) fifty-five (55) years of age and meets the requirements under section 13(2)(B) of this chapter;

is entitled to an annual retirement benefit as calculated in subsection (c).

(c) The annual retirement benefit for a participant who meets the requirements of subsection (b) equals the product of:

(1) the **applicable** salary ~~that was paid to the participant at the time of separation from service;~~ **determined under subsection (e);** multiplied by

(2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service.

(d) Except as provided in section 13(2)(B) of this chapter and subsection (b)(2)(B), if a participant who applies for a retirement benefit has not attained sixty-five (65) years of age, the participant is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-tenth percent (0.1%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday. This

reduction does not apply to:

(1) participants who are separated from service because of permanent disability;

(2) survivors of participants who die while in service after August 1, 1992; or

(3) survivors of participants who die while not in service but while entitled to a future benefit.

(e) The applicable salary is one (1) of the following:

(1) The salary that was being paid to the participant at the time of the participant's separation from service for:

(A) a participant who applies to receive a retirement benefit from the fund before January 1, 2010; or

(B) a participant who:

(i) before January 1, 2010, separates from service;

(ii) is entitled to receive a retirement benefit from the fund, but does not apply before January 1, 2010, to receive a retirement benefit; and

(iii) does not earn any service credit in the fund after December 31, 2009.

(2) The salary being paid for the office that the participant held at the time of the participant's separation from service for a participant who:

(A) applies to receive a benefit after December 31, 2009; and

(B) is not a participant described in subdivision (1)(B).

SECTION 19. IC 33-38-8-17, AS AMENDED BY P.L.99-2007, SECTION 199, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) The surviving spouse or child or children, as designated by the participant, of a participant who:

(1) dies; and

(2) on the date of death:

(A) was receiving benefits under this chapter;

(B) had completed at least eight (8) years of service and was in service as a judge **or, after December 31, 2010, as a judge or full-time magistrate;**

(C) had a permanent disability; or

(D) had completed at least eight (8) years of service, was not still in service as a judge **or, after December 31, 2010, as a judge or full-time magistrate,** and was entitled to a future benefit;

are entitled, regardless of the participant's ages, to the benefit prescribed by subsection (c).

(c) The surviving spouse or child or children, as designated under subsection (b), are entitled to a benefit equal to the greater of:

(1) fifty percent (50%) of the amount of the retirement benefit the participant was drawing at the time of death, or to which the participant would have been entitled had the participant retired and begun receiving retirement benefits on the date of death, with reductions as necessary under section 14(d) of this chapter; or

(2) the amount determined under the following table:

Year	Amount
July 1, 1995, to June 30, 1996	$10,000
July 1, 1996, to June 30, 1997	$11,000
July 1, 1997, and thereafter	$12,000

(d) The benefit payable to a surviving spouse or surviving child or children under subsection (c) is subject to the following:

(1) A surviving spouse is entitled to receive the benefit for life.

(2) The total monthly benefit payable to a surviving child or children is equal to the same monthly benefit that was to have been payable to the surviving spouse.

(3) If there is more than one (1) child designated by the participant, then the children are entitled to share the benefit in equal monthly amounts.

(4) A child entitled to a benefit shall receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(5) Upon the cessation of benefits to one (1) designated child, if there are one (1) or more other children then surviving and still entitled to benefits, the remaining children shall share equally the benefit. If the surviving spouse of the participant is surviving upon the cessation of benefits to all designated children, the surviving spouse shall then receive the benefit for the remainder of the spouse's life.

(6) The benefit shall be payable to the participant's surviving spouse if any of the following occur:

(A) No child or children named as a beneficiary by a participant survives the participant.

(B) No child or children designated by the participant is or are entitled to a benefit due to the age of the child or children at the time of death of the participant.

(C) A designation is not made.

(7) A benefit payable to a surviving child or children may be paid to a trust or a custodian account under IC 30-2-8.5, established for the surviving child or children as designated by the participant.

SECTION 20. IC 33-38-8-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. (a) A judge **or, after December 31, 2010, a judge or full-time magistrate,** is entitled to a month of service credit for services performed in any fraction of a calendar month. However, a judge **or, after December 31, 2010, a judge or full-time magistrate,** is not entitled to more than one (1) month of credit for services performed in a calendar month.

(b) Except as otherwise provided in this chapter, if a judge is elected or appointed and serves one (1) or more terms or part of a term then retires from office but at a later period or periods is appointed or elected and serves as judge, the judge shall pay into

the fund during all the periods served as judge, whether the periods are served consecutively or not.

(c) Except as otherwise provided in this chapter, a judge is not required to pay into the fund:

(1) at any time when the judge is not serving as judge; or

(2) during any period of service as a senior judge under IC 33-23-3.

(d) Except as otherwise provided in this chapter, after December 31, 2010, a full-time magistrate:

(1) shall pay into the fund during all periods served as a full-time magistrate, whether the periods are served consecutively or not; and

(2) is not required to pay into the fund at any time when the magistrate is not serving as a full-time magistrate.

SECTION 21. IC 33-38-8-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. (a) This section applies to a person who:

(1) is a judge participating under this chapter;

(2) ~~before becoming a judge~~ was appointed by a court to serve as a full-time referee, full-time commissioner, or, **before January 1, 2011,** full-time magistrate, **either:**

(A) before becoming a judge; or

(B) after leaving an elected term on the bench;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) received credited service under the public employees' retirement fund for the employment described in subdivision (2).

(b) If a person becomes a participant **as a judge** in the judges' 1985 benefit system under section 1 of this chapter, credit for ~~prior~~ service by the judge as a full-time referee, full-time commissioner, or, **before January 1, 2011,** full-time magistrate shall be granted under this chapter by the board if:

(1) the ~~prior~~ service was credited under the public employees' retirement fund;

(2) the state contributes to the judges' 1985 benefit system the amount the board determines necessary to amortize the ~~prior~~ service liability over a period determined by the board, but not more than ten (10) years; and

(3) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount the judge would have contributed if the judge had been a member of the judges' 1985 benefit system during the ~~prior~~ service.

(c) If the requirements of subsection (b)(2) and (b)(3) are not satisfied, a participant is entitled to credit only for years of service ~~after the date of participation~~ **earned as a participant** in the **judges'** 1985 benefit system.

(d) An amortization schedule for contributions paid under subsection (b)(2) or (b)(3) must include interest at a rate determined by the board.

(e) The following provisions apply to a person described in subsection (a):

(1) A minimum benefit applies to participants receiving credit in the judges' 1985 benefit system from service covered by the public employees' retirement fund. The minimum benefit is payable at sixty-five (65) years of age or when the participant is at least fifty-five (55) years of age and meets the requirements under section ~~13(2)(b)~~ **13(2)(B)** of this chapter and equals the actuarial equivalent of the vested retirement benefit that is:

(A) payable to the member at normal retirement under IC 5-10.2-4-1 as of the day before the transfer; and

(B) based solely on:

(i) creditable service;

(ii) the average of the annual compensation; and

(iii) the amount credited under IC 5-10.2 and IC 5-10.3 to the annuity savings account of the transferring member as of the day before the transfer.

(2) If the requirements of subsection (b)(2) and (b)(3) are satisfied, the board shall transfer from the public employees' retirement fund to the judges' 1985 benefit system the amount credited to the annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age or at least fifty-five (55) years of age under section ~~13(2)(b)~~ **13(2)(B)** of this chapter that is attributable to the transferring participant.

(3) The amount the state and the participant must contribute to the judges' 1985 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by the board under subdivision (2).

(4) If the requirements of subsection (b)(2) and (b)(3) are satisfied, credit for ~~prior~~ service in the public employees' retirement fund as a full-time referee, full-time commissioner, or, **before January 1, 2011,** full-time magistrate is waived. Any credit for the ~~prior~~ service under the judges' 1985 benefit system may be granted only under subsection (b).

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 22. IC 33-38-8-22.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 22.5. (a) This section applies after December 31, 2010, only to a person who:**

(1) is a full-time magistrate participating under this chapter;

(2) was appointed by a court to serve as:

(A) a full-time referee or full-time commissioner; or

(B) before January 1, 2011, a full-time magistrate;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) received credited service under the public employees' retirement fund for the employment described in subdivision (2).

(b) If a person becomes a participant as a full-time magistrate in the judges' 1985 benefit system under section 1 of this chapter, credit for service by the magistrate as a full-time referee, full-time commissioner, or, before January 1, 2011, full-time magistrate shall be granted under this chapter by the board if:

(1) the service was credited under the public employees' retirement fund; and

(2) the magistrate pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the judges' 1985 benefit system as the total cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service earned as a participant in the judges' 1985 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) The following provisions apply to a person described in subsection (a):

(1) A minimum benefit applies to participants receiving credit in the judges' 1985 benefit system from service covered by the public employees' retirement fund. The minimum benefit is payable at sixty-five (65) years of age or when the participant is at least fifty-five (55) years of age and meets the requirements under section 13(2)(B) of this chapter and equals the actuarial equivalent of the vested retirement benefit that is:

(A) payable to the member at normal retirement under IC 5-10.2-4-1 as of the day before the transfer; and

(B) based solely on:

(i) creditable service;

(ii) the average of the annual compensation; and

(iii) the amount credited under IC 5-10.2 and IC 5-10.3 to the annuity savings account of the transferring member as of the day before the transfer.

(2) If the requirements of subsection (b) are satisfied, the board shall transfer from the public employees' retirement fund to the judges' 1985 benefit system the amount credited to the annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age or at least fifty-five (55) years of age under section 13(2)(B) of this chapter that is attributable to the transferring participant.

(3) The amount the participant must contribute to the judges' 1985 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by the board under subdivision (2).

(4) If the requirements of subsection (b) are satisfied, credit for service in the public employees' retirement fund as a full-time referee, full-time commissioner, or before July 1, 2010, full-time magistrate is waived. Any credit for the service under the judges' 1985 benefit system may be granted only under subsection (b).

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 23. IC 33-38-8-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. (a) This section applies only to a person who:

(1) is:

(A) a judge; **or**

(B) after December 31, 2010, a judge or full-time magistrate;

participating under this chapter;

(2) before becoming:

(A) a judge; **or**

(B) after December 31, 2010, a judge or full-time magistrate;

was a member of a public employees' retirement fund;

(3) received credited service under a public employees' retirement fund for the employment described in subdivision (2), and the credited service is not eligible for ~~prior~~ service credit under section 22 **or 22.5** of this chapter;

(4) has not attained vested status under a public employees' retirement fund for the employment described in subdivision (2); and

(5) has at least eight (8) years of service credit in the judges' retirement system.

(b) If a person becomes a participant in the judges' 1985 benefit system under this chapter, credit for service described in subsection (a) shall be granted under this chapter by the board if:

(1) the prior service was credited under a public employees' retirement fund; and

(2) the judge **or full-time magistrate** pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the **judges'** 1985 benefit system as the total cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the **judges'** 1985 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) If the requirements of subsection (b) are satisfied, the appropriate board shall transfer from the retirement fund described in subsection (a)(2) to the judges' 1985 benefit system the amount credited to the judge's **or full-time magistrate's** annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(f) The amount a participant must contribute to the judges' 1985 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by the appropriate board under subsection (e).

(g) If the requirements of subsection (b) are satisfied, credit for prior service in a public employees' retirement fund is waived.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(i) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 24. IC 33-38-8-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 25. (a) This section applies:**

(1) only to a participant:

(A) who applies to receive a retirement benefit from the fund before January 1, 2010; or

(B) who:

(i) before January 1, 2010, separates from service;

(ii) is entitled to receive a retirement benefit from the fund but does not apply before January 1, 2010, to receive a retirement benefit; and

(iii) does not earn any service credit in the fund after December 31, 2009; and

(2) only in state fiscal years beginning after June 30, 2010.

(b) If a salary increase is provided in a particular state fiscal year under IC 33-38-5-8.1, the monthly benefit payable under this chapter to a participant described in subsection (a) shall be increased by the same percentage by which salaries are increased under IC 33-38-5-8.1(b) in that state fiscal year. The percentage increase shall be applied to the monthly benefit (including any previous increases to the monthly benefit received under this section or under any other provision) received by the participant as of June 30 of the immediately preceding state fiscal year. The percentage increase to the monthly benefit takes effect at the same time that the salary increase under IC 33-38-5-8.1 takes effect.

(c) This subsection applies only if:

(1) a salary increase is not provided in a particular state fiscal year under IC 33-38-5-8.1; and

(2) the salary of a judge is increased under IC 33-38-5-6, IC 33-38-5-8, or any other provision enacted by the general assembly in the state fiscal year.

The monthly benefit payable under this chapter to a participant described in subsection (a) shall be increased by the same percentage by which the salary being paid for the office that the participant held at the time of the participant's separation from service is increased under IC 33-38-5-6, IC 33-38-5-8, or any other provision enacted by the general

assembly. The percentage increase shall be applied to the monthly benefit (including any previous increases to the monthly benefit received under this section or under any other provision) received by the participant as of June 30 of the immediately preceding state fiscal year. The percentage increase to the monthly benefit takes effect at the same time that the salary increase under IC 33-38-5-6, IC 33-38-5-8, or any other provision enacted by the general assembly takes effect.

(d) An increase payable under this section may not include any amount based on the percentage by which any salary provided by a county or counties under IC 36-2-5-14 or IC 36-3-6-3(c) is increased.

SECTION 25. [EFFECTIVE JULY 1, 2008] **(a) As used in this SECTION, "commission" means the commission on courts established by IC 33-23-10-1.**

(b) The commission shall study and make recommendations to the legislative council concerning:

(1) whether the judges in St. Joseph County should be selected by election or by appointment; and

(2) if the commission decides that the selection process should be changed, how the selection process should be changed and how those changes should be implemented.

(c) Before November 1, 2008, the commission shall issue a final report to the legislative council containing the findings and recommendations of the commission, including any recommended legislation. The report must be in an electronic format under IC 5-14-6.

(d) This SECTION expires November 2, 2008.

(Reference is to ESB 329 as printed February 22, 2008.)

Kruse, Chair	Van Haaften
Deig	Buell
Senate Conferees	House Conferees

Roll Call 337: yeas 39, nays 5. Report adopted.

CONFERENCE COMMITTEE REPORT

EHB 1096–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill 1096 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 2-5-1.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. As used in this chapter, "public officer" refers to any of the following:

(1) The governor.

(2) The lieutenant governor.

(3) The secretary of state.

(4) The auditor of state.

(5) The treasurer of state.

(6) The attorney general.

~~(7) The clerk of the supreme court.~~

~~(8)~~ **(7)** The state superintendent of public instruction.

~~(9)~~ **(8)** A justice of the supreme court of Indiana.

~~(10)~~ **(9)** A judge of the court of appeals of Indiana.

~~(11)~~ **(10)** A judge of the Indiana tax court.

~~(12)~~ **(11)** A judge of a circuit, superior, probate, or county court.

~~(13)~~ **(12)** A member of the general assembly.

SECTION 2. IC 9-24-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) A verified petition filed under section 2 of this chapter must be filed in the circuit court **or superior court** of the county in which the petitioner resides. **However, if at the time the petition is filed:**

(1) the petitioner is a defendant in a pending case concerning the commission of an offense described in IC 9-30-5;

(2) the petitioner is on probation after being convicted of committing an offense described in IC 9-30-5; or

(3) the petitioner's driving privileges have been suspended under IC 35-48-4-15 after the petitioner was convicted of committing an offense described in IC 35-48-4-15(a);

the petition may be filed only in the circuit court or superior court in which the case is pending or the petitioner was convicted.

(b) The clerk of the ~~circuit~~ court shall docket the verified petition in the name of the petitioner against the prosecuting attorney of the county.

(c) The prosecuting attorney shall appear in person or by deputy and be heard by the court on the petition.

(d) The bureau:

(1) serves as a recordkeeper; and

(2) is not a party;

in a proceeding under this chapter.

SECTION 3. IC 33-23-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. A magistrate may do any of the following:

(1) Administer an oath or affirmation required by law.

(2) Solemnize a marriage.

(3) Take and certify an affidavit or deposition.

(4) Order that a subpoena be issued in a matter pending before the court.

(5) Compel the attendance of a witness.

(6) Punish contempt.

(7) Issue a warrant.

(8) Set bail.

(9) Enforce court rules.

(10) Conduct a preliminary, an initial, an omnibus, or other pretrial hearing.

(11) Conduct an evidentiary hearing or trial.

(12) Receive a jury's verdict.

(13) Verify a certificate for the authentication of records of a proceeding conducted by the magistrate.

(14) Enter a final order, conduct a sentencing hearing, and impose a sentence on a person convicted of a criminal offense as described in section 9 of this chapter.

(15) Enter a final order or judgment in any proceeding involving matters specified in IC 33-29-2-4 (jurisdiction of small claims docket) or IC 34-26-5 (protective orders to prevent domestic or family violence).

SECTION 4. IC 33-23-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. Except as provided under ~~section~~ **sections 5(14) and** 9(b) of this chapter, a magistrate:

(1) does not have the power of judicial mandate; and

(2) may not enter a final appealable order unless sitting as a judge pro tempore or a special judge.

SECTION 5. IC 33-23-11-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) The following shall file with the commission on judicial qualifications an annual statement of economic interests:

(1) Justices, judges, **and** prosecuting attorneys. ~~and the clerk of the supreme court.~~

(2) Except as provided in subsection (c), any candidate for one (1) of the offices listed in subdivision (1) who is not the holder of that office.

(b) Justices and judges who are candidates for retention in office are subject to IC 3-9.

(c) This section does not apply to a candidate for an appointment pro tempore to fill a vacancy in an office under IC 3-13.

SECTION 6. IC 33-23-11-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. The statement of economic interests must set forth the following information for the preceding calendar year:

(1) The name and address of any person other than a spouse or close relative from whom the justice, judge, **or** prosecuting attorney ~~or clerk of the supreme court~~ received a gift or gifts having a total fair market value of more than one hundred dollars ($100).

(2) The name of the employer of the justice, judge, **or** prosecuting attorney ~~or clerk of the supreme court~~ and the employer of the spouse of the justice, judge, **or** prosecuting attorney. ~~or clerk of the supreme court.~~

(3) The nature of the employer's business.

(4) The name of any sole proprietorship owned or professional practice operated by the justice, judge, **or** prosecuting attorney, ~~clerk of the supreme court,~~ or the spouse of the justice, judge, **or** prosecuting attorney, ~~or clerk of the supreme court,~~ and the nature of the business.

(5) The name of any partnership of which the justice, judge, **or** prosecuting attorney, ~~clerk of the supreme court,~~ or the spouse of the justice, judge, **or** prosecuting attorney, ~~or clerk of the supreme court~~ is a member and the nature of the partnership's business.

(6) The name of any corporation (except a church) of which the justice, judge, **or** prosecuting attorney, ~~clerk of the supreme court,~~ or the spouse of the justice, judge, **or** prosecuting attorney, ~~or clerk of the supreme court~~ is an officer or a director and the nature of the corporation's business.

(7) The name of any corporation in which the justice, judge, **or** prosecuting attorney, ~~clerk of the supreme court,~~ or the spouse or unemancipated children less than eighteen (18) years of age of the justice, judge, **or** prosecuting attorney, ~~or clerk of the supreme court own~~ **owns** stock or stock options having a fair market value of more than ten thousand dollars ($10,000).

SECTION 7. IC 33-30-2-1, AS AMENDED BY P.L.234-2007, SECTION 216, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. ~~(a) A county court is established in Madison County.~~

~~(b) However,~~ A county court ~~described in subsection (a)~~ is abolished if:

(1) IC 33-33 provides a small claims docket of the circuit court;

(2) IC 33-33 provides a small claims docket of the superior court; or

(3) IC 33-34 provides a small claims court;

for the county in which the county court was established.

SECTION 8. IC 33-31-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 24. In addition to any appointments made by the judge of the St. Joseph probate court under IC 31-31-3, the judge of the St. Joseph probate court may appoint ~~one (1)~~ **three (3)** full-time ~~magistrate~~ **magistrates** under IC 33-23-5. The ~~magistrate~~ **magistrates** may exercise:

(1) probate jurisdiction under section 9(a) of this chapter; and

(2) juvenile jurisdiction under section 9(b) of this chapter;

and ~~continues~~ **continue** in office until removed by the judge.

SECTION 9. IC 33-33-2-14, AS AMENDED BY P.L.1-2007, SECTION 216, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) The Allen superior court may appoint probate commissioners, juvenile referees, bailiffs, court reporters, probation officers, and other personnel, including an administrative officer, the court believes are necessary to facilitate and transact the business of the court.

(b) In addition to the personnel authorized under subsection (a) and IC 31-31-3, the following magistrates may be appointed:

(1) The judges of the Allen superior court-civil division may jointly appoint not more than four (4) full-time magistrates under IC 33-23-5 to serve the Allen superior court-civil division. The judges of the Allen superior court-civil division may jointly assign any magistrates the duties and powers of a probate commissioner.

(2) The judge of the Allen superior court-criminal division may jointly appoint not more than three (3) full-time magistrates under IC 33-23-5 to serve the Allen superior court-criminal division. Any magistrate serves at the pleasure of, and continues in office until jointly removed

by, the judges of the division that appointed the magistrate.

(c) All appointments made under this section must be made without regard to the political affiliation of the appointees. The salaries of the personnel shall be fixed and paid as provided by law. If the salaries of any of the personnel are not provided by law, the amount and time of payment of the salaries shall be fixed by the court, to be paid out of the county treasury by the county auditor, upon the order of the court, and be entered of record. The officers and persons appointed shall perform duties as are prescribed by the court. Any administrative officer appointed by the court shall operate under the jurisdiction of the chief judge and serve at the pleasure of the chief judge. Any probate commissioners, magistrates, juvenile referees, bailiffs, court reporters, probation officers, and other personnel appointed by the court serve at the pleasure of the court.

(d) Any probate commissioner appointed by the court may be vested by the court with all suitable powers for the handling and management of the probate and guardianship matters of the court, including the fixing of all bonds, the auditing of accounts of estates and guardianships and trusts, acceptance of reports, accounts, and settlements filed in the court, the appointment of personal representatives, guardians, and trustees, the probating of wills, the taking and hearing of evidence on or concerning such matters, or any other probate, guardianship, or trust matters in litigation before the court, the enforcement of court rules and regulations, the making of reports to the court concerning the probate commissioner's actions under this subsection, including the taking and hearing of evidence together with the commissioner's findings and conclusions regarding the evidence. However, all matters under this subsection are under the final jurisdiction and decision of the judges of the court.

(e) A juvenile referee appointed by the court may be vested by the court with all suitable powers for the handling and management of the juvenile matters of the court, including the fixing of bonds, the taking and hearing of evidence on or concerning any juvenile matters in litigation before the court, the enforcement of court rules and regulations, and the making of reports to the court concerning the referee's actions under this subsection. The actions of a juvenile referee under this subsection are under final jurisdiction and decision of the judges of the court.

(f) A probate commissioner or juvenile referee may:

(1) summon witnesses to testify before the commissioner or juvenile referee; and

(2) administer oaths and take acknowledgments;

to carry out the commissioner's or juvenile referee's duties and powers.

~~(g) The powers of a magistrate appointed under this section include the powers provided in IC 33-23-5 and the power to enter a final order or judgment in any proceeding involving matters specified in IC 33-29-2-4 (jurisdiction of small claims docket) or IC 34-26-5 (protective orders to prevent domestic or family violence).~~

SECTION 10. IC 33-33-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. **(a)** Dearborn County and Ohio County constitute the seventh judicial circuit.

(b) The judge of the Dearborn and Ohio circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judge.

SECTION 11. IC 33-33-24-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Franklin County constitutes the thirty-seventh judicial circuit.

(b) There are two (2) judges of the Franklin circuit court.

~~(b)~~ **(c)** The Franklin circuit court has a standard small claims and misdemeanor division.

SECTION 12. IC 33-33-24-2, AS ADDED BY P.L.234-2007, SECTION 211, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. The ~~judge~~ **judges** of the Franklin circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the ~~judge.~~ **judges.**

SECTION 13. IC 33-33-39-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. Jefferson County ~~and Switzerland County constitute~~ **constitutes** the fifth judicial circuit.

SECTION 14. IC 33-33-48-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) There is established a court of record in Madison County to be known as the Madison superior court.

(b) The Madison superior court has ~~three (3)~~ **five (5)** judges.

(c) Except as otherwise provided in this chapter, the Madison superior court is a standard superior court as described in IC 33-29-1.

SECTION 15. IC 33-33-48-11, AS ADDED BY P.L.2-2005, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. ~~A county court is established for~~ **Beginning January 1, 2009, the** Madison ~~County under IC 33-30-2-1.~~ **superior court has a standard small claims and misdemeanor division.**

SECTION 16. IC 33-33-52-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The court has ~~one (1) judge~~ **two (2) judges** who shall hold sessions in:

(1) the Miami County courthouse in Peru; or

(2) other places in the county as the board of county commissioners of Miami County may provide.

SECTION 17. IC 33-33-58-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. **(a)** Dearborn County and Ohio County constitute the seventh judicial circuit.

(b) The judge of the Dearborn and Ohio circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judge.

SECTION 18. IC 33-33-71-69, AS AMENDED BY P.L.1-2007, SECTION 219, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 69. (a) The court may appoint two (2) full-time magistrates under IC 33-23-5 to serve the court using the selection method provided by IC 36-1-8-10(b)(1) or IC 36-1-8-10(b)(2). Not more than one (1) of the magistrates appointed under this section may be a member

of the same political party.

(b) A magistrate continues in office until removed by the judges of the court.

~~(c) The powers of a magistrate appointed under this section include the powers provided in IC 33-23-5 and the power to enter a final order or judgment in any proceeding involving matters specified in IC 33-29-2-4 (jurisdiction of small claims docket) or IC 34-26-5 (protective orders to prevent domestic or family violence).~~

SECTION 19. IC 33-33-78-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. ~~Jefferson County and~~ **(a)** Switzerland County ~~constitute~~ **constitutes** the ~~fifth~~ **ninety-first** judicial circuit.

(b) The Switzerland circuit court has a standard small claims and misdemeanor division.

SECTION 20. IC 33-39-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. (a) A prosecuting attorney may appoint one (1) chief deputy prosecuting attorney. The maximum annual salary paid by the state of a chief deputy prosecuting attorney appointed under this subsection is as follows:

(1) If the prosecuting attorney is a full-time prosecuting attorney appointing a full-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a full-time prosecuting attorney.

(2) If the prosecuting attorney is a full-time prosecuting attorney appointing a part-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a part-time prosecuting attorney serving the judicial district served by the chief deputy prosecuting attorney.

(3) If the prosecuting attorney is a part-time prosecuting attorney appointing a full-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a full-time prosecuting attorney.

(4) If the prosecuting attorney is a part-time prosecuting attorney appointing a part-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a part-time prosecuting attorney.

(5) The state may not pay any amount of the annual salary of a chief deputy prosecuting attorney appointed under this section by the prosecuting attorney of the ninety-first judicial circuit.

(b) The prosecuting attorney in a county in which is located at least one (1) institution operated by the department of correction that houses at least one thousand five hundred (1,500) offenders may appoint two (2) additional deputy prosecuting attorneys. In a county having two (2) institutions, each of which houses at least one thousand five hundred (1,500) offenders, the prosecuting attorney may appoint a third deputy prosecuting attorney.

(c) The prosecuting attorney in a county in which is located an institution operated by the department of correction that houses at least one hundred (100) but less than one thousand five hundred (1,500) adult offenders may appoint one (1) additional deputy prosecuting attorney.

(d) The prosecuting attorney in a county in which is located a state institution (as defined in IC 12-7-2-184) that has a daily population of at least three hundred fifty (350) patients may appoint one (1) additional deputy prosecuting attorney.

(e) The annual salary of a deputy prosecuting attorney appointed under subsections (b) through (d) may not be less than seventy-five percent (75%) of the annual salary of the appointing prosecuting attorney, as determined under section 5 of this chapter as though the prosecuting attorney had not elected full-time status.

(f) The salaries provided in this section shall be paid by the state once every two (2) weeks from the state general fund. There is appropriated annually out of the general fund of the state sufficient funds to pay any amount necessary. However, the salaries fixed in this chapter are determined to be maximum salaries to be paid by the state. This chapter does not limit the power of counties comprising the respective judicial circuits to pay additional salaries upon proper action by the appropriate county officials.

(g) The various county councils shall appropriate annually for other deputy prosecuting attorneys, investigators, clerical assistance, witness fees, out-of-state travel, postage, telephone tolls and telegraph, repairs to equipment, office supplies, other operating expenses, and equipment an amount necessary for the proper discharge of the duties imposed by law upon the office of the prosecuting attorney of each judicial circuit.

SECTION 21. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2009]: IC 33-30-2-4; IC 33-33-24-2; IC 33-33-58-1; IC 33-33-58-3; IC 33-33-58-4; IC 33-33-58-5; IC 33-33-58-6; IC 33-33-58-7; IC 33-33-58-8; IC 33-33-58-9; IC 33-33-58-11; IC 33-33-58-12; IC 33-33-58-13; IC 33-33-58-14; IC 33-33-78-1; IC 33-33-78-3; IC 33-33-78-4; IC 33-33-78-5; IC 33-33-78-6; IC 33-33-78-7; IC 33-33-78-8; IC 33-33-78-9; IC 33-33-78-11; IC 33-33-78-12; IC 33-33-78-13; IC 33-33-78-14.

SECTION 22. [EFFECTIVE JULY 1, 2008] **(a) Notwithstanding IC 33-33-24-1, as amended by this act, the Franklin circuit court is not expanded to two (2) judges until January 1, 2009.**

(b) The second judge of the Franklin circuit court added by IC 33-33-24-1, as amended by this act, shall be elected at the general election on November 4, 2008, for a term beginning January 1, 2009, and ending December 31, 2014.

(c) A political party may nominate one (1) candidate to be elected judge of the court at the 2008 general election using the candidate vacancy provisions under IC 3-13-1. Other candidates may qualify under IC 3-8-6 to be voted on at the general election.

(d) This SECTION expires January 1, 2015.

SECTION 23. [EFFECTIVE JULY 1, 2008] **(a) Notwithstanding IC 33-30-2-1 and IC 33-33-48-2, both as amended by this act, the:**

(1) Madison county court is not abolished; and

(2) Madison superior court is not expanded from three

(3) judges to five (5) judges;

until January 1, 2009.

(b) As of January 1, 2009, the Madison county court is abolished.

(c) Any case pending in the Madison county court after the close of business on December 31, 2008, is transferred on January 1, 2009, to the Madison superior court. All cases transferred under this SECTION that are eligible to be heard by the standard small claims and misdemeanor division established by IC 33-33-48-11, as amended by this act, shall be transferred to the standard small claims and misdemeanor division of the Madison superior court in accordance with the venue requirements prescribed in Rule 75 of the Indiana Rules of Trial Procedure. A case transferred under this SECTION shall be treated as if the case were filed in the Madison superior court.

(d) On January 1, 2009, all property and obligations of the Madison county court become the property and obligations of the Madison superior court.

(e) The fourth and fifth judges of the Madison superior court added under IC 33-33-48-2, as amended by this act, shall be the two (2) persons who are elected Madison county court judges on November 4, 2008. The initial elections of the fourth and fifth judges for the Madison superior court, established by IC 33-33-48-2, as amended by this act, shall take place at the general election on November 4, 2014. The terms of the fourth and fifth judges of the Madison superior court elected in November 2014 begin January 1, 2015.

(f) This SECTION expires January 2, 2015.

SECTION 24. [EFFECTIVE JULY 1, 2008] **(a) Notwithstanding IC 33-33-52-3, as amended by this act, the Miami superior court is not expanded to two (2) judges until January 1, 2009.**

(b) The governor shall appoint a person under IC 3-13-6-1(f) to serve as the second judge of the Miami superior court added by IC 33-33-52-3, as amended by this act. The term of the initial judge appointed under this subsection begins January 1, 2009, and ends December 31, 2010.

(c) The initial election of the second judge of the Miami superior court added by IC 33-33-52-3, as amended by this act, is the general election on November 2, 2010. The term of the judge initially elected under this subsection begins January 1, 2011.

(d) This SECTION expires January 2, 2011.

SECTION 25. [EFFECTIVE JULY 1, 2008] **(a) As of January 1, 2009, the joint Ohio County and Switzerland County superior court established under IC 33-33-58-3 and IC 33-33-78-3, both before their repeal by this act, is abolished.**

(b) A case or any other matter pending in the joint Ohio County and Switzerland County superior court after the close of business on December 31, 2008:

(1) that originated in Ohio County shall be transferred to the joint Dearborn County and Ohio County circuit court established under IC 33-33-15-1 and IC 33-33-58-2, both as amended by this act, on January 1, 2009; and

(2) that originated in Switzerland County shall be transferred to the Switzerland County ninety-first judicial circuit court established under IC 33-33-78-2, as amended by this act, on January 1, 2009.

(c) This SECTION expires January 2, 2009.

SECTION 26. [EFFECTIVE JULY 1, 2008] **(a) As of January 1, 2009:**

(1) the joint Jefferson County and Switzerland County fifth judicial circuit court established under IC 33-33-39-1 and IC 33-33-78-2, both before their amendment by this act, is abolished;

(2) the Jefferson County fifth judicial circuit court is established under IC 33-33-39-1, as amended by this act; and

(3) the Switzerland County ninety-first judicial circuit court is established under IC 33-33-78-2, as amended by this act.

(b) A case or any other matter pending in the joint Jefferson County and Switzerland County fifth judicial circuit court after the close of business on December 31, 2008:

(1) that originated in Jefferson County shall be transferred to the Jefferson County fifth judicial circuit court on January 1, 2009; and

(2) that originated in Switzerland County shall be transferred to the Switzerland County ninety-first judicial circuit court on January 1, 2009.

(c) The initial judge of the Jefferson County fifth judicial circuit court shall be the person who is the joint Jefferson County and Switzerland County fifth judicial circuit court judge serving on December 31, 2008. The judge shall serve the remainder of the judge's term as judge of the joint Jefferson County and Switzerland County fifth judicial circuit court serving as judge of the Jefferson County fifth judicial circuit court.

(d) The initial prosecuting attorney of the Jefferson County fifth judicial circuit shall be the person who is the joint Jefferson County and Switzerland County fifth judicial circuit prosecuting attorney serving on December 31, 2008. The prosecuting attorney shall serve the remainder of the prosecuting attorney's term as prosecuting attorney for the joint Jefferson County and Switzerland County fifth judicial circuit serving as prosecuting attorney for the Jefferson County fifth judicial circuit.

(e) The initial election of a judge for the Switzerland County ninety-first judicial circuit court established by IC 33-33-78-2, as amended by this act, is the general election

on November 4, 2008. A political party may nominate one (1) candidate to be elected judge of the court at the 2008 general election using the candidate vacancy provisions under IC 3-13-1. Other candidates may qualify under IC 3-8-6 to be voted on at the general election. The term of the judge initially elected under this subsection begins January 1, 2009.

(f) The initial election of a prosecuting attorney for the Switzerland County ninety-first judicial circuit established by IC 33-33-78-2, as amended by this act, is the general election on November 4, 2008. A political party may nominate one (1) candidate to be elected prosecuting attorney at the 2008 general election using the candidate vacancy provisions under IC 3-13-1. Other candidates may qualify under IC 3-8-6 to be voted on at the general election. The term of the prosecuting attorney initially elected under this subsection begins January 1, 2009, and ends December 31, 2010.

(g) The election of a prosecuting attorney to a full four (4) year term for the Switzerland County ninety-first judicial circuit established by IC 33-33-78-2, as amended by this act, is the general election on November 2, 2010. The term of a prosecuting attorney elected under this subsection begins January 1, 2011.

(h) This SECTION expires January 2, 2015

(Reference is to EHB 1096 as printed February 8, 2008.)

Hoy, Chair	Bray
Koch	Lewis
House Conferees	Senate Conferees

Roll Call 338: yeas 44, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

EHB 1187–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill 1187 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 9-14-3-0.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 0.5. As used in this chapter, "electronic record" has the meaning set forth in ~~IC 26-2-8-102(7).~~ **IC 26-2-8-102.**

SECTION 2. IC 9-14-3-0.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 0.8. As used in this chapter, "electronic signature" has the meaning set forth in ~~IC 26-2-8-102(8).~~ **IC 26-2-8-102.**

SECTION 3. IC 23-17-2-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27. **(a)** "Vote" includes authorization by written ballot, and **"voting" or "casting a vote" includes the giving of** written consent.

(b) Even if a person entitled to vote characterizes the conduct as voting or casting a vote, the term does not include:

(1) recording the fact of abstention or failing to vote for a candidate; or

(2) approving or disapproving of a matter.

SECTION 4. IC 23-17-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) A corporation shall give notice ~~consistent with the corporation's bylaws~~ of meetings of members in a fair and reasonable manner.

(b) A notice that conforms to the requirements of subsection (c) is fair and reasonable. However, other means of giving notice may also be fair and reasonable when all the circumstances are considered if notice of matters referred to in subsection (c)(2) is given as provided in subsection (c).

(c) **Unless fair and reasonable notice is otherwise specified in a corporation's bylaws,** notice is fair and reasonable if the following occur:

(1) The corporation notifies the corporation's members of the place, date, and time of each annual, regular, and special meeting of members not less than ten (10) days, or, if notice is mailed by other than first class or registered mail, thirty (30) days to sixty (60) days, before the meeting date.

(2) Notice of an annual or a regular meeting includes a description of any matter or matters to be considered at the meeting that must be approved by the members under ~~IC 23-17-13-2,~~ **IC 23-17-13-2.5,** IC 23-17-16-13, IC 23-17-17-5, IC 23-17-19-4, IC 23-17-20-2, or IC 23-17-22-2.

(3) Notice of a special meeting includes a description of the purpose for which the meeting is called.

(4) A corporation provides notice by:

(A) communicating in person;

(B) mail or other method of delivery; or

(C) other electronic means capable of verification.

~~(4)~~ **(5)** For a corporation, other than a veteran's organization, having more than one thousand (1,000) members, notice of the place, date, and time of an annual, a regular, or a special meeting, and in the case of a special meeting, the purpose of the special meeting, may be given by one (1) publication in a newspaper of general circulation, printed in English, in the county in which the corporation has the corporation's principal office if the publication is made not less than ten (10) days and not more than thirty (30) days before the meeting date.

(d) Unless the bylaws require otherwise, if an annual, a regular, or a special meeting of members is adjourned to a different date, time, or place, notice is not required to be given of the new date, time, or place if the new date, time, or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed under section 7 of this chapter, however, notice of the adjourned meeting must be given under this section to persons who are members as of the

new record date.

SECTION 6. IC 23-17-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A director shall, based on facts then known to the director, discharge duties as a director, including the director's duties as a member of a committee, as follows:

(1) In good faith.

(2) With the care an ordinarily prudent person in a like position would exercise under similar circumstances.

(3) In a manner the director reasonably believes to be in the best interests of the corporation.

(b) In discharging the director's duties, a director may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by one (1) of the following:

(1) An officer or employee of the corporation whom the director reasonably believes to be reliable and competent in the matters presented.

(2) Legal counsel, **certified** public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence.

(3) A committee of the board of directors of which the director is not a member if the director reasonably believes the committee merits confidence.

(4) In the case of religious corporations, religious authorities and ministers, priests, rabbis, or other persons whose position or duties in the religious organization the director believes justify reliance and confidence and whom the director believes to be reliable and competent in the matters presented.

(c) A director is not acting in good faith if the director has knowledge concerning a matter in question that makes reliance otherwise permitted by subsection (b) unwarranted.

(d) A director is not liable for an action taken as a director, or failure to take an action, unless the: ~~following conditions exist:~~

(1) ~~The~~ director has breached or failed to perform the duties of the director's office in compliance with this section; **and**

(2) ~~The~~ breach or failure to perform constitutes willful misconduct or recklessness.

(e) A director is not considered to be a trustee with respect to a corporation or with respect to any property held or administered by the corporation, including property that may be subject to restrictions imposed by the donor or transferor of the property.

SECTION 7. IC 23-17-13-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. (a) This section applies unless the articles of incorporation or bylaws of a corporation provide otherwise.**

(b) Subject to subsection (c), a contract or transaction between:

(1) a corporation and one (1) or more of the corporation's members, directors, members of a designated body, or officers; or

(2) a corporation and any other corporation, partnership, association, or entity in which one (1) or more of the corporation's members, directors, officers, or members of a designated body:

(A) are members, directors, members of a designated body, or officers;

(B) hold a similar position; or

(C) have a financial interest;

is not void or voidable solely because of the relationship or interest, solely because the member, director, member of a designated body, or officer is present at or participates in the meeting of the board of directors that authorizes the contract or transaction, or solely because the vote of the member, director, member of a designated body, or officer is counted for authorizing the contract or transaction.

(c) A contract or transaction described under subsection (b) is not void or voidable as provided under subsection (b) if one (1) or more of the following apply:

(1) The:

(A) material facts as to the:

(i) relationship or interest of a member, a director, a member of a designated body, or an officer; and

(ii) contract or transaction;

are disclosed or known to the board of directors; and

(B) board of directors in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors even if the disinterested directors are less than a quorum.

(2) The:

(A) material facts as to the:

(i) relationship or interest of the member, director, member of a designated body, or officer; and

(ii) contract or transaction;

are disclosed or known to the members who are entitled to vote on the contract or transaction; and

(B) contract or transaction is specifically approved in good faith by a vote of the members who are entitled to vote on the contract or transaction.

(3) The contract or transaction is fair as to the corporation at the time the contract or transaction is authorized, approved, or ratified by the board of directors or the members.

(d) Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board that authorizes a contract or transaction described under subsection (b).

SECTION 8. IC 23-17-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) Unless **this article,** the articles of incorporation, or bylaws provide otherwise, a board of directors may create ~~at least~~ one (1) ~~committee and appoint at least two (2)~~ **or more committees that consist of one (1) or more** members of the board of directors. ~~to serve on the committees.~~

(b) **Unless otherwise provided under this article,** the creation of a committee and appointment of members to the committee must be approved by the greater of: ~~the following:~~

(1) a majority of all the directors in office when the action is taken; **or**

(2) the number of directors required by articles of incorporation or bylaws to take action under section 5 of this chapter.

(c) Sections 1 through 5 of this chapter apply to committees of the board of directors and the members of committees.

(d) To the extent specified by the board of directors or in articles of incorporation or bylaws, a committee may exercise the authority of the board of directors under IC 23-17-12-1.

(e) A committee may not do the following:

(1) Authorize distributions.

(2) Approve or recommend to members **action required to be approved by members under this article.**

~~(A) dissolution;~~

~~(B) merger;~~

~~(C) sale;~~

~~(D) pledge; or~~

~~(E) transfer;~~

~~of all or substantially all of a corporation's assets.~~

(3) ~~Elect; appoint; or remove directors or~~ **Subject to subsection (g),** fill vacancies on the board of directors or on a committee.

(4) Adopt, amend, or repeal ~~articles of incorporation or~~ bylaws.

(f) The creation of, delegation of authority to, or action by a committee does not alone constitute compliance by a director with the standards of conduct described under IC 23-17-13-1.

(g) The board of directors may appoint one (1) or more directors as alternate members of a committee to replace an absent or a disqualified member during the member's absence or disqualification. Unless the articles of incorporation, bylaws, or the resolution creating the committee provides otherwise, in the event of the absence or disqualification of a member of a committee, the members present at a meeting and not disqualified from voting may unanimously appoint another director to act in place of the absent or disqualified member.

(h) A corporation may create or authorize the creation of one (1) or more advisory committees whose members need not be directors.

SECTION 9. IC 23-17-27-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A corporation shall keep as permanent records a record of the following:

(1) Minutes of meetings of the corporation's members and board of directors.

(2) A record of actions taken by the members or directors without a meeting.

(3) A record of actions taken by committees of the board of directors as authorized under IC 23-17-15-6(d).

(b) A corporation shall maintain appropriate accounting records.

(c) A corporation or the corporation's agent shall maintain a record of the corporation's members in a form that permits preparation of a list of the names and addresses of all members, in alphabetical order by class, showing the number of votes each member is entitled to cast.

(d) A corporation shall maintain the corporation's records in written form or in another form capable of conversion into written form within a reasonable time.

(e) A corporation shall keep a copy of the following records at the corporation's principal office:

(1) The corporation's articles of incorporation or restated articles of incorporation and all amendments to the articles of incorporation currently in effect.

(2) The corporation's bylaws or restated bylaws and all amendments to the bylaws currently in effect.

(3) Resolutions adopted by the corporation's board of directors relating to the characteristics, qualifications, rights, limitations, and obligations of members or a class or category of members.

(4) The minutes of all meetings of members and records of all actions approved by the members for the past three (3) years.

(5) Written communications to members generally within the past three (3) years, including the financial statements furnished for the past three (3) years under section 6 of this chapter.

(6) A list of the names and business or home addresses of the corporation's current directors and officers.

(7) The corporation's most recent annual report delivered to the secretary of state under section 8 of this chapter.

(f) Except as otherwise provided in articles of incorporation or bylaws, ballots must be retained by a corporation until the earlier of the following:

(1) The date of the next annual meeting.

(2) One (1) year after the date the ballot was received.

SECTION 10. IC 23-17-28-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. Except as provided in ~~section 3 of~~ this chapter **or other applicable law,** written notice is effective at the earliest of the following:

(1) When received.

(2) Five (5) days after the notice is mailed, as evidenced by the postmark or private carrier receipt, if mailed correctly addressed to the address listed in the most current records of the corporation.

(3) On the date shown on the return receipt, if sent by registered or certified United States mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

(4) Thirty (30) days after the notice is deposited with another method of the United States Postal Service other than first class, registered, or certified postage affixed, as evidenced by the postmark, if mailed correctly addressed to the address listed in the most current records of the corporation.

SECTION 11. IC 26-2-8-102 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 102. As used in this chapter:

(1) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.

(2) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records in which the acts or records of one (1) or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.

(3) **"Business entity" means a corporation, nonprofit corporation, limited liability company, limited liability partnership, limited partnership, business trust, real estate investment trust, or any other entity that is formed under the requirements of applicable Indiana law.**

(4) "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.

(5) "Constituent" means a person who holds a position defined in the business entity's organic law that permits the person, directly or indirectly, to own, manage, or operate a business entity either alone or with others. The term includes officers, directors, shareholders, members, managers, general partners, limited partners, partners, and persons occupying a similar status or performing similar functions for a business entity.

~~(4)~~ **(6)**"Contract" means the total legal obligation resulting from the parties' agreement as affected by this chapter and other applicable law.

~~(5)~~ **(7)** "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

~~(6)~~ **(8)** "Electronic agent" means a computer program or an electronic or other automated means used to initiate an action or respond to electronic records or performances in whole or in part without review by an individual at the time of the action or response.

~~(7)~~ **(9)** "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

~~(8)~~ **(10)** "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(11) "Governing documents" means the publicly filed and nonpublicly filed organic documents of a business entity.

~~(9)~~ **(12)** "Governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, instrumentality, or other political subdivision of the state.

~~(10)~~ **(13)** "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.

~~(11)~~ **(14)** "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.

(15) "Organic actions" means actions, notices, consents, and signatures relating to the operation of a business entity that are undertaken among constituents of that business entity or among constituents of a business entity and that business entity. The term does not include the service of process or the service of a summons, subpoena, or other service contemplated by rules or statutes governing trial procedure, civil procedure, or comparable provisions.

~~(12)~~ **(16)** "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

~~(13)~~ **(17)** "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form. **The term includes records transmitted in the course of organic actions.**

~~(14)~~ **(18)** "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

~~(15)~~ **(19)** "Transaction" means an action or set of actions relating to the conduct of business, commercial, or governmental affairs and occurring between two (2) or more persons. **The term includes an organic action.**

SECTION 12. IC 26-2-8-104 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 104. (a) This chapter does not require that a record or signature be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(b) This chapter only applies to transactions between parties each of which has agreed to conduct transactions electronically. An agreement to conduct transactions electronically is determined from the context and surrounding circumstances, including the parties' conduct. **A constituent of a business entity and a business entity are presumed to have agreed to conduct organic actions electronically unless and to the extent:**

(1) the governing documents of the business entity limit or prohibit, in whole or in part, the use of electronic signatures, electronic records, or both; or

(2) the business entity expressly states the method, means, or requirement by which a constituent may respond to or participate in any organic action, including imposing a requirement that participants use a specific form of writing, record, or signature.

Unless and to the extent limited or prohibited, any electronic record or electronic signature to be sent to a constituent is properly sent if sent in the manner and to the electronic address or other means of receipt designated by the constituent to receive the electronic record or electronic signature as shown in the current records of the business entity. If the electronic record is a notice, it is effective when sent. Unless and to the extent limited or prohibited, any electronic record or electronic signature sent by a constituent to a business entity shall be considered properly sent if it is sent in a manner designated by the business entity to an electronic address or other location designated by the business entity in a publication or notice provided by the business entity to the constituent. If the electronic record is a notice, it is effective upon receipt. The publication or notice may be included in the governing documents of the business entity, may be communicated to the constituent in writing, or may be transmitted by any other means selected by the business entity that is reasonably likely to convey the information to the constituent. A constituent or business entity may revoke or change any instruction regarding the manner, electronic address, or means of receipt the person requires for electronic records or electronic signatures by sending notice of the change and the corresponding new information.

(c) If a party agrees to conduct a transaction electronically, this chapter does not prohibit the party from refusing to conduct other transactions electronically. This subsection may not be varied by agreement.

(d) Except as otherwise provided in this chapter, the effect of any provision of this chapter may be varied by agreement. The presence in certain provisions of this chapter of the words "unless otherwise agreed", or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.

(e) Whether an electronic record or electronic signature has legal consequences is determined by this chapter, if applicable, and otherwise by other applicable law.

SECTION 13. IC 26-2-8-106 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 106. (a) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

(b) A contract may not be denied legal effect or enforceability solely because an electronic record **or electronic signature** was used in its formation.

(c) If a law requires a record to be in writing, or provides consequences if it is not, an electronic record satisfies the law.

(d) If a law requires a signature, or provides consequences in the absence of a signature, the law is satisfied with respect to an electronic record if the electronic record includes an electronic signature.

SECTION 16. IC 23-17-13-2 IS REPEALED [EFFECTIVE JULY 1, 2008].

(Reference is to EHB 1187 as printed February 22, 2008.)

L. Lawson, Chair	Lawson
Koch	Arnold
House Conferees	Senate Conferees

Roll Call 339: yeas 43, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

EHB 1290–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill 1290 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 31-9-2-46.7, AS ADDED BY P.L.145-2006, SECTION 193, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 46.7. "Foster care", for purposes of IC 31-25, IC 31-26, IC 31-27, IC 31-28-1, IC 31-28-2, ~~and~~ IC 31-28-3, **and IC 31-28-5.7,** means living in a place licensed under IC 31-27.

SECTION 2. IC 31-9-2-46.9, AS ADDED BY P.L.145-2006, SECTION 194, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 46.9. **(a)** "Foster family home", for purposes of IC 31-27, means a place where an individual resides and provides care and supervision on a twenty-four (24) hour basis to:

(1) a child who **satisfies the conditions set forth in subsection (b);**

(2) an individual:

(A) who is at least eighteen (18) but less than twenty-one (21) years of age;

(B) who was placed in foster care under the order of a court; and

(C) who satisfies the conditions set forth in subsection (b); or

(3) an individual:

(A) who is at least eighteen (18) but less than twenty-one (21) years of age;

(B) who is receiving foster care for older youth; and

(C) who is no longer under the care and supervision of the juvenile court for purposes of placement.

(b) A child or an individual described in subsection (a)(1) or (a)(2):

(1) ~~is not~~ **may not be** the:

(A) child;

(B) stepchild;

(C) grandchild;
(D) niece;
(E) nephew; or
(F) sibling;
of the individual providing care and supervision;
(2) ~~is~~ **must be** separated from the child's **or individual's:**
(A) parent;
(B) stepparent;
(C) guardian;
(D) custodian; or
(E) other relative; and
(3) ~~is~~ **must be** receiving care and supervision under an order of a juvenile court or for the purposes of placement.

(c) This section may not be construed to require the licensing of an individual who provides foster care to a relative.

SECTION 3. IC 31-9-2-117.5, AS ADDED BY P.L.145-2006, SECTION 215, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 117.5. "Special needs foster family home", for purposes of IC 31-27, means a foster family home:

(1) that provides care for:
(A) a child; **or**
(B) an individual at least eighteen (18) but less than twenty-one (21) years of age receiving foster care for older youth under IC 31-28-5.7-1;
who ~~(A)~~ has a mental, physical, or emotional disability and ~~(B)~~ will require additional supervision or assistance in behavior management, activities of daily living, or management of medical problems; and
(2) that meets the additional requirements under IC 31-27-4-3.

SECTION 4. IC 31-9-2-129.5, AS ADDED BY P.L.1-2007, SECTION 190, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 129.5. "Therapeutic foster family home", for purposes of IC 31-27, means a foster family home:

(1) that provides care to:
(A) a child; **or**
(B) an individual at least eighteen (18) but less than twenty-one (21) years of age receiving foster care for older youth under IC 31-28-5.7-1;
who is seriously emotionally disturbed or developmentally disabled;
(2) in which the child **or individual** receives treatment in a family home through an integrated array of services supervised and supported by qualified program staff from:
(A) the office of the secretary of family and social services;
(B) a managed care provider that contracts with the division of mental health and addiction; or
(C) a licensed child placing agency; and
(3) that meets the additional requirements of IC 31-27-4-2.

SECTION 5. IC 31-9-2-130.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 130.3. "Transitional services plan", for purposes of IC 31-25-2-21, has the meaning set forth in IC 31-25-2-21(a).**

SECTION 6. IC 31-25-2-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 21. (a) As used in this section, "transitional services plan" means a plan that provides information concerning the following to an individual described in subsection (b):**

(1) Education.
(2) Employment.
(3) Housing.
(4) Health care.
(5) Development of problem solving skills.
(6) Available local, state, and federal financial assistance.

(b) The department shall implement a program that provides a transitional services plan to the following:

(1) An individual who has become or will become:
(A) eighteen (18) years of age; or
(B) emancipated;
while receiving foster care.
(2) An individual who:
(A) is at least eighteen (18) but less than twenty-one (21) years of age; and
(B) is receiving foster care for older youth under IC 31-28-5.7.

(c) The department shall adopt rules under IC 4-22-2 necessary to implement the program described in this section.

SECTION 7. IC 31-27-4-2, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) A person may not operate a therapeutic foster family home without a license issued under this article.

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

(c) The department may issue a license only for a therapeutic foster family home that meets:
(1) all the licensing requirements of a foster family home; and
(2) the additional requirements described in this section.

(d) An applicant for a therapeutic foster family home license must do the following:
(1) Be licensed as a foster parent under 465 IAC 2-1-1 et seq.
(2) Participate in preservice training that includes:
(A) preservice training to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and
(B) additional preservice training in therapeutic foster care.

(e) A person who is issued a license to operate a therapeutic foster family home shall, within one (1) year after meeting the training requirements of subsection (d)(2) and, annually

thereafter, participate in training that includes:

(1) training as required in order to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and

(2) additional training in order to be licensed as a therapeutic foster parent under this chapter.

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

(g) A therapeutic foster family home may provide care for an individual receiving foster care for older youth under IC 31-28-5.7-1 if the individual is no longer under the care and supervision of a juvenile court.

(h) An individual who receives foster care for older youth under IC 31-28-5.7-1 in a therapeutic foster family home shall not be considered in determining whether the therapeutic foster family home meets or exceeds the limit set forth in subsection (f).

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

SECTION 8. IC 31-27-4-3, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) A person may not operate a special needs foster family home without a license issued under this article.

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

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

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

(2) the additional requirements described in this section.

(d) An applicant for a special needs foster family home license must be licensed as a foster parent under 465 IAC 2-1-1 et seq. that includes participating in preservice training.

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

(1) training as required in order to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and

(2) additional training that includes specialized training to meet the child's **or individual's** specific needs.

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

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

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

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

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

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

(g) An individual who receives foster care for older youth under IC 31-28-5.7-1 in a special needs foster family home shall not be considered in determining whether the special needs foster family home meets or exceeds the limit set forth in subsection (f)(1).

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

~~(h)~~ **(i) A special needs foster family home may provide care for an individual receiving foster care for older youth under IC 31-28-5.7-1 if the individual is no longer under the care and supervision of a juvenile court.**

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

SECTION 9. IC 31-27-4-8, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) An applicant may not provide supervision and care as a foster family home if more than:

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

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

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

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

including the children **or individuals** for whom the provider is a parent, stepparent, guardian, custodian, or other relative, receive care and supervision at the facility at the same time.

(b) Not more than four (4) of the eight (8) individuals in subsection (a)(1) may be less than six (6) years of age.

(c) The department may grant an exception to this section whenever the department determines that the placement of siblings in the same foster family home is desirable.

(d) An individual who receives foster care for older youth under IC 31-28-5.7-1 in a foster family home shall not be considered in determining whether the foster family home meets or exceeds the limit set forth in subsection (a)(1).

SECTION 10. IC 31-28-4-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.5. (a) This chapter remains in effect with respect to any state, territory, or possession of the United States, for the District of Columbia, or for the Commonwealth of Puerto Rico if the state, territory, or possession or the district or commonwealth has not adopted the interstate compact for the placement of children under IC 31-28-6. This chapter remains in effect until the governor gives written notice of the withdrawal of Indiana from the compact set forth in section 1 of this chapter to the governor of each other jurisdiction that is a party to the compact set forth in section 1 of this chapter.**

(b) IC 31-28-6 shall be used for the interstate placement of children for a state, territory, or possession of the United States, for the District of Columbia, or for the Commonwealth of Puerto Rico if the state, territory, possession, district, or commonwealth has adopted the interstate compact for the placement of children in the format found in IC 31-28-6.

SECTION 11. IC 31-28-5.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 5.7. Older Youth Foster Care

Sec. 1. (a) An individual who:

(1) is at least eighteen (18) but less than twenty-one (21) years of age; and

(2) received foster care under a court order during the month before the individual became eighteen (18) years of age;

is eligible to receive foster care services at any time until the individual becomes twenty-one (21) years of age.

(b) An individual described in subsection (a) may request the department to petition a court for the individual to receive older youth foster care services.

(c) A court shall grant a petition described in subsection (b) if the individual is:

(1) employed;

(2) attending a vocational or educational certification or degree program; or

(3) planning on attending a vocational or educational certification or degree program within six (6) months of the individual's eighteenth birthday.

(d) An individual may request the department to start the petition process described in subsections (b) and (c) for the individual if the individual is at least seventeen (17) years and six (6) months of age.

(e) If an older youth receiving foster care:

(1) is receiving foster care because the older youth planned on attending a vocational or educational certification program; and

(2) does not begin attending a vocational or educational certification program within nine (9) months after the individual's eighteenth birthday;

foster care for the individual ceases without further action of the court.

Sec. 2. The department shall adopt rules under IC 4-22-2 to implement this chapter. The rules adopted under this section must apply to individuals working or attending vocational or educational programs as set forth in section 1 of this chapter.

SECTION 12. IC 31-28-6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 6. Interstate Compact for the Placement of Children

Sec. 1. Subject to IC 31-28-4-1.5, the interstate compact for the placement of children is enacted into law under this chapter and entered into with all other jurisdictions legally joining the compact in a form consistent with the compact terms and provisions as stated in this section in a form substantially as follows:

ARTICLE 1. PURPOSE

The purpose of this interstate compact for the placement of children is to do the following:

(1) Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner.

(2) Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states.

(3) Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner.

(4) Provide for the adoption and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.

(5) Provide for uniform data collection and information sharing between member states under this compact.

(6) Promote coordination between this compact, the Interstate Compact for Juveniles, the Interstate Compact on Adoption and Medical Assistance, and other compacts that affect the placement of and that provide services to children otherwise subject to this compact.

(7) Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate.

(8) Provide for the promulgation of guidelines, in collaboration with Indian tribes, for interstate cases involving Indian children as is or may be permitted by federal law.

ARTICLE II. DEFINITIONS

The following definitions apply throughout this compact:

(1) "Approved placement" means the public child placing agency in the receiving state has determined that the placement is both safe and suitable for the child.
(2) "Assessment" means an evaluation of a prospective placement by a public child placing agency in the receiving state to determine whether the placement meets the individualized needs of the child, including the child's safety and stability, health and well-being, and mental, emotional, and physical development. An assessment is applicable only to a placement by a public child placing agency.
(3) "Certification" means to attest, declare, or swear to before a judge or notary public.
(4) "Child" means an individual who is less than eighteen (18) years of age.
(5) "Default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact or by the bylaws or rules of the interstate commission.
(6) "Home study" means an evaluation of a home environment that is conducted in accordance with the applicable requirements of the state in which the home is located and that documents the preparation and the suitability of the placement resource for placement of a child in accordance with the laws and requirements of the state in which the home is located.
(7) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaskan native village as defined in section 3(c) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1602(c).
(8) "Interstate commission for the placement of children" means the commission that is created under Article VIII of this compact and that is generally referred to as "the interstate commission".
(9) "Jurisdiction" means the power and authority of a court to hear and decide matters.
(10) "Legal risk adoption" means a placement made preliminary to an adoption in which the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state, and a final decree of adoption shall not be entered in any jurisdiction until all required consents are obtained or are dispensed with in accordance with applicable law.
(11) "Legal risk placement" means legal risk adoption.
(12) "Member state" means a state that has enacted this compact.
(13) "Noncustodial parent" means a person who, at the time of the commencement of court proceedings in the sending state, does not have sole legal custody of the child or has joint legal custody of a child, and who is not the subject of allegations or findings of child abuse or neglect.
(14) "Nonmember state" means a state that has not enacted this compact.
(15) "Notice of residential placement" means information regarding a placement into a residential facility that is provided to the receiving state, including, but not limited to, the name of the child, the date and place of birth of the child, the identity and address of the parent or legal guardian, evidence of authority to make the placement, and the name and address of the facility in which the child will be placed. The term also includes information regarding a discharge and any unauthorized absence from the facility.
(16) "Placement" means the act by a public or private child placing agency intended to arrange for the care or custody of a child in another state.
(17) "Private child placing agency" means any private corporation, agency, foundation, institution, or charitable organization, or any private person or attorney, that facilitates, causes, or is involved in the placement of a child from one (1) state to another and that is not an instrumentality of the state or acting under color of state law.
(18) "Provisional placement" means a determination made by the public child placing agency in the receiving state that the receiving state has determined that the proposed placement is safe and suitable, and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as not to delay the placement. Completion of the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.
(19) "Public child placing agency" means any government child welfare agency or child protection agency, or a private entity under contract with such an agency, regardless of whether the agency or entity acts on behalf of a state, county, municipality, or other governmental unit, that facilitates, causes, or is involved in the placement of a child from one (1) state to another.
(20) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought.
(21) "Relative" means someone who is related to the child as a parent, stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin, or a nonrelative with such significant ties to the child that they may be regarded as relatives as determined by the court in the sending state.
(22) "Residential facility" means a facility providing a level of care that is sufficient to substitute for parental responsibility or foster care and is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, residential facilities do not

include institutions that are primarily educational in character, hospitals, or other medical facilities.

(23) "Rule" means a written directive, mandate, standard, or principle that is issued by the interstate commission and promulgated under Article XI of this compact, that is of general applicability, and that implements, interprets, or prescribes a policy or provision of the compact. A rule has the force and effect of an administrative rule in a member state, and includes the amendment, repeal, or suspension of an existing rule.

(24) "Sending state" means the state from which the placement of a child is initiated.

(25) "Service member's permanent duty station" means the military installation where an active duty armed services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary.

(26) "Service member's state of legal residence" means the state in which the active duty armed services member is considered a resident for tax and voting purposes.

(27) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, or any other territory of the United States.

(28) "State court" means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency, or status offenses of individuals less than eighteen (18) years of age.

(29) "Supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state under this compact.

ARTICLE III. APPLICABILITY

(a) Except as otherwise provided in subsection (b), this compact applies to the following:

(1) The interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations or findings that the child has been abused, neglected, or deprived as defined by the laws of the sending state. However, the placement of such a child into a residential facility requires only notice of residential placement to the receiving state before placement.

(2) The interstate placement of a child adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

(A) the child is being placed in a residential facility in another member state and is not covered under another compact; or

(B) the child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact.

(3) The interstate placement of any child by a public child placing agency or private child placing agency as defined in this compact as a preliminary step to a possible adoption.

(b) The provisions of this compact do not apply to the following:

(1) The interstate placement of a child in a custody proceeding in which a public child placing agency is not a party, if the placement is not intended to effectuate an adoption.

(2) The interstate placement of a child with a nonrelative in a receiving state by a parent with the legal authority to make such a placement. However, the placement is not intended to effectuate an adoption.

(3) The interstate placement of a child by one (1) relative with the lawful authority to make such a placement directly with a relative in a receiving state.

(4) The placement of a child not subject to subsection (a) into a residential facility by the child's parent.

(5) The placement of a child with a noncustodial parent if:

(A) the noncustodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child;

(B) the court in the sending state makes a written finding that placement with the noncustodial parent is in the best interests of the child; and

(C) the court in the sending state dismisses its jurisdiction over the child's case.

(6) A child entering the United States from a foreign country for the purpose of adoption or leaving the United States to go to a foreign country for the purpose of adoption in that country.

(7) Cases in which a United States citizen child living overseas with the child's family, at least one (1) member of which is in the United States armed services and is stationed overseas, is removed and placed in a state.

(8) The sending of a child by a public child placing agency or a private child placing agency for a visit as defined by the rules of the interstate commission.

(c) For purposes of determining the applicability of this compact to the placement of a child with a family having a member in the United States armed services, the public child placing agency or private child placing agency may choose the state of the service member's permanent duty station or the service member's declared legal residence.

(d) This compact shall not be construed to prohibit the concurrent application of the provisions of this compact with other applicable interstate compacts, including the interstate compact for juveniles and the interstate compact on adoption and medical assistance. The interstate commission may, in cooperation with other interstate compact commissions having responsibility for the interstate movement, placement, or transfer of children, promulgate like rules to ensure the coordination of services, the timely placement of children, and

the reduction of unnecessary or duplicative administrative or procedural requirements.

ARTICLE IV. JURISDICTION

(a) Except as provided in subsection (g) and ARTICLE V, subsection (b)(2) and (b)(3), concerning private and independent adoptions, and in interstate placements in which the public child placing agency is not a party to a custody proceeding, the sending state retains jurisdiction over a child with respect to all matters of custody and disposition of the child which it would have had if the child had remained in the sending state. Jurisdiction also includes the power to order the return of the child to the sending state.

(b) When an issue of child protection or custody is brought before a court in the receiving state, the court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.

(c) In accordance with its own laws, the court in the sending state shall have authority to terminate its jurisdiction if:

(1) the parent with whom the child is reunified in the receiving state is the subject of allegations or findings of abuse or neglect, but only with the concurrence of the public child placing agency in the receiving state;

(2) the child is adopted;

(3) the child reaches the age of majority under the laws of the sending state;

(4) the child achieves legal independence under the laws of the sending state;

(5) a guardianship is created by a court in the receiving state with the concurrence of the court in the sending state;

(6) an Indian tribe has petitioned for and received jurisdiction from the court in the sending state; or

(7) the public child placing agency of the sending state requests termination and has obtained the concurrence of the public child placing agency in the receiving state.

(d) When a sending state court terminates its jurisdiction, the receiving state child placing agency shall be notified.

(e) Nothing in this article shall defeat a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime, or behavior that involves a child as defined by the laws of the receiving state, that is committed by the child in the receiving state, and that would be a violation of the laws of the receiving state.

(f) This article does not limit the receiving state's ability to take emergency jurisdiction for the protection of the child.

(g) The substantive laws of the state in which an adoption will be finalized shall solely govern all issues relating to the adoption of the child, and the court in which the adoption proceeding is filed has subject matter jurisdiction regarding all substantive issues relating to the adoption, except:

(1) when the child is a ward of another court that established jurisdiction over the child prior to the placement;

(2) when the child is in the legal custody of a public agency in the sending state; or

(3) when a court in the sending state has otherwise appropriately assumed jurisdiction over the child, prior to the submission of the request for approval of placement.

(h) A final decree of adoption shall not be entered in any jurisdiction until the placement is authorized as an approved placement by the public child placing agency in the receiving state.

ARTICLE V. PLACEMENT EVALUATION

(a) Before sending, bringing, or causing a child to be sent or brought into a receiving state, the public child placing agency shall provide a written request for assessment to the receiving state.

(b) For placements by a private child placing agency, a child may be sent or brought, or caused to be sent or brought, into a receiving state upon receipt and immediate review of the required content in a request for approval of a placement by both the sending state's and the receiving state's public child placing agency. The required content to accompany a request for provisional approval shall include all of the following:

(1) A request for approval identifying the child, the birth parent(s), the prospective adoptive parent(s), and the supervising agency, signed by the person requesting approval.

(2) The appropriate consents or relinquishments signed by the birth parents in accordance with the laws of the sending state, or where permitted, the laws of the state where the adoption will be finalized.

(3) Certification by a licensed attorney or authorized agent of a private adoption agency that the consent or relinquishment is in compliance with the applicable laws of the sending state, or where permitted the laws of the state where finalization of the adoption will occur.

(4) A home study.

(5) An acknowledgment of legal risk signed by the prospective adoptive parents.

(c) The sending state and the receiving state may request additional information or documents before finalization of an approved placement, but they may not delay travel by the prospective adoptive parents with the child if the required content for approval has been submitted and has been received and reviewed by the public child placing agency in both the sending state and the receiving state.

(d) Approval from the public child placing agency in the receiving state for a provisional or approved placement is required as provided for in the rules of the interstate commission.

(e) The procedures for making and the request for an assessment shall contain all information and be in such form as provided for in the rules of the interstate commission.

(f) Upon receipt of a request from the public child welfare agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child placing agency of the sending state

may request a determination of whether the placement qualifies as a provisional placement.

(g) Upon receipt of a request from the public child placing agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child placing agency of the sending state may request a determination for a provisional placement.

(h) The public child placing agency in the receiving state may request from the public child placing agency or the private child placing agency in the sending state, and shall be entitled to receive, supporting or additional information necessary to complete the assessment.

(i) The public child placing agency in the receiving state shall approve a provisional placement and complete or arrange for the completion of the assessment within the timeframes established by the rules of the interstate commission.

(j) For a placement by a private child placing agency, the sending state shall not impose any additional requirements to complete the home study that are not required by the receiving state, unless the adoption is finalized in the sending state.

(k) The interstate commission may develop uniform standards for the assessment of the safety and suitability of interstate placements.

ARTICLE VI. PLACEMENT AUTHORITY

(a) Except as otherwise provided in this compact, no child subject to this compact shall be placed into a receiving state until approval for such placement is obtained.

(b) If the public child placing agency in the receiving state does not approve the proposed placement, the child shall not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the interstate commission. Such a determination is not subject to judicial review in the sending state.

(c) If the proposed placement is not approved, any interested party shall have standing to seek an administrative review of the receiving state's determination.

(d) The administrative review and any further judicial review associated with the determination shall be conducted in the receiving state under its applicable administrative procedures.

(e) If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be considered approved. However, all administrative or judicial remedies must be exhausted or the time for such remedies must have passed.

ARTICLE VII. PLACING AGENCY RESPONSIBILITY

(a) For the interstate placement of a child made by a public child placing agency or state court:

(1) the public child placing agency in the sending state shall have financial responsibility for:

(A) the ongoing support and maintenance for the child during the period of the placement, unless otherwise provided for in the receiving state; and

(B) as determined by the public child placing agency in the sending state, services for the child beyond the public services for which the child is eligible in the receiving state;

(2) the receiving state shall have financial responsibility only for:

(A) any assessment conducted by the receiving state; and

(B) supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the public child placing agencies of the receiving and sending states; and

(3) nothing in this compact prohibits public child placing agencies in the sending state from entering into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.

(b) For the placement of a child by a private child placing agency preliminary to a possible adoption, the private child placing agency shall be:

(1) legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption; and

(2) financially responsible for the child absent a contractual agreement to the contrary.

(c) The public child placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the interstate commission.

(d) The public child placing agency in the receiving state shall provide, or arrange for the provision of, supervision and services for the child, including timely reports, during the period of the placement.

(e) This compact does not limit the authority of the public child placing agency in the receiving state to contract with a licensed agency or person in the receiving state for an assessment or the provision of supervision or services for the child or otherwise authorize the provision of supervision or services by a licensed agency during the period of placement.

(f) Each member state shall provide for coordination among its branches of government concerning the state's participation in, and compliance with, the compact and interstate commission activities, through the creation of an advisory council or use of an existing body or board.

(g) Each member state shall establish a central state compact office, which shall be responsible for state compliance with the compact and the rules of the interstate commission.

(h) The public child placing agency in the sending state shall oversee compliance with the provisions of the Indian Child Welfare Act (25 U.S.C. 1901 et seq.) for placements subject to the provisions of this compact, before placement.

(i) With the consent of the interstate commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact.

ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

The member states hereby establish, by way of this compact, a commission known as the "interstate commission for the placement of children". The activities of the interstate commission are the formation of public policy and are a discretionary state function. The interstate commission:

(1) is a joint commission of the member states and shall have the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by subsequent concurrent action of the respective legislatures of the member states;

(2) consists of one (1) commissioner from each member state, who shall be appointed by the executive head of the state human services administration with ultimate responsibility for the child welfare program, and who shall have the legal authority to vote on policy related matters governed by this compact binding the state;

(3) operates under:

(A) a requirement that each member state represented at a meeting of the interstate commission is entitled to one (1) vote;

(B) a requirement that a majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission;

(C) a requirement that a representative shall not delegate a vote to another member state;

(D) a requirement that a representative may delegate voting authority to another person from the same member state for a specified meeting; and

(E) a requirement that the interstate commission shall include, in addition to the commissioners of each member state, persons who are members of interested organizations as defined in the bylaws or rules of the interstate commission and who shall be ex officio and shall not be entitled to vote on any matter before the interstate commission; and

(4) shall establish an executive committee, which shall have the authority to administer the day to day operations and administration of the interstate commission but does not have the power to engage in rulemaking.

ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission has powers to do the following:

(1) Promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact.

(2) Provide for dispute resolution among member states.

(3) Issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact or the interstate commission's bylaws, rules, or actions.

(4) Enforce compliance with this compact or the bylaws or rules of the interstate commission under Article XII.

(5) Collect standardized data concerning the interstate placement of children subject to this compact as directed through its rules, which shall specify the data to be collected, the means of collection and data exchange, and reporting requirements.

(6) Establish and maintain offices as may be necessary for the transacting of its business.

(7) Purchase and maintain insurance and bonds.

(8) Hire or contract for services of personnel or consultants as necessary to carry out its functions under the compact and establish personnel qualification policies and rates of compensation.

(9) Establish and appoint committees and officers, including, but not limited to, an executive committee as required by Article X.

(10) Accept any and all donations and grants of money, equipment, supplies, materials, and services, and receive, use, and dispose of the donations and grants.

(11) Lease, purchase, accept contributions or donations of, or otherwise own, hold, improve, or use any property, whether real, personal, or mixed.

(12) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed.

(13) Establish a budget and make expenditures.

(14) Adopt a seal and bylaws governing the management and operation of the interstate commission.

(15) Report annually to the legislatures, the governors, the judiciary, and the state advisory councils of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission.

(16) Coordinate and provide education, training, and public awareness regarding the interstate movement of children for officials involved in such activity.

(17) Maintain books and records in accordance with the bylaws of the interstate commission.

(18) Perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

(a) Bylaws.

(1) Within twelve (12) months after the first interstate commission meeting, the interstate commission shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of this compact.

(2) The interstate commission's bylaws and rules shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure information or official records to the extent

they would adversely affect personal privacy rights or proprietary interests.

(b) Meetings.

(1) The interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

(2) Public notice shall be given by the interstate commission of all meetings, and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission and its committees may close a meeting, or part of a meeting, where it determines by two-thirds (2/3) vote that an open meeting would be likely to:

(A) relate solely to the interstate commission's internal personnel practices and procedures;

(B) disclose matters specifically exempted from disclosure by federal law;

(C) disclose financial or commercial information that is privileged, proprietary, or confidential in nature;

(D) involve accusing a person of a crime, or formally censuring a person;

(E) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one (1) or more persons;

(F) disclose investigative records compiled for law enforcement purposes; or

(G) specifically relate to the interstate commission's participation in a civil action or other legal proceeding.

(3) For a meeting, or part of a meeting, closed under this provision, the interstate commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemption provision. The interstate commission shall keep minutes that shall fully and clearly describe all matters discussed in the meeting and shall provide a full and accurate summary of actions taken and the reasons for the actions, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the interstate commission or by court order.

(4) The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or other electronic communication.

(c) Officers and staff.

(1) The interstate commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions, and for such compensation as the interstate commission may consider appropriate. The staff director shall serve as secretary to the interstate commission, but shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the interstate commission.

(2) The interstate commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.

(d) Qualified immunity, defense, and indemnification.

(1) The interstate commission's staff director and the employees of the commission are immune from suit and liability, either personally or in official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that the staff director or employee had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities. The staff director or an employee is not protected from suit or liability for damage, loss, injury, or liability caused by a criminal act or intentional or willful and wanton misconduct.

(2) The liability of the interstate commission's staff director and employees or interstate commission representatives, acting within the scope of such person's employment or duties, for acts, errors, or omissions occurring within such person's state, may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

(3) The interstate commission shall defend the staff director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state, shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, if the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(4) To the extent not covered by the state involved, member state, or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged

act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, if the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(a) The interstate commission shall promulgate and publish rules in order effectively and efficiently to achieve the purposes of the compact.

(b) Rulemaking shall occur under the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or such other administrative procedure acts as the interstate commission considers appropriate and consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the United States Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the interstate commission.

(c) When promulgating a rule, the interstate commission shall, at a minimum:

(1) publish the proposed rule's entire text, stating the reasons for that proposed rule;

(2) allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record and be made publicly available; and

(3) promulgate a final rule and its effective date, if appropriate, based on input from state or local officials or interested parties.

(d) Rules promulgated by the interstate commission shall have the force and effect of administrative rules and shall be binding in the compacting states to the extent and in the manner provided for in this compact.

(e) Not later than sixty (60) days after a rule is promulgated, an interested person may file a petition in the U.S. District Court for the District of Columbia or in the federal district court of the district where the interstate commission's principal office is located for judicial review of such rule. If the court finds that the interstate commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside.

(f) A majority of the legislatures of the member states may reject a rule by enacting, in the same manner used to adopt the compact, a statute or resolution that provides that the rule shall have no further force and effect in any member state.

(g) The existing rules governing the operation of the interstate compact on the placement of children that are superseded by this act shall be null and void not less than twelve (12), but not more than twenty-four (24), months after the first meeting of the interstate commission created hereunder, as determined by the members during the first meeting.

(h) Within the first twelve (12) months of operation, the interstate commission shall promulgate rules addressing the following:

(1) Transition rules.

(2) Forms and procedures.

(3) Time lines.

(4) Data collection and reporting.

(5) Rulemaking.

(6) Visitation.

(7) Progress reports/supervision.

(8) Sharing of information/confidentiality.

(9) Financing of the interstate commission.

(10) Mediation, arbitration, and dispute resolution.

(11) Education, training, and technical assistance.

(12) Enforcement.

(13) Coordination with other interstate compacts.

(i) Upon determination by a majority of the members of the interstate commission that an emergency exists, the interstate commission may promulgate an emergency rule, subject to the following:

(1) The interstate commission may promulgate an emergency rule only if the emergency rule is required to:

(A) protect the children covered by this compact from an imminent threat to their health, safety, and well-being;

(B) prevent loss of federal or state funds; or

(C) meet a deadline for the promulgation of an administrative rule required by federal law.

(2) An emergency rule shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to the rule as soon as reasonably possible, but not later than ninety (90) days after the effective date of the emergency rule.

(3) An emergency rule shall be promulgated as provided for in the rules of the interstate commission.

ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

(a) Oversight.

(1) The interstate commission shall oversee the administration and operation of the compact.

(2) The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and the rules of the interstate commission and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The compact and its rules shall be binding in the compacting states to the extent and in the manner provided for in this compact.

(3) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in

a member state pertaining to the subject matter of this compact.

(4) The interstate commission shall be entitled to receive service of process in any action in which the validity of a compact provision or rule is the issue for which a judicial determination has been sought and shall have standing to intervene in any proceedings. Failure to provide service of process to the interstate commission shall render any judgment, order, or other determination, however so captioned or classified, void as to the interstate commission, this compact, or the bylaws or rules of the interstate commission.

(b) Dispute resolution.

(1) The interstate commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and that may arise among member states and between member and nonmember states.

(2) The interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of such mediation or dispute resolution shall be the responsibility of the parties to the dispute.

(c) Enforcement.

(1) If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, its bylaws, or rules, the interstate commission may:

(A) provide remedial training and specific technical assistance;

(B) provide written notice to the defaulting state and other member states of the nature of the default and the means of curing the default. The interstate commission shall specify the conditions by which the defaulting state must cure its default;

(C) by majority vote of the members, initiate against a defaulting member state legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal office, to enforce compliance with the provisions of the compact or with the interstate commission's bylaws or rules. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees; or

(D) avail itself of any other remedies available under state law or the rules relating to the regulation of official or professional conduct.

ARTICLE XIII. FINANCING OF THE COMMISSION

(a) The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff, which must be in a total amount sufficient to cover the interstate commission's annual budget as approved by its members each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

(c) The interstate commission shall not incur obligations of any kind before securing the funds adequate to meet the obligations. The interstate commission shall not pledge the credit of any of the member states, except by and with the authority of the member state.

(d) The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the interstate commission.

ARTICLE XIV. MEMBER STATES, AMENDMENT

(a) Any state is eligible to become a member state.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by thirty-five (35) states. The effective date shall be the later of July 1, 2007, or upon enactment of the compact into law by the thirty-fifth state. Thereafter, the compact shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The executive heads of the state human services administration with ultimate responsibility for the child welfare program of nonmember states or their designees shall be invited to participate in the activities of the interstate commission on a nonvoting basis before adoption of the compact by all states.

(c) The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XV. WITHDRAWAL AND DISSOLUTION

(a) Withdrawal.

(1) Once effective, this compact continues in force and remains binding upon each and every member state. However, a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law.

(2) Withdrawal from this compact shall be by the enactment of a statute repealing the statute establishing the compact. The effective date of withdrawal is the effective date of the repeal of the statute.

(3) The withdrawing state shall immediately notify the president of the interstate commission in writing upon

the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall then notify the other member states of the withdrawing state's intent to withdraw.

(4) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal.

(5) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the interstate commission.

(b) Dissolution of compact.

(1) This compact shall dissolve effective upon the date of the withdrawal or default of the member state that reduces the membership in the compact to one (1) member state.

(2) Upon the dissolution of this compact, the compact becomes void and is of no further force or effect, and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

(a) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is considered unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of this compact shall be liberally construed to effectuate its purposes.

(c) Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members.

ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

(a) Other laws.

(1) This compact does not prevent the enforcement of any other law of a member state that is not inconsistent with this compact.

(2) All member states' laws conflicting with this compact or its rules are superseded to the extent of the conflict.

(b) Binding effect of this compact.

(1) All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the member states.

(2) All agreements between the interstate commission and the member states are binding in accordance with their terms.

(3) If any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, the provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state.

ARTICLE XVIII. INDIAN TRIBES

Notwithstanding any other provision in this compact, the interstate commission may promulgate guidelines to permit Indian tribes to use the compact to achieve any or all of the purposes of the compact as specified in Article I. The interstate commission shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the various Indian tribes.

SECTION 13. IC 34-30-2-133.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 133.5. IC 31-28-6 (Concerning employees, staff, and representatives of the interstate commission for the placement of children).**

SECTION 14. P.L.234-2007, SECTION 173, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 173. (a) As used in this SECTION, "commission" refers to the commission on disproportionality in youth services.

(b) As used in this SECTION, "youth services" means the following:

(1) Juvenile justice services.

(2) Child welfare services.

(3) Education services.

(4) Mental health services.

(c) The commission on disproportionality in youth services is established to develop and provide an implementation plan to evaluate and address disproportionate representation of youth of color in the use of youth services.

(d) The commission consists of the following members appointed not later than August 15, 2007:

(1) The dean or a faculty member of an Indiana accredited graduate school of public administration, social work, education, mental health, or juvenile justice, who shall serve as chairperson of the commission.

(2) The state superintendent of public instruction, or the superintendent's designee.

(3) The director of the division of mental health and addiction, or the director's designee.

(4) The executive director of the Indiana criminal justice institute, or the executive director's designee.

(5) The director of the department of child services, or the director's designee.

(6) The commissioner of the department of correction, or the commissioner's designee.

(7) A division of child services county director from a densely populated county.

(8) A faculty member of an Indiana accredited college or university that offers undergraduate degrees in public administration, social work, education, mental health, or juvenile justice.

(9) A prosecuting attorney.

(10) A juvenile court judge.

(11) An attorney who specializes in juvenile law.

(12) A representative of the Indiana Minority Health Coalition.

(13) A health care provider who specializes in pediatric or emergency medicine.

(14) A public agency family case manager.

(15) A private agency children's service social worker.

(16) A school counselor or social worker.

(17) A representative of law enforcement.

(18) A guardian ad litem, court appointed special advocate, or other child advocate.

(19) The chairperson of an established advocacy group in Indiana that has previously investigated the issue of disproportionality in use of youth services.

(20) A young adult who has previous involvement with at least one (1) youth service.

(21) A representative of foster parents or adoptive parents.

(22) A representative of a state teacher's association or a public school teacher.

(23) A child psychiatrist or child psychologist.

(24) A representative of a family support group.

(25) A representative of the National Alliance on Mental Illness.

(26) A representative of the commission on the social status of black males.

(27) A representative of the Indiana Juvenile Detention Association.

(28) A representative of the commission on Hispanic/Latino affairs.

(29) A representative of the civil rights commission.

(30) Two (2) members of the house of representatives appointed by the speaker of the house of representatives. The members appointed under this subdivision may not be members of the same political party and serve as nonvoting members.

(31) Two (2) members of the senate appointed by the president pro tempore of the senate. The members appointed under this subdivision may not be members of the same political party and serve as nonvoting members.

The governor shall appoint the members under subdivisions (1), (7), (10), (13), (16), (19), (22), (25), (28), and (29). The speaker of the house of representatives shall appoint the members under subdivisions (8), (11), (14), (17), (20), (23), (26), and (30). The president pro tempore of the senate shall appoint the members under subdivisions (9), (12), (15), (18), (21), (24), (27), and (31). Vacancies shall be filled by the appointing authority for the remainder of the unexpired term.

(e) Each member of the commission shall have an interest in or influence on evaluating and addressing disproportionate representation of youth of color in the use of youth services.

(f) A majority of the voting members of the commission constitutes a quorum.

(g) The Indiana accredited graduate school represented by the chairperson of the commission under subsection (d)(1) shall staff the commission.

(h) The commission shall meet at the call of the chairperson and shall meet as often as necessary to carry out the purposes of this SECTION.

(i) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(j) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(k) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

(l) The commission's responsibilities include the following:

(1) Reviewing Indiana's public and private child welfare, juvenile justice, mental health, and education service delivery systems to evaluate disproportionality rates in the use of youth services by youth of color.

(2) Reviewing federal, state, and local funds appropriated to address disproportionality in the use of youth services by youth of color.

(3) Reviewing current best practice standards addressing disproportionality in the use of youth services by youth of color.

(4) Examining the qualifications and training of youth service providers and making recommendations for a training curriculum and other necessary changes.

(5) Recommending methods to improve use of available public and private funds to address disproportionality in the use of youth services by youth of color.

(6) Providing information concerning identified unmet youth service needs and providing recommendations concerning the development of resources to meet the identified needs.

(7) Suggesting policy, program, and legislative changes related to youth services to accomplish the following:

(A) Enhancement of the quality of youth services.

(B) Identification of potential resources to promote change to enhance youth services.

(C) Reduction of the disproportionality in the use of youth services by youth of color.

(8) Preparing a report consisting of the commission's findings and recommendations, and the presentation of an implementation plan to address disproportionate representation of youth of color in use of youth services.

(m) In carrying out the commission's responsibilities, the commission shall consider pertinent studies concerning disproportionality in use of youth services by youth of color.

(n) The affirmative votes of a majority of the commission's voting members are required for the commission to take action on any measure, including recommendations included in the report required under subsection (l)(8).

(o) The commission shall submit the report required under subsection (l)(8) to the governor and to the legislative council not later than ~~August 15, 2008.~~ **November 15, 2008.** The report to the legislative council must be in an electronic format under IC 5-14-6. The commission shall make the report available to the public upon request not later than ~~December 1, 2008.~~ **December 15, 2008.**

(p) There is appropriated from the state general fund one hundred twenty-five thousand ($125,000) dollars for the period beginning July 1, 2007, and ending December 31, 2008, to carry out the purposes of this SECTION, including the hiring by the chairperson of an individual to serve only to assist the chairperson and members with research, statistical analysis, meeting support, and drafting of the report required under subsection (l)(8).

(q) This SECTION expires January 1, 2009.

SECTION 15. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 12-7-2-192.7; IC 12-13-5-13.

SECTION 16. [EFFECTIVE JULY 1, 2008] **(a) Cases involving the placement of children under the interstate compact on the placement of children set forth in IC 31-28-4 that are pending when the interstate compact for the placement of children set forth in IC 31-28-6-1, as added by this act, goes into effect under IC 31-28-4-1.5, as added by this act, are governed by the interstate compact on the placement of children set forth in IC 31-28-4.**

(b) This SECTION expires December 31, 2013.

SECTION 17. **An emergency is declared for this act.**

(Reference is to EHB 1290 as reprinted February 27, 2008.)

Avery, Chair	Lawson
Bell	Sipes
House Conferees	Senate Conferees

Roll Call 340: yeas 39, nays 4. Report adopted.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Senate Concurrent Resolutions 4, 16, 18, 21, 25, 34, 37, 47, and 51 and the same are herewith returned to the Senate.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has overridden the veto of the Governor on House Enrolled Act 1429 and the same is herewith transmitted to the Senate for further action.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the Speaker of the House has removed Representative Pond as a conferee on Engrossed Senate Bill 143 and now appoints Representative Day thereon.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the Speaker of the House has removed Representative Murphy as a conferee on Engrossed House Bill 1140 and now appoints Representative GiaQuinta thereon.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the Speaker of the House has removed Representative Torr as a conferee on Engrossed House Bill 1105 and now appoints Representative Summers thereon.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has concurred with the Senate amendments to Engrossed House Bills 1159 and 1197.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has adopted the Conference Committee Reports on Engrossed House Bills 1111–1, 1165–1, 1096–1, 1187–1, and 1290–1.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has adopted the Conference Committee Reports on Engrossed Senate Bills 31–1, 78–1, 157–1, 164–1, 302–1, 329–1, and 350–1.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the Speaker of the House has appointed the following

Representatives to a conference committee to confer with a like committee of the Senate on Engrossed Senate Bill 345:

Conferees:
Pelath and Koch
Advisors:
Tincher, Candeleria-Reardon, Niezgodski, Murphy, and Turner

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE PRESIDENT PRO TEMPORE OF THE INDIANA STATE SENATE

Madam President and Members of the Senate: I have on March 12, 2008, signed Senate Enrolled Acts: 28 and 352.

DAVID C. LONG
President Pro Tempore

MESSAGE FROM THE PRESIDENT PRO TEMPORE OF THE INDIANA STATE SENATE

Madam President and Members of the Senate: I have on March 11, 2008, signed Senate Enrolled Acts: 10, 81, 134, 176, 334, and 360.

DAVID C. LONG
President Pro Tempore

MESSAGE FROM THE PRESIDENT PRO TEMPORE OF THE INDIANA STATE SENATE

Madam President and Members of the Senate: I have on March 11, 2008, signed House Enrolled Acts: 1036, 1169, 1185, and 1271.

DAVID C. LONG
President Pro Tempore

MESSAGE FROM THE GOVERNOR

Madam President and Members of the Senate: On March 13, 2008, I signed the following enrolled acts into law: SEA 104, 107, 159, 192, 241, 316, 336, and 343.

MITCHELL E. DANIELS, JR.
Governor

MESSAGE FROM THE GOVERNOR

Madam President and Members of the Senate: On March 12, 2008, I signed the following enrolled acts into law: SEA 27, 111, 139, 117, 118, 153, 175, 207, and 223.

MITCHELL E. DANIELS, JR.
Governor

MESSAGE FROM THE PRESIDENT OF THE SENATE

Members of the Senate: I have on the 13th day of March, 2008, signed Senate Enrolled Acts: 10, 81, 134, 176, 334, and 360.

REBECCA S. SKILLMAN
Lieutenant Governor

MESSAGE FROM THE PRESIDENT OF THE SENATE

Members of the Senate: I have on the 13th day of March, 2008, signed Senate Enrolled Acts: 189, 197, and 257.

REBECCA S. SKILLMAN
Lieutenant Governor

PRESIDENT PRO TEMPORE'S REPORT OF CONFEREE CHANGES

Pursuant to Rule 81(c), of the Standing Rules and Orders of the Senate, President Pro Tempore David C. Long has made the following change in conferee (or advisor) appointments to Engrossed Senate Bill 312:
Errington to replace Broden as Conferee

LONG
Date: 3/13/2008
Time: 2:35 p.m.

PRESIDENT PRO TEMPORE'S REPORT OF CONFEREE CHANGES

Pursuant to Rule 81(c), of the Standing Rules and Orders of the Senate, President Pro Tempore David C. Long has made the following change in conferee (or advisor) appointments to Engrossed Senate Bill 315:
Hume removed as Conferee

LONG
Date: 3/12/2008
Time: 5:44 p.m.

PRESIDENT PRO TEMPORE'S REPORT OF CONFEREE CHANGES

Pursuant to Rule 81(c), of the Standing Rules and Orders of the Senate, President Pro Tempore David C. Long has removed the following senator(s) as conferee(s) or advisor(s) on Engrossed Senate Bill 315:
Advisor: Mrvan

LONG
Date: 3/13/2008
Time: 10:42 a.m.

PRESIDENT PRO TEMPORE'S REPORT
OF
CONFEREE CHANGES

Pursuant to Rule 81(c), of the Standing Rules and Orders of the Senate, President Pro Tempore David C. Long has made the following change in conferee (or advisor) appointments to Engrossed Senate Bill 315:

Conferee: Mrvan

LONG
Date: 3/13/2008
Time: 8:55 a.m.

PRESIDENT PRO TEMPORE'S REPORT
OF
CONFEREE CHANGES

Pursuant to Rule 81(c), of the Standing Rules and Orders of the Senate, President Pro Tempore David C. Long has removed the following senator(s) as conferee(s) or advisor(s) on Engrossed Senate Bill 314:

Advisor: Jackman

LONG
Date: 3/13/2008
Time: 9:07 a.m.

PRESIDENT PRO TEMPORE'S REPORT
OF
CONFEREE CHANGES

Pursuant to Rule 81(c), of the Standing Rules and Orders of the Senate, President Pro Tempore David C. Long has made the following change in conferee (or advisor) appointments to Engrossed Senate Bill 314:

Jackman to replace Nugent as Chair

LONG
Date: 3/13/2008
Time: 9:07 a.m.

5:32 p.m.

The Chair declared a recess until 6:30 p.m.

RECESS

The Senate reconvened at 6:49 p.m., with the President of the Senate in the Chair.

SENATE MOTION

Madam President: I move that Conference Committee Report 1052–1 to Engrossed House Bill 1052, filed March 12, 2008, be withdrawn from further consideration by the Senate.

RIEGSECKER

Motion prevailed.

COMMITTEE REPORT

Madam President: Pursuant to Senate Rule(k) your Committee on Rules and Legislative Procedure to which was referred Conference Committee Reports filed on Engrossed Senate Bills 72, 143, 312, 314, 315, and Engrossed House Bills 1019, 1119, 1172, 1249, and 1379 has had the same under consideration and begs leave to report back to the Senate with the recommendation that said Conference Committee Reports are eligible for consideration.

LONG, Chair

Report adopted.

SENATE MOTION

Madam President: I move that Senate Rule 83(a) be suspended with regard to its application to the following Conference Committee Reports: 72–2, 143–1, 312–1, 314–1, 315–1, 1019–1, 1119–1, 1172–1, 1249–1, and 1379–1.

LONG

Motion prevailed.

RESOLUTIONS ON FIRST READING

Senate Resolution 70

Senate Resolution 70, introduced by Senator Miller:

A SENATE RESOLUTION recognizing the Church of the Holy Name of Jesus, Beech Grove, Indiana, on the occasion of the 100th anniversary of its establishment.

Whereas, The Church of the Holy Name of Jesus was founded by Right Reverend Francis Silas Marcan Chatard in 1908;

Whereas, The church, originally named the Blessed Sacrament Chapel/Church, was given the new name of the Church of the Holy Name of Jesus in the 1920s;

Whereas, As time went by, properties on Albany Street and 17th Avenue were acquired for the addition of a school and a second chapel/church, with the first class graduating in 1923;

Whereas, In 1954 a new church, set apart for worship, was built and dedicated;

Whereas, The Holy Name of Jesus school has graduated approximately 4,200 children, and the Church of the Holy Name of Jesus has ministered to more than 250,000 people;

Whereas, The Church of the Holy Name of Jesus also touches the lives of those who use St. Francis Hospital and helps to minister to people in times of stress and sorrow; and

Whereas, Throughout its 100 years of existence, the Church of the Holy Name of Jesus has continuously ministered to the parish and the community, extending spiritual graces on behalf of the salvation of souls: Therefore,

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

SECTION 1. That the Indiana Senate congratulates the parishioners and clergy of the Church of the Holy Name of Jesus and recognizes the many contributions the church has made to the Beech Grove community and the surrounding area.

SECTION 2. That copies of this resolution be transmitted by the Secretary of the Senate to the administrator of the Church of the Holy Name of Jesus.

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

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT

ESB 312–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 312 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 3-5-2-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. **(a)** "Executive" means **the following:**

(1) **Except as provided in subsection (b), the** board of county commissioners, for a county not having a consolidated city.

(2) **The** mayor of the consolidated city, for a county having a consolidated city.

(3) **The** mayor, for a city.

(4) **The** president of the town council, for a town. ~~or~~

(5) **A** trustee, for a township.

(b) In the case of a county subject to IC 36-2-2.5, "executive" means the county executive elected under IC 3-10-2-13.

SECTION 2. IC 3-10-1-19, AS AMENDED BY P.L.164-2006, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. (a) The ballot for a primary election shall be printed in substantially the following form for all the offices for which candidates have qualified under IC 3-8:

OFFICIAL PRIMARY BALLOT

_____ Party

For paper ballots, print: To vote for a person, make a voting mark (X or ✓) on or in the box before the person's name in the proper column. For optical scan ballots, print: To vote for a person, darken or shade in the circle, oval, or square (or draw a line to connect the arrow) that precedes the person's name in the proper column. For optical scan ballots that do not contain a candidate's name, print: To vote for a person, darken or shade in the oval that precedes the number assigned to the person's name in the proper column. For electronic voting systems, print: To vote for a person, touch the screen (or press the button) in the location indicated.

Vote for one (1) only

Representative in Congress

[] (1) AB _____

[] (2) CD _____

[] (3) EF _____

[] (4) GH _____

(b) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

(1) Federal and state offices:

(A) President of the United States.

(B) United States Senator.

(C) Governor.

(D) United States Representative.

(2) Legislative offices:

(A) State senator.

(B) State representative.

(3) Circuit offices and county judicial offices:

(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.

(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.

(C) Judge of the probate court.

(D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.

(E) Prosecuting attorney.

(F) Circuit court clerk.

(4) County offices:

(A) County auditor.

(B) County recorder.

(C) County treasurer.

(D) County sheriff.

(E) County coroner.

(F) County surveyor.

(G) County assessor.

(H) County commissioner.

(I) County executive, in the case of a county subject to IC 36-2-2.5.

~~(I)~~ **(J)** County council member.

(5) Township offices:
(A) Township assessor.
(B) Township trustee.
(C) Township board member.
(D) Judge of the small claims court.
(E) Constable of the small claims court.
(6) City offices:
(A) Mayor.
(B) Clerk or clerk-treasurer.
(C) Judge of the city court.
(D) City-county council member or common council member.
(7) Town offices:
(A) Clerk-treasurer.
(B) Judge of the town court.
(C) Town council member.

(c) The political party offices with candidates for election shall be placed on the primary election ballot in the following order after the offices described in subsection (b):
(1) Precinct committeeman.
(2) State convention delegate.

(d) The following offices and public questions shall be placed on the primary election ballot in the following order after the offices described in subsection (c):
(1) School board offices to be elected at the primary election.
(2) Other local offices to be elected at the primary election.
(3) Local public questions.

(e) The offices and public questions described in subsection (d) shall be placed:
(1) in a separate column on the ballot if voting is by paper ballot;
(2) after the offices described in subsection (c) in the form specified in IC 3-11-13-11 if voting is by ballot card; or
(3) either:
(A) on a separate screen for each office or public question; or
(B) after the offices described in subsection (c) in the form specified in IC 3-11-14-3.5;
if voting is by an electronic voting system.

(f) A public question shall be placed on the primary election ballot in the following form:

(The explanatory text for the public question,
if required by law.)
"Shall (insert public question)?"
[] YES
[] NO

SECTION 3. IC 3-10-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. The following public officials shall be elected at the general election before their terms of office expire and every four (4) years thereafter:
(1) Clerk of the circuit court.
(2) County auditor.
(3) County recorder.
(4) County treasurer.
(5) County sheriff.
(6) County coroner.
(7) County surveyor.
(8) County assessor.
(9) County commissioner.
(10) County executive, in the case of a county subject to IC 36-2-2.5.
~~(10)~~ **(11)** County council member.
~~(11)~~ **(12)** Township trustee.
~~(12)~~ **(13)** Township board member.
~~(13)~~ **(14)** Township assessor.
~~(14)~~ **(15)** Judge of a small claims court.
~~(15)~~ **(16)** Constable of a small claims court.

SECTION 4. IC 3-11-2-12, AS AMENDED BY P.L.2-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. The following offices shall be placed on the general election ballot in the following order:
(1) Federal and state offices:
(A) President and Vice President of the United States.
(B) United States Senator.
(C) Governor and lieutenant governor.
(D) Secretary of state.
(E) Auditor of state.
(F) Treasurer of state.
(G) Attorney general.
(H) Superintendent of public instruction.
(I) United States Representative.
(2) Legislative offices:
(A) State senator.
(B) State representative.
(3) Circuit offices and county judicial offices:
(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.
(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
(C) Judge of the probate court.
(D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.
(E) Prosecuting attorney.
(F) Clerk of the circuit court.
(4) County offices:
(A) County auditor.
(B) County recorder.
(C) County treasurer.
(D) County sheriff.
(E) County coroner.
(F) County surveyor.
(G) County assessor.
(H) County commissioner.
(I) County executive, in the case of a county subject to IC 36-2-2.5.

~~(I)~~ **(J)** County council member.

(5) Township offices:

(A) Township assessor.

(B) Township trustee.

(C) Township board member.

(D) Judge of the small claims court.

(E) Constable of the small claims court.

(6) City offices:

(A) Mayor.

(B) Clerk or clerk-treasurer.

(C) Judge of the city court.

(D) City-county council member or common council member.

(7) Town offices:

(A) Clerk-treasurer.

(B) Judge of the town court.

(C) Town council member.

SECTION 5. IC 36-1-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. **(a)** "Executive" means **the following:**

(1) **Except as provided in subsection (b), the** board of commissioners, for a county not having a consolidated city.

(2) **The** mayor of the consolidated city, for a county having a consolidated city.

(3) **The** mayor, for a city.

(4) **The** president of the town council, for a town.

(5) **A** trustee, for a township.

(6) **The** superintendent, for a school corporation. ~~or~~

(7) **The** chief executive officer, for any other political subdivision.

(b) "Executive", in the case of a county subject to IC 36-2-2.5, means the county executive elected under IC 3-10-2-13 for a county not having a consolidated city.

SECTION 6. IC 36-1-2-9, AS AMENDED BY P.L.186-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. "Legislative body" means the **following:**

(1) **The** board of county commissioners, for a county not subject to IC 36-2-3.5 or IC 36-3-1.

(2) **The** county council, for a county subject to IC 36-2-3.5 **or IC 36-2-3.7.**

(3) **The** city-county council, for a consolidated city or county having a consolidated city.

(4) **The** common council, for a city other than a consolidated city.

(5) **The** town council, for a town.

(6) **The** township board, for a township.

(7) **The** governing body of any other political subdivision that has a governing body. ~~or~~

(8) **The** chief executive officer of any other political subdivision that does not have a governing body.

SECTION 7. IC 36-2-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) If the resident voters in a specified territory in two (2) or more contiguous counties desire to change the boundaries of their respective counties, they may file a petition with the executives of their respective counties requesting that the territory be transferred. The petition must:

(1) be signed by at least the number of voters resident in the territory requested to be transferred required to place a candidate on the ballot under IC 3-8-6-3;

(2) contain a clear, distinct description of the requested boundary change; and

(3) not propose to decrease the area of any county below four hundred (400) square miles in compliance with Article 15, Section 7 of the Constitution of the State of Indiana.

(b) Whenever a petition under subsection (a) is filed with a county executive, the executive shall determine, at its first meeting after the petition is filed:

(1) whether the signatures on the petition are genuine; and

(2) whether the petition complies with subsection (a).

(c) If the determinations under subsection (b) are affirmative, the executive shall certify the question to the county election board of each affected county. The county election boards shall jointly order a special election to be held, scheduling the election so that the election is held on the same date in each county interested in the change, but not later than thirty (30) days and not on the same date as a general election. The election shall be conducted under IC 3-10-8-6. All voters of each interested county are entitled to vote on the question. The question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the boundaries of _____ County and _____ County change?".

(d) After an election under subsection (c), the clerk of each county shall make a certified copy of the election returns and not later than five (5) days after the election file the copy with the auditor of the county. The auditor shall, not later than five (5) days after the filing of the returns in the auditor's office, make a true and complete copy of the returns, certified under the auditor's hand and seal, and deposit the copy with the auditor of every other county interested in the change.

(e) After copies have been filed under subsection (d), the auditor of each county shall call a meeting of the executive of the county, which shall examine the returns. If a majority of the voters of each interested county voted in favor of change, the executive shall:

(1) enter an order declaring their boundaries to be changed as described in the petition; and

(2) if the county has received territory from the transfer, adopt revised descriptions of:

(A) county commissioner districts under IC 36-2-2-4; and

(B) county council districts under IC 36-2-3-4;

so that the transferred territory is assigned to at least one (1) county commissioner district and at least one (1) county council district. **If IC 36-2-3.7 is applicable to a county, county council districts shall be established as provided in IC 36-2-3-4.6.**

(f) The executive of each county shall file a copy of the order described in subsection (e)(1) with:

(1) the office of the secretary of state; and

(2) the circuit court clerk of the county.

Except as provided in subsection (g), the transfer of territory becomes effective when the last county order is filed under this subsection.

(g) An order declaring county boundaries to be changed may not take effect during the year preceding a year in which a federal decennial census is conducted. An order that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

(h) An election under this section may be held only once every three (3) years.

SECTION 8. IC 36-2-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. This chapter applies to all counties ~~not~~ **except the following:**

(1) A county having a consolidated city.

(2) A county subject to IC 36-2-2.5.

SECTION 9. IC 36-2-2.4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 2.4. Reorganization of County Executive and Legislative Structure and Powers

Sec. 1. This chapter does not apply to a county having a consolidated city.

Sec. 2. (a) This section does not apply to a county subject to IC 36-2-3.5.

(b) Subject to subsection (c), the county executive may adopt an ordinance under IC 36-2-4 to reorganize the executive and legislative structure and functions of the county as provided in this chapter.

(c) An ordinance adopted under this section must be adopted before July 1 of an even-numbered year.

(d) The county auditor shall certify the adoption of the ordinance to the county election board as provided in IC 3-10-9.

Sec. 3. (a) This section applies to a county subject to IC 36-2-3.5.

(b) Subject to subsection (c), an ordinance may be adopted under IC 36-2-4 to reorganize the executive and legislative structure and functions of the county as provided in this chapter.

(c) An ordinance adopted under this section must be adopted before July 1 of an even-numbered year.

(d) The county auditor shall certify the adoption of the ordinance to the county election board as provided in IC 3-10-9.

Sec. 4. (a) Subject to subsection (b), if a petition:

(1) requests that a public question be placed on the ballot for the reorganization of the executive and legislative structure and functions of the county as provided in this chapter;

(2) is signed by the number of registered voters of the county described in subsection (c); and

(3) is filed with the circuit court clerk; the circuit court clerk shall certify the filing of the petition with the county election board as provided in IC 3-10-9.

(b) A petition described in this section must be filed with the circuit court clerk not later than July 1 of an even-numbered year.

(c) The number of registered voters of the county who must sign a petition under this section may not be less than the greater of the following:

(1) Five percent (5%) of the number of votes cast for secretary of state in the county at the most recent election for secretary of state.

(2) Two hundred fifty (250).

Sec. 5. If:

(1) an ordinance is certified under section 2 or 3 of this chapter; or

(2) a petition is certified under section 4 of this chapter; the county election board shall place the following public question on the ballot at the next general election held in the county:

"Shall the county government of _____(insert the name of the county) County be reorganized to place all executive powers in a single elected county executive and to place all legislative and fiscal powers in the county council?".

Sec. 6. IC 3, except where inconsistent with this chapter, applies to a public question placed on the ballot under this chapter.

Sec. 7. If a majority of the voters who vote on the public question vote in favor of the public question, the following apply:

(1) IC 36-2-2.5 applies to the county instead of IC 36-2-2.

(2) The county executive consists of one (1) individual.

(3) The county may not subsequently be governed under IC 36-2-2.

(4) The county executive described in subdivision (2) shall:

(A) be elected at the second general election held after the year the public question is approved; and

(B) take office January 1 after the individual's election.

(5) The term of office of each member of the county executive elected under IC 36-2-2 is as follows:

(A) The term of a member elected at the general election held in the year the public question is approved:

(i) is four (4) years; and

(ii) expires at the end of the day on December 31 after the election described in subdivision (4).

(B) The term of a member elected at the first general election held after the year the public question is approved:

(i) is two (2) years; and

(ii) expires at the end of the day on December 31 after the election described in subdivision (4).

(6) IC 36-2-3.7 applies to the county.

SECTION 10. IC 36-2-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 2.5. Single Member County Executive

Sec. 1. (a) This chapter applies to a county if the voters of the county approve a public question under IC 36-2-2.4.

(b) This chapter does not apply to a county having a consolidated city.

Sec. 2. As used in this chapter, "county executive" means the county executive elected under IC 3-10-2-13 every four (4) years.

Sec. 3. (a) All powers and duties of the county that are executive or administrative in nature shall be exercised or performed by the county executive, except to the extent that these powers and duties are expressly assigned by law to another elected or appointed officer.

(b) Any reference:

(1) in the Indiana Code;

(2) in the Indiana Administrative Code; or

(3) in an ordinance or resolution;

to the board of commissioners as it pertains to a county governed by this chapter shall be considered a reference to the county executive of the county. Any reference in the Indiana Code related to the executive powers and duties of the board of county commissioners shall, for purposes of a county subject to this chapter, be considered a reference to the county executive of the county.

(c) The county council has the legislative powers and duties of the county as provided in IC 36-2-3.7.

Sec. 4. The county executive shall do the following:

(1) Report on the condition of the county before March 1 of each year to the county council and to the residents of the county.

(2) Recommend before March 1 of each year to the county council any action or program the county executive considers necessary for the improvement of the county and the welfare of county residents.

(3) Submit to the county council an annual budget in accordance with IC 36-2-5.

(4) Establish the procedures to be followed by all county departments, offices, and agencies under the county executive's jurisdiction, to the extent these procedures are not expressly assigned by law to another elected or appointed officer.

(5) Administer all statutes, ordinances, and regulations applicable to the county, to the extent the administration of these matters is not expressly assigned by law to another elected or appointed officer.

(6) Supervise the care and custody of all county property.

(7) Supervise the collection of revenues and control all disbursements and expenditures, and prepare a complete account of all expenditures, to the extent these matters are not expressly assigned by law to another elected or appointed officer.

(8) Review, analyze, and forecast trends for county services and finances and programs of all county governmental entities, and report and make recommendations on these matters to the county council by March 15 of each year.

(9) Negotiate contracts for the county.

(10) Make recommendations concerning the nature and location of county improvements, and provide for the execution of those improvements.

(11) Supervise county administrative offices, except for the offices of elected officers.

(12) Approve or veto ordinances passed by the county council in the manner prescribed by section 6 of this chapter.

(13) Perform other duties and functions that are assigned to the county executive by statute or ordinance.

Sec. 5. The county executive may do any of the following:

(1) Order any department, office, or agency under the county executive's jurisdiction to undertake any task for another department, office, or agency under the county executive's jurisdiction on a temporary basis, if necessary for the proper and efficient administration of county government.

(2) Establish and administer centralized budgeting, centralized personnel selection, and centralized purchasing.

Sec. 6. The county executive shall approve or veto ordinances passed by the county council in the manner prescribed by IC 36-2-4-8.

Sec. 7. Notwithstanding any other law, if a statute requires a county executive to take an executive action by ordinance or resolution, the county executive shall instead take the action by issuing an executive order.

SECTION 11. IC 36-2-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The ~~seven (7) member~~ county council elected under this chapter is:

(1) the county fiscal body; **and**

(2) if IC 36-2-3.7 applies to the county, the county legislative body.

(b) The ~~fiscal body~~ **county council** shall act in the name of "The _____ County Council".

~~(b) Notwithstanding subsection (a), in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the county council has nine (9) members.~~

SECTION 12. IC 36-2-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The ~~fiscal body~~ **county council** shall be elected under IC 3-10-2-13. Except in a county having only single member districts, members elected from districts and at large members, respectively, ~~are to~~ **shall** be elected in alternate, succeeding general elections under ~~section 4 of~~ this chapter. In a county having only single member districts, the terms of the members are staggered as was provided

by law before September 1, 1980.

(b) The term of office of a member of the ~~fiscal body~~ **county council** is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

SECTION 13. IC 36-2-3-4, AS AMENDED BY P.L.230-2005, SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) **This section does not apply to a county if IC 36-3-3.7 applies to the county.**

(b) This subsection does not apply to a county having a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

The county executive shall, by ordinance, divide the county into four (4) contiguous, single-member districts that comply with subsection ~~(d).~~ **(e).** If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts. One (1) member of the ~~fiscal body~~ **county council** shall be elected by the voters of each of the four (4) districts. Three (3) at-large members of the ~~fiscal body~~ **county council** shall be elected by the voters of the whole county.

~~(b)~~ **(c)** This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The county redistricting commission established under IC 36-2-2-4 shall divide the county into seven (7) single-member districts that comply with subsection ~~(d).~~ **(e).** One (1) member of the ~~fiscal body~~ **county council** shall be elected by the voters of each of these seven (7) single-member districts.

~~(c)~~ **(d)** This subsection applies to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). The ~~fiscal body~~ **county council** shall divide the county into nine (9) single-member districts that comply with subsection ~~(d).~~ **(e).** Three (3) of these districts must be contained within each of the three (3) districts established under IC 36-2-2-4(c). One (1) member of the ~~fiscal body~~ **county council** shall be elected by the voters of each of these nine (9) single-member districts.

~~(d)~~ **(e)** Single-member districts established under subsection ~~(a),~~ (b), **(c),** or ~~(c)~~ **(d)** must:

(1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);

(2) not cross precinct boundary lines;

(3) contain, as nearly as possible, equal population; and

(4) include whole townships, except when a division is clearly necessary to accomplish redistricting under this section.

~~(e)~~ **(f)** A division under subsection ~~(a),~~ (b), **(c),** or ~~(c)~~ **(d)** shall be made:

(1) during the first year after a year in which a federal decennial census is conducted; and

(2) when the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

~~(f)~~ **(g)** A division under subsection ~~(a),~~ (b), **(c),** or ~~(c)~~ **(d)** may be made ~~in any odd-numbered year~~ **at a time** not described in subsection ~~(c).~~ **(f) only to make districts comply with subsection (e).**

SECTION 14. IC 36-2-3-4.6 IS ADDED TO THE INDIANA CODE AS **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4.6. (a) If IC 36-2-3.7 applies to the county:**

(1) this section applies to the county; and

(2) section 4 of this chapter does not apply to the county.

(b) Except as provided in subsections (c) and (d), the county council shall divide the county into four (4) single-member districts that comply with subsection (e). If necessary, the county auditor shall call a special meeting of the county council to establish or revise districts. One (1) member of the county council shall be elected by the voters of each of the four (4) districts. Three (3) at-large members of the county council shall be elected by all the voters of the county.

(c) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The county redistricting commission established under IC 36-2-2-4 shall divide the county into seven (7) single-member districts that comply with subsection (e). One (1) member of the county council shall be elected by the voters of each of these seven (7) single-member districts.

(d) This subsection applies to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). The county council shall divide the county into nine (9) single-member districts that comply with subsection (e). One (1) member of the county council shall be elected by the voters of each of these nine (9) single-member districts.

(e) Single-member districts established under this section must:

(1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);

(2) not cross precinct boundary lines;

(3) contain, as nearly as possible, equal population; and

(4) include whole townships, except when a division is clearly necessary to accomplish redistricting under this section.

(f) A division under this section shall be made:

(1) during the first year after a year in which a federal decennial census is conducted; and

(2) when the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(g) A division under this section may be made at a time not described in subsection (f) only to make districts comply with subsection (e).

SECTION 15. IC 36-2-3-4.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.7. (a) Whenever the county executive or the county ~~fiscal body~~ **council** divides the county into districts under ~~section 4 of~~ this chapter, the county executive or the county ~~fiscal body~~ **council** shall adopt an ordinance.

(b) The county executive or the county ~~fiscal body~~ **council** shall file a copy of an ordinance adopted under subsection (a) with the circuit court clerk.

SECTION 16. IC 36-2-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) To be eligible to serve as a member of the ~~fiscal body,~~ **county council,** a person must meet the qualifications prescribed by IC 3-8-1-22.

(b) A member of the ~~fiscal body~~ **county council** must reside within:

(1) the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana; and

(2) the district from which the member was elected, if applicable.

(c) A member who fails to comply with subsection (b) forfeits the office.

SECTION 17. IC 36-2-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) At its regular meeting required by section 7(b)(1) of this chapter, the ~~fiscal body~~ **county council** shall elect a president and president pro tempore from its members.

(b) The county auditor is the clerk of the ~~fiscal body~~ **county council** and shall:

(1) preserve the ~~fiscal body's~~ **county council's** records in ~~his~~ **the county auditor's** office;

(2) keep an accurate record of the ~~fiscal body's~~ **county council's** proceedings;

(3) record the ayes and nays on each vote appropriating money or fixing the rate of a tax levy; and

(4) record the ayes and nays on other votes when requested to do so by two (2) or more members.

(c) The county sheriff or a county police officer shall attend the meetings of the ~~fiscal body,~~ **county council,** if requested by the ~~fiscal body,~~ **county council,** and shall execute its orders.

(d) The ~~fiscal body~~ **county council** may employ legal and administrative personnel necessary to assist and advise it in the performance of its functions and duties.

SECTION 18. IC 36-2-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The ~~fiscal body~~ **county council** shall hold its meetings in the county seat, in the county auditor's office, or in another location provided by the county executive and approved by the ~~fiscal body.~~ **county council.**

(b) The ~~fiscal body.~~ **county council:**

(1) shall hold a regular meeting in January after its election, for the purpose of organization and other business;

(2) shall hold a regular meeting annually, as prescribed by IC 6-1.1-17, to adopt the county's annual budget and tax rate;

(3) may hold a special meeting under subsection (c) or (d); and

(4) in the case of a county subject to IC 36-2-3.5 shall hold meetings at a regularly scheduled time each month that does not conflict with the meetings of the county executive.

(c) A special meeting of the ~~fiscal body~~ **county council** may be called:

(1) by the county auditor or the president of the ~~fiscal body,~~ **county council;** or

(2) by a majority of the members of the ~~fiscal body.~~ **county council.**

At least forty-eight (48) hours before the meeting, the auditor, president, or members calling the meeting shall give written notice of the meeting to each member of the ~~fiscal body~~ **county council** and publish, at least one (1) day before the meeting, the notice in accordance with IC 5-3-1-4. This subsection does not apply to a meeting called to deal with an emergency under IC 5-14-1.5-5.

(d) If a court orders the county auditor to make an expenditure of county money for a purpose for which an appropriation has not been made, the auditor shall immediately call an emergency meeting of the ~~fiscal body~~ **county council** to discuss the matter. Notwithstanding subsection (c), the meeting must be held within three (3) working days of the receipt of the order by the auditor, and notice of the meeting day, time, and ~~places~~ **place** is sufficient if:

(1) given by telephone to the members of the ~~fiscal body,~~ **county council;** and

(2) given according to IC 5-14-1.5.

SECTION 19. IC 36-2-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. A member of the ~~fiscal body~~ **county council** who purchases a bond, order, claim, or demand against the county for less than its face value shall forfeit it to the county and may not enforce it by legal action.

SECTION 20. IC 36-2-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. The ~~fiscal body~~ **county council** may:

(1) expel any member for violation of an official duty;

(2) declare the seat of any member vacant if ~~he~~ **the member** is unable or fails to perform the duties of ~~his~~ **the** office; and

(3) adopt its own rules to govern proceedings under this section, but a two-thirds (2/3) vote is required to expel a member or vacate ~~his~~ **the member's** seat.

SECTION 21. IC 36-2-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) The ~~fiscal body~~ **county council** may employ and fix the compensation of an attorney to represent and advise the ~~fiscal body.~~ **county council.**

(b) For the purposes of Section 9, Article 2 of the Constitution of the State of Indiana, employment by a county ~~fiscal body~~ **council** as an attorney does not constitute a lucrative office.

SECTION 22. IC 36-2-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to:

(1) a county having a population of:

(A) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(B) more than two hundred thousand (200,000) but less than three hundred thousand (300,000); and

(2) any other county not having a consolidated city, if both the county executive and the county fiscal body adopt identical ordinances providing for the county to be governed by this chapter beginning on a specified effective date.

(b) This chapter does not apply to a county subject to IC 36-2-3.7.

SECTION 23. IC 36-2-3.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 3.7. County Council as the County Legislative Body

Sec. 1. (a) This chapter applies to a county if the voters of the county approve a public question under IC 36-2-2.4.

(b) This chapter does not apply to a county having a consolidated city.

Sec. 2. As used in this chapter, "county executive" means the county executive of a county elected under IC 3-10-2-13 in a county subject to IC 36-2-2.5.

Sec. 3. The executive and legislative powers of a county are divided between separate branches of county government. A power belonging to one (1) branch of county government may not be exercised by the other branch of county government.

Sec. 4. (a) The county council elected under IC 36-2-3 is the county legislative body as well as the county fiscal body.

(b) The county executive is the executive of the county. The county executive has the executive and administrative powers and duties of the county as provided in IC 36-2-2.5.

Sec. 5. (a) All powers and duties of the county that are legislative in nature shall be exercised or performed by the county council functioning as the county legislative body.

(b) The county council has the same legislative powers and duties that the county board of commissioners in the county had before the county board of commissioners was abolished.

Sec. 6. The county council may do any of the following:

(1) Establish committees that are necessary to carry out the county council's functions.

(2) Employ legal and administrative personnel necessary to carry out the county council's functions.

(3) Pass all ordinances, orders, resolutions, and motions for the government of the county, in the manner prescribed by IC 36-2-4.

(4) Receive gifts, bequests, and grants from public or private sources.

(5) Conduct investigations into the conduct of county business for the purpose of correcting deficiencies and ensuring adherence to law and county ordinances and policies.

(6) At the request of the county executive, establish, by ordinance, new county departments, divisions, or agencies whenever necessary to promote efficient county government.

SECTION 24. IC 36-2-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) An ordinance, order, or resolution is considered adopted when it is signed by the presiding officer. If required, an adopted ordinance, order, or resolution must be promulgated or published according to statute before it takes effect.

(b) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published once each week for two (2) consecutive weeks, according to IC 5-3-1. However, if such an ordinance is adopted by the legislative body of a county subject to IC 36-2-3.5 **or IC 36-2-3.7** and there is an urgent necessity requiring its immediate effectiveness, it need not be published if:

(1) the county executive proclaims the urgent necessity; and

(2) copies of the ordinance are posted in three (3) public places in each of the districts of the county before it takes effect.

(c) In addition to the other requirements of this section, an ordinance or resolution passed by the legislative body of a county subject to IC 36-2-3.5 **or IC 36-2-3.7** is considered adopted only if it is:

(1) approved by signature of a majority of the county executive;

(2) neither approved nor vetoed by a majority of the executive, within ten (10) days after passage by the legislative body; or

(3) passed over the veto of the executive by a two-thirds (2/3) vote of the legislative body, within sixty (60) days after presentation of the ordinance or resolution to the executive.

(d) After an ordinance or resolution passed by the legislative body of a county subject to IC 36-2-3.5 **or IC 36-2-3.7** has been signed by the presiding officer, the county auditor shall present it to the county executive, and record the time of the presentation. Within ten (10) days after an ordinance or resolution is presented to it, the executive shall:

(1) approve the ordinance or resolution, by signature of a majority of the executive, and send the legislative body a message announcing its approval; or

(2) veto the ordinance or resolution, by returning it to the legislative body with a message announcing its veto and stating its reasons for the veto.

(e) This section does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(f) An ordinance increasing a building permit fee on new development must:

(1) be published:

(A) one (1) time in accordance with IC 5-3-1; and

(B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and

(2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published under subdivision (1).

SECTION 25. IC 36-9-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. For purposes of this chapter, the following are considered the governing bodies of their respective eligible entities:

(1) Board of commissioners, for a county not subject to IC 36-2-3.5 or IC 36-3-1.

(2) County council, for a county subject to IC 36-2-3.5 **or IC 36-2-3.7.**

(3) City-county council, for a consolidated city or county having a consolidated city.

(4) Common council, for a city other than a consolidated city.

(5) Town council, for a town.

(6) Trustee and township board, for a civil or school township.

(7) Board of school trustees, board of school commissioners, or school board, for a school corporation.

(8) Board of trustees, for a health and hospital corporation.

SECTION 26. [EFFECTIVE JULY 1, 2008] **(a) The legislative services agency shall prepare legislation for introduction in the 2009 regular session of the general assembly to organize and correct statutes affected by this act, if necessary.**

(b) This SECTION expires December 31, 2009.

SECTION 27. **An emergency is declared for this act.**

(Reference is to ESB 312 as reprinted February 27, 2008.)

Boots, Chair	Moses
Errington	Borror
Senate Conferees	House Conferees

Roll Call 341: yeas 38, nays 8. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 315–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 315 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 12-10-6-2.1, AS AMENDED BY P.L.99-2007, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.1. (a) An individual who is incapable of residing in the individual's own home may apply for residential care assistance under this section. The determination of eligibility for residential care assistance is the responsibility of the division. Except as provided in subsections (g) and (i), an individual is eligible for residential care assistance if the division determines that the individual:

(1) is a recipient of Medicaid or the federal Supplemental Security Income program;

(2) is incapable of residing in the individual's own home because of dementia, mental illness, or a physical disability;

(3) requires a degree of care less than that provided by a health care facility licensed under IC 16-28; ~~and~~

(4) can be adequately cared for in a residential care setting; **and**

(5) has not made any asset transfer prohibited under the state plan or in 42 U.S.C. 1396p(c) in order to be eligible for Medicaid.

(b) Individuals with mental retardation may not be admitted to a home or facility that provides residential care under this section.

(c) A service coordinator employed by the division may:

(1) evaluate a person seeking admission to a home or facility under subsection (a); or

(2) evaluate a person who has been admitted to a home or facility under subsection (a), including a review of the existing evaluations in the person's record at the home or facility.

If the service coordinator determines the person evaluated under this subsection has mental retardation, the service coordinator may recommend an alternative placement for the person.

(d) Except as provided in section 5 of this chapter, residential care consists of only room, board, and laundry, along with minimal administrative direction. State financial assistance may be provided for such care in a boarding or residential home of the applicant's choosing that is licensed under IC 16-28 or a Christian Science facility listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc., that meets certain life safety standards considered necessary by the state fire marshal. Payment for such care shall be made to the provider of the care according to division directives and supervision. The amount of nonmedical assistance to be paid on behalf of a recipient living in a boarding home, residential home, or Christian Science facility shall be based on the daily rate established by the division. The rate for facilities that are referred to in this section and licensed under IC 16-28 may not exceed an upper rate limit established by a rule adopted by the division. The recipient may retain from the recipient's income a monthly personal allowance of fifty-two dollars ($52). This amount is exempt from income eligibility consideration by the division and may be exclusively used by the recipient for the recipient's personal needs. However, if the recipient's income is less than the amount of the personal allowance, the division shall pay to the recipient the difference between the amount of the personal allowance and the recipient's income. A reserve or an accumulated balance from such a

source, together with other sources, may not be allowed to exceed the state's resource allowance allowed for adults eligible for state supplemental assistance or Medicaid as established by the rules of the office of Medicaid policy and planning.

(e) In addition to the amount that may be retained as a personal allowance under this section, an individual shall be allowed to retain an amount equal to the individual's state and local income tax liability. The amount that may be retained during a month may not exceed one-third (1/3) of the individual's state and local income tax liability for the calendar quarter in which that month occurs. This amount is exempt from income eligibility consideration by the division. The amount retained shall be used by the individual to pay any state or local income taxes owed.

(f) In addition to the amounts that may be retained under subsections (d) and (e), an eligible individual may retain a Holocaust victim's settlement payment. The payment is exempt from income eligibility consideration by the division.

(g) The rate of payment to the provider shall be determined in accordance with a prospective prenegotiated payment rate predicated on a reasonable cost related basis, with a growth of profit factor, as determined in accordance with generally accepted accounting principles and methods, and written standards and criteria, as established by the division. The division shall establish an administrative appeal procedure to be followed if rate disagreement occurs if the provider can demonstrate to the division the necessity of costs in excess of the allowed or authorized fee for the specific boarding or residential home. The amount may not exceed the maximum established under subsection (d).

(h) The personal allowance for one (1) month for an individual described in subsection (a) is the amount that an individual would be entitled to retain under subsection (d) plus an amount equal to one-half (1/2) of the remainder of:

(1) gross earned income for that month; minus

(2) the sum of:

(A) sixteen dollars ($16); plus

(B) the amount withheld from the person's paycheck for that month for payment of state income tax, federal income tax, and the tax prescribed by the federal Insurance Contribution Act (26 U.S.C. 3101 et seq.); plus

(C) transportation expenses for that month; plus

(D) any mandatory expenses required by the employer as a condition of employment.

(i) An individual who, before September 1, 1983, has been admitted to a home or facility that provides residential care under this section is eligible for residential care in the home or facility.

(j) The director of the division may contract with the division of mental health and addiction or the division of disability and rehabilitative services to purchase services for individuals with a mental illness or a developmental disability by providing money to supplement the appropriation for community residential care programs established under IC 12-22-2 or community residential programs established under IC 12-11-1.1-1.

(k) A person with a mental illness may not be placed in a Christian Science facility listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc., unless the facility is licensed under IC 16-28.

SECTION 2. IC 12-10-6-3, AS AMENDED BY P.L.1-2007, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The division, in cooperation with the state department of health, taking into account licensure requirements under IC 16-28, shall adopt rules under IC 4-22-2 governing the reimbursement to facilities under section 2.1 of this chapter. The rules must be designed to determine the costs that must be incurred by efficiently and economically operated facilities in order to provide room, board, laundry, and other services, along with minimal administrative direction to individuals who receive residential care in the facilities under section 2.1 of this chapter.

(b) A rule adopted under ~~this~~ subsection **(a)** by:

(1) the division; or

(2) the state department of health;

must conform to the rules for residential care facilities that are licensed under IC 16-28.

~~(b)~~ **(c)** Any rate established under section 2.1 of this chapter may be appealed according to the procedures under IC 4-21.5.

~~(c)~~ **(d)** The division shall annually review each facility's rate using the following:

(1) Generally accepted accounting principles.

(2) The costs incurred by efficiently and economically operated facilities in order to provide care and services in conformity with quality and safety standards and applicable laws and rules.

SECTION 3. IC 12-10-12-6, AS AMENDED BY P.L.50-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) This subsection does not apply after ~~June 30, 2008.~~ **December 30, 2008.** If an individual who is discharged from a hospital licensed under IC 16-21:

(1) is admitted to a nursing facility after the individual has been screened under the nursing facility preadmission program described in this chapter; and

(2) is eligible for participation in the federal Medicaid program;

prior approval of the individual's admission to the nursing facility may not be required by the office under IC 12-15-21-1 through IC 12-15-21-3.

(b) This subsection applies beginning ~~July 1, 2008.~~ **December 31, 2008.** If an individual:

(1) is admitted to a nursing facility after the individual has been screened under the nursing facility preadmission program described in this chapter; and

(2) is eligible for participation in the federal Medicaid program;

prior approval of the individual's admission to the nursing facility may be required by the office under IC 12-15-21-1 through

IC 12-15-21-3.

(c) The office ~~may~~ **shall** adopt rules under IC 4-22-2 to implement:

(1) subsection (b);

(2) a screening and counseling program for individuals seeking long term care services; and

(3) a biennial review of Medicaid waiver reimbursement rates.

~~However, the adopted rules may not take effect before July 1, 2008.~~

SECTION 4. IC 12-10-12-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) A screening team shall conduct a nursing facility preadmission screening program for each individual within the time permitted under this chapter. The program must consist of an assessment of the following:

(1) The individual's medical needs.

(2) The availability of services, other than services provided in a nursing facility, that are appropriate to the individual's needs.

(3) The cost effectiveness of providing services appropriate to the individual's needs that are provided outside of, rather than within, a nursing facility.

(b) The assessment must be conducted in accordance with rules adopted under IC 4-22-2 by the director of the division in cooperation with the office.

(c) Communication among members of a screening team or between a screening team and the division, ~~or~~ the office, **or the agency** during the prescreening process may be conducted ~~using~~ **by means including** any of the following:

(1) Standard mail.

(2) Express mail.

(3) Facsimile machine.

(4) Secured electronic communication.

SECTION 5. [EFFECTIVE MARCH 31, 2008] **(a) This SECTION does not apply to the conversion of acute care beds to comprehensive care beds under IC 16-29-3.**

(b) As used in this SECTION, "comprehensive care bed" means a bed that:

(1) is licensed or is to be licensed under IC 16-28-2;

(2) functions as a bed licensed under IC 16-28-2; or

(3) is subject to IC 16-28.

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

(c) As used in this SECTION, "replacement bed" means a comprehensive care bed that is relocated to a health facility that is licensed or is to be licensed under IC 16-28. This term includes comprehensive care beds that are certified for participation in:

(1) the state Medicaid program; or

(2) both the state Medicaid program and federal Medicare program.

(d) Except as provided in subsection (e), the Indiana health facilities council may not recommend and the state department of health may not approve the certification of new or converted comprehensive care beds for participation in the state Medicaid program unless the statewide comprehensive care bed occupancy rate is more than ninety-five percent (95%), as calculated annually on January 1 by the state department of health.

(e) This SECTION does not apply to the following:

(1) A health facility that:

(A) seeks a replacement bed exception;

(B) is licensed or is to be licensed under IC 16-28;

(C) applies to the state department of health to certify a comprehensive care bed for participation in the Medicaid program if the comprehensive care bed for which the health facility is seeking certification is a replacement bed for an existing comprehensive care bed;

(D) applies to the division of aging in the manner:

(i) described in subsection (f); and

(ii) prescribed by the division; and

(E) meets the licensure, survey, and certification requirements of IC 16-28.

(2) A continuing care retirement community required to file a disclosure statement under IC 23-2-4 if the continuing care retirement community is under development on March 30, 2008. In determining whether a continuing care retirement community is under development, the state department shall consider the following:

(A) whether:

(i) architectural plans have been completed;

(ii) funding has been received;

(iii) zoning requirements have been met; and

(iv) construction plans for the project have been approved by the state department and the division of fire and building safety; and

(B) any other evidence that the state department determines is an indication that the continuing care retirement community is under development.

(f) An application made under subsection (e)(1)(D) for a replacement bed exception must include the following:

(1) The total number and identification of the existing comprehensive care beds that the applicant requests be replaced by health facility location and by provider.

(2) If the replacement bed is being transferred to a different health facility, a verification from the health facility holding the comprehensive care bed certification that the health facility has agreed to transfer the beds to the applicant health facility.

(3) If the replacement bed is being transferred to a different health facility under different ownership, a copy of the complete agreement between the health facility transferring the beds and the applicant health facility.

(4) Any other information requested by the division of aging that is necessary to evaluate the transaction.

(g) This SECTION expires June 30, 2011.

SECTION 6. **An emergency is declared for this act.**

(Reference is to ESB 315 as reprinted February 27, 2008.)

Dillon, Chair	Hoy
Mrvan	T. Brown
Senate Conferees	House Conferees

Roll Call 342: yeas 43, nays 4. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 72–2

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 72 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-8.1-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. **(a) The individual elected as treasurer of state shall take office on January 1 following the individual's election.**

(b) The treasurer of state and ~~his~~ **the treasurer's** deputy treasurers shall each give bond in an amount determined by the auditor of state and the governor. The bond shall be conditioned on the faithful performance of the duties as treasurer of state and deputy treasurer, respectively. The bond must be procured from a surety company authorized by law to transact business in this state.

SECTION 2. IC 5-10-10-4, AS AMENDED BY P.L.2-2007, SECTION 84, AS AMENDED BY P.L.132-2007, SECTION 4, AND AS AMENDED BY P.L.227-2007, SECTION 56, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. As used in this chapter, "public safety officer" means any of the following:

(1) A state police officer.

(2) A county sheriff.

(3) A county police officer.

(4) A correctional officer.

(5) An excise police officer.

(6) A county police reserve officer.

(7) A city police reserve officer.

(8) A conservation enforcement officer.

(9) A town marshal.

(10) A deputy town marshal.

(11) A probation officer.

(12) A state ~~*university, college, or junior college*~~ *educational institution* police officer appointed under ~~*IC 20-12-3.5.*~~ *IC 21-39-4.*

(13) A police officer whose employer purchases coverage under section 4.5 of this chapter.

(14) An emergency medical services provider (as defined in IC 16-41-10-1) who is:

(A) employed by a political subdivision (as defined in IC 36-1-2-13); and

(B) not eligible for a special death benefit under IC 36-8-6-20, IC 36-8-7-26, IC 36-8-7.5-22, or IC 36-8-8-20.

(15) A firefighter who is employed by the fire department of a state university.

(16) A firefighter whose employer purchases coverage under section 4.5 of this chapter.

(17) A member of a consolidated law enforcement department established under IC 36-3-1-5.1.

(18) A gaming agent of the Indiana gaming commission.

(19) A person who is:

(A) employed by a political subdivision (as defined in IC 36-1-2-13); and

(B) appointed as a special deputy under IC 36-8-10-10.6.

(20) A school corporation police officer appointed under IC 20-26-16.

~~*(20)*~~ **(21)** *A gaming control officer of the Indiana gaming commission.*

(22) An eligible chaplain who meets the requirements of section 4.7 of this chapter.

SECTION 3. IC 5-10-10-4.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4.7. (a) As used in this section, "eligible chaplain" means an individual who is appointed or officially designated to serve, with or without compensation, as a chaplain of any of the following:**

(1) A law enforcement agency (as defined in IC 4-33-2-11.6).

(2) A full-time police department of a political subdivision (as defined in IC 36-1-2-13).

(3) A full-time fire department of a political subdivision (as defined in IC 36-1-2-13).

(4) A volunteer fire department (as defined in IC 36-8-12-2).

(5) A sheriff's department of a county.

(b) An eligible chaplain who dies as a direct result of personal injury or illness resulting from the eligible chaplain's performance of duties as a chaplain for the agency or department that the eligible chaplain was appointed or officially designated to serve is eligible for a special death benefit from the fund in the same manner as any other public safety officer is eligible for a benefit from the fund.

SECTION 4. IC 5-10.2-1-8, AS AMENDED BY P.L.88-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) Except as provided in subsection (b), "vested status" as used in this article means the status of having ten (10) years of creditable service.

(b) In the case of a person who is an elected county official whose governing body has provided for the county official's participation in the public employees' retirement fund under

IC 5-10.3-7-2(1), "vested status" means the status of having:

(1) at least eight (8) years of creditable service as an elected county official in an office described in IC 5-10.2-4-1.7;

(2) been elected at least two (2) times if the person would have had at least eight (8) years of creditable service as an elected county official in an office described in IC 5-10.2-4-1.7 had the person's term of office not been shortened under a statute enacted under Article 6, Section 2(b) of the Constitution of the State of Indiana; or

(3) at least ten (10) years of creditable service as a member of the fund based on a combination of service as an elected county official and as a full-time employee in a covered position.

(c) In the case of a person whose term of office commences after the election on November 5, 2002, as auditor of state, secretary of state, or treasurer of state, and who is prohibited by Article 6, Section 1 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years during any period of twelve (12) years, that person shall be vested with at least eight (8) years of creditable service as a member of the fund.

(d) This subsection applies to an individual elected to the office of treasurer of state at the election on November 7, 2006. The individual is vested for purposes of this article if the individual is reelected as treasurer of state at the 2010 general election and serves in the office until January 1, 2015.

SECTION 5. IC 5-10.2-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) For a member who retires **after June 30, 2008,** with service in more than one (1) retirement fund, the ~~last retirement fund in which the~~ member ~~rendered service~~ **may choose at the time the member files an application for retirement benefits whether to retire from the Indiana state teachers' retirement fund or from the public employees' retirement fund. The fund that the member chooses** shall pay the retirement benefits to the member. The pension shall be computed and vested status shall be determined on the basis of combined creditable service. The annuity, if any, shall be computed on the basis of amounts credited to the member in annuity savings accounts in all funds **minus any amount withdrawn by the member under IC 5-10.2-3-6.5.** The funds in which the employee was a member shall pay to the fund responsible for payment of benefits:

(1) the amount credited to ~~him~~ **the member** in the annuity savings account; and

(2) the proportionate actuarial cost of ~~his~~ **the member's** pension.

(b) A member of the Indiana state teachers' retirement fund who has served as a member of the general assembly and who retires after June 30, 1980, may choose at ~~his~~ **the member's** retirement date whether to retire from the Indiana state teachers' retirement fund or from the public employees' retirement fund. If ~~he~~ **the member** chooses to retire from the public employees' retirement fund, that fund is responsible for the payment of benefits provided in IC 5-10.2-4, and the Indiana state teachers' retirement fund shall pay to the public employees' retirement fund:

(1) the amount credited to that member in the annuity savings account in the Indiana state teachers' retirement fund; and

(2) the proportionate actuarial cost of ~~his~~ **the member's** pension.

SECTION 6. IC 5-10.2-3-1.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.2. (a) A member who has earned at least ten (10) years of service in a position covered by PERF, TRF, or a combination of the two (2) funds may purchase one (1) year of service credit for each five (5) years of service that the member has completed in a position covered by PERF or TRF.

(b) Before a member retires, a member who desires to purchase additional service credit under subsection (a) must contribute to the fund as follows:

(1) Contributions that are equal to the product of the following:

(A) The member's salary at the time the member actually makes a contribution for the service credit.

(B) A rate, determined by the actuary for the fund, that is based on the age of the member at the time the member actually makes a contribution for the service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(C) The number of years of service credit the member intends to purchase.

(2) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(c) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for the purpose of computing benefits unless the member has made all payments required for the purchase of the service credit.

(4) To the extent permitted by the Internal Revenue Code and applicable regulations, a member may purchase service credit under this section by a rollover distribution to the fund from any of the following:

(A) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(B) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(C) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or

instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(D) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(d) A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly benefit may withdraw the purchase amount, plus accumulated interest, after submitting a properly completed application for a refund to the fund. However, the member must also apply for a refund of the member's entire annuity savings account under section 6 **or 6.5** of this chapter to be eligible for a refund of the member's rollover amount.

(e) For a member who is a state employee, the employer may pay all or a part of the member contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (c)(1), (c)(3), (c)(4), and (d) do not apply.

(f) For a member who is an employee of a participating political subdivision, the employer may adopt an ordinance to pay all or a part of the member contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (c)(1), (c)(3), (c)(4), and (d) do not apply.

SECTION 7. IC 5-10.2-3-6.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6.2. **(a) This section applies to a member of the Indiana state teachers' retirement fund.**

(b) A member who:

(1) has attained vested status in the fund;

(2) has terminated employment;

(3) has not begun receiving benefits; and

(4) is transferring creditable service earned under ~~PERF or~~ TRF to another governmental retirement plan under section 1(i) of this chapter;

may suspend the member's membership and withdraw the member's annuity savings account to purchase creditable service in the other governmental retirement plan.

SECTION 8. IC 5-10.2-3-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 6.5. (a) This section applies after December 31, 2008, to a member of the public employees' retirement fund.**

(b) A member who meets all of the following requirements may elect to withdraw the entire amount in the member's annuity savings account before the member is eligible to do so at retirement under IC 5-10.2-4-2:

(1) The member has attained vested status in the fund.

(2) The member terminates employment.

(3) The member has not performed any service in a position covered by the fund for at least ninety (90) days after the date the member terminates employment.

(c) A member who elects to withdraw the entire amount in the member's annuity savings account under subsection (b) shall provide notice of the election on a form provided by the board.

(d) The election to withdraw the entire amount in the member's annuity savings account is irrevocable.

(e) The board shall pay the amount in the member's annuity savings account as a lump sum.

(f) Except as provided in subsection (g), a member who makes a withdrawal under this section is entitled to receive, when the member becomes eligible to receive a retirement benefit under IC 5-10.2-4, a retirement benefit equal to the pension provided by employer contributions computed under IC 5-10.2-4.

(g) A member who:

(1) transfers creditable service earned under the fund to another governmental retirement plan under section 1(i) of this chapter; and

(2) withdraws the member's annuity savings account under this section to purchase the service;

may not use the transferred service in the computation of a retirement benefit payable under subsection (f).

SECTION 9. IC 5-10.2-4-1.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.3. (a) A member who files an application for retirement benefits must provide the following information on the application form:

(1) The retirement date chosen by the member.

(2) **If the member has not elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5,** whether the member chooses:

(A) an annuity purchased from the amount credited to the member in the annuity savings account;

(B) a total or partial distribution from the annuity savings account under section 2(b) of this chapter; or

(C) a deferral of the payment of any benefits from the annuity savings account under section 2(c) of this chapter.

(3) The name of the beneficiary or beneficiaries designated by the member with respect to the pension portion of the member's retirement benefit.

(4) The name of the beneficiary or beneficiaries designated by the member with respect to the annuity portion of the member's retirement benefit, unless the member chooses total distribution under section 2 of this chapter.

(b) A member's designation of beneficiaries in the application for retirement benefits supersedes any previous designation of beneficiaries by the member.

(c) A member must indicate the name, address, date of birth, and Social Security number of each designated beneficiary and provide proof of birth of each designated beneficiary.

(d) Each board shall adopt a form for the application for retirement benefits that meets the requirements of this section.

SECTION 10. IC 5-10.2-4-1.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.9. (a) This section applies only to a member of the public employees' retirement fund:**

(1) who has served as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana; and

(2) whose term of office as a state officer commenced after the election held on November 5, 2002.

(b) A member is eligible for normal retirement after becoming sixty-five (65) years of age if the member:

(1) has:

(A) served as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana for at least eight (8) years; or

(B) been elected at least two (2) times and would have served at least eight (8) years as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana had the member's term of office not been shortened under a statute enacted to establish uniform dates for beginning the terms of state officers listed in Article 6, Section 1 of the Constitution of the State of Indiana; and

(2) is prohibited by Article 6, Section 1 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years in any period of twelve (12) years.

(c) A member who:

(1) has served as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana; and

(2) does not meet the requirements of subsection (b);

is eligible for normal retirement if the member has attained vested status (as defined in IC 5-10.2-1-8(a)) and meets the requirements of section 1 of this chapter.

SECTION 11. IC 5-10.2-4-2, AS AMENDED BY P.L.62-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) Unless a member elects otherwise under this section **or has elected to withdraw the member's annuity savings account under IC 5-10.2-3-6.5,** the retirement benefit for each member consists of the sum of a pension provided by employer contributions plus an annuity provided by the amount credited to the member in the annuity savings account. **If a member has elected to withdraw the member's annuity savings account under IC 5-10.2-3-6.5, the member's retirement benefit is equal to the pension provided by employer contributions, unless the member has transferred the creditable service earned under the public employees' retirement fund to another governmental retirement plan under IC 5-10.2-3-1(i).**

(b) **If a member has not elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5,** a member may choose at retirement or upon a disability retirement to receive a distribution of:

(1) the entire amount credited to the member in the annuity savings account; or

(2) an amount equal to the member's federal income tax basis in the member's annuity savings account balance as it existed on December 31, 1986.

If the member chooses to receive the distribution under subdivision (1), the member is not entitled to an annuity as part of the retirement or disability benefit. If the member chooses to receive the distribution under subdivision (2), the member is entitled to an annuity purchasable by the amount remaining in the member's annuity savings account after the payment under subdivision (2).

(c) Instead of choosing to receive the benefits described in subsection (a) or (b), **if a member has not elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5,** a member may choose upon retirement or upon disability retirement to begin receiving a pension provided by employer contributions and to defer receiving in any form the member's annuity savings account. If a member chooses this option, the member:

(1) is not entitled to an annuity as part of the member's retirement or disability benefit, and the member's annuity savings account will continue to be invested according to the member's direction under IC 5-10.2-2-3; and

(2) may later choose, as of the first day of a month, or an alternate date established by the rules of each board, to receive a distribution of:

(A) the entire amount credited to the member in the annuity savings account; or

(B) an amount equal to the member's federal income tax basis in the member's annuity savings account balance as it existed on December 31, 1986.

If the member chooses to receive the distribution under subdivision (2)(A), the member is not entitled to an annuity as part of the member's retirement or disability benefit. If the member chooses to receive the distribution under subdivision (2)(B), the member is entitled to an annuity purchasable by the amount remaining in the member's annuity savings account after the payment under subdivision (2)(B). If the member does not choose to receive a distribution under this subsection, the member is entitled to an annuity purchasable by the entire amount in the member's annuity savings account, and the form of the annuity shall be as described in subsection (d) unless the member elects an option described in section 7(b)(1), 7(b)(2), or 7(b)(4) of this chapter. The amount to be paid under this section shall be determined in the manner described in IC 5-10.2-2-3, except that it shall be determined as of the last day of the quarter preceding the member's actual distribution or annuitization date. However, each board may by rule provide for an alternate valuation date.

(d) Retirement benefits must be distributed in a manner that complies with Section 401(a)(9) of the Internal Revenue Code, as specified in IC 5-10.2-2-1.5.

SECTION 12. IC 5-10.2-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The computation of benefits under this section is subject to IC 5-10.2-2-1.5.

(b) For retirement benefits payable on and after July 1, 1975, for a member retired on and after January 1, 1956, the pension (p) is computed as follows:

STEP ONE: Multiply one and one-tenths percent (1.1%) times the average of the annual compensation (aac) and obtain a product.

STEP TWO: To obtain the pension, multiply the STEP ONE product by the total creditable service (scr) completed by the member on ~~his~~ **the member's** retirement date.

Expressed mathematically:

p = (.011) times (aac) times (scr)

(c) Unless the member:

(1) has chosen a lump sum payment under section ~~2~~ **2(b)** of this chapter; ~~or~~

(2) has elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5; or

(3) elects to defer receiving in any form the member's annuity savings account under section 2(c) of this chapter;

the annuity is the amount purchasable on the member's retirement date by the amount credited to the member in the annuity savings account. The amount purchasable is based on actuarial tables adopted by the board under IC 5-10.2-2-10 at an interest rate determined by the board.

SECTION 13. IC 5-10.2-4-7, AS AMENDED BY P.L.149-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) Benefits provided under this section are subject to IC 5-10.2-2-1.5.

(b) A member who retires is entitled to receive monthly retirement benefits, which are guaranteed for five (5) years or until the member's death, whichever is later. A member may select in writing any of the following nonconflicting options for the payment of the member's retirement benefits instead of the five (5) year guaranteed retirement benefit payments. The amount of the optional payments shall be determined under rules of the board and shall be the actuarial equivalent of the benefit payable under sections 4, 5, and 6 of this chapter. **A member who has elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5 may not select the cash refund annuity option.**

(1) Joint and Survivor Option.

(A) The member receives a decreased retirement benefit during the member's lifetime, and there is a benefit payable after the member's death to a designated beneficiary during the lifetime of the beneficiary, which benefit equals, at the option of the member, either the full decreased retirement benefit or two-thirds (2/3) or one-half (1/2) of that benefit.

(B) If the member dies before retirement, the designated beneficiary may receive only the amount credited to the member in the annuity savings account unless the designated beneficiary is entitled to survivor benefits under IC 5-10.2-3.

(C) If the designated beneficiary dies before the member retires, the selection is automatically canceled and the member may make a new beneficiary election and may elect a different form of benefit under this subsection.

(2) Benefit with No Guarantee. The member receives an increased lifetime retirement benefit without the five (5) year guarantee specified in this subsection.

(3) Integration with Social Security. If the member retires before the age of eligibility for Social Security benefits, in order to provide a level benefit during the member's retirement the member receives an increased retirement benefit until the age of Social Security eligibility and decreased retirement benefits after that age.

(4) Cash Refund Annuity. The member receives a lifetime annuity purchasable by the amount credited to the member in the annuity savings account, and the member's designated beneficiary receives a refund payment equal to:

(A) the total amount used in computing the annuity at the retirement date; minus

(B) the total annuity payments paid and due to the member before the member's death.

(c) This subsection does not apply to a member of the Indiana state teachers' retirement fund after June 30, 2007. If:

(1) the designated beneficiary dies while the member is receiving benefits; or

(2) the member is receiving benefits, the member marries, either for the first time or following the death of the member's spouse, after the member's first benefit payment is made, and the member's designated beneficiary is not the member's current spouse or the member has not designated a beneficiary;

the member may elect to change the member's designated beneficiary or form of benefit under subsection (b) and to receive an actuarially adjusted and recalculated benefit for the remainder of the member's life or for the remainder of the member's life and the life of the newly designated beneficiary. The member may not elect to change to a five (5) year guaranteed form of benefit. If the member's new election is the joint and survivor option, the member shall indicate whether the designated beneficiary's benefit shall equal, at the option of the member, either the member's full recalculated retirement benefit or two-thirds (2/3) or one-half (1/2) of this benefit. The cost of recalculating the benefit shall be borne by the member and shall be included in the actuarial adjustment.

(d) Except as provided in subsection (c) or section 7.2 of this chapter, a member who files for regular or disability retirement may not change:

(1) the member's retirement option under subsection (b);

(2) the selection of a lump sum payment under section 2 of this chapter; or

(3) the beneficiary designated on the member's application for benefits if the member selects the joint and survivor option under subsection (b)(1);

after the first day of the month in which benefit payments are scheduled to begin. For purposes of this subsection, it is immaterial whether a benefit check has been sent, received, or negotiated.

(e) A member may direct that the member's retirement benefits be paid to a revocable trust that permits the member unrestricted access to the amounts held in the revocable trust. The member's

direction is not an assignment or transfer of benefits under IC 5-10.3-8-10 or IC 5-10.4-5-14.

SECTION 14. IC 5-13-10.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in subsection (b), investments under this chapter may be made only in securities having a stated final maturity of two (2) years or less from the date of purchase.

(b) The treasurer of state may make investments in securities having a final maturity or redemption date that is more than two (2) years and not more than five (5) years after the date of purchase or subscription. After an investment is made under this subsection, the total investments outstanding under this subsection may not exceed twenty-five percent (25%) of the total portfolio of funds invested by the treasurer of state. However, an investment that complies with this subsection when the investment is made remains legal even if a subsequent decrease in the total portfolio invested by the treasurer of state causes the percentage of investments outstanding under this subsection to exceed twenty-five percent (25%). The treasurer of state may contract with federally regulated investment advisers and other institutional money managers to make investments under this section. ~~This subsection expires July 1, 2007.~~

(c) Unless prohibited under federal law, the treasurer of state shall invest under subsection (b) the funds of the transportation corridor fund established by IC 8-4.5-3-7. The treasurer of state may invest other funds held by the state in compliance with subsection (b). ~~This subsection expires July 1, 2007.~~

SECTION 15. [EFFECTIVE UPON PASSAGE] **Actions taken after June 30, 2007, and before the passage of this act that would have been valid under IC 5-13-10.5-3, as amended by this act, are legalized and validated.**

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

(Reference is to ESB 72 as printed February 8, 2008.)

Kruse, Chair	Niezgodski
Tallian	Buell
Senate Conferees	House Conferees

Roll Call 343: yeas 47, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 143–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 143 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 16-18-2-9.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9.3. "Advisory council", for purposes of IC 16-41-39.4, refers to the lead-safe housing advisory council established by IC 16-41-39.4-6.**

SECTION 2. IC 16-18-2-56.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 56.2. "Clearance examination", for purposes of IC 16-41-39.4, means an activity conducted by a clearance examiner who is licensed under IC 13-17-14 to establish proper completion of interim controls (as defined in 24 CFR 35.110).**

SECTION 3. IC 16-18-2-69.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 69.2. "Consumer product", for purposes of IC 16-41-39.4, means an item or a component of an item that is produced or distributed for:**

(1) sale to a consumer for use; or

(2) the personal use, consumption, or enjoyment of a consumer.

SECTION 4. IC 16-18-2-116.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 116.2. "Environmental investigation" means an identification and evaluation of lead hazards from nonstructural sources in a child's environment. The term includes the following:**

(1) Presentation of results of the identification and evaluation, including recommendations for reducing or eliminating exposure.

(2) Education of the child's family concerning:

(A) lead hazards found; and

(B) temporary and permanent measures to protect the child from further exposure.

SECTION 5. IC 16-18-2-143, AS AMENDED BY P.L.234-2007, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 143. (a) "Fund", for purposes of IC 16-26-2, has the meaning set forth in IC 16-26-2-2.

(b) "Fund", for purposes of IC 16-31-8.5, has the meaning set forth in IC 16-31-8.5-2.

(c) "Fund", for purposes of IC 16-41-39.4, refers to the childhood lead poisoning prevention fund established by IC 16-41-39.4-3.1.

~~(c)~~ **(d)** "Fund", for purposes of IC 16-46-5, has the meaning set forth in IC 16-46-5-3.

~~(d)~~ **(e)** "Fund", for purposes of IC 16-46-12, has the meaning set forth in IC 16-46-12-1.

~~(e)~~ **(f)** "Fund", for purposes of ~~IC 16-41-42,~~ **IC 16-41-42.2,** has the meaning set forth in ~~IC 16-41-42-2.~~ **IC 16-41-42.2-2.**

SECTION 6. IC 16-18-2-198.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 198.7. "Lead-based paint activities", for purposes of IC 16-41-39.4, has the meaning set forth in IC 13-11-2-118.5.**

SECTION 7. IC 16-18-2-214.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS

FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 214.7. "Low income", for purposes of IC 16-41-39.4, means having not more than eighty percent (80%) of the median income level of households in a particular county as determined annually by the federal Department of Housing and Urban Development.**

SECTION 8. IC 16-18-2-292.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 292.7. "Primary prevention", for purposes of IC 16-41-39.4, means the removal or remediation, including the use of interim controls, of lead hazards before lead poisoning of an individual occurs.**

SECTION 9. IC 16-18-2-315.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 315.8. "Remediation" means actions that constitute:**

(1) abatement (as defined in IC 13-11-2-0.5); or

(2) interim control (as defined in 24 CFR 35.110);

of a lead hazard.

SECTION 10. IC 16-18-2-349.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 349.5. "Tenant" has the meaning set forth in IC 32-31-3-10.**

SECTION 11. IC 16-41-39.4-3, AS AMENDED BY P.L.135-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A person that examines the blood of an individual described in section 2 of this chapter for the presence of lead must report to the state department the results of the examination not later than one (1) week after completing the examination. The report must include at least the following:

(1) With respect to the individual whose blood is examined:

(A) the name;

(B) the date of birth;

(C) the gender;

(D) the race; and

(E) any other information that is required to be included to qualify to receive federal funding.

(2) With respect to the examination:

(A) the date;

(B) the type of blood test performed;

(C) the person's normal limits for the test;

(D) the results of the test; and

(E) the person's interpretation of the results of the test.

(3) The names, addresses, and telephone numbers of:

(A) the person; and

(B) the attending physician, hospital, clinic, or other specimen submitter.

(b) If a person required to report under subsection (a) has submitted more than fifty (50) results in the previous calendar year, the person must submit subsequent reports in an electronic format determined by the state department.

(c) Except as provided in subsection (d), if a person required to report under subsection (a) fails to provide complete information within ten (10) days after notification by the state department, the state department may, in accordance with IC 4-21.5, assess a civil penalty against the person in an amount equal to one thousand five hundred dollars ($1,500) for each incomplete report that is submitted after receipt of the notification. Money received by the state department under this subsection shall be deposited in the fund.

(d) Subsection (c) does not apply to a person who acts in good faith to provide a complete report required under subsection (a), but who:

(1) is unable to collect all of the information required for a complete report; or

(2) provides incorrect information on a completed report.

SECTION 12. IC 16-41-39.4-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.1. (a) The childhood lead poisoning prevention fund is established for the purpose of funding childhood lead poisoning outreach and prevention activities. The fund shall be administered by the state department.**

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

(c) The fund consists of:

(1) civil penalties assessed under section 3 of this chapter;

(2) gifts; and

(3) appropriations from the general assembly.

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

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

SECTION 13. IC 16-41-39.4-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. (a) The lead-safe housing advisory council is established to advise the state department concerning housing related lead poisoning prevention activities.**

(b) The advisory council consists of the following members:

(1) The state health commissioner, or the state health commissioner's designee, who shall serve as the chairperson of the advisory council.

(2) The director of the Indiana housing and community development authority or the director's designee.

(3) The local health officer of each of three (3) local health departments, appointed by the state health commissioner to represent a diverse geographic and population mix, or the local health officer's designee.

(4) The following individuals, appointed by the governor:

(A) A representative of realtors in Indiana.

(B) A representative of home builders or remodelers in Indiana.

(C) A pediatrician or other physician with knowledge of lead poisoning.

(D) A representative of the private lead-based paint abatement industry who is licensed under IC 13-17-14 to perform or supervise lead-based paint activities.

(E) A representative of a community based organization located in a community with a significant concentration of high risk lead-contaminated properties, as determined by a high prevalence in the community of:

(i) low income families having children with lead poisoning; and

(ii) housing units that were built before 1978.

(F) A parent of a child with lead poisoning.

(G) A representative from a child or health advocacy organization.

(H) A residential tenant.

(I) A representative of the paint and coatings industry.

(J) A representative of public housing administrators.

(K) A representative of residential rental property owners.

(L) A representative of licensed lead-based paint activities training providers.

(M) A representative of community action program agencies.

(N) A representative of the banking industry.

(O) An individual who is licensed as a lead-based paint activities inspector under IC 13-17-14.

(P) A child care provider.

(c) The advisory council shall meet at least quarterly. The first meeting of the advisory council must occur not later than July 1, 2008.

(d) The advisory council shall submit to the governor, the attorney general, and, in an electronic format under IC 5-14-6, the legislative council the following:

(1) A preliminary report before November 1, 2008.

(2) A final report before November 1, 2009.

(e) The reports required by subsection (d) shall contain the recommendations of the advisory council concerning the following:

(1) Development of a primary prevention program to address housing related lead poisoning.

(2) Development of a sufficient number of licensed lead inspectors, risk assessors, clearance examiners, individuals who are trained in lead-safe work practices, abatement workers, and contractors.

(3) Ensuring lead-safe work practices in remodeling, rehabilitation, and weatherization work.

(4) Funding mechanisms to assist child care and residential property owners with the cost of lead abatement, remediation, and mitigation, including interim controls.

(5) A procedure for distribution of funds from the Indiana lead trust fund established by IC 13-17-14-6 to pay the cost of implementation of 40 CFR 745 for lead-based paint activities in target housing and child occupied facilities.

(6) A program to ensure that the resale of recycled building products does not pose a significant risk of lead poisoning to children.

(7) Necessary statutory or administrative rule changes to improve the effectiveness of state and local lead abatement, remediation, including interim controls, and other lead poisoning prevention and control activities.

(8) The content of a basic lead training course for child care workers concerning lead hazards that:

(A) includes lead-based paint rules awareness; and

(B) includes information concerning how the course should be made available to child care workers.

(9) For the preliminary report, recommendations for legislation to be introduced in the 2009 session of the general assembly.

(f) The state department shall staff and provide administrative and logistical support to the advisory council, including conference telephone capability for meetings of the advisory council.

(g) Each member of the advisory council who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(h) A majority of the members appointed to the advisory council is required for the advisory council to take action on any measure, including final reports.

(i) This section expires July 1, 2011.

SECTION 14. IC 16-41-39.4-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a) A retail establishment that sells paint or paint products shall do all of the following:**

(1) Offer for sale a lead test kit that is capable of determining the presence of a lead-based paint hazard.

(2) Provide to customers the federal Environmental Protection Agency pamphlet "Protect Your Family from Lead in Your Home" or a similar source of information approved by the state department.

(3) Ensure that at least one (1) employee who provides advice to customers concerning paint and paint products:

(A) attends a training program concerning lead hazards; and

(B) provides training to other employees who provide advice to customers concerning paint and paint products.

(b) A person that sells, offers for sale, or distributes a consumer product shall not remove, erase, or obscure the visibility of a statement that:

(1) the manufacturer or wholesaler of the consumer product has placed on the consumer product or the container or wrapper in which the consumer product is contained; and

(2) specifies that the consumer product contains or may contain lead.

(c) A person shall not sell or offer for sale at wholesale or retail or distribute a consumer product, surface coating material, a food product, or food packaging that:

(1) is a banned hazardous substance under the federal Hazardous Substances Act (15 U.S.C. 1261(q)(1)); or

(2) has been determined by the state department to:

(A) have a lead content that is greater than the lesser of the lead content specifications for lead paint in 16 CFR 1303.2 or state law; and

(B) pose a danger of childhood lead poisoning because the product, material, or packaging is reasonably expected to be accessible to, chewed by, or ingested by a child who is less than seven (7) years of age.

(d) If the state department, based on:

(1) test results performed by a certified laboratory at the state department's request;

(2) information received from a federal agency; or

(3) other reliable information;

has reason to believe that a person has violated this section, the state department may, with or without a prior hearing, issue to the person a cease and desist order if the commissioner determines a cease and desist order is in the public interest. In addition to all other remedies, the commissioner may bring an action in the name and on behalf of the state against the person to enjoin the person from violating this section.

(e) The state department or a local health department may at any time during regular business hours inspect any premises where consumer products are sold, offered for sale, or distributed to establish compliance with this section.

(f) The state department may seize an item that is sold, offered for sale, or distributed in violation of this section.

(g) The state department shall, not later than May 1, 2009, adopt rules under IC 4-22-2 to implement this section. The rules adopted under this subsection:

(1) may:

(A) establish exceptions under which items described in subsection (c) may be sold, offered for sale, or distributed upon the state department's determination that the risk posed to children by the items is minimal; or

(B) require labeling of an item or signage to reflect that the item contains lead; and

(2) must be consistent with federal law.

SECTION 15. IC 16-41-39.4-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9. (a) The state department shall, not later than July 1, 2009, adopt rules under IC 4-22-2 to establish a lead-safe work practices training program for contractors, renovators, and remodelers who:**

(1) perform work on housing units that were built before 1978; and

(2) disturb lead-based paint in the housing units.

(b) The rules adopted under subsection (a) must:

(1) be consistent with the federal Department of Housing and Urban Development Lead Safe Housing Rule requirements for lead safe work practices training (24 CFR 53.1330(a)(4)); and

(2) provide for training courses taught in English and Spanish.

SECTION 16. [EFFECTIVE UPON PASSAGE] **(a) The legislative council shall assign to a study committee during the 2008 interim the responsibility to examine issues concerning requirements for:**

(1) the division of family resources;

(2) child care providers; and

(3) children who are served by child care providers;

related to childhood lead poisoning prevention, including testing of child care facilities that were built before 1978 and children in child care.

(b) This SECTION expires December 31, 2008.

SECTION 17. **An emergency is declared for this act.**

(Reference is to ESB 143 as reprinted February 27, 2008.)

Gard, Chair	C. Brown
Broden	Day
Senate Conferees	House Conferees

Roll Call 344: yeas 47, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 314–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 314 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-14-1.5-6.1, AS AMENDED BY HEA 1341-2008, SECTION 3, IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6.1. (a) As used in this section, "public official" means a person:

(1) who is a member of a governing body of a public agency; or

(2) whose tenure and compensation are fixed by law and who executes an oath.

(b) Executive sessions may be held only in the following instances:

(1) Where authorized by federal or state statute.

(2) For discussion of strategy with respect to any of the following:

(A) Collective bargaining.

(B) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing.

(C) The implementation of security systems.

(D) The purchase or lease of real property by the governing body up to the time a contract or option to purchase or lease is executed by the parties.

However, all such strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries.

(3) For discussion of the assessment, design, and implementation of school safety and security measures, plans, and systems.

(4) Interviews and negotiations with industrial or commercial prospects or agents of industrial or commercial prospects by the Indiana economic development corporation, the office of tourism development, the Indiana finance authority, the ports of Indiana, an economic development commission, **the Indiana state department of agriculture,** a local economic development organization (as defined in IC 5-28-11-2(3)), or a governing body of a political subdivision.

(5) To receive information about and interview prospective employees.

(6) With respect to any individual over whom the governing body has jurisdiction:

(A) to receive information concerning the individual's alleged misconduct; and

(B) to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is:

(i) a physician; or

(ii) a school bus driver.

(7) For discussion of records classified as confidential by state or federal statute.

(8) To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs.

(9) To discuss a job performance evaluation of individual employees. This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process.

(10) When considering the appointment of a public official, to do the following:

(A) Develop a list of prospective appointees.

(B) Consider applications.

(C) Make one (1) initial exclusion of prospective appointees from further consideration.

Notwithstanding IC 5-14-3-4(b)(12), a governing body may release and shall make available for inspection and copying in accordance with IC 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three (3) unless there are fewer than three (3) prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to the public.

(11) To train school board members with an outside consultant about the performance of the role of the members as public officials.

(12) To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under IC 25.

(13) To discuss information and intelligence intended to prevent, mitigate, or respond to the threat of terrorism.

(c) A final action must be taken at a meeting open to the public.

(d) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b). The requirements stated in section 4 of this chapter for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(e) A governing body may not conduct an executive session during a meeting, except as otherwise permitted by applicable statute. A meeting may not be recessed and reconvened with the intent of circumventing this subsection.

SECTION 2. IC 5-14-3-4, AS AMENDED BY HEA 1341-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

(2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.

(3) Those required to be kept confidential by federal law.

(4) Records containing trade secrets.

(5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.

(6) Information concerning research, including actual research documents, conducted under the auspices of a state educational institution, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the board of the Indiana economic development corporation under IC 5-28-16.

(11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(12) A Social Security number contained in the records of a public agency.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between the Indiana economic development corporation, the ports of Indiana, **the Indiana state department of agriculture,** the Indiana finance authority, an economic development commission, a local economic development organization (as defined in IC 5-28-11-2(3)), or a governing body of a political subdivision with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the Indiana economic development corporation, the ports of Indiana, the Indiana finance authority, an economic development commission, or a governing body of a political subdivision to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the Indiana economic development corporation shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a record keeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing medical advisory board regarding the ability of a driver to operate a motor vehicle safely. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

(A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;

(B) vulnerability assessments;

(C) risk planning documents;

(D) needs assessments;

(E) threat assessments;

(F) intelligence assessments;

(G) domestic preparedness strategies;

(H) the location of community drinking water wells and surface water intakes;

(I) the emergency contact information of emergency responders and volunteers;

(J) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and

(K) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. The public agency that owns, occupies, leases, or maintains the airport:

(i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and

(ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(J) without approval of (insert name of submitting public agency)".

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Address.

(C) Social Security number.

(21) The following personal information about a complainant contained in records of a law enforcement agency:

(A) Telephone number.

(B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.

(22) Notwithstanding subdivision (8)(A), the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first employment of a law enforcement officer who is operating in an undercover capacity.

(23) Records requested by an offender that:

(A) contain personal information relating to:

(i) a correctional officer (as defined in IC 5-10-10-1.5);

(ii) the victim of a crime; or

(iii) a family member of a correctional officer or the victim of a crime; or

(B) concern or could affect the security of a jail or correctional facility.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Notwithstanding subsection (d) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 3. IC 5-28-6-2, AS AMENDED BY P.L.1-2006, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The corporation shall develop and promote programs designed to make the best use of Indiana resources to ensure a balanced economy and continuing economic growth for Indiana, and, for those purposes, may do the following:

(1) Cooperate with federal, state, and local governments and agencies in the coordination of programs to make the best use of Indiana resources.

(2) Receive and expend funds, grants, gifts, and contributions of money, property, labor, interest accrued from loans made by the corporation, and other things of value from public and private sources, including grants from agencies and instrumentalities of the state and the federal government. The corporation:

(A) may accept federal grants for providing planning assistance, making grants, or providing other services or functions necessary to political subdivisions, planning commissions, or other public or private organizations;

(B) shall administer these grants in accordance with the terms of the grants; and

(C) may contract with political subdivisions, planning commissions, or other public or private organizations to carry out the purposes for which the grants were made.

(3) Direct that assistance, information, and advice regarding the duties and functions of the corporation be given to the corporation by an officer, agent, or employee of the executive branch of the state. The head of any other state department or agency may assign one (1) or more of the department's or agency's employees to the corporation on a temporary basis or may direct a division or an agency under the department's or agency's supervision and control to make a special study or survey requested by the corporation.

(b) The corporation shall perform the following duties:

(1) Develop and implement industrial development programs to encourage expansion of existing industrial, commercial, and business facilities in Indiana and to encourage new industrial, commercial, and business locations in Indiana.

(2) Assist businesses and industries in acquiring, improving, and developing overseas markets and encourage international plant locations in Indiana. The corporation, with the approval of the governor, may establish foreign offices to assist in this function.

(3) Promote the growth of minority business enterprises by doing the following:

(A) Mobilizing and coordinating the activities, resources, and efforts of governmental and private agencies, businesses, trade associations, institutions, and individuals.

(B) Assisting minority businesses in obtaining governmental or commercial financing for expansion or establishment of new businesses or individual development projects.

(C) Aiding minority businesses in procuring contracts from governmental or private sources, or both.

(D) Providing technical, managerial, and counseling assistance to minority business enterprises.

(4) Assist the office of the lieutenant governor in:

(A) community economic development planning;

(B) implementation of programs designed to further community economic development; and

(C) the development and promotion of Indiana's tourist resources.

(5) Assist the secretary of agriculture and rural development in promoting and marketing of Indiana's agricultural products and provide assistance to the director of the **Indiana state** department of agriculture.

(6) With the approval of the governor, implement federal programs delegated to the state to carry out the purposes of this article.

(7) Promote the growth of small businesses by doing the following:

(A) Assisting small businesses in obtaining and preparing the permits required to conduct business in Indiana.

(B) Serving as a liaison between small businesses and state agencies.

(C) Providing information concerning business assistance programs available through government agencies and private sources.

(8) Establish a public information page on its current Internet site on the world wide web. The page must provide the following:

(A) By program, cumulative information on the total amount of incentives awarded, the total number of companies that received the incentives and were assisted in a year, and the names and addresses of those companies.

(B) A mechanism on the page whereby the public may request further information online about specific

programs or incentives awarded.

(C) A mechanism for the public to receive an electronic response.

(c) The corporation may do the following:

(1) Disseminate information concerning the industrial, commercial, governmental, educational, cultural, recreational, agricultural, and other advantages of Indiana.

(2) Plan, direct, and conduct research activities.

(3) Assist in community economic development planning and the implementation of programs designed to further community economic development.

SECTION 4. IC 10-19-8-2, AS AMENDED BY P.L.101-2006, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The council consists of the following members:

(1) The lieutenant governor.

(2) The executive director.

(3) The superintendent of the state police department.

(4) The adjutant general.

(5) The state health commissioner.

(6) The commissioner of the department of environmental management.

(7) The director of the **Indiana state** department of agriculture.

(8) The chairman of the Indiana utility regulatory commission.

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

(10) The executive director of the Indiana criminal justice institute.

(11) The commissioner of the bureau of motor vehicles.

(12) A local law enforcement officer or a member of the law enforcement training academy appointed by the governor.

(13) The speaker of the house of representatives or the speaker's designee.

(14) The president pro tempore of the senate or the president pro tempore's designee.

(15) The chief justice of the supreme court.

(16) The director of the department of natural resources or, if designated by the director, the deputy director who manages the bureau of law enforcement and administration.

(17) The state veterinarian.

(b) The members of the council under subsection (a)(13), (a)(14), and (a)(15) are nonvoting members.

(c) Representatives of the United States Department of Justice may serve as members of the council as the council and the Department of Justice may determine. Any representatives of the Department of Justice serve as nonvoting members of the council.

SECTION 5. IC 14-8-2-67, AS AMENDED BY SEA 190-2008, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 67. (a) "Department", except for purposes of IC 14-32, refers to the department of natural resources.

(b) "Department" for purposes of IC 14-32, refers to the **Indiana state** department of agriculture established by IC 15-11-2-1.

SECTION 6. IC 14-8-2-77, AS AMENDED BY SEA 176-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 77. "Division" has the following meaning:

(1) For purposes of IC 14-9-8, the meaning set forth in IC 14-9-8-2.

(2) For purposes of IC 14-20-1, the meaning set forth in IC 14-20-1-2.

(3) For purposes of IC 14-21, the division of historic preservation and archeology.

(4) For purposes of IC 14-22, the division of fish and wildlife.

(5) For purposes of IC 14-24, the division of entomology and plant pathology.

(6) For purposes of IC 14-25.5, the division of water.

(7) For purposes of IC 14-31-2, the meaning set forth in IC 14-31-2-4.

(8) For purposes of IC 14-32, the division of soil conservation of the **Indiana state** department of agriculture established by IC 15-11-4-1.

(9) For purposes of IC 14-37, the division of oil and gas.

SECTION 7. IC 14-22-6-14, AS AMENDED BY SEA 190-2008, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) The:

(1) division of fish and wildlife of the department; and

(2) division of soil conservation established within the **Indiana state** department of agriculture by IC 15-11-4-1, through the soil and water conservation districts established under IC 14-32;

shall, in cooperation with other conservation education organizations and one (1) or more organizations of hunters, establish a program to help landowners with problems determined by the director to be caused by localized deer population.

(b) The program established under this section must educate landowners concerning the means by which a landowner can:

(1) control; or

(2) obtain assistance in controlling;

the deer population on the landowner's tract of land.

(c) Under the program established under this section, one (1) or more hunters or organizations of hunters may, upon request by a landowner, work with the department and the landowner to alleviate problems caused by localized deer populations.

(d) In each county, the division of fish and wildlife, in cooperation with the soil and water conservation district established within the county under IC 14-32, shall disseminate information about the program established under this section.

SECTION 8. IC 14-24-4.5-13, AS AMENDED BY P.L.1-2006, SECTION 215, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) The director of the **Indiana state** department of agriculture or the director's designee shall serve as compact administrator for

Indiana. The duties of the compact administrator are considered a regular part of the duties of the commissioner of agriculture.

(b) Copies of bylaws and amendments to the compact adopted under section 4(h) of this chapter must be filed with the compact administrator.

SECTION 9. IC 14-24-4.5-14, AS AMENDED BY P.L.1-2006, SECTION 216, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. Within the meaning of sections 6(b) and 8(a) of this chapter, a request or an application for assistance from the fund may be made by the director of the **Indiana state** department of agriculture or the director's designee whenever the director or director's designee believes the conditions qualifying the state for assistance exist and it would be in the best interest of the state to make a request.

SECTION 10. IC 14-25-14-4, AS ADDED BY P.L.112-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) Each of the following state agencies shall designate a representative to advise the task force:

(1) The department.

(2) The department of environmental management.

(3) The department of homeland security.

(4) The **Indiana state** department of agriculture.

(5) The state department of health.

(b) In addition to the representatives set forth in subsection (a), the director may invite representatives of other state and federal agencies as appropriate to advise the task force.

SECTION 11. IC 14-32-2-1, AS AMENDED BY SEA 190-2008, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The soil conservation board is established within the **Indiana state** department of agriculture established by IC 15-11-2-1 as the policy making body for soil and water conservation.

SECTION 12. IC 14-32-2-3, AS AMENDED BY P.L.175-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) A majority of the seven (7) appointed members of the board must have experience as district supervisors.

(b) In making appointments to the board, the governor may invite and consider the recommendations of the following:

(1) The Purdue University cooperative extension service.

(2) The **Indiana state** department of agriculture.

(3) The Indiana Association of Soil and Water Conservation Districts.

(c) All appointments to the board shall be made without regard to political affiliation.

(d) The members appointed to the board under section 2(1) and 2(2) of this chapter must be residents of at least four (4) different geographic regions of Indiana.

SECTION 13. IC 14-32-2-7, AS AMENDED BY P.L.175-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The governor may appoint advisory members from other organizations that promote conservation, including local, state, and federal agencies upon the recommendation of the board.

(b) The governor shall appoint members to the advisory board that represent the following:

(1) The **Indiana state** department of agriculture.

(2) The department of natural resources.

(3) The department of environmental management.

(4) The Purdue University cooperative extension service.

(5) The Indiana Association of Soil and Water Conservation Districts.

(6) The Farm Service Agency of the United States Department of Agriculture.

(7) The Natural Resources Conservation Service of the United States Department of Agriculture.

SECTION 14. IC 14-32-2-8, AS AMENDED BY SEA 190-2008, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) The members of the board shall elect a member as the chairman of the board.

(b) The director of the division of soil conservation established within the **Indiana state** department of agriculture by IC 15-11-4-1 is the secretary of the board.

SECTION 15. IC 14-32-5-4, AS AMENDED BY SEA 190-2008, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) As used in this section, "landfill" means a facility where solid waste is to be disposed of through placement on or beneath the surface of the ground. However, the term does not include any of the following:

(1) A land application operation regulated under 327 IAC 6.

(2) A surface impoundment.

(3) An injection well.

(4) A facility for the disposal of solid waste other than sludge from a municipal wastewater treatment plant that is:

(A) generated at the site of the facility; or

(B) generated by the owner or operator of the facility.

(5) An operation permitted under IC 14-34.

(b) As used in this section, "underground injection" means the subsurface emplacement of fluids through:

(1) a bored, drilled, or driven shaft; or

(2) a dug hole, the depth of which is greater than the hole's largest surface dimension.

(c) A district shall inspect every landfill located within the boundaries of the district for compliance with rules adopted under IC 13-18 or IC 13-19 concerning erosion and sediment control. Each landfill shall be inspected under this section at least two (2) times each calendar year as follows:

(1) One (1) time before July 1.

(2) One (1) time after June 30 and before December 31.

(d) Not later than ten (10) days after an inspection of a landfill under this section, the individual who conducted the inspection on behalf of the district shall prepare a written report on the results of the inspection and send the report to the following:

(1) The executive of the county.

(2) The commissioner of the department of environmental management.

(3) The director of the division of soil conservation established within the **Indiana state** department of agriculture by IC 15-11-4-1.

SECTION 16. IC 14-32-7-6, AS AMENDED BY P.L.175-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) The division of soil conservation:

(1) shall administer and coordinate the duties and responsibilities of the **Indiana state** department of agriculture under the land resource programs authorized by this chapter; and

(2) in carrying out its duties under subdivision (1), may work in cooperation with the following:

(A) Federal and state agencies.

(B) Local governmental agencies involved in land use planning and zoning.

(C) Any person, firm, institution, or agency, public or private, having an interest in land conservation.

(b) The **Indiana state** department of agriculture may employ the personnel and provide facilities and services that are necessary to carry out the **Indiana state** department of agriculture's duties and responsibilities under this chapter.

(c) The **Indiana state** department of agriculture shall prepare an annual report of the division of soil conservation's expenditures and accomplishments and that contains a proposed business plan.

SECTION 17. IC 14-32-7-7, AS AMENDED BY P.L.1-2006, SECTION 224, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) As used in this section, "urban geology survey" means a systematic scientific identification, inventory, and mapping of the earth materials of a given area that sets forth the capabilities, potentials, and limitations of the earth materials for human needs.

(b) The **Indiana state** department of agriculture shall use the money appropriated by the general assembly to initiate and carry out a program of urban geology surveys, together with other geologic investigations, for Indiana to develop and present the geologic data and information necessary to a coordinated land conservation program that will promote sound land use decisions.

SECTION 18. IC 14-32-7-8, AS AMENDED BY P.L.1-2006, SECTION 225, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) As used in this section, "landscape survey" means a systematic scientific identification, inventory, and mapping of the features of the earth's surface that serve to constitute the landscape of a given area, including key factors such as the following:

(1) Land form.

(2) Vegetation.

(3) Wildlife.

(4) Physical characteristics.

(5) Visual perception.

(6) Historical and cultural sites.

(b) The **Indiana state** department of agriculture shall use the money appropriated by the general assembly to initiate and carry out a program of landscape surveys for Indiana to develop and present the surficial landscape data and information necessary to promote wise land use decisions.

SECTION 19. IC 14-32-7-8.5, AS AMENDED BY P.L.175-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8.5. (a) As used in this section, "soil survey" means a systematic scientific identification, inventory, and mapping of the soils of a given area that sets forth the capabilities, potential, and limitations of the soils in the satisfaction of human needs.

(b) The **Indiana state** department of agriculture shall use the money appropriated by the general assembly to implement and supplement a program of modern soil surveys and geographic information systems (GIS) for Indiana that will, within the shortest practicable time, provide a modern soil survey and geographic information system for each county as an essential tool in land conservation.

SECTION 20. IC 14-32-7-9, AS AMENDED BY P.L.1-2006, SECTION 227, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. The **Indiana state** department of agriculture shall provide more support and assistance to the local soil and water conservation districts by:

(1) granting to the districts the additional money that is appropriated by the general assembly; and

(2) increased coordination and consultative services;

to obtain increased participation by the districts in the development of improved local land use practices and decisions.

SECTION 21. IC 14-32-7-10, AS AMENDED BY P.L.1-2006, SECTION 228, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. The **Indiana state** department of agriculture shall use the money appropriated by the general assembly to expand the small watershed planning program as carried out in cooperation with the Natural Resources Conservation Service of the United States Department of Agriculture under 16 U.S.C. 1001 et seq., to reduce the accumulation of approved watershed planning requests and expedite the realization of the multiple benefits of this soil and water conservation program.

SECTION 22. IC 14-32-7-11, AS AMENDED BY P.L.1-2006, SECTION 229, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. The **Indiana state** department of agriculture shall coordinate and schedule the programs authorized by sections 7 through 8 of this chapter to provide, as nearly as practicable, for concurrent completion and furnishing of the results of each program for each selected area study unit.

SECTION 23. IC 14-32-7-13, AS AMENDED BY P.L.1-2006, SECTION 230, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. The **Indiana state** department of agriculture shall administer this article subject to the direction of the board.

SECTION 24. IC 15-11-1-2, AS ADDED BY SEA 190-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. "Department" refers to the

Indiana state department of agriculture established by IC 15-11-2-1.

SECTION 25. IC 15-11-1-3, AS ADDED BY SEA 190-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. "Director" refers to the director of the **Indiana state** department of agriculture appointed under IC 15-11-3-1.

SECTION 26. IC 15-11-2-1, AS ADDED BY SEA 190-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The **Indiana state** department of agriculture is established.

SECTION 27. IC 15-11-2-3, AS ADDED BY SEA 190-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The department shall do the following:

(1) Provide administrative and staff support for the following:

~~(A) The center for value added research under IC 15-11-9.~~

~~(B)~~ **(A)** The state fair board for purposes of carrying out the ~~director of the department of agriculture's~~ **director's** duties under IC 15-13-5.

~~(C)~~ **(B)** The Indiana corn marketing council for purposes of administering the duties of the director ~~of the department of agriculture~~ under IC 15-15-12.

~~(D)~~ **(C)** The Indiana organic peer review panel under IC 15-15-8.

~~(E)~~ **(D)** The Indiana dairy industry development board for purposes of administering the duties of the director ~~of the department of agriculture~~ under IC 15-18-5.

~~(F)~~ **(E)** The Indiana land resources council under IC 15-12-5.

~~(G)~~ **(F)** The Indiana grain buyers and warehouse licensing agency under IC 26-3-7.

~~(H)~~ **(G)** The Indiana grain indemnity corporation under IC 26-4-3.

~~(I)~~ **(H)** The division.

~~(J)~~ **(I)** The E85 fueling station grant program under IC 15-11-11.

(2) Administer the election of state fair board members under IC 15-13-5.

(3) Administer state programs and laws promoting agricultural trade.

(4) Administer state livestock or agriculture marketing grant programs.

(5) Administer economic development efforts for agriculture **by doing the following:**

(A) Promoting value added agricultural resources.

(B) Marketing Indiana agriculture to businesses internationally.

(C) Assisting Indiana agricultural businesses with developing partnerships with the Indiana economic development corporation.

(D) Soliciting private funding for selective economic development and trade initiatives.

(E) Providing for the orderly economic development and growth of Indiana's agricultural economy.

SECTION 28. IC 15-11-2-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 6. The department shall promote the growth of agricultural businesses by doing the following:**

(1) Assisting agricultural businesses with the permit process required to conduct business in Indiana.

(2) Serving as a liaison between agricultural businesses, state agencies, and local units of government.

SECTION 29. IC 15-11-2-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 7. The department may keep records submitted to the department by a livestock producer under a voluntary certification program confidential.**

SECTION 30. IC 15-11-6-1, AS ADDED BY SEA 190-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The director is responsible for foreign market promotion for agricultural products **through the following:**

(1) Creating a report and plan for international trade.

(2) Working in partnership with the Food Export Association of the Midwest.

(3) Conducting and participating in foreign trade missions.

(4) Providing education on export and export opportunities for Indiana agricultural businesses.

SECTION 31. IC 15-11-7-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.3. As used in this chapter, "diversified farming" means new, emerging, and small scale agricultural markets, including alternative and niche agricultural markets.**

SECTION 32. IC 15-11-7-1.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.6. As used in this chapter, "specialty crop" means any fruit, vegetable, tree nut, dried fruit, and nursery crop, including floriculture.**

SECTION 33. IC 15-11-7-2, AS ADDED BY SEA 190-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. The director shall do the following:

(1) ~~Organize and develop an~~ **Prepare an annual report that contains** information and market research ~~center for aquaculture.~~ **concerning diversified farming.**

(2) Instigate the formation of a market and development plan for ~~the aquaculture industry.~~ **diversified farming.**

(3) Encourage the development and growth of **diversified farming,** aquaculture, **and specialty crops through education programs.**

(4) Administer the United States Department of Agriculture Specialty Crop Block Grant Program.

(5) Identify diversified farming opportunities.

(6) Create a healthy network to better connect farmers to available resources.

(7) Aggressively promote the opportunities and benefits of agricultural diversification.

SECTION 34. IC 15-12-2-1, AS ADDED BY SEA 190-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this chapter, "director" means the director of the **Indiana state** department of agriculture.

SECTION 35. IC 15-12-4-1, AS ADDED BY SEA 190-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The following definitions apply throughout this chapter:

(1) "Director" refers to the director of the **Indiana state** department of agriculture or the director's designee.

(2) "Remediation program" refers to the program established under section 2 of this chapter.

SECTION 36. IC 15-12-5-2, AS ADDED BY SEA 190-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter, "director" refers to the director of the **Indiana state** department of agriculture.

SECTION 37. IC 15-13-2-2, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: 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 director of the **Indiana state** department of agriculture appointed under IC 15-11-3-1 or the director's designee.

(4) The presiding officer of the trustees elected under IC 15-13-11-7 or the presiding officer's designee who must be selected from the membership of the trustees.

(b) The chairperson of the advisory committee appointed under IC 15-13-6-2(d) or a member of the advisory committee designated by the chairperson may serve as an ex officio nonvoting member of the commission.

(c) Not more than:

(1) one (1) member appointed under subsection (a)(1) may reside in the same district; and

(2) three (3) members appointed under subsection (a)(1) may be affiliated with the same political party.

Each district is not required to have a member of the commission represent it.

(d) Two (2) members appointed under subsection (a)(1) must have a recognized interest in agriculture or agribusiness.

SECTION 38. IC 15-13-5-2, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The board consists of seventeen (17) members as follows:

(1) The governor or the governor's designee.

(2) The director of the **Indiana state** department of agriculture or the director's designee.

(3) The director of the cooperative extension service of Purdue University or the director's designee.

(4) Seven (7) members appointed under this chapter by the governor, one (1) from each district.

(5) One (1) member elected under this chapter from each district.

(b) Not more than one (1) member appointed under subsection (a)(4) may reside in the same district.

(c) Not more than four (4) members appointed under subsection (a)(4) may be affiliated with the same political party.

(d) Each member appointed under subsection (a)(4) must have a recognized interest in agriculture or agribusiness.

(e) When an appointment of a member under subsection (a)(4) is required, the appointment may not be made until after the election of members under subsection (a)(5) for that year is certified under section 22 of this chapter.

SECTION 39. IC 15-13-5-9, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. If an organization wants to be certified to vote in an election under this chapter, the organization must apply to the director of the **Indiana state** department of agriculture.

SECTION 40. IC 15-13-5-10, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) Subject to sections 11 through 13 of this chapter, the director of the **Indiana state** department of agriculture shall certify an organization that applies under section 9 of this chapter as eligible to vote in a district election under this chapter only if the organization:

(1) is an agricultural interest;

(2) is regularly organized within the district;

(3) has at least ten (10) active members;

(4) has elected officers;

(5) has an annual meeting;

(6) has been in existence for at least one (1) year before the application for certification is filed with the director of the **Indiana state** department of agriculture; and

(7) before July 1 of the year of the election in which the organization wants to participate, files with the director of the **Indiana state** department of agriculture:

(A) the name of the organization;

(B) the names and addresses of the organization's officers;

(C) the name, address, and title of the individual who is authorized by the organization to vote for the organization in an election under this chapter;

(D) the number of the organization's active members;

(E) a certification that the organization is eligible to be certified under this chapter; and

(F) other information required by the director of the **Indiana state** department of agriculture.

(b) A certification under subsection (a) expires July 1 of the fourth year after the certification is issued by the director of the **Indiana state** department of agriculture.

SECTION 41. IC 15-13-5-13, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) The director of the **Indiana state** department of agriculture may not certify for a district under section 10 of this chapter more than two (2) organizations in a county in the district that satisfy the requirements of section 10 of this chapter.

(b) If more than two (2) organizations in a county in a district that satisfy the requirements of section 10 of this chapter apply for certification, the director of the **Indiana state** department of agriculture may certify any two (2) of those organizations, considering the following criteria:

(1) Order of application for certification.

(2) Number of members of each organization.

(3) How long each organization has been in existence.

(4) Activity of each organization in promotion of agricultural interests.

(5) Diversity of representation of interests within the agricultural community.

SECTION 42. IC 15-13-5-14, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) Before September 1 of the year the term of a member representing a district expires, the director of the **Indiana state** department of agriculture shall notify each organization certified for the district under section 10 of this chapter that a district convention will be held to elect the member to represent the district.

(b) Subject to section 17 of this chapter, the director of the **Indiana state** department of agriculture shall:

(1) state in the notice required by subsection (a) the date, time, and place of the district convention and the name of the presiding officer; and

(2) choose a date, time, and place that will encourage maximum participation in the district convention by organizations referred to in subsection (a).

SECTION 43. IC 15-13-5-15, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. The director of the **Indiana state** department of agriculture shall send copies of the credentials of each individual entitled to vote in a district convention to the following:

(1) The board member representing the district.

(2) The individual who will preside over the district convention.

SECTION 44. IC 15-13-5-16, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) The director of the **Indiana state** department of agriculture shall choose from among the members of the commission the individual to preside at a district convention.

(b) The presiding officer of the convention may vote in the case of a tie vote on any matter.

SECTION 45. IC 15-13-5-18, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. The director of the **Indiana state** department of agriculture shall adopt rules for the business of a district convention. Rules adopted under this section may not be inconsistent with this chapter.

SECTION 46. IC 15-13-5-23, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. The director of the **Indiana state** department of agriculture may:

(1) adopt rules under IC 4-22-2; and

(2) prescribe forms;

to implement sections 9 through 22 of this chapter.

SECTION 47. IC 15-13-11-3, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The trustees govern the barn. The trustees consist of seventeen (17) members as follows:

(1) The governor or the governor's designee.

(2) The director of the **Indiana state** department of agriculture or the director's designee.

(3) The dean of agriculture of Purdue University or the dean's designee.

(4) The president of the Purdue University Agriculture Alumni Association or the president's designee.

(5) The state superintendent of public instruction or the state superintendent's designee.

(6) The state veterinarian or the state veterinarian's designee.

(7) The presiding officer of the commission or the presiding officer's designee selected from the membership of the commission.

(8) The presiding officer of the board or the presiding officer's designee selected from the membership of the board.

(9) One (1) member appointed by the largest Indiana organization representing agricultural interests in Indiana, as determined by the number of members of the organization. The member serves at the pleasure of the member's organization.

(10) One (1) member appointed by the second largest Indiana organization representing agricultural interests in Indiana, as determined by the number of members of the organization. The member serves at the pleasure of the member's organization.

(11) Seven (7) members appointed by the governor.

(b) Of the members appointed under subsection (a)(11), not more than four (4) may be affiliated with the same political party.

(c) Each member appointed under subsection (a)(11) must have a recognized interest in the barn.

SECTION 48. IC 15-15-5-1, AS ADDED BY SEA 190-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. This chapter applies to civil actions against a seller for the failure of agricultural or vegetable seeds to perform if the container in which the seeds were sold included the following notice on the label:

NOTICE OF REQUIRED ARBITRATION

Under the seed laws of Indiana and some other states,

arbitration is required as a precondition of maintaining certain legal actions, counterclaims, or defenses against a seller of seed. Information about this requirement, where applicable, may be obtained from a state's seed commissioner or the **Indiana State** Department of Agriculture.

SECTION 49. IC 15-15-7-11, AS ADDED BY SEA 190-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) As used in this section, "suit" refers to a suit commenced against a farmer by a seed supplier to enforce the seed supplier's rights under, or in connection with, a seed contract.

(b) If a seed supplier files suit against a farmer, the seed supplier shall provide simultaneous written notice of the suit to the director of the **Indiana state** department of agriculture.

(c) Failure to give notice of the suit to the director of the **Indiana state** department of agriculture as provided in subsection (b) does not impair the jurisdiction of the court to hear the suit.

(d) A seed supplier that fails to give notice to the director of the **Indiana state** department of agriculture as provided in subsection (b) commits a Class B infraction.

(e) The director of the **Indiana state** department of agriculture shall keep a file of all notices of suits received under this section.

SECTION 50. IC 15-15-8-3, AS ADDED BY SEA 190-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "director" refers to the director of the **Indiana state** department of agriculture or the director's designee.

SECTION 51. IC 15-15-11-10, AS ADDED BY SEA 190-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) A representative group of at least five percent (5%) of the producers of an agricultural commodity may petition the dean of agriculture for permission to establish a commodity market development council.

(b) A petition described in subsection (a) must include the following:

(1) A statement of the area of production to be included. The area must be statewide. However, the area may be limited to a well defined smaller area if the area is the principal commercial producer of the agricultural commodity in Indiana.

(2) A statement of the general purposes of the agricultural commodity market development council program. The purposes may include research, education, market development, publicity, sales promotion, and cooperation with other state, regional, and national organizations.

(3) The amount of the fee to be collected for each designated unit of commercial quantities of the agricultural commodity.

(4) The method to be used in the collection of the fee.

(5) The composition, qualification, terms of office, method of nomination, election, filling unexpired terms, expenses, and duties of the members of the commodity market development council. However, the following apply to the council:

(A) The council must consist of an odd number of at least five (5) but not more than fifteen (15) members. A member may not serve on the council for more than six (6) consecutive years. A majority of the council members must be producers selected by producers.

(B) The dean of agriculture serves as an ex officio member of the council.

(C) The director of the **Indiana state** department of agriculture or the director's designee serves as an ex officio member of the council.

(6) The method of conducting the referendum of the agricultural commodity producers. The method must be either by mail or by polling place, depending on the area and volume of the commodity.

SECTION 52. IC 15-15-12-6, AS ADDED BY SEA 190-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. As used in this chapter, "director" refers to the director of the **Indiana state** department of agriculture or the person designated by the director of the **Indiana state** department of agriculture to carry out duties imposed on the director of the **Indiana state** department of agriculture under this chapter.

SECTION 53. IC 15-16-2-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. As used in this chapter, "ammonium nitrate" means the ammonium salt of nitric acid, which must contain not less than thirty-three percent (33%) nitrogen, fifty percent (50%) of which is in the ammonium form and fifty percent (50%) of which is in the nitrate form.**

SECTION 54. IC 15-16-2-3, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "blender" means a person ~~who is~~ **or system** engaged in the business of blending fertilizer materials.

SECTION 55. IC 15-16-2-4, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. As used in this chapter, "blending" means the physical mixing or combining: ~~of at least two (2) fertilizer materials. The term includes the simultaneous application of at least two (2) fertilizer materials~~

(1) of one (1) or more fertilizer materials and one (1) or more filler materials;

(2) of two (2) or more fertilizer materials; or

(3) of two (2) or more fertilizer materials and filler materials;

including mixing through the simultaneous or sequential application of any of the combinations referred to in subdivision (1), (2), or (3) to produce a uniform mixture.

SECTION 56. IC 15-16-2-9, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. As used in this chapter, "custom blend" means a fertilizer blended:

(1) according to specifications provided to a blender in a soil test nutrient recommendation; or

(2) to meet **specific requests of a** consumer ~~requirements specified~~ **(who is the end user)** before blending.

SECTION 57. IC 15-16-2-23, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. As used in this chapter, "use" means the ~~process of placing~~ **placement or usage of commercial** fertilizer ~~to promote plant growth.~~ **on a targeted growing area.**

SECTION 58. IC 15-16-2-25, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:Sec. 25. (a) The Indiana fertilizer advisory board is established to:

(1) study the regulation of fertilizer; and

(2) advise the state chemist on the administration of this chapter.

(b) The board consists of the following members:

(1) Two (2) representatives of the retail fertilizer industry.

(2) One (1) representative of fertilizer manufacturing, distributing, or manufacturing and distributing.

(3) Two (2) representatives of producers of agricultural crops.

(4) One (1) representative of the lawn care industry.

(5) One (1) representative of the Purdue School of Agriculture.

(6) One (1) representative of a public conservation organization.

(7) One (1) representative of the livestock industry.

~~(7)~~ **(8)** The president of the Indiana Plant Food and Agricultural Chemicals Association, who serves as a nonvoting member.

~~(8)~~ **(9)** One (1) representative of the department of environmental management, who serves as a nonvoting member.

~~(9)~~ **(10)** The fertilizer administrator for the office of the state chemist, who serves as a nonvoting member.

~~(10)~~ **(11)** The engineer specialist for the office of the state chemist, who serves as a nonvoting member.

(12) One (1) representative of the department, who shall serve as a nonvoting member.

(c) The state chemist shall appoint the voting members of the board, who serve for terms of four (4) years.

(d) Voting members of the board may be appointed for successive terms at the discretion of the state chemist.

SECTION 59. IC 15-16-2-49.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 49.5. (a) If a person violates this chapter or a rule adopted under this chapter, the state chemist may:**

(1) warn or issue a citation to the person; or

(2) deny, suspend, revoke, or amend the person's registration under this chapter.

(b) A person who knowingly or intentionally violates this chapter commits a Class A misdemeanor.

SECTION 60. IC 15-16-4-2, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter, "active ingredient" means:

(1) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient that will:

(A) prevent;

(B) destroy;

(C) repel; or

(D) mitigate;

insects, nematodes, fungi, rodents, weeds, or other pests;

(2) in the case of a plant regulator, an ingredient that, through physiological action, will accelerate or retard the rate of growth or rate of maturation or alter the behavior of:

(A) ornamental or crop plants; or

(B) the produce of ornamental or crop plants;

(3) in the case of a defoliant, an ingredient that will cause the leaves or foliage to drop from a plant; ~~and~~

(4) in the case of a desiccant, an ingredient that will artificially accelerate the drying of plant tissue; **and**

(5) in the case of a nitrogen stabilizer, an ingredient that will prevent or hinder the process of nitrification, denitrification, ammonia volatilization, or urease production through an action affecting soil bacteria.

SECTION 61. IC 15-16-4-20, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. As used in this chapter, "ingredient statement" means any of the following:

(1) A statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the pesticide.

(2) A statement of the name of each active ingredient in decreasing order of abundance and the total percentage of active ingredients, together with the name of each and total percentage of the inert ingredients, if any, in the pesticide.

~~However, the statement under subdivision (1) applies if the preparation is highly toxic to humans, determined under section 50 of this chapter. In addition to requirements under subdivisions (1) and (2), if a pesticide contains arsenic in any form, the term also means a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.~~

SECTION 62. IC 15-16-4-24, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 24. As used in this chapter, "labeling" means all labels and other written, printed, or graphic matter:

(1) upon the pesticide product or any of its containers or wrappers;

(2) accompanying the pesticide product at any time; or

(3) to which reference is made on the label or in literature accompanying the pesticide product, except when accurate, nonmisleading reference is made to current official publications of:

(A) the United States Department of Agriculture;

(B) the United States Department of Interior;

(C) the United States Department of Health and Human Services;

(D) the United States Environmental Protection Agency;

~~(D)~~ **(E)** state experiment stations;

~~(E)~~ **(F)** state agricultural colleges; or

~~(F)~~ **(G)** other similar federal institutions or official agencies of Indiana or other states authorized by law to conduct research in the field of pesticides.

SECTION 63. IC 15-16-4-42, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 42. (a) The Indiana pesticide review board is established. The board consists of the following members:

(1) One (1) representative of the state department of health.

~~(2) One (1) representative of the state department of toxicology.~~

~~(3) One (1) representative of the state veterinarian.~~

~~(4)~~ **(2)** One (1) representative of the department of natural resources.

~~(5)~~ **(3)** One (1) representative of the department of environmental management.

~~(6)~~ **(4)** One (1) representative of the Purdue University office of agricultural research programs.

~~(7)~~ **(5)** One (1) representative of the Purdue University cooperative extension service.

~~(8)~~ **(6)** Two (2) ecologists with earned doctorate degrees:

(A) one (1) a terrestrial ecologist; and

(B) one (1) an aquatic ecologist.

~~Not more than one (1) ecologist may be from a state supported university or college, and~~ Not more than one (1) ecologist may be a plant ecologist.

~~(9)~~ **(7)** One (1) public representative.

~~(10)~~ **(8)** One (1) representative of the pesticide industry.

~~(11)~~ **(9)** Two (2) representatives of producers of agricultural crops or products on which pesticides are applied or that may be affected by the application of pesticides:

(A) one (1) of whom represents producers of agronomic crops; and

(B) one (1) of whom represents producers of nonagronomic crops.

~~(12)~~ **(10)** One (1) public representative from conservation organizations.

~~(13)~~ **(11)** Three (3) qualified scientists, one (1) each in the fields of entomology, plant pathology, and weed science. One (1) scientist must be the representative of either the Purdue University office of agricultural research programs or the Purdue University cooperative extension service.

~~(14)~~ **(12)** Three (3) certified and licensed commercial applicators of pesticides who must represent three (3) different certificate or license categories established under IC 15-16-5-45.

~~(15)~~ **(13)** The state chemist, who is an ex officio member and shall serve as a nonvoting member.

~~(16)~~ **(14)** The pesticide administrator for the office of the state chemist, who shall serve as a nonvoting member.

~~(17)~~ **(15)** The pesticide training coordinator, who shall serve as a nonvoting member.

(b) The voting members shall be appointed by the governor for terms of four (4) years **and, subject to subsection (d), continue until the member's successor is approved and qualified.** Appointments shall be made so that not more than five (5) terms expire annually.

(c) Voting members may be appointed for successive terms at the discretion of the governor.

(d) The governor may remove a voting member of the board prior to the expiration of the member's term for cause.

SECTION 64. IC 15-16-4-46, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 46. (a) ~~Ten (10)~~ **Nine (9)** members of the board constitute a quorum.

(b) Official actions are subject to approval by a simple majority of board members present at a called meeting.

(c) The chairperson shall actively participate in all decisions of the board.

SECTION 65. IC 15-16-4-47, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 47. The following individuals appointed to the board shall serve without compensation but are entitled to receive per diem payments at rates and under conditions incident to these positions:

(1) State officials.

(2) Staff members of state offices.

(3) Staff members of the Purdue University office of agricultural research programs.

(4) Cooperative extension service staff members.

Other members are entitled to reimbursement for traveling and other expenses as provided in the ~~state~~ **Purdue University** travel policies and procedures, established by the ~~Indiana~~ **Purdue University** department of ~~administration~~ **transportation** and approved by the ~~budget agency.~~ **Purdue University vice president of business services.**

SECTION 66. IC 15-16-4-53, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 53. ~~An agent of~~ The state chemist ~~has the same authority~~ **may delegate to an employee or agent any function** that is vested in the state chemist by this chapter.

SECTION 67. IC 15-16-4-55, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 55. The state chemist or the state chemist's agent may do the following:

(1) Enter any public or private premises, including any vehicle of transport during regular business hours:

(A) to:

(i) have access to; and

(ii) obtain samples of;

pesticide products; and

(B) to:

(i) examine; and

(ii) copy;

records relating to the **production,** use, transportation, and sale of pesticide products, subject to this chapter and the rules adopted under this chapter.

(2) Enter at a reasonable time in or upon any:

(A) private; or

(B) public;

property for the purpose of inspection and investigating conditions possibly resulting from the use or misuse of a pesticide product.

SECTION 68. IC 15-16-4-57, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 57. Except as provided in section 58 of this chapter, a person may not produce, distribute, display, sell, or offer for sale within Indiana or deliver for transportation or transport in intrastate commerce or between points within Indiana through any point outside Indiana any of the following:

(1) Any pesticide product that has not been registered under section 61 of this chapter.

(2) Any pesticide product if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration.

(3) A pesticide product if the composition of the product differs from the composition as represented in connection with its registration. However, at the discretion of the state chemist, a change in the labeling or formula of a pesticide may be made within a registration period without requiring reregistration of the product.

(4) Any pesticide (except a bulk pesticide or a pesticide in a container designed and constructed to accommodate the return and refill of ~~greater than fifty-five (55) gallons liquid or one hundred (100) pounds of dry material)~~ **the container)** unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to that container, and to any outside container or wrapper of the retail package through which the required information on the immediate container cannot be clearly read, a label bearing:

(A) the name and address of the manufacturer, registrant, or person for whom manufactured;

(B) the name, brand, or trademark under which the pesticide product is sold; and

(C) the net weight or measure of the content, subject, however, to reasonable variations as the state chemist may permit.

~~(5) The pesticides commonly known as:~~

~~(A) standard lead arsenate;~~

~~(B) basic lead arsenate;~~

~~(C) calcium arsenate;~~

~~(D) magnesium arsenate;~~

~~(E) zinc arsenate;~~

~~(F) zinc arsenite;~~

~~(G) sodium fluoride;~~

~~(H) sodium fluosilicate; and~~

~~(I) barium fluosilicate;~~

~~unless the pesticides have been distinctly colored or discolored as provided by rules adopted under this chapter, or any other white powder pesticide that the state chemist, by rule, requires to be distinctly colored or discolored unless it has been so colored or discolored. If the state chemist requires a white powder pesticide to be distinctly colored or discolored under this section, the state chemist must first investigate and hold a public hearing on the necessity for action for the protection of the public health and the feasibility of coloration or discoloration. The state chemist may exempt any pesticide to the extent that it is intended for a particular use or uses from the coloring or discoloring required or authorized by this section if the state chemist determines that coloring or discoloring is not necessary for the protection of the public health.~~

~~(6)~~ **(5)** Any pesticide product that is adulterated or misbranded.

~~(7)~~ **(6)** Any pesticide in containers violating rules adopted under section 50(a)(3) of this chapter. Pesticides found in containers that are unsafe due to damage may be seized and impounded.

~~(8)~~ **(7)** A highly volatile herbicide except on written permission by the state chemist.

~~(9)~~ **(8)** Any bulk pesticide unless it is accompanied in all transfers of custody or ownership by or held in storage vessels to which is affixed a label bearing the information specified in subdivision (4).

SECTION 69. IC 15-16-4-64, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 64. (a) The state chemist shall require the submission of the complete formula of any pesticide product, including the:

(1) confidential statement of formula;

(2) analytical methods for the analysis of the pesticide formulation and the analysis of residues of the pesticide product in environmental media; and

(3) analytical standards of the pesticide product.

In the case of a federally registered product, this requirement may be waived.

(b) The state chemist shall register a pesticide product if:

(1) the state chemist determines that the composition of the pesticide product warrants the proposed claims for ~~it; and~~ **the pesticide product;**

(2) the pesticide product, its labeling, and other material required to be submitted comply with the requirements of section 61 of this chapter; **and**

(3) the state chemist determines that the person submitting the application for registration has complied with the requirements of this chapter.

(c) The state chemist shall notify the applicant that the pesticide product, labeling, or other material required to be submitted fails to comply with the law if the state chemist determines:

(1) that the proposed claims for the pesticide product; or

(2) the pesticide product, ~~and~~ its labeling, and other material required to be submitted;

does not comply with this chapter.

(d) If the state chemist notifies an applicant under subsection (c), the state chemist shall give the applicant an opportunity to make the necessary corrections. If upon receipt of notice, the applicant does not make the corrections, the state chemist may refuse to register the pesticide product.

(e) The state chemist, in accordance with the procedures specified in this section, may **deny,** suspend, or cancel the registration of a pesticide whenever the state chemist determines that:

(1) the pesticide product; ~~or its~~

(2) the pesticide product's labeling; **or**

(3) the person submitting the application for registration of the pesticide product;

does not comply with this chapter.

(f) If:

(1) an application for registration is refused; or

(2) the state chemist proposes to **deny,** suspend, or cancel a registration;

notice of the action **and information concerning the person's right to obtain a review under section 64.5 of this chapter** must be given to the applicant or registrant. ~~who shall have fifteen (15) days from the date of the notice to request a hearing on the proposed action in accordance with IC 4-21.5.~~

SECTION 70. IC 15-16-4-64.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 64.5. (a) A person who is:**

(1) regulated under this chapter; and

(2) aggrieved by any decision of the state chemist;

may obtain a review by the board if the person files a written petition with the board not later than thirty (30) days after the state chemist's decision.

(b) The board shall provide a copy of a petition filed under subsection (a) to the state chemist not later than seven (7) days after receiving the petition.

(c) Not more than fifteen (15) days after receiving a petition under subsection (b), the state chemist shall certify and file with the board a transcript of any record related to the petition, including a transcript of any evidence received.

(d) Whenever a hearing is held under this section, the board may designate one (1) or more persons as the board's agent or representative to conduct the hearing. The agent or representative shall conduct the hearing in the manner provided by IC 4-21.5-3.

(e) After hearing the appeal, the board shall affirm, set aside, or modify the action of the state chemist. However, the state chemist's finding of facts that are supported by the substantial evidence is considered conclusive.

(f) A person aggrieved by any action of the board may obtain judicial review under IC 4-21.5-5.

SECTION 71. IC 15-16-4-70, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 70. (a) The examination of pesticide products shall be made under the direction of the state chemist to determine whether the pesticide products comply with this chapter.

(b) If it appears after an examination that a pesticide product fails to comply with this chapter and the state chemist contemplates instituting proceedings against any person, the state chemist shall give appropriate notice to the person.

(c) A person notified under subsection (b) shall be given an opportunity to present the person's views, either orally or in writing, with regard to the contemplated proceedings to the state chemist.

(d) Subject to subsection (e), if the state chemist determines that a person violated this chapter, the state chemist ~~shall~~ **may** refer the facts to the prosecuting attorney for the county in which the violation occurred with a copy of the results of the analysis or the examination of the pesticide product.

(e) This chapter may not be construed to require the state chemist to report for prosecution or for the institution of other proceedings minor violations of this chapter whenever the state chemist believes that the public interests will be best served by other action.

SECTION 72. IC 15-16-4-73, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 73. (a) Except as provided in subsection (f), if the state chemist:

(1) finds any pesticide product:

(A) upon any premises; or

(B) in any means of conveyance;

where it is held for purposes of, or during or after, distribution or sale; and

(2) determines that the pesticide product:

(A) is in violation of this chapter; or

(B) has been or is intended to be:

(i) distributed; ~~or~~

(ii) sold; **or**

(iii) used;

in violation of this chapter;

the state chemist may issue an order under subsection (b).

(b) The state chemist may issue a written or printed:

(1) stop sale;

(2) use; or

(3) removal;

order to the owner or custodian of a pesticide product.

(c) Except as provided in subsection (d), after receiving an order under subsection (b), the owner or custodian of a pesticide product may not:

(1) sell;

(2) use; or

(3) remove;

the pesticide product described in the order.

(d) The owner or custodian of a pesticide product who receives an order under subsection (b) may:

(1) sell;

(2) use; or

(3) remove;

the pesticide product only in accordance with the order or until the pesticide product is released in writing by the state chemist or by order of a court.

(e) When a stop sale order is issued under subsection (b), the state chemist shall immediately issue a notification to the dealer or registrant of the pesticide product that states the following:

(1) A stop sale order has been issued on the pesticide product.

(2) A reference to the specific language of the law or rule that is believed to have been violated.

(f) Labels of pesticide devices may be submitted to the state chemist for approval before the sale of the pesticide device.

SECTION 73. IC 15-16-5-31, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 31. As used in this chapter, "property" means all:

(1) land and water areas, including airspace; and ~~all~~

(2) plants, animals, structures, buildings, contrivances, **vehicles,** and machinery, appurtenant to or situated on land and water areas, fixed or mobile, including any used for transportation.

SECTION 74. IC 15-16-5-42, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 42. The state chemist may waive all or part of the requirements provided for in sections 45, 46, 48, 49, 50, 51, 52, 53, 54, **56,** and 57 of this chapter on a reciprocal basis with any other state agency or federal agency that has substantially the same standards.

SECTION 75. IC 15-16-5-48, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 48. (a) Subject to section 55 of this chapter, a person may not engage in or profess to engage in the business of:

(1) using a pesticide; or

(2) making diagnostic inspections or reports to determine infestations of wood destroying pests;

on the property of another for hire at any time without a pesticide business license issued by the state chemist. The state chemist shall require an annual license fee of forty-five dollars ($45) for each pesticide business license that is issued.

(b) A pesticide business license must be obtained for each business location from which pesticide use or application is conducted.

(c) The application for a license must be on a form provided by the state chemist. Each application must contain information necessary for the administration of this chapter.

(d) The state chemist may not issue a pesticide business license until the applicant or a pesticide applicator in the applicant's hire who uses or supervises the use of a pesticide on the property of another is certified by passing an examination to demonstrate to the state chemist the applicant's or applicator's knowledge of the:

(1) use of pesticides under the category for which the applicant or applicator has applied; and

(2) nature and effect of pesticides the applicant or applicator may apply under the categories.

At least one (1) licensed applicator for hire must be associated with each location from which pesticides are used for hire.

(e) The state chemist may renew any pesticide business license.

(f) Subject to **subsections (a), (b), (c), and (d) and** section 65 of this chapter, if:

(1) the state chemist finds the applicant qualified to engage in the business of using pesticides **or making diagnostic inspections or reports to determine infestations of wood destroying pests** on the property of another;

(2) the applicant files evidence of financial responsibility required under section 58 of this chapter; and

(3) the applicant applying for a license involving aerial application of pesticides has met all of the requirements of:

(A) the Federal Aviation Administration;

(B) the Indiana department of transportation; and

(C) any other applicable federal or state statutes or regulations to operate the equipment described in the application;

the state chemist ~~shall~~ **may** issue a pesticide business license limited to the categories for which the applicant or a pesticide applicator in the applicant's hire is qualified. The license expires January 1 of the year following issue unless it has been invalidated, revoked, or suspended earlier by the state chemist. A surety bond or certificate of liability insurance in force or certificate of financial responsibility required under section 58 of this chapter must be maintained and in effect on a continuing basis.

(g) The state chemist may limit a license or the operation of a business to the use of certain pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified.

(h) If a license is not issued as applied for, the state chemist shall inform the applicant in writing of the reasons the license was not issued.

SECTION 76. IC 15-16-5-52, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 52. (a) A person applying for a license described under section 49, 50, or 51 of this chapter must:

(1) submit an application to the state chemist on a form provided by the state chemist;

(2) pass the appropriate examination provided under section 45 of this chapter;

(3) except for a person applying for a licensed public applicator's license, submit a fee of forty-five dollars ($45) to the state chemist; and

(4) if the person will engage in the aerial application of pesticides, submit proof to the state chemist that the person has satisfied aerial application requirements under applicable state and federal laws.

(b) Subject to section 65 of this chapter, if a person meets the requirements under subsection (a), the state chemist shall issue the appropriate license to the person.

(c) If the state chemist does not issue a license to a person who applied for a license described under subsection (a), the state chemist shall inform the person in writing of the reason the license was not issued.

(d) A person who has been issued a license under subsection (b):

(1) shall notify the state chemist in writing within ten (10) days after a change in or termination of the person's employment as a licensed applicator for hire, a licensed applicator not for hire, or a licensed public applicator; and

(2) may apply to the state chemist to transfer or amend the person's license by submitting an updated application form described under subsection (a)(1).

(e) A license issued under subsection (b):

(1) expires January 1 of each year; and

(2) **subject to section 65 of this chapter,** may be renewed by the person holding the license if the person:

(A) submits a renewal application on a form provided by the state chemist; and

(B) except for a person renewing a licensed public applicator's license, pays a forty-five dollar ($45) renewal fee;

before January 1.

SECTION 77. IC 15-16-5-58, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 58. (a) The state chemist may not issue a pesticide business license or a pest inspector license until the applicant for the license has furnished a surety bond, a certificate of liability insurance in force, or a certificate of financial responsibility to protect persons who may suffer legal damages as a result of the pesticide operations or pest inspections of the applicant. If the surety bond, liability insurance, or financial responsibility is not maintained at all times during the licensing period, the pesticide business license, pest inspector license, and any associated commercial applicator licenses **and technician registrations** are invalid. The applicant may not engage in or profess to be engaged in the business of using pesticides or pest inspection until the financial responsibility is in compliance and the applicant's license is reinstated by the state chemist.

(b) This chapter does not relieve any person from liability for any damage to the person or property of another caused by the use of pesticides even though the use conforms to the rules adopted under this chapter.

SECTION 78. IC 15-16-5-59, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 59. (a) Commercial applicators and licensed pest inspectors shall maintain records concerning:

(1) the application of restricted use pesticides;

(2) diagnostic inspections to determine infestations of wood destroying pests; and

(3) any relevant information that the state chemist determines by rule is necessary for purposes of this chapter.

(b) The state chemist may require certified applicators to maintain records related to applications of state restricted pesticide uses.

(c) Records required under this section must be kept for:

(1) two (2) years after the date of the **inspection or the** application of the pesticide; ~~and~~ **or**

(2) the time specified by rule.

(d) The state chemist shall be provided access to the records by the commercial applicator **or licensed pest inspector.**

SECTION 79. IC 15-16-5-62, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 62. **(a)** The state chemist may adopt rules to require the reporting of significant pesticide accidents or incidents.

(b) Any person:

(1) claiming damages from a pesticide accident ~~shall~~ **or incident; and**

(2) requesting an investigation of those damages by the state chemist;

must file a ~~claim on a form provided by~~ **report with** the state chemist. ~~This report must be filed within sixty (60) days after the date that damages occurred.~~ If a growing crop is alleged to have been damaged, the report must be filed before twenty-five percent (25%) of the crop has been harvested. ~~The state chemist shall, not later than seven (7) days after the receipt of such statement, notify the licensee and the owner or lessee of the property or other persons who may be charged with the responsibility for the damages claimed, and furnish copies of such statements as may be requested.~~

SECTION 80. IC 15-16-5-63, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 63. The state chemist may cooperate with, and enter into agreements with, any other agency of the state, any federal agency, or any other state agency or nongovernmental organization to carry out this chapter to:

(1) secure uniformity of rules;

(2) cooperate in the enforcement of the federal pesticide control laws through the use of state or federal personnel and facilities and to implement cooperative enforcement programs;

(3) develop and administer state plans for certification of applicators consistent with federal standards;

(4) contract or cooperate with agencies or organizations for the purpose of training applicators;

(5) contract for monitoring pesticides; ~~for the national plan;~~

(6) prepare and submit state plans to meet federal certification standards;

(7) ~~regulate certified applicators;~~ **administer and enforce requirements under this chapter;** and

(8) make reports to the United States Environmental Protection Agency as the agency requires.

SECTION 81. IC 15-16-5-64, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 64. (a) A person may not transport, store, or dispose of any pesticide or pesticide containers in a manner ~~as to.~~ **that may:**

(1) cause injury to:

(A) humans;

(B) beneficial vegetation;

(C) crops;

(D) livestock;

(E) wildlife; or

(F) beneficial insects; or

(2) pollute any waterway in a way harmful to any wildlife in a waterway.

(b) The board may adopt rules governing the storage and disposal of pesticides or pesticide containers. In determining these standards, the board shall take into consideration any regulations issued by the United States Environmental Protection Agency.

SECTION 82. IC 15-16-5-65, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 65. Subject to section 66 of this chapter, the state chemist under IC 4-21.5-3-6 may warn, cite, or impose a civil penalty on a person for a violation under this chapter. The state chemist may also deny, suspend, revoke, or modify any provision of any license, permit, registration, or certification issued under this chapter if the state chemist finds that the applicant or the holder of a license, permit, registration, or certification has committed any of the following acts, each of which is a violation of this chapter:

(1) Made false or fraudulent claims **either verbally or** through any media misrepresenting the effect of pesticides or methods to be used.

(2) Recommended, used, or supervised the use of any registered pesticide in a manner inconsistent with its labeling approved by the United States Environmental Protection Agency or Indiana state registration for that pesticide, or in violation of the United States Environmental Protection Agency or Indiana state restrictions on the use of that pesticide.

(3) Used known ineffective or improper pesticides **or known ineffective amounts of pesticides.**

(4) Operated faulty or unsafe equipment.

(5) Operated in a careless or negligent manner.

(6) Neglected or, after notice, refused to comply with this chapter, the rules adopted under this chapter, or of any lawful order of the state chemist **or the board.**

(7) Refused or neglected to:

(A) keep and maintain the records required by this chapter; or ~~to~~

(B) make reports and supply information when required **or requested by the state chemist in the course of an investigation or inspection.**

(8) Made false or fraudulent records, invoices, or reports.

(9) Engaged in or professed to be engaged in the business of:

(A) using a pesticide; or

(B) making a diagnostic inspection to determine infestations of a wood destroying pest;

for hire on the property of another without having a pesticide business license.

(10) Used a restricted use pesticide without having an applicator, who is licensed or permitted under this chapter, in direct supervision.

(11) Used fraud or misrepresentation in making an application for, or renewal of, a license, permit, registration, or certification.

(12) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license, permit, registration, or certification.

(13) Aided or abetted a person to evade this chapter, conspired with a person to evade this chapter, or allowed a license, permit, registration, or certification to be used by another person.

(14) Made false or misleading statements during or after an inspection concerning any infestation or infection of pests.

(15) Impersonated any federal, state, county, or city inspector, investigator, or official.

(16) Knowingly purchased or used a pesticide that was not registered under IC 15-16-4.

(17) Failed to continuously maintain financial responsibility required under section 58 of this chapter **or to provide proof of financial responsibility to the state chemist when requested.**

(18) Intentionally altered a duly issued license, permit, registration, or certification.

(19) Recklessly, knowingly, or intentionally impeded or prevented the state chemist or the state chemist's agent from performing a duty of the state chemist.

SECTION 83. IC 15-16-5-69, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 69. (a) The state chemist may enter upon any public or private property at reasonable times to do the following:

(1) Observe the use and application of a pesticide.

(2) Inspect equipment subject to this chapter.

(3) Inspect and sample property actually or reported to be exposed to pesticides.

(4) Inspect storage or disposal areas.

(5) Inspect or investigate complaints of injury to humans or property.

(6) Sample pesticides being used or to be used.

(7) Inspect and obtain copies of pesticide sale, distribution, purchase, use, storage, and disposal records.

(b) ~~If the state chemist is denied access to any property for a purpose under subsection (a),~~ The state chemist may, upon showing a need, apply to any court with jurisdiction for a search warrant authorizing access to the property. The court may, after receiving the application and finding a need, issue the search warrant for the purposes requested.

(c) A prosecuting attorney to whom a violation of this chapter is reported may institute and prosecute the violation in a court with jurisdiction of that county without delay. The state chemist may apply for and the court may grant a temporary or permanent injunction restraining any person from violating or continuing to violate this chapter or any rule adopted under this chapter notwithstanding the existence of other remedies at law. The injunction may be issued without bond.

SECTION 84. IC 15-16-5-70, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 70. (a) A person who recklessly, knowingly, or intentionally:

(1) violates this chapter, except as provided in subsection (b); or

(2) impedes or prevents the state chemist or the state chemist's agent from performing a duty of the state chemist;

commits a Class C misdemeanor.

(b) A person who **recklessly,** knowingly, or intentionally violates section 65(9) of this chapter after the state chemist has issued written notification to that person regarding a previous violation of section 65(9) of this chapter commits a Class A misdemeanor.

(c) The state chemist may bring an action to enjoin the violation or threatened violation of this chapter or a rule under this chapter. A court may not allow the recovery of damages for an administrative action taken under this subsection if the court finds that there was probable cause for the action.

SECTION 85. IC 15-17-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 5.5. Grading and Certification of Meat and Meat Products

Sec. 1. The board may provide voluntary grading and certification services relating to meat and meat products.

Sec. 2. The board shall charge a fee to cover the cost of grading and certification under this chapter. The board shall adopt rules under IC 4-22-2 to set the fees under this section.

Sec. 3. Neither the board nor the state may incur any liability for lawful actions taken under this chapter.

Sec. 4. A person who knowingly or intentionally forges a grade or certification under this chapter commits a Class D felony.

SECTION 86. IC 15-18-5-3, AS AMENDED BY SEA 190-2008, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "director" refers to the director of the **Indiana state** department of agriculture or the director's designee.

SECTION 87. IC 15-18-5-16, AS AMENDED BY SEA 190-2008, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. The board shall do the following:

(1) Elect from among the board's members a chairperson, vice chairperson, secretary, treasurer, and other officers the board considers necessary.

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

(3) Establish accounts in adequately protected financial institutions to receive, hold, and disburse funds accumulated under this chapter.

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

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

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

(7) Provide for an independent audit, provide the results of the audit to the state board of accounts and the **Indiana state** department of agriculture, and make the results of the audit available to all interested persons.

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

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

(10) Establish procedures to annually inform all producers regarding board members, policy, expenditures, and programs for the preceding year.

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

(12) Take any other action necessary for the proper implementation of this chapter, including the adoption of rules under IC 4-22-2.

SECTION 88. IC 15-19-7-26, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 26. A commercial feed, except a custom mixed feed, must be accompanied by a label bearing the following information:

(1) The net weight.

(2) The product name and the brand name, if any, under which the commercial feed is distributed.

(3) The guaranteed analysis stated in the terms that the state chemist, by rule, determines are required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods such as the methods published by AOAC ~~(Association of Analytical Communities)~~ International.

(4) The common or usual name of each ingredient used in the manufacture of the commercial feed. However, the state chemist, by rule, may:

(A) permit the use of a collective term for a group of ingredients that perform a similar function; or

(B) exempt a commercial feed or group of commercial feeds from the requirement for an ingredient statement if the state chemist finds that such a statement is not required in the interest of consumers.

(5) The name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed.

(6) Adequate directions for use for:

(A) commercial feeds containing drugs; and

(B) other feeds that the state chemist requires by rule as necessary for their safe and effective use.

(7) Precautionary statements that the state chemist by rule determines are necessary for the safe and effective use of the commercial feed.

SECTION 89. IC 15-19-7-27, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27. Custom mixed feed must be accompanied by a label, invoice, delivery slip, or other shipping document bearing the following information:

(1) Name and address of the manufacturer.

(2) Name and address of the purchaser.

(3) Date of delivery.

(4) The product name and brand name, if any, and the net weight of each ~~registered~~ commercial feed used in the mixture, and the common or usual name and net weight of each other ingredient used, and the specific content, stated in terms as required in section 26 of this chapter, of any nutrients and nonnutritive additives added at the request of the purchaser.

(5) Adequate directions for use for:

(A) custom mixed feeds containing drugs; and

(B) other feeds that the state chemist requires by rule as necessary for their safe and effective use.

(6) Precautionary statements that the state chemist by rule determines are necessary for the safe and effective use of the custom mixed feed.

SECTION 90. IC 21-46-2-1, AS ADDED BY P.L.2-2007, SECTION 287, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The director of the **Indiana state** department of agriculture shall ~~establish a center for value added research to~~ perform the following duties:

(1) **Work with each county to** develop ~~a~~ **an annual** strategic assessment of Indiana agricultural industries and establish targeted priorities for industry expansion.

(2) Develop recommendations for legislative and administrative programs that will enhance economic development in the targeted agricultural industries.

~~(3) Identify and prioritize research development and educational needs for expanding value added opportunities in Indiana.~~

~~(4)~~ **(3)** Establish cooperative industry research and development initiatives that lead to new agricultural industry opportunities in Indiana.

~~(5)~~ **(4)** Serve as a resource for industry in the planning, promotion, and development of value added agricultural products and agricultural industry opportunities in Indiana, including product feasibility, market feasibility, economic feasibility, product development, product testing, and test marketing.

~~(6)~~ **(5)** Serve as a resource for industry and the state in attracting value added agricultural industry to Indiana.

~~(7)~~ **(6)** Develop private sector research funding and technology transfer programs commensurate with the state's targeted agricultural industry economic development objectives.

~~(8)~~ **(7)** Provide a forum for continuing dialogue between industry, government, and researchers in addressing the needs and opportunities for expanding the value added agricultural industry.

SECTION 91. IC 26-3-7-1, AS AMENDED BY P.L.1-2006, SECTION 482, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) ~~There is created in the department of agriculture an agency to be known as~~ The Indiana grain buyers and warehouse licensing agency **is established within the Indiana state department of agriculture** to administer this chapter. The director of the **Indiana state** department of agriculture may appoint the director of the agency, who shall serve at the pleasure of the director of the **Indiana state** department of agriculture. The director shall administer this chapter and shall be the ultimate authority in the administration of this chapter.

(b) The agency may employ all necessary employees, counsel, and consultants to carry out the provisions of this chapter and is vested with the power necessary to fully and effectively carry out the provisions and objectives of this chapter.

SECTION 92. IC 34-30-2-64, AS AMENDED BY SEA 190-2008, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 64. IC 15-12-2-6 (Concerning the United States and the United States Secretary of Agriculture for the transfer of assets to the director of the **Indiana state** department of agriculture on behalf of the Indiana rural rehabilitation corporation).

SECTION 93. IC 35-42-2-1, AS AMENDED BY P.L.164-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A person who knowingly or intentionally touches another person in a rude, insolent, or angry manner commits battery, a Class B misdemeanor. However, the offense is:

(1) a Class A misdemeanor if:

(A) it results in bodily injury to any other person;

(B) it is committed against a law enforcement officer or against a person summoned and directed by the officer while the officer is engaged in the execution of the officer's official duty;

(C) it is committed against an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty;

(D) it is committed against a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty; ~~or~~

(E) it is committed against a community policing volunteer:

(i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or

(ii) because the person is a community policing volunteer; **or**

(F) it is committed against the state chemist or the state chemist's agent while the state chemist or the state chemist's agent is performing a duty under IC 15-16-5;

(2) a Class D felony if it results in bodily injury to:

(A) a law enforcement officer or a person summoned and directed by a law enforcement officer while the officer is engaged in the execution of ~~his~~ **the officer's** official duty;

(B) a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(C) a person of any age who has a mental or physical disability and is committed by a person having the care of the person with a mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation;

(D) the other person and the person who commits the battery was previously convicted of a battery in which the victim was the other person;

(E) an endangered adult (as defined in IC 12-10-3-2);

(F) an employee of the department of correction while the employee is engaged in the execution of the employee's official duty;

(G) an employee of a school corporation while the employee is engaged in the execution of the employee's official duty;

(H) a correctional professional while the correctional professional is engaged in the execution of the correctional professional's official duty;

(I) a person who is a health care provider (as defined in IC 16-18-2-163) while the health care provider is engaged in the execution of the health care provider's official duty;

(J) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty;

(K) a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty;

(L) a community policing volunteer:

(i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or

(ii) because the person is a community policing volunteer; or

(M) a family or household member (as defined in IC 35-41-1-10.6) if the person who committed the offense:

(i) is at least eighteen (18) years of age; and

(ii) committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense;

(3) a Class C felony if it results in serious bodily injury to any other person or if it is committed by means of a deadly weapon;

(4) a Class B felony if it results in serious bodily injury to a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(5) a Class A felony if it results in the death of a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(6) a Class C felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2);

(7) a Class B felony if it results in the death of an endangered adult (as defined in IC 12-10-3-2); and

(8) a Class C felony if it results in bodily injury to a pregnant woman and the person knew the woman was pregnant.

(b) For purposes of this section:

(1) "law enforcement officer" includes an alcoholic beverage enforcement officer; and

(2) "correctional professional" means a:

(A) probation officer;

(B) parole officer;

(C) community corrections worker; or

(D) home detention officer.

SECTION 94. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 15-11-6-3; IC 15-11-6-4; IC 15-11-6-5; IC 15-11-6-6; IC 15-11-9-2; IC 15-11-9-3; IC 24-6-7.

(Reference is to ESB 314 as printed February 22, 2008.)

Jackman, Chair	Pflum
Lewis	Friend
Senate Conferees	House Conferees

Roll Call 345: yeas 47, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

EHB 1019–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill 1019 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-10-8.5-18, AS ADDED BY P.L.44-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE AUGUST 1, 2007 (RETROACTIVE)]: Sec. 18. ~~(a) Except as provided in subsection (b),~~ The balance in a retired

participant's subaccount may be used by the retired participant and the spouse and dependents of the retired participant to pay premiums for individual or group health coverage. ~~provided by an insurance policy.~~

~~(b) If the budget agency requests and receives from the Internal Revenue Service an appropriate ruling or determination letter, the balance in a retired participant's subaccount also may be used to pay:~~

~~(1) premiums for individual or group health coverage provided by a means other than an insurance policy; and~~

~~(2) sickness, accident, hospitalization, and medical expenses of the retired participant, and the spouse and dependents of the retired participant.~~

SECTION 2. IC 5-10.2-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 6. (a) A member who becomes disabled while receiving a salary or employer provided income protection benefits or who is on leave under the Family and Medical Leave Act may retire for the duration of ~~his~~ **the member's** disability if:

(1) the member has at least five (5) years of creditable service before the:

(A) termination of a salary or employer provided income protection benefits or Family and Medical Leave Act leave; or

(B) exhaustion of all worker's compensation benefits;

(2) the member has qualified for Social Security disability benefits and has furnished proof of the Social Security qualification to the board; and

(3) at least once each year until the member reaches age sixty-five (65) a representative of the board verifies the continued disability.

For the purposes of this section, a member of the public employees' retirement fund who has qualified for disability benefits under the federal civil service system is considered to have met the requirement of subdivision (2) if ~~he~~ **the member** furnishes proof of the qualification to the board of the public employees' retirement fund.

(b) Benefits for disability shall be paid beginning with the month following the onset of disability as determined by the Social Security Administration. The benefit is the retirement benefit specified in section 4 of this chapter with the pension computed using only the years of creditable service worked to the date of disability and without reduction for early retirement. However, the monthly disability retirement benefit may not be less than one hundred **eighty** dollars ~~($100).~~ **($180).**

(c) The member may have ~~his~~ **the member's** benefit paid under any of the retirement benefit options specified in section 7 of this chapter, except that the member may not choose to have the member's disability retirement benefit paid under the method specified under section 7(b)(3) of this chapter.

(d) This section applies to:

(1) a member of the public employees' retirement fund who became disabled after June 30, 1973; and

(2) a member of the Indiana state teachers' retirement fund who becomes disabled after June 30, 1984, and who chooses disability retirement under this section.

(e) To the extent required by the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations to the Act, the transcripts, records, and other material compiled to determine the existence of a disability shall be:

(1) kept in separate medical files for each member; and

(2) treated as confidential medical records.

(f) A member may continue to receive disability benefits from the public employees' retirement fund or the Indiana state teachers' retirement fund so long as the member is entitled to receive Social Security benefits, including periods of trial employment or rehabilitation under the Social Security guidelines. However, during a period of trial employment or rehabilitation, service credit may not be granted under the public employees' retirement fund or the Indiana state teachers' retirement fund.

(g) If the fund is authorized to make, in the form of a single check or a series of checks, a one (1) time distribution that does not increase the pension portion of the monthly benefit, the distribution must include members eligible for disability benefits. A member eligible for disability benefits is required to meet all additional requirements necessary to receive the check or series of checks issued by the fund under this subsection.

SECTION 3. IC 5-10.2-5-43.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 43.4. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2008, to a member of the Indiana state teachers' retirement fund (or to a survivor or beneficiary of a member of the Indiana state teachers' retirement fund) who retired or was disabled:**

(1) before July 2, 2000, shall be increased by two percent (2%); and

(2) after July 1, 2000, and before July 2, 2006, shall be increased by one percent (1%).

(b) The increases specified in this section:

(1) are based upon the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

SECTION 4. [EFFECTIVE AUGUST 1, 2007 (RETROACTIVE)] **IC 5-10-8.5-18, as amended by this act, applies to premiums paid after July 31, 2007, for individual or group health coverage for a retired participant and the spouse and dependents of a retired participant.**

SECTION 5. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies to a retired state employee who:**

(1) retired after July 31, 2007;

(2) either:

(A) was eligible on the retired state employee's retirement date to participate in the group health insurance program described in IC 5-10-8-8 but did not file a written request to participate in the group health insurance program described in IC 5-10-8-8 within ninety (90) days after the retired state employee's retirement date as required by IC 5-10-8-8(f); or

(B) is eligible to participate in the state group health insurance program described in IC 5-10-8-8 and, on April 1, 2008, has fewer than sixty (60) days after the retired state employee's retirement date to file a written request to participate in the group health insurance program described in IC 5-10-8-8 as required by IC 5-10-8-8(f); and

(3) was eligible on the retired state employee's retirement date to receive a benefit from the retirement medical benefits account established under IC 5-10-8.5.

(b) Notwithstanding IC 5-10-8-8(f), a retired state employee has sixty (60) days after April 1, 2008, to file with the employer from whom the retired state employee retired a written request to participate in the group health insurance program described in IC 5-10-8-8. The employer shall accept the retired state employee's request and allow the retired state employee to participate in the group health insurance program described in IC 5-10-8-8, if the retired state employee:

(1) is otherwise eligible to participate in the program; and

(2) complies with the requirements of the program, including payment of the employer's and employee's premium for the group health insurance for an active employee.

(c) A retired state employee who elects under subsection (b) to file a written request to participate in the group health insurance program described in IC 5-10-8-8 may use the balance in the employee's subaccount of the retirement medical benefits account to pay the premiums for the coverage, as provided in IC 5-10-8.5-18, as amended by this act.

(d) This SECTION expires December 31, 2008.

SECTION 6. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] **IC 5-10.2-4-6, as amended by this act, applies to disability retirement benefits payable by the Indiana state teachers' retirement fund and the public employees' retirement fund after December 31, 2007.**

SECTION 7. **An emergency is declared for this act.**

(Reference is to EHB 1019 as printed February 15, 2008.)

Avery, Chair	Meeks
Buell	Hume
House Conferees	Senate Conferees

Roll Call 346: yeas 47, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

EHB 1119–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill 1119 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-10.2-4-8, AS AMENDED BY SEA 51-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. ~~(a) As used in this section, "exempt amount" means, in the case of a member who has not attained the Social Security normal retirement age for unreduced benefits, thirty-five thousand dollars ($35,000), computed for the calendar year in which a retired public employees' retirement fund member is reemployed and computed for the fiscal year in which a retired teachers' retirement fund member is reemployed.~~

~~(b) This subsection does not apply to a member who is employed by the department of education, to a member of the Indiana state teachers' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a position covered by the Indiana state teachers' retirement fund, or after June 30, 2008, a member of the public employees' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a covered position.~~ **(a)** If a member who is receiving retirement benefits ~~and who has not attained the Social Security normal retirement age for unreduced benefits:~~

~~(1)~~ becomes reemployed in a position covered by this article ~~and~~

~~(2) earns in that position more than the exempt amount,~~

more than thirty (30) days after the member's retirement, the member's retirement benefit payments ~~shall stop, and~~ **continue. Except for a member of the Indiana state teachers' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a position covered by the Indiana state teachers' retirement fund,** the member shall begin making contributions as required in IC 5-10.2-3-2, ~~However,~~ **and the member's** employer **shall make** contributions ~~shall be made~~ throughout the **member's** period of reemployment. ~~The earnings limitation under this subsection does not apply to a member who has attained the Social Security normal retirement age for unreduced benefits.~~

~~(c)~~ **(b)** If a member who is receiving retirement benefits is reemployed in a position covered by this article not more than

~~(1)~~ thirty (30) days after the member's retirement, ~~for a member of the public employees' retirement fund, or~~

~~(2) thirty (30) days after the member's retirement, for a member of the Indiana state teachers' retirement fund,~~

the member's retirement benefits shall stop, the member shall

begin making contributions as required by IC 5-10.2-3-2, and employer contributions shall be made throughout the period of reemployment.

~~(d)~~ **(c)** This subsection does not apply to a member of the Indiana state teachers' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a position covered by the Indiana state teachers' retirement fund. If a retired member is reemployed in a position covered by this article, section 10 of this chapter applies to the member upon the member's retirement from reemployment.

~~(c)~~ **(d)** The following apply to a member of the Indiana state teachers' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a position covered by the Indiana state teachers' retirement fund:

(1) The member's retirement benefit payments continue during the member's period of reemployment without regard to the amount of the member's earnings from the covered position.

(2) The member may not make contributions under IC 5-10.2-3-2 or IC 5-10.4-4-11 during the member's period of reemployment.

(3) The member's employer may not make contributions under IC 5-10.2-2-11 or IC 5-10.4-4-11 for or on behalf of the member during the member's period of reemployment.

(4) The member does not earn creditable service under IC 5-10.2-3-1 for the member's period of reemployment.

(5) The member is not entitled to an additional benefit under sections 9 and 10 of this chapter for the member's period of reemployment.

~~(f)~~ **(e)** The thirty (30) day period provided for in ~~subsection (c)(2)~~ **this section** may be implemented unless the board of trustees of the ~~Indiana state teachers' retirement~~ fund receives a determination from the Internal Revenue Service prohibiting the implementation.

SECTION 2. IC 36-8-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The police chief or fire chief may be granted a leave of absence by the authority who appointed ~~him~~ **the police chief or fire chief.** This appointing authority may also grant a leave of absence to any other full-time, fully paid police officer or firefighter.

(b) A leave of absence under subsection (a) shall be granted for service in the Indiana general assembly. ~~and~~ **A leave of absence under subsection (a)** may also be granted ~~only~~ **for service in any other elected office or** for one (1) of the following reasons:

(1) Sickness.

(2) Disability.

(3) Sabbatical purposes.

However, a leave of absence because of disability may not be granted to a member of the 1977 fund under this subsection unless a leave granted under subsection (g) has expired without disability benefits having been paid from the 1977 fund. In the case of such an expiration, a leave for purposes of disability may be granted under this subsection but only until the member's eligibility for disability benefits is finally determined.

(c) Before a leave of absence may be granted for sabbatical purposes, the member must submit a written request explaining and justifying the leave to the appointing authority. Sabbatical purposes must be related to the improvement of the member's professional performance and skills, such as education, special training, work related experience, and exchange programs.

(d) This subsection applies to leaves of absence granted under subsection (b)(1), (b)(2), or (b)(3). A leave of absence may extend for a period of not more than one (1) year, determined by the appointing authority, and may be renewed upon written request of the member.

(e) This subsection applies to leaves of absence granted for service in ~~the Indiana general assembly. If~~ **an elected office.** A police officer or firefighter **who** serves in the general assembly ~~he~~ shall be granted a leave for the time spent in this service, including the time spent for committee or legislative council meetings. **A police officer or firefighter who serves in any other elected office may be granted a leave for the time spent in this service. Leave for service in an elected office does not diminish a police officer's or firefighter's rights under the police officer's or firefighter's retirement or pension fund, except as provided in section 10 of this chapter, or advancement on the police officer's or firefighter's department salary schedule. For these purposes, the police officer or firefighter is, despite the leave, considered to be a member of the department during that time.**

(f) This subsection applies to leaves of absence granted under subsection (b)(1), (b)(2), or (b)(3). A member on leave may receive compensation in an amount determined by the appointing authority, up to a maximum amount that equals ~~his~~ **the member's** salary before the leave began.

(g) This subsection applies only to members of the 1977 fund. The local board may grant a leave of absence for purposes of disability to full-time, fully paid police officers or firefighters (including the police chief or fire chief). The leave is subject to the following conditions:

(1) The police chief or fire chief must make a written determination that there is no suitable and available work on the appropriate department for which the fund member is or may be capable of becoming qualified.

(2) The leave must be approved by the local board after a hearing conducted under IC 36-8-8-12.7.

(3) The leave may not begin until the police officer or firefighter has exhausted all paid leave for sickness.

(4) The leave shall continue until disability benefits are paid from the 1977 fund. However, the leave may not continue for more than six (6) months.

(5) During the leave, the police officer or firefighter is entitled to receive compensation in an amount equal to fifty percent (50%) of the salary of a first class patrolman or first class firefighter on the date the leave begins.

Payments of compensation under this subsection may not be made from the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund.

(h) Determinations under subsection (g) are not reviewable by the board of trustees of the public employees' retirement fund.

(i) This subsection applies to leaves of absence granted under subsection (a) or (b). An appointing authority shall establish a policy in writing that specifies whether a police officer or firefighter is entitled, during a leave of absence, to participate in any promotional process or earn seniority. A policy established under this subsection is subject to a department's existing disciplinary procedures. An appointing authority shall reinstate a police officer or firefighter returning from a leave at the merit or permanent rank determined under the policy established under this subsection. However, except as otherwise provided by federal law, an appointing authority is not required to reinstate a police officer or firefighter in the job that the police officer or firefighter held at the time the police officer's or firefighter's leave began.

SECTION 3. IC 36-8-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) Except as provided in subsection (b) **or (c),** a member on leave under either section 2 or section 3 of this chapter is entitled to be credited with time spent in full-time employment for all purposes, including retirement and pension benefits.

(b) A member of the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund who is granted an unpaid leave of absence under the Family Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) shall be credited with time spent on leave for the purposes of benefit eligibility and vesting to the extent required by the Family Medical Leave Act. The member shall not receive credit for purposes of accruing additional benefits, except to the extent required by the Family Medical Leave Act.

(c) This subsection applies to a member of the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund who is granted a leave of absence for service in an elected office under section 2 of this chapter. In order to receive service credit in the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund for the period of the leave of absence, the member must pay to the applicable fund for or during the leave the assessment or contribution that the member would have paid during the period of the leave had the member not been on the leave during that time. The member's employer may pay all or a part of the assessment or contribution for the member.

SECTION 4. IC 36-8-6-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 9.5. (a) Not less than thirty (30) days after a member retires from a police department covered by this chapter, the member may:**

(1) be rehired by the same municipality that employed the member as a police officer for a position other than that of a full-time, fully paid police officer; and

(2) continue to receive the member's pension benefit under this chapter.

(b) This section may be implemented unless the local board receives from the Internal Revenue Service a determination that prohibits the implementation.

SECTION 5. IC 36-8-7-12.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 12.7. (a) Not less than thirty (30) days after a member retires from a fire department covered by this chapter, the member may:**

(1) be rehired by the same unit that employed the member as a firefighter for a position other than that of a full-time, fully paid firefighter; and

(2) continue to receive the member's pension benefit under this chapter.

(b) This section may be implemented unless the local board receives from the Internal Revenue Service a determination that prohibits the implementation.

SECTION 6. IC 36-8-7.5-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 12.5. (a) Not less than thirty (30) days after a member retires from a police department covered by this chapter, the member may:**

(1) be rehired by the same consolidated city that employed the member as a police officer for a position other than that of a full-time, fully paid police officer; and

(2) continue to receive the member's pension benefit under this chapter.

(b) This section may be implemented unless the local board receives from the Internal Revenue Service a determination that prohibits the implementation.

SECTION 7. IC 36-8-8-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 11.5. (a) Not less than thirty (30) days after a fund member retires from a position covered by this chapter, the fund member may:**

(1) be rehired by the same unit that employed the fund member in a position covered by this chapter for a position not covered by this chapter; and

(2) continue to receive the fund member's retirement benefit under this chapter.

(b) This section may be implemented unless the PERF board receives from the Internal Revenue Service a determination that prohibits the implementation.

(Reference is to EHB 1119 as reprinted February 27, 2008.)

Austin, Chair	Weatherwax
Wolkins	Lanane
House Conferees	Senate Conferees

Roll Call 347: yeas 47, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

EHB 1172–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill 1172 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 10-14-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "emergency management worker" includes any full-time or part-time paid, volunteer, or auxiliary employee of:

(1) the state;

(2) other:

(A) states;

(B) territories; or

(C) possessions;

(3) the District of Columbia;

(4) the federal government;

(5) any neighboring country;

(6) any political subdivision of an entity described in subdivisions (1) through (5); or

(7) any agency or organization;

performing emergency management services at any place in Indiana subject to the order or control of, or under a request of, the state government or any political subdivision of the state. **The term includes a volunteer health practitioner registered under IC 10-14-3.5.**

SECTION 2. IC 10-14-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) The governor shall declare a disaster emergency by executive order or proclamation if the governor determines that a disaster has occurred or that the occurrence or the threat of a disaster is imminent. The state of disaster emergency continues until the governor:

(1) determines that the threat or danger has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist; and

(2) terminates the state of disaster emergency by executive order or proclamation.

A state of disaster emergency may not continue for longer than thirty (30) days unless the state of disaster emergency is renewed by the governor. The general assembly, by concurrent resolution, may terminate a state of disaster emergency at any time. If the general assembly terminates a state of disaster emergency under this subsection, the governor shall issue an executive order or proclamation ending the state of disaster emergency. All executive orders or proclamations issued under this subsection must indicate the nature of the disaster, the area or areas threatened, and the conditions which have brought the disaster about or that make possible termination of the state of disaster emergency. An executive order or proclamation under this subsection shall be disseminated promptly by means calculated to bring the order's or proclamation's contents to the attention of the general public. Unless the circumstances attendant upon the disaster prevent or impede, an executive order or proclamation shall be promptly filed with the secretary of state and with the clerk of the city or town affected or with the clerk of the circuit court.

(b) An executive order or proclamation of a state of disaster emergency:

(1) activates the disaster response and recovery aspects of the state, local, and interjurisdictional disaster emergency plans applicable to the affected political subdivision or area; and

(2) is authority for:

(A) deployment and use of any forces to which the plan or plans apply; and

(B) use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available under this chapter or under any other law relating to disaster emergencies.

(c) During the continuance of any state of disaster emergency, the governor is commander-in-chief of the organized and unorganized militia and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or regulations. This section does not restrict the governor's authority to delegate or assign command authority by orders issued at the time of the disaster emergency.

(d) In addition to the governor's other powers, the governor may do the following while the state of emergency exists:

(1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency if strict compliance with any of these provisions would in any way prevent, hinder, or delay necessary action in coping with the emergency.

(2) Use all available resources of the state government and of each political subdivision of the state reasonably necessary to cope with the disaster emergency.

(3) Transfer the direction, personnel, or functions of state departments and agencies or units for performing or facilitating emergency services.

(4) Subject to any applicable requirements for compensation under section 31 of this chapter, commandeer or use any private property if the governor finds this action necessary to cope with the disaster emergency.

(5) Assist in the evacuation of all or part of the population from any stricken or threatened area in Indiana if the governor considers this action necessary for the preservation of life or other disaster mitigation, response, or recovery.

(6) Prescribe routes, modes of transportation, and destinations in connection with evacuation.

(7) Control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises in the area.

(8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles.

(9) Make provision for the availability and use of temporary emergency housing.

(10) Allow persons who:

(A) are registered as volunteer health practitioners by an approved registration system under IC 10-14-3.5; or

(B) hold a license to practice medicine, dentistry, pharmacy, nursing, engineering, **veterinary medicine, mortuary service,** and similar other professions as may be specified by the governor to practice their respective profession in Indiana during the period of the state of emergency if the state in which a person's license was issued has a mutual aid compact for emergency management with Indiana.

(11) Give specific authority to allocate drugs, foodstuffs, and other essential materials and services.

SECTION 3. IC 10-14-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 3.5. Uniform Emergency Volunteer Health Practitioners Act

Sec. 1. As used in this chapter, "disaster relief organization" means an entity that provides emergency or disaster relief services that include health or veterinary services provided by volunteer health practitioners and:

(1) is designated or recognized as a provider of the services under a disaster response and recovery plan adopted by an agency of the federal government or the state emergency management agency; or

(2) regularly plans and conducts the entity's activities in coordination with an agency of the federal government or the state emergency management agency.

Sec. 2. As used in this chapter, "emergency" means an event or condition that is an emergency, a disaster, or a public health emergency under this article.

Sec. 3. As used in this chapter, "emergency declaration" means a declaration of emergency issued by a person authorized to do so under state or local laws of Indiana.

Sec. 4. As used in this chapter, "Emergency Management Assistance Compact" means the federal interstate compact under P.L.104-321, 110 Stat. 3877.

Sec. 5. As used in this chapter, "entity" means a person other than an individual.

Sec. 6. As used in this chapter, "health facility" means an entity licensed under the laws of Indiana or another state to provide health or veterinary services.

Sec. 7. As used in this chapter, "health practitioner" means an individual licensed under the laws of Indiana or another state to provide health or veterinary services.

Sec. 8. As used in this chapter, "health services" means the provision of treatment, care, advice, guidance, or other services or supplies related to the health or death of individuals or human populations to the extent necessary to respond to an emergency, including:

(1) with respect to the physical or mental condition or functional status of an individual or the structure or function of the body:

(A) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care; and

(B) counseling, assessment, procedures, or other services;

(2) the sale or dispensing of a drug, a device, equipment, or another item to an individual in accordance with a prescription; and

(3) funeral, cremation, cemetery, or other mortuary services.

Sec. 9. As used in this chapter, "host entity" means an entity operating in Indiana that uses volunteer health practitioners to respond to an emergency.

Sec. 10. (a) As used in this chapter, "license" means authorization by a state to engage in health or veterinary services that are unlawful without the authorization.

(b) The term includes authorization under Indiana law to an individual to provide health or veterinary services based upon a national certification issued by a public or private entity.

Sec. 11. As used in this chapter, "person" means an individual, a corporation, a business trust, a trust, a partnership, a limited liability company, an association, a joint venture, a public corporation, a government or governmental subdivision, an agency, an instrumentality, or another legal or commercial entity.

Sec. 12. As used in this chapter, "scope of practice" means the extent of the authorization to provide health or veterinary services granted to a health practitioner by a license issued to the practitioner in the state in which the principal part of the practitioner's services are rendered, including conditions imposed by the licensing authority.

Sec. 13. As used in this chapter, "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or a territory or an insular possession subject to the jurisdiction of the United States.

Sec. 14. As used in this chapter, "veterinary services" means the provision of treatment, care, advice, guidance, or other services or supplies related to the health or death of an animal or to animal populations to the extent necessary to respond to an emergency, including:

(1) diagnosis, treatment, or prevention of an animal disease, injury, or other physical or mental condition by the prescription, administration, or dispensing of vaccine, medicine, surgery, or therapy;

(2) use of a procedure for reproductive management; and

(3) monitoring and treatment of animal populations for diseases that have spread or demonstrate the potential to spread to humans.

Sec. 15. (a) As used in this chapter, "volunteer health practitioner" means a health practitioner who provides health or veterinary services, whether or not the practitioner receives compensation for those services.

(b) The term does not include a practitioner who receives compensation under a preexisting employment relationship with a host entity or affiliate that requires the practitioner to provide health services in Indiana, unless the practitioner is not a resident of Indiana and is employed by a disaster relief organization providing services in Indiana while an emergency declaration is in effect.

Sec. 16. This chapter applies to volunteer health practitioners who:

(1) are registered with a registration system that complies with section 18 of this chapter; and

(2) provide health or veterinary services in Indiana for a host entity while an emergency declaration is in effect.

Sec. 17. (a) While an emergency declaration is in effect, the state emergency management agency may limit, restrict, or otherwise regulate:

(1) the duration of practice by volunteer health practitioners;

(2) the geographical areas in which volunteer health practitioners may practice;

(3) the types of volunteer health practitioners who may practice; and

(4) any other matters necessary to coordinate effectively the provision of health or veterinary services during the emergency.

(b) An order issued under subsection (a) may take effect immediately, without prior notice or comment, and is not a rule within the meaning of IC 4-22-2.

(c) A host entity that uses volunteer health practitioners to provide health or veterinary services in Indiana shall:

(1) consult and coordinate the host entity's activities with the state emergency management agency to the extent practicable to provide for the efficient and effective use of volunteer health practitioners; and

(2) comply with any laws other than this chapter relating to the management of emergency health or veterinary services, including this article.

Sec. 18. (a) To qualify as a volunteer health practitioner registration system, a system must:

(1) accept applications for the registration of volunteer health practitioners before or during an emergency;

(2) include information about the licensure and good standing of health practitioners that is accessible by authorized persons;

(3) be capable of confirming the accuracy of information concerning whether a health practitioner is licensed and in good standing before health services or veterinary services are provided under this chapter; and

(4) meet one (1) of the following conditions:

(A) Be an emergency system for advance registration of volunteer health practitioners established by a state and funded through the Health Resources Services Administration under section 319I of the federal Public Health Services Act, 42 U.S.C. 247d-7b.

(B) Be a local unit consisting of trained and equipped emergency response, public health, and medical personnel formed under section 2801 of the federal Public Health Services Act, 42 U.S.C. 300hh.

(C) Be operated by a:

(i) disaster relief organization;

(ii) licensing board;

(iii) national or regional association of licensing boards or health practitioners;

(iv) health facility that provides comprehensive inpatient and outpatient health care services, including a tertiary care and teaching hospital; or

(v) governmental entity.

(D) Be designated by the state emergency management agency as a registration system for purposes of this chapter.

(b) While an emergency declaration is in effect, the state emergency management agency, a person authorized to act on behalf of the state emergency management agency, or a host entity may confirm whether volunteer health practitioners used in Indiana are registered with a registration system that complies with subsection (a). Confirmation is limited to obtaining identities of the practitioners from the system and determining whether the system indicates that the practitioners are licensed and in good standing.

(c) Upon request of a person in Indiana authorized under subsection (b), or a similarly authorized person in another state, a registration system located in Indiana shall notify the person of the identities of volunteer health practitioners and whether the practitioners are licensed and in good standing.

(d) A host entity is not required to use the services of a volunteer health practitioner even if the practitioner is registered with a registration system that indicates that the practitioner is licensed and in good standing.

Sec. 19. (a) While an emergency declaration is in effect, a volunteer health practitioner, registered with a registration system that complies with section 18 of this chapter and licensed and in good standing in the state upon which the practitioner's registration is based, may practice in Indiana to the extent authorized by this chapter as if the practitioner were licensed in Indiana.

(b) A volunteer health practitioner qualified under subsection (a) is not entitled to the protections of this chapter if the practitioner is licensed in more than one (1) state and any license of the practitioner is suspended, revoked, or subject to an agency order limiting or restricting practice privileges or has been voluntarily terminated under threat of sanction.

Sec. 20. (a) As used in this section:

(1) "credentialing" means obtaining, verifying, and assessing the qualifications of a health practitioner to provide treatment, care, or services in or for a health facility; and

(2) "privileging" means the authorizing by an appropriate authority, such as a governing body, of a health practitioner to provide specific treatment, care, or services at a health facility subject to limits based on factors that include license, education, training, experience, competence, health status, and specialized skill.

(b) This chapter does not affect credentialing or privileging standards of a health facility and does not preclude a health facility from waiving or modifying those standards while an emergency declaration is in effect.

Sec. 21. (a) Subject to subsections (b) and (c), a volunteer health practitioner shall adhere to the scope of practice for a similarly licensed practitioner established by the licensing provisions, practice acts, or other laws of Indiana.

(b) Except as provided in subsection (c), this chapter does not authorize a volunteer health practitioner to provide services that are outside the practitioner's scope of practice, even if a similarly licensed practitioner in Indiana would be permitted to provide the services.

(c) The state emergency management agency may modify or restrict the health or veterinary services that volunteer health practitioners may provide under this chapter. An order under this subsection may take effect immediately, without prior notice or comment, and is not a rule within the meaning of IC 4-22-2.

(d) A host entity may restrict the health or veterinary services that a volunteer health practitioner may provide under this chapter.

(e) A volunteer health practitioner does not engage in unauthorized practice unless the practitioner has reason to know of a limitation, modification, or restriction under this section or that a similarly licensed practitioner in Indiana would not be permitted to provide the services. A volunteer health practitioner has reason to know of a limitation, modification, or restriction or that a similarly licensed practitioner in Indiana would not be permitted to provide a service if:

(1) the practitioner knows the limitation, modification, or restriction exists or that a similarly licensed practitioner in Indiana would not be permitted to provide the service; or

(2) from all the facts and circumstances known to the practitioner at the relevant time, a reasonable person would conclude that the limitation, modification, or restriction exists or that a similarly licensed practitioner in Indiana would not be permitted to provide the service.

(f) In addition to the authority granted by laws of Indiana other than this chapter to regulate the conduct of health practitioners, a licensing board or other disciplinary authority in Indiana:

(1) may impose administrative sanctions upon a health practitioner licensed in Indiana for conduct outside of Indiana in response to an out-of-state emergency;

(2) may impose administrative sanctions upon a practitioner not licensed in Indiana for conduct in Indiana in response to an in-state emergency; and

(3) shall report any administrative sanctions imposed upon a practitioner licensed in another state to the appropriate licensing board or other disciplinary authority in any other state in which the practitioner is known to be licensed.

(g) In determining whether to impose administrative sanctions under subsection (f), a licensing board or other disciplinary authority shall consider the circumstances in which the conduct took place, including any exigent circumstances, and the practitioner's scope of practice, education, training, experience, and specialized skill.

Sec. 22. (a) This chapter does not limit the rights, privileges, or immunities provided to volunteer health practitioners by laws other than this chapter. Except as provided in subsection (b), this chapter does not affect requirements for the use of health practitioners under the Emergency Management Assistance Compact.

(b) The state emergency management agency, under the Emergency Management Assistance Compact or the Interstate Emergency Management and Disaster Compact, may incorporate into the emergency forces of Indiana volunteer health practitioners who are not officers or employees of Indiana, a political subdivision of Indiana, or a municipality or other local government within Indiana.

Sec. 23. The state emergency management agency may adopt rules under IC 4-22-2 to implement this chapter. In doing so, the state emergency management agency shall consult with and consider the recommendations of the entity established to coordinate the implementation of the Emergency Management Assistance Compact or the Interstate Emergency Management and Disaster Compact and shall also consult with and consider rules adopted by similarly empowered agencies in other states to promote uniformity of application of this chapter and make the emergency response systems in the various states reasonably compatible.

Sec. 24. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 4. IC 12-7-2-118.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 118.3. "Initiative", for purposes of IC 12-31-2, has the meaning set forth in IC 12-31-2-1.**

SECTION 5. IC 12-7-2-132.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 132.5. "Nonprofit corporation", for purposes of IC 12-31, has the meaning set forth in IC 12-31-1-1.**

SECTION 6. IC 12-7-2-142.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 142.7. "Postnatal donation", for purposes of IC 12-31, has the meaning set forth in IC 12-31-1-2.**

SECTION 7. IC 12-31 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 31. UMBILICAL CORD BLOOD

Chapter 1. Public Umbilical Cord Blood Bank

Sec. 1. As used in this article, "nonprofit corporation" refers to the Indiana nonprofit corporation formed by the office of the secretary under section 3 of this chapter to establish and operate a public umbilical cord blood bank.

Sec. 2. As used in this article, "postnatal donation" means any of the following donations by a patient to the public umbilical cord blood bank:

(1) Postnatal fluid, including umbilical cord blood.

(2) Postnatal tissue, including the placenta and tissue extracted from an umbilical cord.

Sec. 3. (a) The office of the secretary shall form a nonprofit corporation to establish and provide for the operation of a public umbilical cord blood bank to promote public health and to exercise other essential governmental functions.

(b) The office of the secretary shall adopt rules under IC 4-22-2 concerning the protection of individual identifiable health information regarding the operation of the public umbilical cord blood bank.

Sec. 4. (a) The board of directors of the nonprofit corporation consists of the following:

(1) The state health commissioner or the commissioner's designee.

(2) The secretary or the secretary's designee.

(3) The secretary of commerce appointed under IC 5-28-3-4 or the secretary's designee.

(4) The director of the state department of health's office of minority health.

(5) The following individuals appointed by the governor:

(A) One (1) president or chief executive officer of an Indiana based hospital.

(B) One (1) research scientist with expertise in umbilical cord blood research.

(C) One (1) ethicist with expertise in bioethics.

(D) One (1) physician licensed under IC 25-22.5 who specializes in birthing and delivery.

(E) One (1) representative of a donor umbilical cord blood bank facility.

(F) One (1) member of the interagency state council on black and minority health established under IC 16-46-6.

(b) The board of directors shall appoint an advisory board. At least fifty-one percent (51%) of the advisory board members must be research scientists with expertise in stem cell research.

(c) The advisory board, using criteria established by the board of directors, is responsible for reviewing applications from research scientists, research institutions, and other persons interested in receiving a postnatal donation that is ineligible for transplant use from the public umbilical cord blood bank.

(d) The board of directors may contract with a person to perform the management and administrative operations of the public umbilical cord blood bank. The person shall follow the federal Food and Drug Administration's current good tissue practices.

(e) Subject to approval by the budget agency, the board of directors may, without the approval of the attorney general, employ legal counsel, technical experts, and other officers, agents, and employees that the board of directors considers necessary to carry out the efficient operation of a public umbilical cord blood bank.

(f) The board of directors shall determine the terms and conditions of the participating agreement that is executed with each participating hospital.

Sec. 5. The nonprofit corporation shall do the following:

(1) Establish procedures and guidelines for collecting, maintaining, and receiving postnatal donations.

(2) Educate health care professionals about the procedures and requirements for collecting and maintaining postnatal donations following the birth of a newborn infant.

(3) Establish procedures concerning patient informed consent and privacy that are approved by an independent institutional review board selected by the board of directors.

Sec. 6. (a) The nonprofit corporation shall accept postnatal donations at no charge or cost to the donor.

(b) The nonprofit corporation may allow the following to use the postnatal donations:

(1) Transplant centers.

(2) Research centers approved by the nonprofit corporation that will use the postnatal donation to promote medical advances, life science research, or biotechnology research.

(3) Any other entity approved by the nonprofit corporation if the entity will use the postnatal donation to promote medical advances, life science research, or biotechnology research.

(c) Any postnatal donations maintained by the public umbilical cord blood bank must be allocated as follows:

(1) Postnatal donations that are of transplantable quality according to the National Marrow Donor Program, the federal Food and Drug Administration's approved protocol, or other relevant national practice and quality standards must be allocated for medical transplants.

(2) Postnatal donations that do not meet the transplant quality standards referred to in subdivision (1) and that are suitable for research must be made available for scientific research or medical treatments that comply with relevant national practice and quality standards.

(d) The nonprofit corporation shall acquire and maintain adequate liability insurance coverage.

Sec. 7. The nonprofit corporation may maintain postnatal donations at no charge or cost to the donor.

Sec. 8. The nonprofit corporation may award a grant to a person for work with postnatal donations.

Sec. 9. The nonprofit corporation shall report annually to the health finance commission established by IC 2-5-23-3 concerning the following:

(1) The implementation of the umbilical cord blood bank.

(2) The number of postnatal donations used for transplants and the number of postnatal donations used for research.

Chapter 2. Umbilical Cord Blood Donation Initiative

Sec. 1. As used in this chapter, "initiative" refers to the umbilical cord blood donation initiative established under section 2 of this chapter.

Sec. 2. The nonprofit corporation shall establish an umbilical cord blood donation initiative to promote public awareness concerning the following:

(1) A pregnant woman's option to make a postnatal donation upon the birth of a newborn infant.

(2) The medical benefits of postnatal tissue and postnatal fluids.

(3) The importance of donating umbilical cord blood to the public umbilical cord blood bank.

Sec. 3. The nonprofit corporation may accept a grant from the federal government or money from the state government or private contributions to establish and implement the initiative.

Sec. 4. (a) The initiative must include the dissemination of written material that includes the following:

(1) Information concerning the option that is available to pregnant women to make a postnatal donation upon the birth of a newborn infant.

(2) An explanation of the benefits of public umbilical cord blood banking.

(3) The benefits of umbilical cord blood in accordance with the National Marrow Donor Program or another federal Food and Drug Administration approved protocol and the use of umbilical cord blood for medical treatment, including the following:

(A) A list of the diseases or conditions that have been treated through the use of umbilical cord blood.

(B) A list of the diseases or conditions for which scientific research indicates that treatment through the use of umbilical cord blood is promising.

(4) Information on the public umbilical cord blood bank.

(5) Information concerning the process by which postnatal tissue and postnatal fluid are collected and the steps that a pregnant woman must take before her child is born to arrange to have the postnatal tissue and postnatal fluid collected and donated.

(b) The nonprofit corporation shall:

(1) update the material described in subsection (a); and

(2) distribute the material to the following persons that treat pregnant women:

(A) Physicians licensed under IC 25-22.5.

(B) Participating hospitals.

(C) Ambulatory surgical centers.

(D) Health clinics.

(E) Maternity homes registered under IC 16-26-1.

(F) Nurse midwives licensed under IC 25-23-1-13.1.

Sec. 5. The nonprofit corporation shall develop a process for physicians, nurse midwives, birthing centers, and participating hospitals to inform eligible candidates of the opportunity to make postnatal donations to the public umbilical cord blood bank following delivery of a newborn infant.

Sec. 6. The nonprofit corporation that establishes the initiative described in this chapter must meet all the requirements and responsibilities set forth in IC 23-17.

Sec. 7. (a) Any intellectual property developed by the nonprofit corporation establishing the initiative under this chapter is the property of the nonprofit corporation. A donor must consent to release to the public umbilical cord blood bank any property right related to the postnatal donation, including any claim of intellectual property rights derived from the postnatal donation.

(b) The entire right, title, and interest in and to any intellectual property derived from a postnatal donation transfers with the postnatal tissue and postnatal fluid after the postnatal donation is allocated by the public umbilical cord blood bank for research purposes.

SECTION 8. IC 16-18-2-36.5, AS ADDED BY P.L.96-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 36.5. (a) "Birthing center", for purposes of IC 16-21-2 **and IC 16-21-7.5,** means a freestanding entity that has the sole purpose of delivering a normal or uncomplicated pregnancy.

(b) The term does not include a hospital that is licensed as a hospital under IC 16-21-2.

SECTION 9. IC 16-20-1-14, AS AMENDED BY P.L.121-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) Local health officers may appoint and employ public health nurses, environmental health specialists, computer programmers, clerks, other personnel, and an administrator of public health, subject to the confirmation of the local board of health, as is necessary and reasonable to carry out and perform the duties of the local health department.

(b) Except as provided in subsection (d), the employees of local health departments shall perform any of the duties of the health officer delegated by the health officer, with the approval of the local board of health, on the basis of an agent-principal relation.

(c) The public health personnel of local health departments:

(1) must meet the minimum qualification requirements of the local board of health;

(2) by local ordinance, become part of the county classification system for the respective public health personnel positions; and

(3) shall perform additional duties prescribed by the rules of the state department and local board of health under the general supervision of the local health officer.

(d) If an appointee or employee of a local health officer is not a licensed water well driller under IC 25-39-3, the appointee or employee may not inspect the drilling of a water well.

~~(c) After a dentist licensed under IC 25-14 who is employed by a local health department examines a child enrolled in any grade up to and including grade 12 and prescribes a treatment plan in writing for the child, a licensed dental hygienist employed by the local health department may, without supervision by the dentist, provide the child with the following treatment in accordance with the treatment plan:~~

~~(1) Prophylaxis.~~

~~(2) Fluoride application.~~

~~(3) Sealants.~~

~~However, the treatment must be completed not more than ninety (90) days after the dentist prescribes the treatment plan. This subsection expires June 30, 2009.~~

SECTION 10. IC 16-21-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 7.5. Hospital and Birthing Center Requirement Regarding Umbilical Cord Blood Donation

Sec. 1. As used in this chapter, "postnatal donation" has the meaning set forth in IC 12-31-1-2.

Sec. 2. Before a hospital or birthing center participates in collecting donations for the public umbilical cord blood bank established under IC 12-31-1-3(a), the hospital or birthing center shall enter into a written agreement with the public umbilical cord blood bank establishing the:

(1) conditions of the hospital's or birthing center's participation; and

(2) obligations of the hospital or birthing center;

in the umbilical cord blood donation initiative established under IC 12-31-2-2.

Sec. 3. (a) Except as provided in section 4 of this chapter, a participating hospital or birthing center licensed under this article must offer a patient who delivers a newborn infant at the participating hospital or birthing center the option of making a postnatal donation following delivery of the newborn infant.

(b) A patient may not be charged for the collection or storage of a donation or for a donation to the public umbilical cord blood bank established under IC 12-31-1-3(a).

Sec. 4. (a) A participating hospital or birthing center is not required to collect a postnatal donation if either of the following applies:

(1) In the professional judgment of a physician licensed under IC 25-22.5 or a nurse midwife licensed under IC 25-23-1-13.1, the collection would threaten the health of the mother or the infant.

(2) The postnatal donation is contrary to the moral principles or beliefs of the religious denomination with which the participating hospital or birthing center is affiliated.

(b) An employee of a participating hospital or birthing center is not required to collect a postnatal donation if the postnatal donation is contrary to the religious principles or beliefs of the employee.

Sec. 5. A participating hospital or birthing center shall cooperate with the nonprofit corporation (as defined in IC 12-31-1-1) in accomplishing the public health goal of maximizing postnatal donations.

Sec. 6. A hospital or birthing center is not required to enter into an agreement with the public umbilical cord blood bank and may enter into contracts concerning postnatal tissue and postnatal fluids with any person.

SECTION 11. IC 16-22-8-34, AS AMENDED BY P.L.121-2007, SECTION 2, AS AMENDED BY P.L.194-2007, SECTION 4, AND AS AMENDED BY P.L.215-2007, SECTION 2, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 34. (a) The board or corporation may do all acts necessary or reasonably incident to carrying out the purposes of this chapter, including the following:

(1) As a municipal corporation, sue and be sued in any court with jurisdiction.

(2) To serve as the exclusive local board of health and local department of health within the county with the powers and duties conferred by law upon local boards of health and local departments of health.

(3) To adopt and enforce ordinances consistent with Indiana law and administrative rules for the following purposes:

(A) To protect property owned or managed by the corporation.

(B) To determine, prevent, and abate public health nuisances.

(C) To establish *isolation and* quarantine regulations ~~*impose restrictions on persons having infectious or contagious diseases and contacts of the persons, and regulate the disinfection of premises.*~~ *in accordance with IC 16-41-9.*

(D) To license, regulate, and establish minimum sanitary standards for the operation of a business handling, producing, processing, preparing, manufacturing, packing, storing, selling, distributing, or transporting articles used for food, drink, confectionery, or condiment in the interest of the public health.

(E) To control:

(i) rodents, mosquitos, and other animals, including insects, capable of transmitting microorganisms and disease to humans and other animals; and

(ii) the animals' breeding places.

(F) To require persons to connect to available sewer systems and to regulate the disposal of domestic or sanitary sewage by private methods. However, the board and corporation have no jurisdiction over publicly owned or financed sewer systems or sanitation and disposal plants.

(G) To control rabies.

(H) For the sanitary regulation of water supplies for domestic use.

(I) To protect, promote, or improve public health. For public health activities and to enforce public health laws, the state health data center described in IC 16-19-10 shall provide health data, medical information, and epidemiological information to the corporation.

(J) To detect, report, prevent, and control disease affecting public health.

(K) To investigate and diagnose health problems and health hazards.

(L) To regulate the sanitary and structural conditions of residential and nonresidential buildings and unsafe premises.

(M) To regulate the remediation of lead hazards.

~~(M)~~ *(N)* To license and regulate the design, construction, and operation of public pools, spas, and beaches.

~~(N)~~ *(O)* To regulate the storage, containment, handling, use, and disposal of hazardous materials.

~~(O)~~ *(P)* To license and regulate tattoo ~~*parlors*~~ and body piercing facilities.

(Q) To regulate the storage and disposal of waste tires.

(4) To manage the corporation's hospitals, medical facilities, and mental health facilities.

(5) To ~~*furnish provide school based*~~ ~~health~~ ~~*and nursing*~~ **furnish health and nursing** services ~~*to elementary and secondary schools within the county.*~~ **to elementary and secondary schools within the county.**

(6) To furnish medical care to ~~*the indigent within*~~ *insured and uninsured residents of* the county. ~~*unless medical care is furnished to the indigent by the division of family resources.*~~

(7) To furnish dental services to the insured and uninsured residents of the county. ~~*including the services as provided in subsection (c) until the expiration of subsection (c).*~~

~~(7)~~ *(8)* To ~~*determine the*~~ *establish* public health ~~*policies and*~~ programs. ~~*to be carried out and administered by the corporation.*~~

~~(8)~~ *(9)* To adopt an annual budget ordinance and levy taxes.

~~(9)~~ *(10)* To incur indebtedness in the name of the corporation.

~~(10)~~ *(11)* To organize ~~*the personnel and functions of*~~ the corporation into divisions. ~~*and subdivisions to carry out the corporation's powers and duties and to consolidate, divide, or abolish the divisions and subdivisions.*~~

~~(11)~~ *(12)* To acquire and dispose of property.

~~(12)~~ *(13)* To receive charitable contributions and gifts as provided in 26 U.S.C. 170.

~~(13)~~ *(14)* To make charitable contributions and gifts.

~~(14)~~ *(15)* To establish a charitable foundation as provided in 26 U.S.C. 501.

~~(15)~~ *(16)* To receive and distribute federal, state, local, or private grants.

~~(16)~~ *(17)* To receive and distribute grants from charitable foundations.

~~(17)~~ *(18)* To establish ~~*nonprofit*~~ corporations *and enter into partnerships and joint ventures* to carry out the purposes of the corporation. *This subdivision does not authorize the merger of the corporation with a hospital licensed under IC 16-21.*

~~(18)~~ *(19)* To erect, *improve, remodel, or repair corporation* buildings. ~~*or structures or improvements to existing buildings or structures.*~~

~~(19)~~ *(20)* To determine ~~*matters of policy regarding internal organization and*~~ operating procedures.

~~(20)~~ *(21)* To do the following:

(A) Adopt a schedule of reasonable charges for nonresidents of the county for medical and mental health services.

(B) Collect the charges from the patient, *the patient's insurance company,* or ~~*from the governmental unit where the patient resided at the time of the service.*~~ *a government program.*

(C) Require security for the payment of the charges.

~~(21)~~ *(22)* To adopt a schedule of and to collect reasonable charges for ~~*patients able to pay in full or in part.*~~ *medical and mental health services.*

~~(22)~~ *(23)* To enforce Indiana laws, administrative rules, *ordinances,* and the code of the health and hospital corporation of the county.

~~(23)~~ *(24)* To purchase supplies, materials, and equipment. ~~*for the corporation.*~~

~~(24)~~ *(25)* To employ personnel and establish personnel policies. ~~*to carry out the duties, functions, and powers of the corporation.*~~

~~(25)~~ *(26)* To employ attorneys admitted to practice law in Indiana.

~~(26)~~ *(27)* To acquire, erect, equip, and operate the corporation's hospitals, medical facilities, and mental health facilities.

~~(27)~~ *(28)* To dispose of surplus property in accordance with a policy by the board.

~~(28)~~ *(29)* To determine the duties of officers and division directors.

~~(29)~~ *(30)* To fix the compensation of the officers and division directors.

~~(30)~~ *(31)* To carry out the purposes and object of the corporation.

~~(31)~~ *(32)* To obtain loans for hospital expenses in amounts and upon terms agreeable to the board. The board may secure the loans by pledging accounts receivable or other security in hospital funds.

~~(32)~~ *(33)* To establish fees for licenses, services, and records. The corporation may accept payment by credit card for fees. *IC 5-14-3-8(d) does not apply to fees established under this subdivision for certificates of birth, death, or stillbirth registration.*

~~(33)~~ **(34)** *To use levied taxes or other funds to make intergovernmental transfers to the state to fund governmental health care programs, including Medicaid and Medicaid supplemental programs.*

(b) The board shall exercise the board's powers and duties in a manner consistent with Indiana law, administrative rules, and the code of the health and hospital corporation of the county.

~~*(c) After a dentist licensed under IC 25-14 who is employed by a local health department or the health and hospital corporation examines a child enrolled in any grade up to and including grade 12 and prescribes a treatment plan in writing for the child, a licensed dental hygienist employed by the local health department or the health and hospital corporation may, without supervision by the dentist, provide the child with the following treatment in accordance with the treatment plan:*~~

~~*(1) Prophylaxis.*~~

~~*(2) Fluoride application.*~~

~~*(3) Sealants.*~~

~~*However, the treatment must be completed not more than ninety (90) days after the dentist prescribes the treatment plan. This subsection expires June 30, 2009.*~~

SECTION 12. IC 16-27-2-5, AS AMENDED BY P.L.197-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (b), a person who operates a home health agency under IC 16-27-1 or a personal services agency under IC 16-27-4 may not employ a person to provide services in a patient's or client's temporary or permanent residence if ~~a determination of~~ that person's **limited criminal history check or** national criminal history background check indicates that the person has been convicted of any of the following:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2).

(3) Exploitation of an endangered adult (IC 35-46-1-12).

(4) Failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13).

(5) Theft (IC 35-43-4), if the conviction for theft occurred less than ten (10) years before the person's employment application date.

(6) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (2) for which the conviction was entered in another state.

(b) A home health agency or personal services agency may not employ a person to provide services in a patient's or client's temporary or permanent residence for more than twenty-one (21) calendar days without receipt of ~~a determination of~~ that person's **limited criminal history or** national criminal history background check required by section 4 of this chapter, unless either the state police department or the Federal Bureau of Investigation under IC 10-13-3-39 is responsible for failing to provide ~~the determination of~~ the person's **limited criminal history or** national criminal history background check to the home health agency or personal services agency within the time required under this subsection.

SECTION 13. IC 16-28-11-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5.5. (a) This section does not apply to the implementation of a do not resuscitate order.**

(b) This article does not require an employee of a health facility to provide cardiopulmonary resuscitation (CPR) or other intervention on a patient if a registered nurse licensed under IC 25-23 or a physician licensed under IC 25-22.5 who is employed by the health facility has determined that the following criteria have been met:

(1) The patient has experienced an unwitnessed cessation of circulatory and respiratory functions.

(2) The patient is unresponsive.

(3) The patient's pupils are fixed and dilated.

(4) The patient's body temperature indicates hypothermia.

(5) The patient has generalized cyanosis.

(6) The patient has livor mortis.

SECTION 14. IC 24-4-15-5, AS ADDED BY P.L.129-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. An owner or operator of a health club shall do the following:

(1) Ensure that a defibrillator is:

(A) located on the health club premises and ~~is~~ easily accessible to the health club staff, members, and guests; **or**

(B) if:

(i) the health club is located on the premises of a business of which the health club is a part; and

(ii) the business has an emergency response team; located on the premises of the business and easily accessible to the emergency response team.

(2) Employ at least one (1) individual who:

(A) has satisfactorily completed a course ~~approved by the American Red Cross or the American Heart Association~~ **consistent with the most current national guidelines for;** and

(B) is currently certified in;

cardiopulmonary resuscitation and defibrillator use.

(3) Reasonably ensure that at least one (1) individual described ~~under~~ **in** subdivision (2) is on the health club premises when staff is present at the health club during the health club's business hours.

(4) A health club that is not staffed must have the following on the premises:

(A) A telephone for 911 telephone call access.

(B) A sign in plain view containing an advisory warning that indicates that members of the unstaffed health ~~spa~~ **club** should be aware that working out alone may pose risks to ~~the~~ **a** health ~~spa~~ **club** member's health and

safety.

(C) A sign in plain view providing instruction in the use of the ~~automated external~~ defibrillator and in cardiopulmonary resuscitation.

(5) Ensure compliance with the requirements set forth in IC 16-31-6.5.

(6) Post a sign at each entrance to the health club that indicates the location of each defibrillator.

SECTION 15. IC 24-4-15-7, AS ADDED BY P.L.129-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. ~~(a)~~ The:

(1) state department and the division of fire and building safety may inspect a health club at any time:

~~(1)~~ **(A)** according to rules adopted by the state department; or

~~(2)~~ **(B)** in response to a filed complaint alleging noncompliance with this chapter; **and**

(2) fire department that serves the area in which a health club is located shall inspect the health club for compliance with this chapter if the health club is inspected as part of an inspection program under IC 36-8-17-8.

~~(b) A fire department may inspect a health club for compliance with this chapter as part of an inspection program under IC 36-8-17-8.~~

SECTION 16. IC 25-1-7-1, AS AMENDED BY P.L.185-2007, SECTION 4, AS AMENDED BY P.L.193-2007, SECTION 4, AND AS AMENDED BY P.L.200-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this chapter:

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

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

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

"Licensee" means a person who is:

(1) licensed, certified, or registered by a board listed in this section; and

(2) the subject of a complaint filed with the division.

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

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

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects **and** landscape architects ~~and registered interior designers~~ (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State boxing commission (IC 25-9-1).

(6) Board of chiropractic examiners (IC 25-10-1).

(7) State board of cosmetology examiners (IC 25-8-3-1).

(8) State board of dentistry (IC 25-14-1).

(9) State board of funeral and cemetery service (IC 25-15-9).

(10) State board of registration for professional engineers (IC 25-31-1-3).

(11) Indiana state board of health facility administrators (IC 25-19-1).

(12) Medical licensing board of Indiana (IC 25-22.5-2).

(13) Indiana state board of nursing (IC 25-23-1).

(14) Indiana optometry board (IC 25-24).

(15) Indiana board of pharmacy (IC 25-26).

(16) Indiana plumbing commission (IC 25-28.5-1-3).

(17) Board of podiatric medicine (IC 25-29-2-1).

(18) Board of environmental health specialists (IC 25-32-1).

(19) State psychology board (IC 25-33).

(20) Speech-language pathology and audiology board (IC 25-35.6-2).

(21) Indiana real estate commission (IC 25-34.1-2).

(22) Indiana board of veterinary medical examiners (IC 15-5-1.1).

(23) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.

(24) Respiratory care committee (IC 25-34.5).

(25) Private ~~*detectives*~~ *investigator and security guard* licensing board ~~*(IC 25-30-1-5.1).*~~ *(IC 25-30-1-5.2).*

(26) Occupational therapy committee (IC 25-23.5).

(27) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).

(28) Real estate appraiser licensure and certification board (IC 25-34.1-8).

(29) State board of registration for land surveyors (IC 25-21.5-2-1).

(30) Physician assistant committee (IC 25-27.5).

(31) Indiana athletic trainers board (IC 25-5.1-2-1).

(32) Indiana dietitians certification board (IC 25-14.5-2-1).

(33) Indiana hypnotist committee (IC 25-20.5-1-7).

(34) Indiana physical therapy committee (IC 25-27).

(35) Manufactured home installer licensing board (IC 25-23.7).

(36) Home inspectors licensing board (IC 25-20.2-3-1).

(37) State department of health, **for out-of-state mobile health care entities.**

~~*(37)*~~ **(38)** *State board of massage therapy (IC 25-21.8-2-1).*

~~*(37)*~~ ~~*(38)*~~ **(39)** Any other occupational or professional agency created after June 30, 1981.

SECTION 17. IC 25-2.5-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) An applicant may, upon the payment of a fee established by the board, be granted a license if the applicant:

(1) submits satisfactory evidence to the board that the applicant has been licensed to practice acupuncture in another state or authorized in another country ~~under qualifications substantially equivalent to those specified in this chapter for a license~~ to practice acupuncture;

(2) meets the requirements of section 1(1) through 1(4) of this chapter; and

(3) shows to the satisfaction of the board that the applicant has:

(A) successfully completed a clean needle technique course substantially equivalent to a clean needle technique course approved by a national acupuncture association approved by the board;

(B) successfully completed a three (3) year postsecondary training program or acupuncture college program that meets the standards substantially equivalent to the standards for a three (3) year postsecondary training program or acupuncture college program approved by a national acupuncture association approved by the board; and

(C) passed an examination substantially equivalent to the examination required by a national acupuncture association approved by the board.

(b) An applicant may, upon the payment of a fee established by the board, be granted a professional's license to practice acupuncture if the applicant submits satisfactory evidence to the board that the applicant is a:

(1) chiropractor licensed under IC 25-10;

(2) dentist licensed under IC 25-14; or

(3) podiatrist licensed under IC 25-29;

with at least two hundred (200) hours of acupuncture training.

(c) The board shall:

(1) compile, at least once every two (2) years, a list of courses and institutions that provide training approved for the purpose of qualifying an individual for a professional's license under subsection (b); and

(2) adopt rules that set forth procedures for the case by case approval of training under subsection (b).

(d) If an individual's license described in subsection (b)(1), (b)(2), or (b)(3) is subject to any restrictions as the result of disciplinary action taken against the individual by the board that regulates the individual's profession, the same restrictions shall be applied to the individual's professional's license to practice acupuncture.

(e) An individual's professional's license issued under subsection (b) shall be suspended if the individual's license described under subsection (b)(1), (b)(2), or (b)(3) is suspended.

(f) An individual's professional's license issued under subsection (b) shall be revoked if the individual's license described under subsection (b)(1), (b)(2), or (b)(3) is revoked.

(g) The practice of acupuncture by an individual issued a professional's license under subsection (b) is limited to the scope of practice of the individual's license described in subsection (b)(1), (b)(2), or (b)(3).

SECTION 18. IC 25-2.5-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) Subject to section 1 of this chapter, it is unlawful to practice acupuncture without a license issued under this article.

~~(b) Subject to subsection (c), it is unlawful for a licensed acupuncturist, other than a chiropractor licensed under IC 25-10, podiatrist licensed under IC 25-29, or dentist licensed under IC 25-14, to practice acupuncture on a patient unless the acupuncturist obtains:~~

~~(1) a written letter of referral; and~~

~~(2) either:~~

~~(A) a written diagnosis of the patient; or~~

~~(B) written documentation relating to the condition for which the patient receives acupuncture;~~

~~from an individual licensed under IC 25-22.5 within the twelve (12) months immediately preceding the date of acupuncture treatment.~~

~~(c) An acupuncturist licensed under this article may practice auricular acupuncture on a patient for the purpose of treating alcoholism, substance abuse, or chemical dependency without a written letter of referral or written diagnosis from a physician licensed under IC 25-22.5.~~

~~(d)~~ **(b)** If a licensed acupuncturist practices acupuncture on a patient after having obtained a written letter of referral or written diagnosis of the patient from a physician licensed under IC 25-22.5, ~~as described in subsection (b),~~ the physician is immune from civil liability relating to the patient's or acupuncturist's use of that diagnosis or referral except for acts or omissions of the physician that amount to gross negligence or willful or wanton misconduct.

SECTION 19. IC 25-13-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this article:

(a) "Dental hygienist" means one who is especially educated and trained in the science and art of maintaining the dental health of the individual or community through prophylactic or preventive measures applied to the teeth and adjacent structures.

(b) "License" means the license to practice dental hygiene issued by the state board of dentistry to dental hygienist candidates who satisfactorily pass the board's examinations.

(c) "Board" means the state board of dentistry established by IC 25-14-1.

(d) "Proprietor dentist" means a licensed dentist who is the owner and operator of the dental office in which he practices the profession of dentistry and who employs at least one (1) dentist or dental hygienist to supplement his operation and conduct of his dental office.

(e) "Employer dentist" means a proprietor dentist who employs at least one (1) dental hygienist to supplement his dental service to his clientele.

(f) "Referral" means a recommendation that a patient seek further dental care from a licensed dentist, but not a specific dentist.

(g) "Screening" means to identify and assess the health of the hard or soft tissues of the human oral cavity.

(h) "Public health setting" means a location, including a mobile health care vehicle, where the public is invited for health care, information, and services by a program sponsored or endorsed by a governmental entity or charitable organization.

(i) "Direct supervision" means that a licensed dentist is physically present in the facility when patient care is provided by the dental hygienist.

(j) "Prescriptive supervision" means that a licensed dentist is not required to be physically present in the facility when patient care is provided by the dental hygienist if a licensed dentist has examined the patient and has prescribed the patient care within the previous forty-five (45) days.

SECTION 20. IC 25-13-1-10, AS AMENDED BY P.L.121-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) A licensed dental hygienist may ~~be employed to~~ practice dental hygiene in Indiana in the following:

(1) ~~The~~ **A dental** office **or clinical setting, except as described in subdivisions (3) through (5), where the dental hygienist is practicing under the direct supervision** of a legally practicing ~~proprietor~~ dentist.

(2) A dental school or dental hygiene school to teach and demonstrate the practice of dental hygiene **if direct supervision by a licensed dentist is provided for training on providing local anesthetics by injection.**

(3) The dental clinic of any public, parochial, or private school or other institution supported by public or private funds in which the licensee is employed by the state department of health or any county or city board of health or board of education or school trustee or parochial authority or the governing body of any private school ~~However, institutional practice, other than dental hygiene instruction and dental prophylaxis for children up to and including grade 12 pupils at all times must be~~ **where the dental hygienist is practicing** under the **direct or prescriptive** supervision of a licensed dentist.

(4) The dental clinic of a bona fide hospital, sanitarium, or ~~eleemosynary~~ **charitable** institution duly established and being operated under the laws of Indiana in which the licensee is employed by the directors or governing board of such hospital, sanitarium, or institution. However, such practice must be under the **direct or prescriptive** supervision at all times of a licensed dentist who is a staff member of the hospital or sanitarium or a member of the governing board of the institution.

(5) ~~The~~ **A:**

(A) fixed charitable dental **care** clinic; ~~of an industrial or a commercial establishment in which the licensee's services are~~

(B) public health setting; or

(C) correctional institution;

that has been approved by the board and where the dental hygienist is under the **direct or prescriptive** supervision of a licensed dentist.

(b) A licensed dental hygienist may provide without supervision the following:

(1) Dental hygiene instruction and in-service training without restriction on location.

~~(2) Dental prophylaxis for children up to and including grade 12 if the dental hygienist is employed by any of the following:~~

~~(A) The state department of health.~~

~~(B) The department of education.~~

~~(C) The elementary or secondary school where the services are provided.~~

~~(3)~~ **(2)** Screening and referrals for any person in a public health setting.

~~(4) Services as provided in IC 16-20-1-14 and IC 16-22-8-34.~~

SECTION 21. IC 25-13-1-10.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 10.6. (a) A licensed dental hygienist may administer local dental anesthetics under the direct supervision of a licensed dentist if the dental hygienist has:**

(1) completed board approved educational requirements, including cardiopulmonary resuscitation and emergency care training; and

(2) received a board issued dental hygiene anesthetic permit.

(b) Local dental anesthetics do not include nitrous oxide or similar anesthetics.

SECTION 22. IC 25-13-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. A person is deemed to be practicing dental hygiene within the meaning of this chapter who:

(1) uses the titles "Licensed Dental Hygienist", "Dental Hygienist", or the letters "L.D.H." or "D.H." in connection with his or her name;

(2) holds himself or herself out to the public in any manner that he or she can or will render services as a dental hygienist;

(3) removes calcific deposits or accretions from the surfaces of human teeth or cleans or polishes such teeth;

(4) applies and uses within the patient's mouth such antiseptic sprays, washes, or medicaments for the control or prevention of dental caries as his or her employer dentist may direct;

(5) treats gum disease; ~~or~~

(6) uses impressions and x-ray photographs for treatment purposes; **or**

(7) administers local dental anesthetics, except for the administration of local dental anesthetics by:

(A) a dentist as provided in IC 25-14-1-23(a)(6); or

(B) a physician licensed under IC 25-22.5.

SECTION 23. IC 25-14-1-1.5, AS AMENDED BY P.L.1-2006, SECTION 430, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.5. As used in this article:

"Agency" refers to the Indiana professional licensing agency established by IC 25-1-5-3.

"Board" refers to the state board of dentistry established under this chapter.

"Deep sedation" means a controlled state of depressed consciousness, accompanied by partial loss of protective reflexes, including inability to respond purposefully to verbal command, produced by a pharmacologic method.

"Dental assistant" means a qualified dental staff member, other than a licensed dental hygienist, who assists a licensed dentist with patient care while working under the dentist's direct supervision.

"Direct supervision" means that a licensed dentist is physically present in the facility when patient care is provided by the dental assistant.

"General anesthesia" means a controlled state of unconsciousness, accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic method.

"Light parenteral conscious sedation" means a minimally depressed level of consciousness under which an individual retains the ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command, produced by an intravenous pharmacologic method.

SECTION 24. IC 25-14-1-23, AS AMENDED BY P.L.121-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. (a) A person is practicing dentistry within the meaning of this chapter if the person does any of the following:

(1) Uses the word "dentist" or "dental surgeon", the letters "D.D.S." or "D.M.D.", or other letters or titles in connection with dentistry.

(2) Directs and controls the treatment of patients within a place where dental services are performed.

(3) Advertises or permits to be advertised by sign, card, circular, handbill, newspaper, radio, or otherwise that ~~he~~ **the person** can or will attempt to perform dental operations of any kind.

(4) Offers to diagnose or professes to diagnose or treats or professes to treat any of the lesions or diseases of the human oral cavity, teeth, gums, or maxillary or mandibular structures.

(5) Extracts human teeth or corrects malpositions of the teeth or jaws.

(6) Except as provided in IC 25-13-1-10.5 **and IC 25-13-1-10.6,** administers dental anesthetics.

(7) Uses x-ray pictures for dental diagnostic purposes.

(8) Makes impressions or casts of any oral tissues or structures for the purpose of diagnosis or treatment thereof or for the construction, repair, reproduction, or duplication of any prosthetic device to alleviate or cure any oral lesion or replace any lost oral structures, tissue, or teeth.

(9) Advertises to the public by any method, except trade and professional publications, to furnish, supply, construct, reproduce, repair, or adjust any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth.

(10) Is the employer of a dentist who is hired to provide dental services.

(11) Directs or controls the use of dental equipment or dental material while the equipment or material is being used to provide dental services. However, a person may lease or provide advice or assistance concerning dental equipment or dental material if the person does not restrict or interfere with the custody, control, or use of the equipment or material by the dentist. This subdivision does not prevent a dental hygienist who is licensed under IC 25-13 from owning dental equipment or dental materials within the dental hygienist's scope of practice.

(12) Directs, controls, or interferes with a dentist's clinical judgment.

(13) Exercises direction or control over a dentist through a written contract concerning the following areas of dental practice:

(A) The selection of a patient's course of treatment.

(B) Referrals of patients, except for requiring referrals to be within a specified provider network, subject to the exceptions under IC 27-13-36-5.

(C) Content of patient records.

(D) Policies and decisions relating to refunds, if the refund payment would be reportable under federal law to the National Practitioner Data Bank, and warranties.

(E) The clinical content of advertising.

(F) Final decisions relating to the employment of dental office personnel.

However, this subdivision does not prohibit a person from providing advice or assistance concerning the areas of dental practice referred to in this subdivision or an insurer (as defined in IC 27-1-26-1) from carrying out the applicable provisions of IC 27 under which the insurer is licensed.

However, a person does not have to be a dentist to be a manufacturer of dental prostheses.

(b) In addition to subsection (a), a person is practicing dentistry who directly or indirectly by any means or method furnishes, supplies, constructs, reproduces, repairs, or adjusts any prosthetic denture, bridge, appliance, or any other structure to be worn in the human mouth and delivers the resulting product to any person other than the duly licensed dentist upon whose written work authorization the work was performed. A written work authorization shall include the following:

(1) The name and address of the dental laboratory to which it is directed.

(2) The case identification.

(3) A specification of the materials to be used.

(4) A description of the work to be done and, if necessary, diagrams thereof.

(5) The date of issuance of the authorization.

(6) The signature and address of the licensed dentist or other dental practitioner by whom the work authorization is issued.

A separate work authorization shall be issued for each patient of the issuing licensed dentist or other dental practitioner for whom dental technological work is to be performed.

(c) This section shall not apply to those procedures which a legally licensed and practicing dentist may delegate to ~~competent~~

~~office personnel~~ **a dental assistant** as to which procedures the dentist exercises **direct** supervision and responsibility. ~~Delegated~~

(d) Procedures **delegated by a dentist** may not include ~~either:~~ **the following:**

(1) Those procedures which require professional judgment and skill such as diagnosis, treatment planning, ~~and~~ the cutting of hard or soft tissues, or any intraoral impression which would lead to the fabrication of ~~an appliance, which, when worn by the patient, would come in direct contact with hard or soft tissues and which could result in tissue irritation or injury; or~~ **a final prosthetic appliance.**

(2) ~~those~~ **Except for procedures described in subsections (g) and (h), procedures delegated to a dental assistant may not include** procedures allocated under IC 25-13-1 to **a** licensed dental ~~hygienists.~~ **hygienist.**

(e) This chapter shall not prevent dental students from performing dental operations under the supervision of competent instructors within the dental school or a university recognized by the board or in any public clinic under the supervision of the authorized superintendent of such clinic authorized under the authority and general direction of the board of health or school board of any city or town in Indiana.

~~(d)~~ **(f)** Licensed pharmacists of this state may fill prescriptions of licensed dentists of this state for any drug necessary in the practice of dentistry.

(g) Notwithstanding IC 25-13-1-11(4), a dental assistant who has completed a board approved curriculum may apply medicaments for the control or prevention of dental caries under the direct supervision of a licensed dentist. The curriculum must include instruction on the following:

(1) Ethics and jurisprudence.

(2) Reasons for fluorides.

(3) Systemic fluoride.

(4) Topical fluoride.

(5) Fluoride application.

(6) Laboratory work on topical fluoride applications and patient competency.

(h) Notwithstanding IC 25-13-1-11(3), a dental assistant who has completed a board approved curriculum may polish the coronal surface of teeth under the direct supervision of a licensed dentist. The curriculum must include instruction on the following:

(1) Ethics and jurisprudence.

(2) Plaque and materia alba.

(3) Intrinsic and extrinsic stain.

(4) Abrasive agents.

(5) Use of a slow speed hand piece, prophy cup, and occlusal polishing brush.

(6) Theory of selective polishing.

(7) Laboratory work concerning slow speed hand piece, hand dexterity, and patient competency.

SECTION 25. IC 25-20.5-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. This chapter does not apply to the following **if the person has received training in the performance of hypnotism:**

(1) A licensed dentist practicing dentistry under IC 25-14.

(2) A licensed physician practicing medicine under IC 25-22.5.

(3) A licensed osteopath practicing medicine under IC 25-22.5.

(4) A licensed psychologist practicing psychology under IC 25-33.

(5) A ~~certified~~ **licensed** social worker or clinical social worker practicing social work or clinical social work under IC 25-23.6.

(6) A registered nurse licensed under IC 25-23.

(7) A ~~certified~~ **licensed** marriage and family therapist practicing marriage and family therapy under IC 25-23.6.

(8) A licensed mental health counselor practicing mental health counseling under IC 25-23.6.

~~(8)~~ **(9)** An individual who teaches Lamaze prenatal and delivery relaxation techniques to pregnant women.

~~(9)~~ **(10)** A law enforcement officer who:

(A) is trained in hypnotism; and

(B) uses hypnosis only for law enforcement purposes.

~~(10)~~ **(11)** A licensed chiropractor practicing the science of chiropractic under IC 25-10.

~~(11)~~ **(12)** An individual who performs hypnotism exclusively for entertainment or amusement purposes at a theater, night club, or other place that offers entertainment to the public for consideration or promotional purposes.

SECTION 26. IC 25-23-1-1.1, AS AMENDED BY P.L.1-2007, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.1. (a) As used in this chapter, "registered nurse" means a person who holds a valid license issued:

(1) under this chapter; **or**

(2) by a party state (as defined in IC 25-23.3-2-11); and who bears primary responsibility and accountability for nursing practices based on specialized knowledge, judgment, and skill derived from the principles of biological, physical, and behavioral sciences.

(b) As used in this chapter, "registered nursing" means performance of services which include but are not limited to:

(1) assessing health conditions;

(2) deriving a nursing diagnosis;

(3) executing a nursing regimen through the selection, performance, and management of nursing actions based on nursing diagnoses;

(4) advocating the provision of health care services through collaboration with or referral to other health professionals;

(5) executing regimens delegated by a physician with an unlimited license to practice medicine or osteopathic medicine, a licensed dentist, a licensed chiropractor, a licensed optometrist, or a licensed podiatrist;

(6) teaching, administering, supervising, delegating, and evaluating nursing practice;

(7) delegating tasks which assist in implementing the nursing, medical, or dental regimen; or

(8) performing acts which are approved by the board or by the board in collaboration with the medical licensing board of Indiana.

(c) As used in this chapter, "assessing health conditions" means the collection of data through means such as interviews, observation, and inspection for the purpose of:

(1) deriving a nursing diagnosis;

(2) identifying the need for additional data collection by nursing personnel; and

(3) identifying the need for additional data collection by other health professionals.

(d) As used in this chapter, "nursing regimen" means preventive, restorative, maintenance, and promotion activities which include meeting or assisting with self-care needs, counseling, and teaching.

(e) As used in this chapter, "nursing diagnosis" means the identification of needs which are amenable to nursing regimen.

SECTION 27. IC 25-23-1-1.2, AS AMENDED BY P.L.1-2007, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.2. As used in this chapter, "licensed practical nurse" means a person who holds a valid license issued under this chapter **or by a party state (as defined in IC 25-23.3-2-11)** and who functions at the direction of:

(1) a registered nurse;

(2) a physician with an unlimited license to practice medicine or osteopathic medicine;

(3) a licensed dentist;

(4) a licensed chiropractor;

(5) a licensed optometrist; or

(6) a licensed podiatrist;

in the performance of activities commonly performed by practical nurses and requiring special knowledge or skill.

SECTION 28. IC 25-23-1-7, AS AMENDED BY P.L.1-2007, SECTION 172, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The board shall do the following:

(1) Adopt under IC 4-22-2 rules necessary to enable it to carry into effect this chapter.

(2) Prescribe standards and approve curricula for nursing education programs preparing persons for licensure under this chapter.

(3) Provide for surveys of such programs at such times as it considers necessary.

(4) Accredit such programs as meet the requirements of this chapter and of the board.

(5) Deny or withdraw accreditation from nursing education programs for failure to meet prescribed curricula or other standards.

(6) Examine, license, and renew the license of qualified applicants.

(7) Issue subpoenas, compel the attendance of witnesses, and administer oaths to persons giving testimony at hearings.

(8) Cause the prosecution of all persons violating this chapter and have power to incur necessary expenses for these prosecutions.

(9) Adopt rules under IC 4-22-2 that do the following:

(A) Prescribe standards for the competent practice of registered, practical, and advanced practice nursing.

(B) Establish with the approval of the medical licensing board created by IC 25-22.5-2-1 requirements that advanced practice nurses must meet to be granted authority to prescribe legend drugs and to retain that authority.

(C) Establish, with the approval of the medical licensing board created by IC 25-22.5-2-1, requirements for the renewal of a practice agreement under section 19.4 of this chapter, which shall expire on October 31 in each odd-numbered year.

(10) Keep a record of all its proceedings.

(11) Collect and distribute annually demographic information on the number and type of registered nurses and licensed practical nurses employed in Indiana.

(12) Adopt rules and administer the interstate nurse licensure compact under IC 25-23.3.

(b) The board may do the following:

(1) Create ad hoc subcommittees representing the various nursing specialties and interests of the profession of nursing. Persons appointed to a subcommittee serve for terms as determined by the board.

(2) Utilize the appropriate subcommittees so as to assist the board with its responsibilities. The assistance provided by the subcommittees may include the following:

(A) Recommendation of rules necessary to carry out the duties of the board.

(B) Recommendations concerning educational programs and requirements.

(C) Recommendations regarding examinations and licensure of applicants.

(3) Appoint nurses to serve on each of the ad hoc subcommittees.

(4) Withdraw from the interstate nurse licensure compact under IC 25-23.2 (repealed).

(5) If requested by the nonprofit corporation formed under IC 12-31-1-3, provide assistance to the public umbilical cord blood bank and umbilical cord blood donation initiative.

(c) Nurses appointed under subsection (b) must:

(1) be committed to advancing and safeguarding the nursing profession as a whole; and

(2) represent nurses who practice in the field directly affected by a subcommittee's actions.

SECTION 29. IC 25-23-1-11, AS AMENDED BY P.L.1-2007, SECTION 173, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) Any person who applies to the board for a license to practice as a registered nurse must:

(1) not have:

(A) been convicted of a crime that has a direct bearing on the person's ability to practice competently; or

(B) committed an act that would constitute a ground for a disciplinary sanction under IC 25-1-9;

(2) have completed:

(A) the prescribed curriculum and met the graduation requirements of a state accredited program of registered nursing that only accepts students who have a high school diploma or its equivalent as determined by the board; or

(B) the prescribed curriculum and graduation requirements of a nursing education program in a foreign country that is substantially equivalent to a board approved program as determined by the board. The board may by rule adopted under IC 4-22-2 require an applicant under this subsection to successfully complete an examination approved by the board to measure the applicant's qualifications and background in the practice of nursing and proficiency in the English language; and

(3) be physically and mentally capable of and professionally competent to safely engage in the practice of nursing as determined by the board.

The board may not require a person to have a baccalaureate degree in nursing as a prerequisite for licensure.

(b) The applicant must pass an examination in such subjects as the board may determine.

(c) The board may issue by endorsement a license to practice as a registered nurse to an applicant who has been licensed as a registered nurse, by examination, under the laws of another state if the applicant presents proof satisfactory to the board that, at the time that the applicant applies for an Indiana license by endorsement, the applicant holds a current license in another state and possesses credentials and qualifications that are substantially equivalent to requirements in Indiana for licensure by examination. The board may specify by rule what constitutes substantial equivalence under this subsection.

(d) The board may issue by endorsement a license to practice as a registered nurse to an applicant who:

(1) has completed the English version of the:

(A) Canadian Nurse Association Testing Service Examination **(CNAT); or**

(B) Canadian Registered Nurse Examination (CRNE);

(2) achieved the passing score required on the examination at the time the examination was taken;

(3) is currently licensed in a Canadian province or in another state; and

(4) meets the other requirements under this section.

(e) Each applicant for examination and registration to practice as a registered nurse shall pay a fee set by the board, ~~The board may set a proctoring fee to be paid by applicants who are graduates of a state accredited school in another state.~~ **a part of which must be used for the rehabilitation of impaired registered nurses and impaired licensed practical nurses.** Payment of the fee or fees shall be made by the applicant prior to the date of examination. **The lesser of the following amounts from fees collected under this subsection shall be deposited in the impaired nurses account of the state general fund established by section 34 of this chapter:**

(1) Twenty-five percent (25%) of the license application fee per license applied for under this section.

(2) The cost per license to operate the impaired nurses program, as determined by the Indiana professional licensing agency.

(f) Any person who holds a license to practice as a registered nurse in:

(1) Indiana; **or**

(2) a party state (as defined in IC 25-23.3-2-11);

may use the title "Registered Nurse" and the abbreviation "R.N.". No other person shall practice or advertise as or assume the title of registered nurse or use the abbreviation of "R.N." or any other words, letters, signs, or figures to indicate that the person using same is a registered nurse.

SECTION 30. IC 25-23-1-12, AS AMENDED BY P.L.1-2007, SECTION 174, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) A person who applies to the board for a license to practice as a licensed practical nurse must:

(1) not have been convicted of:

(A) an act which would constitute a ground for disciplinary sanction under IC 25-1-9; or

(B) a crime that has a direct bearing on the person's ability to practice competently;

(2) have completed:

(A) the prescribed curriculum and met the graduation requirements of a state accredited program of practical nursing that only accepts students who have a high school diploma or its equivalent, as determined by the board; or

(B) the prescribed curriculum and graduation requirements of a nursing education program in a foreign country that is substantially equivalent to a board approved program as determined by the board. The board may by rule adopted under IC 4-22-2 require an applicant under this subsection to successfully complete an examination approved by the board to measure the applicant's qualifications and background in the practice of nursing and proficiency in the English language; and

(3) be physically and mentally capable of, and professionally competent to, safely engage in the practice of practical nursing as determined by the board.

(b) The applicant must pass an examination in such subjects as the board may determine.

(c) The board may issue by endorsement a license to practice as a licensed practical nurse to an applicant who has been licensed as a licensed practical nurse, by examination, under the laws of another state if the applicant presents proof satisfactory

to the board that, at the time of application for an Indiana license by endorsement, the applicant possesses credentials and qualifications that are substantially equivalent to requirements in Indiana for licensure by examination. The board may specify by rule what shall constitute substantial equivalence under this subsection.

(d) Each applicant for examination and registration to practice as a practical nurse shall pay a fee set by the board, ~~The board may set a proctoring fee to be paid by applicants who are graduates of a state accredited school in another state.~~ **a part of which must be used for the rehabilitation of impaired registered nurses and impaired licensed practical nurses.** Payment of the fees shall be made by the applicant before the date of examination. **The lesser of the following amounts from fees collected under this subsection shall be deposited in the impaired nurses account of the state general fund established by section 34 of this chapter:**

(1) Twenty-five percent (25%) of the license application fee per license applied for under this section.

(2) The cost per license to operate the impaired nurses program, as determined by the Indiana professional licensing agency.

(e) Any person who holds a license to practice as a licensed practical nurse in:

(1) Indiana; **or**

(2) a party state (as defined in IC 25-23.3-2-11);

may use the title "Licensed Practical Nurse" and the abbreviation "L.P.N.". No other person shall practice or advertise as or assume the title of licensed practical nurse or use the abbreviation of "L.P.N." or any other words, letters, signs, or figures to indicate that the person using them is a licensed practical nurse.

SECTION 31. IC 25-23-1-16.1, AS AMENDED BY P.L.1-2006, SECTION 451, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16.1. (a) A license to practice as a registered nurse expires on October 31 in each odd-numbered year. Failure to renew the license on or before the expiration date will automatically render the license invalid without any action by the board.

(b) A license to practice as a licensed practical nurse expires on October 31 in each even-numbered year. Failure to renew the license on or before the expiration date will automatically render the license invalid without any action by the board.

(c) The procedures and fee for renewal shall be set by the board.

(d) At the time of license renewal, each registered nurse and each licensed practical nurse shall pay a renewal fee, a portion of which shall be for the rehabilitation of impaired registered nurses and impaired licensed practical nurses. The lesser of the following amounts from fees collected under this subsection shall be deposited in the impaired nurses account of the state general fund established by section 34 of this chapter:

(1) ~~Sixteen percent (16%)~~ **Twenty-five percent (25%)** of the license renewal fee per license renewed under this section.

(2) The cost per license to operate the impaired nurses program, as determined by the Indiana professional licensing agency.

SECTION 32. IC 25-23-1-27, AS AMENDED BY P.L.1-2007, SECTION 175, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27. A person who:

(1) sells or fraudulently obtains or furnishes any nursing diploma, license or record;

(2) practices nursing under cover of any diploma or license or record illegally or fraudulently obtained or assigned or issued unlawfully or under fraudulent representation;

(3) practices nursing as a registered nurse or licensed practical nurse unless licensed to do so under this chapter **or IC 25-23.3;**

(4) uses in connection with the person's name any designation tending to imply that the person is a registered nurse or a licensed practical nurse unless licensed to practice under this chapter **or IC 25-23.3;**

(5) practices nursing during the time the person's license issued under this chapter **or IC 25-23.3** is suspended or revoked;

(6) conducts a school of nursing or a program for the training of practical nurses unless the school or program has been accredited by the board; or

(7) otherwise violates this chapter;

commits a Class B misdemeanor.

SECTION 33. IC 25-23-1-34, AS AMENDED BY P.L.1-2007, SECTION 176, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 34. (a) The impaired nurses account is established within the state general fund for the purpose of providing money for providing rehabilitation of impaired registered nurses or licensed practical nurses under this article. The account shall be administered by the Indiana professional licensing agency.

(b) Expenses of administering the account shall be paid from money in the account. The account consists of the following:

(1) Funds collected for the rehabilitation of impaired registered nurses and impaired licensed practical nurses under ~~section~~ **sections 11(e), 12(d), and** 16.1(d) of this chapter.

(2) Funds collected under section 31(c)(2) of this chapter.

~~(3) Funds collected for the rehabilitation of impaired registered nurses and impaired licensed practical nurses under IC 25-23.2-3-5 (repealed).~~

~~(4)~~ **(3)** Fines collected from registered nurses or licensed practical nurses under IC 25-1-9-9(a)(6).

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

(d) Money in the account is appropriated to the board for the purpose stated in subsection (a).

SECTION 34. IC 25-23.3 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 23.3. INTERSTATE NURSE LICENSURE COMPACT

Chapter 1. Purpose

Sec. 1. It is the purpose of this compact to allow qualified nurses who are licensed in a compact state to practice nursing in another compact state and to reduce redundant licensing requirements of nurses who practice in multiple states.

Chapter 2. Definitions

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

Sec. 2. "Adverse action" means a home or remote state action.

Sec. 3. "Alternative program" means a voluntary, nondisciplinary monitoring program approved by a nurse licensing board.

Sec. 4. "Board" has the meaning set forth in IC 25-23-1-1.

Sec. 5. "Coordinated licensure information system" means an integrated process:

(1) for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws; and

(2) administered by a nonprofit organization composed of and controlled by state nurse licensing boards.

Sec. 6. "Home state" means the party state that is a nurse's primary state of residence.

Sec. 7. "Home state action" means any administrative, civil, equitable, or criminal action permitted by the home state's laws that are imposed on a nurse by the home state's licensing board, including an action against an individual's license, such as revocation, suspension, probation, or any other action that affects a nurse's authorization to practice.

Sec. 8. "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

Sec. 9. "Multistate licensure privilege" means current, official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical/vocational nurse in that party state. All party states have the authority, in accordance with state due process law, to take actions against a nurse's privilege, such as revocation, suspension, probation, or any other action that affects a nurse's authorization to practice.

Sec. 10. "Nurse" means a registered nurse or licensed practical/vocational nurse as defined by the state practice laws of each party state.

Sec. 11. "Party state" means any state that has adopted this compact.

Sec. 12. "Remote state" means a party state, other than the home state:

(1) where a patient is located at the time nursing care is provided; or

(2) in the case of the practice of nursing not involving a patient, in a party state where the recipient of nursing practice is located.

Sec. 13. "Remote state action" means:

(1) any administrative, civil, equitable, or criminal action permitted by a remote state's laws that are imposed on a nurse by the remote state's licensing board or other authority, including actions against an individual's multistate licensure privilege to practice in the remote state; and

(2) cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards of remote states.

Sec. 14. "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Sec. 15. "State practice laws" means the individual party state's laws and rules that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. The term does not include the initial qualifications for licensure or requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

Chapter 3. General Provisions and Jurisdiction

Sec. 1. A license to practice registered nursing issued by a home state to a resident in that state shall be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in the party state. A license to practice licensed practical/vocational nursing issued by a home state to a resident in that state shall be recognized by each party state as authorizing a multistate licensure privilege to practice as a licensed practical/vocational nurse in the party state. To obtain or retain a license, an applicant must meet the home state's qualifications for licensure and license renewal and all other applicable state laws.

Sec. 2. A party state may, in accordance with state due process laws, limit or revoke the multistate licensure privilege of any nurse to practice in the state and may take any other actions under applicable state laws necessary to protect the health and safety of the state's citizens. If a party state takes such an action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

Sec. 3. A nurse practicing in a party state must comply with the state practice laws of the state in which a patient is located at the time care is rendered. In addition, the practice of nursing is not limited to patient care, but includes all nursing practice as defined by the state practice laws of a party state. The practice of nursing subjects a nurse to the jurisdiction of the nurse licensing board, the courts, and the laws in that party state.

Sec. 4. This compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, a multistate licensure privilege to practice registered nursing granted by a party state shall be recognized by other party states as a license to practice

registered nursing if a license is required by state law as a precondition for qualifying for advanced practice registered nurse authorization.

Sec. 5. Individuals not residing in a party state continue to be able to apply for nurse licensure as provided under the laws of each party state. However, the license granted to these individuals is not recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.

Chapter 4. Applications for Licensure in a Party State

Sec. 1. Upon application for a license, the licensing board in a party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other party state, whether there are any restrictions on the multistate licensure privilege, and whether any other adverse action by any state has been taken against the license.

Sec. 2. A nurse in a party state may hold licensure in only one (1) party state at a time, issued by the home state.

Sec. 3. A nurse who intends to change primary state of residence may apply for licensure in the new home state before the change. However, a new license may not be issued by a party state until a nurse provides evidence of change in primary state of residence satisfactory to the new home state's licensing board.

Sec. 4. (a) If a nurse:

(1) changes primary state of residence by moving between two (2) party states; and

(2) obtains a license from the new home state;

the license from the former home state is no longer valid.

(b) If a nurse:

(1) changes primary state of residence by moving from a nonparty state to a party state; and

(2) obtains a license from the new home state;

the individual state license issued by the nonparty state is not affected and remains in force if provided by the laws of the nonparty state.

(c) If a nurse changes primary state of residence by moving from a party state to a nonparty state, the license issued by the prior home state converts to an individual state license, valid only in the former home state, without multistate licensure privilege to practice in other party states.

Chapter 5. Adverse Actions

Sec. 1. The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system any disciplinary actions taken by the licensing entity or complaints filed by the attorney general, including the factual and legal basis for such actions, if known. The licensing board of a remote state shall promptly report any disciplinary actions taken by the licensing entity or complaints filed by the remote state's attorney general. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports.

Sec. 2. The licensing board of a party state has authority to complete any pending investigation for a nurse who changes primary state of residence during the course of the investigation. The licensing board also has authority to take appropriate action and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

Sec. 3. A remote state may take adverse action affecting the multistate licensure privilege to practice within the remote state. However, only the home state has authority to impose adverse action against the license issued by the home state.

Sec. 4. For purposes of imposing adverse action, the licensing board of the home state shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, it shall apply its own state laws to determine appropriate action.

Sec. 5. The home state may take adverse action based on the factual findings of a remote state, so long as each state follows its own procedures for imposing such adverse action.

Sec. 6. This compact does not override a party state's decision that participation in an alternative program may be used instead of licensure action and that such participation shall remain nonpublic if required by the party state's laws. Party states must require nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from the other party state.

Chapter 6. Additional Authority Invested in Party State Nurse Licensing Boards

Sec. 1. Notwithstanding any other powers, a party state nurse licensing board may do the following:

(1) If otherwise permitted by state law, recover from a nurse the costs of investigations and disposition of cases resulting from any adverse action taken against the nurse.

(2) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a nurse licensing board in a party state for the attendance and testimony of witnesses and the production of evidence from another party state shall be enforced in the latter state by a court with jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and evidence are located.

(3) Issue cease and desist orders to limit or revoke a nurse's authority to practice in the state.

(4) Adopt uniform rules as provided for in IC 25-23.3-8-3.

Chapter 7. Coordinated Licensure Information System

Sec. 1. All party states shall participate in a cooperative effort to create a coordinated data base of all licensed registered nurses and licensed practical/vocational nurses. This system must include information on the licensure and disciplinary history of each nurse, as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.

Sec. 2. All party states' licensing boards shall promptly report actions against multistate licensure privileges, disciplinary actions taken by the licensing entity or complaints filed by the remote state's attorney general, denials of applications, and the reasons for such denials to the coordinated licensure information system.

Sec. 3. All party states' licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

Sec. 4. Any personally identifiable information obtained by a party state's licensing board from the coordinated licensure information system may not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

Sec. 5. Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

Sec. 6. The compact administrators, acting jointly and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

Chapter 8. Compact Administration and Interchange of Information

Sec. 1. The head of the nurse licensing board of each party state, or that person's designee, shall be the administrator of this compact for that person's state. For purposes of this article, the executive director of the Indiana professional licensing agency or the executive director's designee shall be the administrator of this compact.

Sec. 2. The compact administrator of each party state shall furnish to the compact administrator of each other party state any information and documents, including, but not limited to, a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation information, to facilitate the administration of this compact.

Sec. 3. Compact administrators may develop uniform rules to facilitate and coordinate implementation of this compact. These uniform rules shall be adopted by a board under IC 25-23.3-6-1.

Chapter 9. Immunity

Sec. 1. Neither a party state nor an officer, employee, or agent of a party state's nurse licensing board who acts in accordance with this compact is liable on account of any act or omission in good faith while engaged in the performance of duties under this compact. Good faith in this article does not include willful misconduct, gross negligence, or recklessness.

Chapter 10. Entry Into Force, Withdrawal, and Amendment

Sec. 1. This compact becomes effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this compact.

Sec. 2. No withdrawal affects the validity or applicability by the licensing boards of states remaining party to the compact of any report of adverse action occurring before the withdrawal.

Sec. 3. This compact shall not be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with this compact.

Sec. 4. This compact may be amended by the party states. No amendment to this compact becomes effective and binding upon the party states unless and until it is enacted into the laws of all party states.

Chapter 11. Construction and Severability

Sec. 1. This compact shall be liberally construed to effectuate its purposes. The provisions of this compact are severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or if the applicability of this compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability of this compact to any government, agency, person, or circumstance are not affected thereby. If this compact is held contrary to the constitution of any party state, this compact remains in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to a severable matter.

Sec. 2. If party states find a need for settling disputes arising under this compact:

(1) the party states may submit the issues in dispute to an arbitration panel comprised of an individual appointed by the compact administrator in the home state, an individual appointed by the compact administrator in each remote state involved, and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute; and

(2) the decision of a majority of the arbitrators is final and binding.

Sec. 3. (a) Notwithstanding any other law, this article does not take effect until July 1, 2009.

(b) This article expires July 1, 2012.

SECTION 35. IC 25-23.5-3-1.5, AS ADDED BY P.L.197-2007, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.5. (a) Except as provided in subsection (b), an occupational therapist may not provide occupational therapy services to a person until the person has been referred to the occupational therapist by **one (1) of the following:**

(1) A physician licensed under IC 25-22.5.

(2) A podiatrist licensed under IC 25-29.

(3) An advanced practice nurse licensed under IC 25-23.

(4) A psychologist licensed under IC 25-33. ~~or~~

(5) A chiropractor licensed under IC 25-10.

(6) An optometrist licensed under IC 25-24.

(b) An occupational therapist may provide the following services without a referral from a physician licensed under IC 25-22.5, a podiatrist licensed under IC 25-29, an advanced practice nurse licensed under IC 25-23, a psychologist licensed under IC 25-33, ~~or~~ a chiropractor licensed under IC 25-10, **or an optometrist licensed under IC 25-24:**

(1) Ergonomic or home assessment.

(2) Injury or illness prevention education and wellness services.

(3) Occupational therapy activities provided in an educational setting.

(4) Occupational therapy activities that the board determines, after reviewing the recommendations of the committee, are appropriate to be conducted in a community based environment.

SECTION 36. IC 25-23.6-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a)** An individual may not:

(1) profess to be a licensed marriage and family therapist;

(2) use the title:

(A) "licensed marriage and family therapist";

(B) "marriage and family therapist"; or

(C) "family therapist";

(3) use any other words, letters, abbreviations, or insignia indicating or implying that the individual is a licensed marriage and family therapist; or

(4) practice marriage and family therapy for compensation;

unless the individual is licensed under ~~this article,~~ IC 25-22.5, **IC 25-23.6-8-1,** or IC 25-33.

(b) An individual may not:

(1) profess to be a licensed marriage and family therapist associate;

(2) use the title:

(A) "licensed marriage and family therapist associate";

(B) "marriage and family therapist associate"; or

(C) "family therapist associate";

(3) use any other words, letters, abbreviations, or insignia indicating or implying that the individual is a licensed marriage and family therapist associate; or

(4) practice marriage and family therapy for compensation;

unless the individual is licensed under IC 25-22.5, IC 25-23.6-8-1.5, or IC 25-33.

(c) Subsections (a)(4) and (b)(4) do not apply to a person who is described in section 2(a) of this chapter.

SECTION 37. IC 25-23.6-3-2, AS AMENDED BY P.L.2-2007, SECTION 330, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) This article may not be construed to limit the marriage and family therapy services performed by a person who does not use a title specified in this article and who is one (1) of the following:

(1) A licensed or certified health care professional acting within the scope of the person's license or certificate.

(2) A student, an intern, or a trainee pursuing a course of study in medicine or psychology or a course of study to gain licensure under this article in an accredited eligible postsecondary educational institution or training institution ~~or is a graduate accumulating experience required for licensure~~ if:

(A) the activities are performed under qualified supervision and constitute a part of the person's supervised course of study or other level of supervision; and

(B) the student ~~or graduate~~ uses a title that contains the term "intern" or "trainee".

(3) Not a resident of Indiana if the person performed services in Indiana for not more than five (5) days in any one (1) month and not more than fifteen (15) days in any one (1) calendar year and the person is authorized to perform such services under the laws of the state or country in which the person resides.

(4) A rabbi, priest, Christian Science practitioner, minister, or other member of the clergy.

(5) An employee of or a volunteer for a nonprofit corporation or an organization performing charitable, religious, or educational functions, providing pastoral counseling or other assistance.

(6) A person who provides school counseling or a person who is certified by a state or national organization that is recognized by the Indiana division of mental health and addiction and who provides counseling in the areas of alcohol or drug abuse addictions.

(b) Nothing in this section prohibits a person referred to in subsection (a) from qualifying for licensure under this article.

SECTION 38. IC 25-23.6-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. **(a)** An individual who is licensed as a marriage and family therapist **under IC 25-23.6-8-1** shall:

(1) display the license or a clear copy of the license at each location where the marriage and family therapist regularly practices; and

(2) include the words "licensed marriage and family therapist" or the letters "LMFT" on all promotional materials, including business cards, brochures, stationery, advertisements, and signs that name the individual.

(b) An individual who is licensed as a marriage and family therapist associate under IC 25-23.6-8-1.5 shall:

(1) display the license or a clear copy of the license at each location where the marriage and family therapist associate regularly practices; and

(2) include the words "licensed marriage and family therapist associate" or the letters "LMFTA" on all promotional materials, including business cards, brochures, stationery, advertisements, and signs that name the individual.

SECTION 39. IC 25-23.6-8-1, AS AMENDED BY P.L.2-2007, SECTION 337, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. An individual who applies for a license as a marriage and family therapist must meet the following requirements:

(1) Furnish satisfactory evidence to the board that the individual has:

(A) received a master's or doctor's degree in marriage and family therapy, or in a related area as determined by the board from an eligible postsecondary educational institution that meets the requirements under section 2.1(a)(1) of this chapter or from a foreign school that has a program of study that meets the requirements under section 2.1(a)(2) or (2.1)(a)(3) of this chapter; and

(B) completed the educational requirements under section 2.5 of this chapter.

(2) Furnish satisfactory evidence to the board that the individual has met the clinical experience requirements under section 2.7 of this chapter.

(3) Furnish satisfactory evidence to the board that the individual:

(A) holds a marriage and family therapist associate license, in good standing, issued under section 5 of this chapter; or

(B) is licensed or certified to practice as a marriage and family therapist in another state and is otherwise qualified under this chapter.

~~(2)~~ **(4)** Furnish satisfactory evidence to the board that the individual does not have a conviction for a crime that has a direct bearing on the individual's ability to practice competently.

~~(3)~~ **(5)** Furnish satisfactory evidence to the board that the individual has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice as a marriage and family therapist without endangering the public.

~~(4) Pass an examination provided by the board.~~

~~(5)~~ **(6)** Pay the fee established by the board.

SECTION 40. IC 25-23.6-8-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.5. An individual who applies for a license as a marriage and family therapist associate must meet the following requirements:**

(1) Furnish satisfactory evidence to the board that the individual has:

(A) received a master's or doctor's degree in marriage and family therapy, or in a related area as determined by the board from an institution of higher education that meets the requirements under section 2.1(a)(1) of this chapter or from a foreign school that has a program of study that meets the requirements under section 2.1(a)(2) or 2.1(a)(3) of this chapter; and

(B) completed the educational requirements under section 2.5 of this chapter.

(2) Furnish satisfactory evidence to the board that the individual does not have a conviction for a crime that has a direct bearing on the individual's ability to practice competently.

(3) Furnish satisfactory evidence to the board that the individual has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice as a marriage and family therapist associate without endangering the public.

(4) Pay the fee established by the board.

(5) Pass an examination provided by the board.

SECTION 41. IC 25-23.6-8-2.1, AS AMENDED BY P.L.2-2007, SECTION 338, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.1. (a) An applicant **for a license as a marriage and family therapist** under section 1 of this chapter **or an applicant for a license as a marriage and family therapist associate under section 1.5 of this chapter** must have received a master's or doctor's degree in marriage and family therapy, or in a related area as determined by the board, from an eligible postsecondary educational institution that meets the following requirements:

(1) If the institution was located in the United States or a territory of the United States, at the time of the applicant's graduation the institution was accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation.

(2) If the institution was located in Canada, at the time of the applicant's graduation the institution was a member in good standing with the Association of Universities and Colleges of Canada.

(3) If the institution was located in a foreign country other than Canada, at the time of the applicant's graduation the institution:

(A) was recognized by the government of the country where the school was located as a program to train in the practice of marriage and family therapy or psychotherapy; and

(B) maintained a standard of training substantially equivalent to the standards of institutions accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation.

(b) An applicant **for a license as a marriage and family therapist** under section 1 of this chapter **or an applicant for a license as a marriage and family therapist associate under section 1.5 of this chapter** who has a master's or doctoral degree from a program that did not emphasize marriage and family therapy may complete the course work requirement from an institution that is:

(1) accredited by the Commission on Accreditation for Marriage and Family Therapy Education; and

(2) recognized by the United States Department of Education.

SECTION 42. IC 25-23.6-8-2.5, AS AMENDED BY P.L.2-2007, SECTION 339, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.5. (a) An applicant **for a license as a marriage and family therapist** under section 1 of this chapter **or an applicant for a license as a marriage and family therapist associate under section 1.5 of this chapter** must complete the following educational requirements:

(1) Except as provided in subsection (b), complete twenty-seven (27) semester hours or forty-one (41) quarter hours of graduate course work that must include graduate level course credits with material in at least the following content areas:

(A) Theoretical foundations of marriage and family therapy.

(B) Major models of marriage and family therapy.

(C) Individual development.

(D) Family development and family relationships.

(E) Clinical problems.

(F) Collaboration with other disciplines.

(G) Sexuality.

(H) Gender and sexual orientation.

(I) Issues of ethnicity, race, socioeconomic status, and culture.

(J) Therapy techniques.

(K) Behavioral research that focuses on the interpretation and application of research data as it applies to clinical practice.

The content areas may be combined into any one (1) graduate level course, if the applicant can prove that the course work was devoted to each content area.

(2) Not less than one (1) graduate level course of two (2) semester hours or three (3) quarter hours in the following areas:

(A) Legal, ethical, and professional standards issues in the practice of marriage and family therapy or an equivalent course approved by the board.

(B) Appraisal and assessment for individual or interpersonal disorder or dysfunction.

(3) At least one (1) supervised clinical practicum, internship, or field experience in a marriage and family counseling setting that meets the following requirements:

(A) The applicant provided five hundred (500) face to face client contact hours of marriage and family therapy services under the supervision of a licensed marriage and family therapist who has at least five (5) years of experience or a qualified supervisor approved by the board.

(B) The applicant received one hundred (100) hours of supervision from a licensed marriage and family therapist who has at least five (5) years experience as a qualified supervisor.

The requirements under ~~subdivisions~~ **clauses** (A) and (B) may be met by a supervised practice experience that took place away from an institution of higher education but that is certified by an official of the eligible postsecondary educational institution as being equivalent to a graduate level practicum or internship program at an institution accredited by an accrediting agency approved by the United States Department of Education Commission on Recognition of Postsecondary Education, the Association of Universities and Colleges of Canada, or the Commission on Accreditation for Marriage and Family Therapy Education.

(b) The following graduate work may not be used to satisfy the content area requirements under subsection (a):

(1) Thesis or dissertation work.

(2) Practicums, internships, or fieldwork.

SECTION 43. IC 25-23.6-8-2.7, AS AMENDED BY P.L.197-2007, SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.7. (a) An applicant **for a license as a marriage and family therapist** under section 1 of this chapter must have at least two (2) years of clinical experience, during which at least fifty percent (50%) of the applicant's clients were receiving marriage and family therapy services. The applicant's clinical experience must include one thousand (1,000) hours of post degree clinical experience and two hundred (200) hours of post degree clinical supervision, of which one hundred (100) hours must be individual supervision, under the supervision of a licensed marriage and family therapist who has at least five (5) years of experience or an equivalent supervisor, as determined by the board.

(b) ~~Within the two (2) years~~ **Before an individual obtains any post degree clinical experience, the individual must be licensed as a marriage and family therapist associate under this chapter. When obtaining the clinical experience** required under subsection (a), the applicant must provide direct individual, group, and family therapy and counseling to the following categories of cases:

(1) Unmarried couples.

(2) Married couples.

(3) Separating or divorcing couples.

(4) Family groups, including children.

(c) A doctoral internship may be applied toward the supervised work experience requirement.

(d) Except as provided in subsection (e), the experience requirement may be met by work performed at or away from the premises of the supervising marriage and family therapist.

(e) The work requirement may not be performed away from the supervising marriage and family therapist's premises if:

(1) the work is the independent private practice of marriage and family therapy; and

(2) the work is not performed at a place that has the supervision of a licensed marriage and family therapist or an equivalent supervisor, as determined by the board.

SECTION 44. IC 25-23.6-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. An individual who satisfies the requirements of ~~sections 1 and 2~~ **section 1.5(1) through 1.5(4)** of this chapter may take the examination provided by the board.

SECTION 45. IC 25-23.6-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. The board shall issue a **marriage and family therapist license or marriage and family therapist associate** license, **as appropriate,** to an individual who:

(1) achieves a passing score, as determined by the board, on the examination provided under this chapter; and

(2) is otherwise qualified under this article.

SECTION 46. IC 25-23.6-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) A **marriage and family therapist** license issued by the board is valid for the remainder of the renewal period in effect on the date the license was issued.

(b) An individual may renew a **marriage and family therapist** license by:

(1) paying a renewal fee on or before the expiration date of the license; and

(2) completing not less than fifteen (15) hours of continuing education each licensure year.

(c) If an individual fails to pay a renewal on or before the expiration date of a license, the license becomes invalid.

SECTION 47. IC 25-23.6-8-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 8.5. (a) A marriage and family therapist associate license issued by the board is valid for the remainder of the renewal period in effect on the date the license was issued.**

(b) An individual may renew a marriage and family therapist associate license two (2) times by:

(1) paying a renewal fee on or before the expiration date of the license; and

(2) completing at least fifteen (15) hours of continuing education each licensure year.

(c) The board may renew a marriage and family therapist associate license for additional periods based on circumstances determined by the board.

(d) If an individual fails to pay a renewal fee on or before the expiration date of a license, the license becomes invalid.

SECTION 48. IC 25-23.6-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) The board may reinstate an invalid **marriage and family therapist** license **issued under section 5 of this chapter** up to three (3) years after the expiration date of the license if the individual holding the invalid license meets the requirements under IC 25-1-8-6.

(b) If more than three (3) years have elapsed since the date a **marriage and family therapist** license expired, the individual holding the license may renew the license by satisfying the requirements for renewal established by the board and meeting the requirements under IC 25-1-8-6.

(c) The board may reinstate an invalid marriage and family therapist associate license issued under section 5 of this chapter up to one (1) year after the expiration date of the license if the individual holding the invalid license meets the requirements under IC 25-1-8-6. An associate license that has been expired for more than one (1) year may not be reinstated under IC 25-1-8-6.

SECTION 49. IC 25-23.6-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) An individual who is licensed **as a marriage and family therapist** under this ~~article~~ **chapter** shall notify the board in writing when the individual retires from practice.

(b) Upon receipt of the notice, the board shall:

(1) record the fact the individual is retired; and

(2) release the individual from further payment of renewal fees and continuing education requirements.

SECTION 50. IC 25-23.6-8-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. **(a)** An individual who applies for a **marriage and family therapist** license under **section 1 of** this ~~article~~ **chapter** may be exempted by the board from the examination requirement under this chapter if the individual:

(1) complies with subsection (b); and

~~(1)~~ **(2)** is licensed or certified to practice as a marriage and family therapist in another state or ~~(2)~~ has engaged in the practice of marriage and family therapy for at least three (3) of the previous five (5) years.

(b) An individual may be exempted under subsection (a) if the individual:

~~(3)~~ **(1)** has passed a licensing examination substantially equivalent to the licensing examination required under this article;

~~(4)~~ **(2)** has passed an examination pertaining to the marriage and family therapy laws and rules of this state; and

~~(5)~~ **(3)** has not committed any act or is not under investigation for any act that constitutes a violation of this article;

and is otherwise qualified under ~~sections~~ **section** 1 ~~and 2~~ of this chapter and pays an additional fee.

SECTION 51. IC 34-30-2-99.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 99.5. IC 25-23.3-9-1 (Concerning acts and omissions under the interstate nurse licensure compact).**

SECTION 52. IC 25-23-1-28 IS REPEALED [EFFECTIVE JULY 1, 2008].

SECTION 53. [EFFECTIVE JULY 1, 2008] **(a) As used in this SECTION, "commission" refers to the health finance**

commission established by IC 2-5-23-3.

(b) During the 2008 interim, the commission shall:

(1) study domestic violence programs administered by the state; and

(2) recommend the most appropriate state agency to administer domestic violence programs.

(c) This SECTION expires December 31, 2008.

SECTION 54. [EFFECTIVE JULY 1, 2008] **(a) Notwithstanding IC 25-23.3, as added by this act, IC 25-23.3 may not be implemented until July 1, 2009.**

(b) The Indiana state board of nursing shall, not later than June 30, 2009, adopt rules under IC 4-22-2 to administer IC 25-23.3, as added by this act.

(c) This SECTION expires July 1, 2009.

SECTION 55. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.**

(b) Before July 1, 2008, the office shall apply to the United States Department of Health and Human Services for an amendment to the state Medicaid plan to provide coverage for adults and children for medically necessary umbilical cord transplants and other related procedures under the state Medicaid program (IC 12-15) if the Medicaid recipient's provider receives prior approval for the procedure from the office.

(c) The office may not implement the plan amendment until the office files an affidavit with the governor attesting that the plan amendment applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the plan amendment is approved.

(d) If the office receives a plan amendment under this SECTION from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (c), the office shall implement the plan amendment not more than sixty (60) days after the governor receives the affidavit.

(e) The office may adopt rules under IC 4-22-2 necessary to implement this SECTION.

(f) This SECTION expires December 31, 2013.

SECTION 56. [EFFECTIVE JULY 1, 2008] **(a) The office of the secretary of family and social services shall adopt the rules required by IC 12-31-1-3(b), as added by this act, in the manner provided in IC 4-22-2-37.1. The office shall immediately begin the adoption of the rules and shall adopt the final rules before March 1, 2009.**

(b) This SECTION expires July 1, 2009.

SECTION 57. [EFFECTIVE JULY 1, 2008] **(a) As used in this SECTION, "commission" refers to the health finance commission established by IC 2-5-23-3.**

(b) Not later than October 1, 2008, the state police department shall report to the commission and legislative council in an electronic format under IC 5-14-6 concerning any changes the federal government has made in criminal background check procedures.

(c) This SECTION expires December 31, 2008.

SECTION 58. [EFFECTIVE JULY 1, 2008] **(a) This SECTION applies beginning July 1, 2008, and ending June 30, 2009.**

(b) Notwithstanding any other law and except as provided in subsection (c), a person who operates a home health agency under IC 16-27-1 or a personal services agency under IC 16-27-4 shall apply, not more than three (3) business days after the date that an employee begins to provide services in a patient's temporary or permanent residence, for a copy of the employee's limited criminal history under IC 10-13-3.

(c) If a home health agency or personal services agency determines that an employee lived outside Indiana at any time during the two (2) years immediately before the date the individual was hired by the agency, the home health agency or personal services agency shall apply, not more than three (3) business days after the date that the employee begins to provide services in a patient's temporary or permanent residence, for the employee's national criminal history background check from the Indiana central repository for criminal history information under IC 10-13-3-39.

(d) This SECTION expires June 30, 2009.

SECTION 59. [EFFECTIVE UPON PASSAGE] **(a) The social worker, marriage and family therapist, and mental health counselor board established by IC 25-23.6-2-1 shall adopt emergency rules under IC 4-22-2-37.1 to implement the provisions of the marriage and family therapist associate license provisions added to IC 25-23.6 by this act.**

(b) This SECTION expires July 1, 2009.

SECTION 60. **An emergency is declared for this act.**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1172 as reprinted February 27, 2008.)

Welch, Chair	Mishler
T. Brown	Broden
House Conferees	Senate Conferees

Roll Call 348: yeas 46, nays 1. Report adopted.

CONFERENCE COMMITTEE REPORT

EHB 1249–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill 1249 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 21-14-1-4, AS ADDED BY P.L.2-2007, SECTION 255, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. "Eligible applicant":

(1) for purposes of IC 21-14-4, refers to a person who is eligible for an educational costs exemption for children of veterans under IC 21-14-4;

(2) for purposes of IC 21-14-6, refers to a person who is eligible for an educational costs exemption for the children or surviving spouse of a public safety officer under IC 21-14-6; ~~and~~

(3) for purposes of IC 21-14-7, refers to a person who is eligible for an educational costs exemption for children and spouses of National Guard members under IC 21-14-7; **and**

(4) for purposes of IC 21-14-10, refers to a person who is eligible for an educational costs exemption for Purple Heart recipients under IC 21-14-10.

SECTION 2. IC 21-14-4-2, AS ADDED BY P.L.2-2007, SECTION 255, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a) Subject to subsection (b)**, an eligible applicant is entitled to enter, remain, and receive instruction in a state educational institution upon the same conditions, qualifications, and regulations prescribed for other applicants for admission to or scholars in the state educational institutions, without the payment of any educational costs for one hundred twenty-four (124) semester credit hours in the state educational institution.

(b) The maximum amount that an eligible applicant is exempt from paying for a semester hour is an amount equal to the cost of an undergraduate semester credit hour at the state educational institution in which the eligible applicant enrolls.

SECTION 3. IC 21-14-7-2, AS ADDED BY P.L.2-2007, SECTION 255, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a) Subject to subsection (b),** an eligible applicant is exempt from the payment of educational costs for instruction at the state educational institution in which the eligible applicant is enrolled or will enroll.

(b) The maximum amount that an eligible applicant is exempt from paying for a semester hour is an amount equal to the cost of an undergraduate semester credit hour at the state educational institution in which the eligible applicant enrolls.

SECTION 4. IC 21-14-10 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 10. Tuition and Fee Exemption for Purple Heart Recipients

Sec. 1. This chapter applies to a person who:

(1) after September 10, 2001, enters on active duty service from a permanent home address in Indiana;

(2) receives an honorable discharge;

(3) receives the Purple Heart decoration for service described in subdivision (1);

(4) is eligible to pay the resident tuition rate at the state educational institution the person will attend as determined by the institution; and

(5) possesses the requisite academic qualifications.

Sec. 2. (a) Subject to subsection (b), an eligible applicant is entitled to enter, remain, and receive instruction in a state educational institution upon the same conditions, qualifications, and regulations prescribed for other applicants for admission to or scholars in the state educational institution, without the payment of any educational costs for one hundred twenty-four (124) semester credit hours in the state educational institution.

(b) The maximum amount that an eligible applicant is exempt from paying for a semester hour is an amount equal to the cost of an undergraduate semester credit hour at the state educational institution in which the eligible applicant enrolls.

Sec. 3. For purposes of this chapter, the commission for higher education, in consultation with the state student assistance commission, shall define mandatory fees that qualify as educational costs.

Sec. 4. If an eligible applicant:

(1) is permitted to matriculate in a state educational institution;

(2) qualifies under this chapter; and

(3) has earned or has been awarded a cash scholarship that is paid or payable to the state educational institution, from any source;

the amount paid shall be applied to the credit of the eligible applicant in the payment of incidental expenses of the eligible applicant's attendance at the state educational institution. The balance, if the terms of the scholarship permit, must be returned to the eligible applicant.

Sec. 5. Determination of eligibility for higher education benefits authorized under this chapter is vested exclusively in the Indiana department of veterans' affairs. Any applicant for benefits under this chapter may make a written request for a determination of eligibility by the Indiana department of veterans' affairs. The director or deputy director of the Indiana department of veterans' affairs shall make a written determination of eligibility in response to each request. In determining the amount of an eligible applicant's benefit, the state student assistance commission shall consider other higher education financial assistance in conformity with this chapter.

Sec. 6. An appeal from an adverse determination under section 5 of this chapter must be made in writing to the veterans' affairs commission not more than fifteen (15) working days following the applicant's receipt of the determination. A final order must be made by a simple majority of the veterans' affairs commission not more than fifteen (15) days following receipt of the written appeal.

Sec. 7. A person who knowingly or intentionally submits a false or misleading application or other document under this chapter commits a Class A misdemeanor.

Sec. 8. The amount of the benefits under this chapter is equal to one (1) of the following:

(1) If the eligible applicant does not receive financial assistance specifically designated for educational costs, the amount determined under sections 2 through 6 of this chapter.

(2) If the eligible applicant receives financial assistance specifically designated for educational costs:

(A) the amount determined under sections 2 through 6 of this chapter; minus

(B) the financial assistance specifically designated for educational costs.

SECTION 5. [EFFECTIVE UPON PASSAGE] **(a) IC 21-14-4-2 and IC 21-14-7-2, both as amended by this act, apply to applications for eligible tuition or fee exemptions that are made after June 30, 2008.**

(b) This SECTION expires December 31, 2008.

SECTION 6. [EFFECTIVE JULY 1, 2008] **(a) A tuition or fee exemption under IC 21-14-10, as added by this act, is not eligible for reimbursement from an appropriation for statutory tuition or fee remissions or any other funds of the state.**

(b) This SECTION expires June 30, 2009.

SECTION 7. [EFFECTIVE UPON PASSAGE] **(a) The legislative council shall assign to a study committee during the 2008 interim the study of tuition and fee exemptions awarded by state educational institutions under reciprocity agreements with other postsecondary educational institutions located in or outside Indiana.**

(b) This SECTION expires December 31, 2008.

SECTION 8. **An emergency is declared for this act.**

(Reference is to EHB 1249 as printed February 20, 2008.)

Klinker, Chair	Wyss
Crouch	Tallian
House Conferees	Senate Conferees

Roll Call 349: yeas 47, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

EHB 1379–1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill 1379 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 27-1-12-44 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 44. (a) This section applies to a life insurance policy that is issued after June 30, 2008.**

(b) Notwithstanding any other law, an insurer shall not, after a life insurance policy has been in force for two (2) years after the life insurance policy's date of issue, allege that the life insurance policy was issued in connection with stranger originated life insurance (as defined in IC 27-8-19.8-7.8) as a basis to deny payment of the proceeds of the life insurance policy. However, an insurer may seek to void a life insurance policy at any time for lack of insurable interest at the time the life insurance policy was issued.

SECTION 2. IC 27-4-1-4, AS AMENDED BY HEA 1137-2008, SECTION 211, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. (a) The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:

(A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;

(B) making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies;

(C) making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;

(D) using any name or title of any policy or class of policies misrepresenting the true nature thereof; or

(E) making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender the policyholder's insurance.

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to any person in the conduct of the person's insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by a concerted action committing any act of boycott, coercion, or intimidation resulting or tending to result in

unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; however, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; however, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:

(i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;

(ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or

(iii) policies or contracts of any other kind or kinds of insurance whatsoever.

However, nothing contained in clause (C) shall be construed to apply to any of the kinds of insurance referred to in clauses (A) and (B) nor to reinsurance in relation to such kinds of insurance. Nothing in clause (A), (B), or (C) shall be construed as making or permitting any excessive, inadequate, or unfairly discriminatory charge or rate or any charge or rate determined by the department or commissioner to meet the requirements of any other insurance rate regulatory law of this state.

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of

any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or insurance producer thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed insurance producer thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, an insurance producer, or a solicitor duly licensed under the laws of this state, but such broker, insurance producer, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance producer or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of the lender's right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of insurance producers or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, insurance producer, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon of the right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

(i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;

(ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;

(iii) insures against baggage loss during the flight to which the ticket relates; or

(iv) insures against a flight cancellation to which the ticket relates.

(14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.

(15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage, solely because of that individual's blindness or partial blindness, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or physical condition.

(18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).

(19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1 concerning motor vehicle insurance rates.

(20) Violating IC 27-8-21-2 concerning advertisements referring to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-8-26 concerning genetic screening or testing.

(23) Violating IC 27-1-15.6-3(b) concerning licensure of insurance producers.

(24) Violating IC 27-1-38 concerning depository institutions.

(25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning the resolution of an appealed grievance decision.

(26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) (expired July 1, 2007, and removed) or IC 27-8-5-19.2 (expired July 1, 2007, and repealed).

(27) Violating IC 27-2-21 concerning use of credit information.

(28) Violating IC 27-4-9-3 concerning recommendations to consumers.

(29) Engaging in dishonest or predatory insurance practices in marketing or sales of insurance to members of the United States Armed Forces as:

(A) described in the federal Military Personnel Financial Services Protection Act, P.L.109-290; or

(B) defined in rules adopted under subsection (b).

(30) Violating IC 27-8-19.8-20.1 concerning stranger originated life insurance.

(b) Except with respect to federal insurance programs under Subchapter III of Chapter 19 of Title 38 of the United States Code, the commissioner may, consistent with the federal Military Personnel Financial Services Protection Act (P.L.109-290), adopt rules under IC 4-22-2 to:

(1) define; and

(2) while the members are on a United States military installation or elsewhere in Indiana, protect members of the United States Armed Forces from;

dishonest or predatory insurance practices.

SECTION 3. IC 27-8-19.8-7.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 7.8. (a) As used in this chapter, "stranger originated life insurance" means a practice or plan to initiate a life insurance policy for the benefit of a third party investor who, at the time the life insurance policy is originated, has no insurable interest in the insured.**

(b) The term includes the following:

(1) An arrangement under which, at the time of life insurance policy inception:

(A) a life insurance policy is purchased with resources or guarantees from or through a person that is not legally permitted to initiate the life insurance policy; and

(B) a written or verbal arrangement or agreement is made to transfer the ownership of the life insurance policy or policy benefits to a third party.

(2) A trust that is:

(A) created to give an appearance of the existence of an insurable interest; and

(B) used to initiate a life insurance policy for an investor.

SECTION 4. IC 27-8-19.8-20.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 20.1. (a) A person shall not issue, solicit, market, or otherwise promote the purchase of a life insurance policy in connection with stranger originated life insurance.**

(b) A violation of this section is an unfair and deceptive act or practice in the business of insurance under IC 27-4-1-4.

(Reference is to EHB 1379 as reprinted February 22, 2008.)

Fry, Chair	Charbonneau
Ripley	Simpson
House Conferees	Senate Conferees

Roll Call 350: yeas 47, nays 0. Report adopted.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has adopted the Conference Committee Reports on Engrossed Senate Bills 42–1and 227–1.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has adopted the Conference Committee Reports on Engrossed House Bills 1172–1, 1249–1, and 1379–1.

CLINTON MCKAY
Principal Clerk of the House

SENATE MOTION

Madam President: I move that Senator Landske be added as coauthor of Engrossed Senate Bill 208.

TALLIAN

Motion prevailed.

7:40 p.m.

The Chair declared a recess until the fall of the gavel.

RECESS

The Senate reconvened at 10:59 p.m., with the President of the Senate in the Chair.

SENATE MOTION

Madam President: I move we adjourn until 9:00 a.m., Friday,

March 14, 2008.

LANDSKI

Motion prevailed.

The Senate adjourned at 11:00 p.m.

MARY C. MENDEL
Secretary of the Senate

REBECCA S. SKILLMAN
President of the Senate