Journal of the House

State of Indiana

113th General Assembly — First Regular Session

Fifty-third Meeting Day — **Friday Morning** — **April 25, 2003**

The House convened at 9:00 a.m. with the Speaker in the Chair.

The invocation was offered by Representative Vanessa Summers.

The Pledge of Allegiance to the Flag was led by Representative Robert Alderman.

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

T. Adams
Aguilera
Alderman
Austin
Avery
Ayres
Bardon
Becker
Behning
Bischoff
Borror
Bosma
Bottorff
C. Brown
T. Brown
Buck
Budak
Buell
Burton
Cheney
Cherry
Chowning
Cochran
Crawford
Crooks
Day
Denbo
Dickinson
Dobis
Duncan
Dvorak
Espich
Foley
Frenz
Friend
Frizzell
Fry
GiaQuinta ⏏
Goodin
Grubb
Gutwein
Harris
Hasler
Heim
Herrell
Hinkle ⏏
Hoffman
Kersey
Klinker
Koch
Kromkowski
Kruse
Kuzman
LaPlante
L. Lawson
Lehe
Leonard
Liggett
J. Lutz
Lytle ⏏
Mahern
Mangus
Mays
McClain
Moses
Murphy ⏏
Neese ⏏
Noe
Orentlicher
Oxley
Pelath
Pflum
Pierce
Pond
Porter
Reske
Richardson
Ripley
Robertson
Ruppel
Saunders
Scholer
V. Smith
Stevenson
Stilwell
Stine †
Stutzman
Summers
Thomas
Thompson
Torr
Turner
Ulmer
Weinzapfel
Welch
Whetstone
Wolkins
D. Young
Yount
Mr. Speaker

Roll Call 672: 94 present; 5 excused. The Speaker announced a quorum in attendance. [*NOTE*: ⏏ *indicates those who were excused*.]

† The Honorable William Roland Stine, State Representative, b. September 7, 1940 – d. April 24, 2003.

REMEMBRANCES OF REPRESENTATIVE STINE BY THE SPEAKER AND MINORITY LEADER

Speaker B. Patrick Bauer

"Most of you know by now that our legislative family has suffered a tragedy with the death of Representative Roland Stine. We will have to do the people's business despite this great loss. We all have our moments when we challenge each other; we have our philosophical differences. But we are a family, a very public family. And this afternoon, we will have moments for members from both sides of the aisle to express their grief. Could we please stand for a moment of silence?"

The House stood for a moment of silence.

"May God bless our friend, Roland Stine. Thank you.

Representative Bosma, for a brief moment, wishes to address our tragedy."

Minority Leader Brian C. Bosma

"Thank you, Mr Speaker, ladies and gentlemen. The Speaker has asked me to give just a brief moment of remembrance for Representative Stine. Like all of you, I was shocked. My shock began about midnight last night when I received the first call. I spoke with the Speaker, and then I had a long time to think about it.

I didn't sleep very well last night. And it caused me to want to share just a few things, not just about Roland, but about our relationship together here. This has been an extremely unique session for me. In my 17 years, and some of you have many years more; I don't know that I have seen more of a change in our body from a prior session to this session. Collectively, individually, it has been a change; and a change for the better. That's not to say that we don't have philosophical or political differences, we do. But they have been expressed and conducted in an appropriate way, perhaps more so than I have seen in these 17 years. It has been a session of new friends for me. Some friendships that I have developed on the Democrat side of the aisle which I didn't have before, one with the person at the rostrum right now. We are no longer acquaintances, but friends.

And one of those friendships that has developed this year was with a gentleman I first met about a year ago named Roland Stine. I knew he was unique when a group of us, including David Yount and others, went to his announcement that he was running for state representative. One of the people who was there to support him was the local Democrat mayor, and I knew then that Roland was a unique individual.

First, I want to let you know that I have had the opportunity to speak with his family this morning on behalf of all of us, so that we won't have 100 phone calls to them. Some of you may not be aware that his wife Carol was burying her sister today. Roland left last evening to go home despite the pleas of Andy Thomas to stay at the Columbia Club because it was late. But Roland went home because he wanted to be with his wife today.

I shared with his son Jason and his daughter Susanne this morning our deep sense of loss and regret and our sympathies for their family. I want to share with you two stories that I've heard this morning. I had a dinner for the freshmen a few nights ago, and that was the last time I really had a chance to talk at length with Roland other than just speaking here on the floor. After I left to go have a chat with my new friend, Speaker Bauer, each member got up and said something about their experiences here. And I think what Roland shared was precisely descriptive of him. He said the thing that surprised him most was the power he had to help people in this new role. He shared that he had received a phone call from his minister about a member of their congregation, who is not a United States citizen. Her husband was in prison, and there was some difficulty because of her lack of citizenship. Roland said "I don't know if I can do anything, but I'll make a phone call." He made the call; two days later the minister called back and said, "I don't know what you did, but it's a miracle!" Roland's reaction was 'I'm just so surprised that I can help people in the way that I can now.'

As we've been talking about ending session and leaving here, Roger Thornton shared with some members of our caucus that Roland really wanted to work this Saturday, even though that was not popular with a lot of people. The reason was that he really wanted to be back in the classroom with his kids on Monday. He didn't want to lose one day with them.

I want to share just one last thought. This is the part that is not about Roland, it's about us. I had a lot of time to think about how fleeting life is and how fleeting our relationships are with people here on earth. I looked up a couple of passages this morning. One was in Lamentations, where the writer is lamenting 'Without God, we are like grass that burns in a day, we are like straw that burns.'

And that led me to another passage in a letter from Paul. When our life is over, our lives will be judged. It won't be the reason that we go to heaven or not, but our lives will be reviewed by Christ himself in the judgment seat. And he will look at whether our works are gold and silver or they are straw that burns away. It is so easy to focus on the straw; so much of what our daily life is about is about straw: it burns in a day.

Roland Stine led a dedicated life, hopefully most of his works were gold and silver. As we go forward in these closing days and hours, and in the weeks, months, and years ahead, I just ask all of us to focus on those things that are truly important, those things that will last, and those things that will help others.

Mr. Speaker, I appreciate the opportunity to share a few words."

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 2:45 p.m. with the Speaker Pro Tempore, Representative Dobis, in the Chair.

Representatives Hinkle and Neese, who had been excused. were present.

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 75

Representatives Denbo, Thomas, Bauer, and Bosma introduced House Concurrent Resolution 75:

A CONCURRENT RESOLUTION honoring the life of State Representative William Roland Stine.

Whereas, State Representative William Roland Stine departed this earthly life on April 24, 2003;

Whereas, Representative Stine was born September 7, 1940, in Shelbyville, Shelby County, Indiana, where his family has resided for many generations;

Whereas, Representative Stine was elected to the Indiana House of Representatives in November of 2002 and served the residents of House District 57, which includes most of Shelby County and portions of Bartholomew County, with distinction and dedication;

Whereas, Prior to his election to the General Assembly, Roland served as a member of the Shelbyville City Council from 1988-2002, serving as its president from 2000-2002;

Whereas, Roland was a teacher of United States history and government at Shelbyville High School and Shelbyville Middle School, serving the children of that school for forty years with compassion and excellence;

Whereas, Roland received the Outstanding Young Educator Award from the Shelbyville Jaycees;

Whereas, Representative Stine was an active member of Rotary International and the First United Methodist Church;

Whereas, Roland graduated from Hendricks Elementary, Shelbyville Junior/Senior High School, and received bachelors and masters degrees from Indiana University;

Whereas, In addition to Roland's exceptional service to the community, the state, and the children of Shelbyville, Roland Stine was devoted to his family;

Whereas, Roland Stine married his sweetheart, Carole Fricker, in 1965, and he loved her dearly;

Whereas, Roland was the beloved father of two children, Susanne, who is a first grade teacher, and Jason, who is an environmental scientist;

Whereas, Representative Stine was a role model not only for his students, who deeply loved and appreciated him, but also for all who knew him, young and old;

Whereas, Roland is most loved for his compassion, optimism, sense of humor, bright smile, twinkle in his eyes and his pats on the back and affirming touch on the shoulder;

Whereas, William Roland Stine was a gentle man who loved God and followed the teachings of Christ in his daily life, showing clearly his love for people and the value he placed on life;

Whereas, All those who were fortunate to be touched by the life of Roland Stine will forever treasure his life and the beauty and love he brought to the lives of all around him: Therefore,

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

SECTION 1. The Indiana General Assembly honors the life of State Representative William Roland Stine and is deeply grateful for his service to the legislature, the state, and his community.

SECTION 2. The Principal Clerk of the Indiana House of Representatives is directed to transmit a copy of this resolution to Mrs. Carole Stine, daughter Susanne, son Jason, and Shelbyville High School.

Several members offered tributes to Representative Stine.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Jackson and Wyss.

House Resolution 100

Representatives Ayres, Cheney, and C. Brown introduced House Resolution 100:

A HOUSE RESOLUTION to honor the twenty-year anniversary of the Chesterton Montessori School.

Whereas, The Chesterton Montessori School was founded in 1983 by Theresa and James Cavallo, was originally located in the basement of St. John's United, and consisted of five employees and twenty-one students;

Whereas, The Chesterton Montessori School is on five acres of land with a fourteen thousand square foot building, thirty-seven employees and one hundred ninety students;

Whereas, The building was first constructed in 1986, remodeled and added on to in 1988 and again in 2000;

Whereas, Theresa continues to be the Head Directress and curriculum leader of the school as well as teaching a preschool class of her own;

Whereas, The Chesterton Montessori School is an affiliate member of the American Montessori Society;

Whereas, The Chesterton Montessori School mission statement is "Our goal is to create a love of learning so that all children will learn to love". The philosophy statement is "Montessori is a system of education designed to take full advantage of the self-motivation and unique abilities of children to development their own capabilities";

Whereas, Special thanks go to the original Board of Directors of the school: Jim and Jane Brown, Chris and Karen Nay, and Carol Biel. Special thanks also to the parents, who supported and encouraged the children, to Joe and Helen Chovanec, Martin and Ann Cavallo, Virginia "Ginny" Hand, and Al and Patty Raffin: Therefore,

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

SECTION l.. That the Indiana House of Representatives honors the twenty-year anniversary of the Chesterton Montessori School.

SECTION 2. That the Principal Clerk of the House of Representatives is directed to transmit a copy of this resolution to the Chesterton Montessori School.

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

House Resolution 101

Representative Porter introduced House Resolution 101:

A HOUSE RESOLUTION urging the establishment of an interim study committee to identify methods to address educational achievement gaps.

Whereas, Student performance data indicate that there are significant achievement gaps among groups of students; and

Whereas, It is vital that Indiana identify methods to address these achievement gaps: Therefore,

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

SECTION 1. That the legislative council is urged to establish a study committee to identify methods for addressing educational achievement gaps.

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

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

OTHER BUSINESS ON THE SPEAKER'S TABLE

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that pursuant to Rule 81(c) of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has made the following change in conferees appointments to Engrossed House Bill 1525:

Conferee: Mrvan replacing Antich

MARY C. MENDEL
Principal Secretary of the Senate

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
ESB 207–1; filed April 24, 2003, at 9:19 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 207 respectfully reports that said two committee have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 13-11-2-19.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19.3. "Brownfield" means ~~an industrial or a commercial~~ **a** parcel of real estate:

(1) that:
(A) is abandoned or inactive; or
(B) may not be operated at its appropriate use; and
(2) on which expansion, ~~or~~ redevelopment, **or reuse** is complicated;

because of the ~~actual~~ **presence** or ~~perceived~~ **potential** presence of a hazardous substance, ~~or petroleum released into the surface or subsurface soil or groundwater~~ **a contaminant, petroleum, or a petroleum product** that poses a risk to human health and the environment.

(Reference is to ESB 207 as reprinted April 3, 2003.)

GARD	BOTTORFF
HUME	STUTZMAN
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT
ESB 440–1; filed April 24, 2003, at 9:19 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 440 respectfully reports that said two committee have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert:

SECTION 1. IC 13-11-2-66.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: **Sec. 66.2. "Emission data", for purposes of IC 13-14-11, means any of the following:**

(1) The identity, amount, frequency, concentration, or other characteristics (related to air quality) of any contaminant that:
(A) has been emitted from; or
(B) results from any emission by;
an emission unit authorized to emit under an applicable standard or limitation.
(2) The name, address, or other description of the location and the nature of the emission unit necessary to identify the emission unit, including a description of the device, equipment, or operation constituting the emission unit.
(3) Information necessary to:
(A) determine a permit condition that assures compliance with an applicable requirement; or
(B) determine or calculate an enforceable emission limitation, including:
(i) rate of operation;
(ii) rate of production;
(iii) rate of raw material usage;
(iv) material balance; or
(v) equipment capacity;
if the information is contained in a permit or the technical support document to ensure that the permit is practically enforceable under state or federal law.

SECTION 2. [EFFECTIVE UPON PASSAGE] **(a) The air pollution control board shall, as expeditiously as possible and before March 1, 2004, adopt:**

(1) rules that incorporate by reference the definitions and requirements of:
(A) 40 CFR 51.165; and
(B) 40 CFR 51.166;
as in effect on March 3, 2003; and
(2) rules that establish significant net emission increase rates for pollutants as follows:

(A) Seven thousandths (0.007) of a ton per year for asbestos.
(B) Four ten-thousandths (0.0004) of a ton per year for beryllium.
(C) One-tenth (0.1) of a ton per year for mercury.
(D) One (1) ton per year for vinyl chloride.

(b) In the adoption of rules under subsection (a)(1), the board may establish a requirement that no proposed:
(1) major stationary source; or
(2) major modification of a stationary source;
may cause an emissions increase that will exceed eighty percent (80%) of the available growth increment allowed under the prevention of significant deterioration air permit program.

(c) Information describing emission increase rates referred to in subsections (a)(2) and (b)(2) that is obtained by the department of environmental management is emission data (as defined in IC 13-11-2-66.2).

(d) The following do not apply to the adoption of rules under subsection (a):
(1) IC 13-14-9-3.
(2) IC 13-14-9-4.

(e) 326 IAC 2-2 is void to the extent that it is inconsistent with the rules adopted under subsection (a) on the date on which the rules adopted under subsection (a) take effect.

(f) Nothing in this SECTION may be construed as preventing the department of environmental management from receiving approval from the United States Environmental Protection Agency to administer the prevention of significant deterioration air permit program.

(g)This SECTION expires January 1, 2005.

SECTION 3. **An emergency is declared for this act.**

(Reference is to ESB 440 as reprinted April 10, 2003.)

GARD	BOTTORFF
HUME	HEIM
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1689–1; filed April 24, 2003, at 9:23 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1689 respectfully reports that said two committee have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-21.5-2-6, AS AMENDED BY P.L.1-2002, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) This article does not apply to the formulation, issuance, or administrative review (but does, except as provided in subsection (b), apply to the judicial review and civil enforcement) of any of the following:

(1) **Except as provided in IC 12-17.2-4-18.7 and IC 12-17.2-5-18.7,** determinations by the division of family and children.
(2) Determinations by the alcohol and tobacco commission.
(3) Determinations by the office of Medicaid policy and planning concerning recipients and applicants of Medicaid. However, this article does apply to determinations by the office of Medicaid policy and planning concerning providers.
(4) A final determination of the Indiana board of tax review.

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

SECTION 2. IC 12-7-2-149.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 149.1. "Provider" means the following:**

(1) For purposes of IC 12-10-7, the meaning set forth in IC 12-10-7-3.
(2) For purposes of the following statutes, an individual, a partnership, a corporation, or a governmental entity that is enrolled in the Medicaid program under rules adopted under IC 4-22-2 by the office of Medicaid policy and planning:
(A) IC 12-14-1 through IC 12-14-9.5.
(B) IC 12-15, except IC 12-15-32, IC 12-15-33, and IC 12-15-34.
(C) IC 12-17-10.
(D) IC 12-17-11.
(E) IC 12-17.6.
(3) For purposes of IC 12-17-9, the meaning set forth in IC 12-17-9-2.
(4) Except as provided in subdivision (5), for purposes of IC 12-17.2, a person who operates a child care center or child care home under IC 12-17.2.
(5) For purposes of IC 12-17.2-3.5, a person that:
(A) provides child care; and
(B) is directly paid for the provision of the child care under the federal Child Care and Development Fund voucher program administered under 45 CFR 98 and 45 CFR 99.
The term does not include an individual who provides services to a person described in clauses (A) and (B), regardless of whether the individual receives compensation.
(6) For purposes of IC 12-17.4, a person who operates a child caring institution, foster family home, group home, or child placing agency under IC 12-17.4.

SECTION 3. IC 12-15-2-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) This section does not apply to a provider (as defined in ~~IC 12-7-2-149(2)).~~ **IC 12-7-2-149.1(2)).**

(b) A person convicted of an offense under IC 35-43-5-7.1 is ineligible to receive Medicaid assistance under this article for ten (10) years after the conviction.

SECTION 4. IC 12-17.2-2-5.5, AS ADDED BY SEA 182-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.5. (a) **Notwithstanding IC 12-7-2-149.1, as used in this section, "provider" means a person who provides child care under this article.**

(b) When the division adopts an administrative rule or a policy statement to administer this article, the division shall make the administrative rule or policy statement available to the public upon request.

~~(b)~~ **(c)** When the division adopts an administrative rule or a policy statement to administer this article, the administrative rule or policy statement must specifically identify the type of provider to which the administrative rule or policy statement applies.

~~(c)~~ **(d)** When the division provides information to the public concerning an administrative rule or a policy statement adopted by the division, each document provided must specifically identify the type of provider to which the administrative rule or policy statement applies.

SECTION 5. IC 12-17.2-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The division shall perform the following duties:

(1) Administer the licensing and monitoring of child care centers or child care homes in accordance with this article.
(2) Ensure that a **national** criminal history background check of the applicant is completed **through the state police department under IC 5-2-5-15** before issuing a license.
(3) Ensure that a criminal history background check of a child care ministry applicant for registration is completed before registering the child care ministry.
(4) Provide for the issuance, denial, suspension, and revocation of licenses.
(5) Cooperate with governing bodies of child care centers and child care homes and their staffs to improve standards of child care.
(6) Prepare at least biannually a directory of licensees with a description of the program capacity and type of children served that will be distributed to the legislature, licensees, and other

interested parties as a public document.

(7) Deposit all license application fees collected under section 2 of this chapter in the child care fund.

(8) Require each child care center or child care home to record proof of a child's date of birth before accepting the child. A child's date of birth may be proven by the child's original birth certificate or other reliable proof of the child's date of birth, including a duly attested transcript of a birth certificate.

(9) Provide, not later than January 1, 2004, an Internet site through which members of the public may obtain the following information:

(A) Information concerning violations of this article by a licensed child care provider, including:

(i) the identity of the child care provider;

(ii) the date of the violation; and

(iii) action taken by the division in response to the violation.

(B) Current status of a child care provider's license.

(C) Other relevant information.

SECTION 6. IC 12-17.2-4-3, AS AMENDED BY P.L.109-2002, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) An applicant must apply for a child care center license on forms provided by the division.

(b) An applicant must submit the required information as part of the application.

(c) The applicant must submit with the application a statement attesting that the applicant:

(1) has not been convicted of:

(A) a felony;

(B) a misdemeanor relating to the health or safety of children;

(C) a misdemeanor for operating a child care center without a license under section 35 of this chapter; or

(D) a misdemeanor for operating a child care home without a license under IC 12-17.2-5-35; and

(2) has not been charged with:

(A) a felony;

(B) a misdemeanor relating to the health or safety of children;

(C) a misdemeanor for operating a child care center without a license under section 35 of this chapter; or

(D) a misdemeanor for operating a child care home without a license under IC 12-17.2-5-35;

during the pendency of the application.

(d) An applicant must submit the necessary information, forms, or consents for the division to ~~conduct~~ **obtain** a **national** criminal history **background** check **on the applicant through the state police department under IC 5-2-5-15.**

(e) The applicant must do the following:

(1) Conduct a criminal history check of the applicant's employees and volunteers.

(2) Maintain records of each criminal history check.

SECTION 7. IC 12-17.2-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A license for a child care center expires two (2) years after the date of issuance, unless revoked, modified to a probationary or suspended status, or voluntarily returned.

(b) A license issued under this chapter:

(1) is not transferable;

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

(3) remains the property of the division.

(c) A current license shall be publicly displayed.

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

(e) A licensee shall publicly display and make available, as a handout, written documentation of:

(1) any changes in the status of the licensee's license;

(2) a telephone number and an Internet site where information may be obtained from the division concerning:

(A) the current status of the licensee's license;

(B) any complaints filed with the division concerning the licensee; and

(C) violations of this article by the licensee; and

(3) a telephone number of the office of the Indiana child care resource and referral program of the county in which the child care center is located.

SECTION 8. IC 12-17.2-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) The division may grant a probationary license to a licensee who is temporarily unable to comply with a rule if:

(1) the noncompliance does not present an immediate threat to the health and well-being of the children;

(2) the licensee files a plan with the division or the state fire marshal to correct the areas of noncompliance within the probationary period; and

(3) the division or state fire marshal approves the plan.

(b) A probationary license is valid for not more than six (6) months. The division may extend a probationary license for one (1) additional period of six (6) months.

(c) An existing license is invalidated when a probationary license is issued.

(d) At the expiration of the probationary license, the division shall reinstate the original license to the end of the original term of the license, issue a new license, or revoke the license.

(e) Upon receipt of a probationary license, the licensee shall return to the division the previously issued license.

(f) The division shall:

(1) upon issuing a probationary license under this section, provide written notice to the licensee that the division will provide the notice required under subdivision (2); and

(2) not more than seven (7) days after issuing a probationary license under this section, publish notice under IC 5-3-1 and provide written notice to the parent or guardian of each child enrolled in the child care center of the:

(A) issuance of the probationary license; and

(B) reason for the issuance of the probationary license.

SECTION 9. IC 12-17.2-4-18.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 18.7. (a) The division shall adopt rules under IC 4-22-2 to establish a list of violations of this article that would pose an immediate threat to the life or well-being of a child in the care of a licensee.**

(b) If an employee or agent of the division determines that a violation described in subsection (a) exists, the division shall:

(1) issue an emergency or another temporary order under IC 4-21.5-4 requiring the licensee to immediately cease operation of the child care center; and

(2) contact the parent or guardian of each child enrolled in the child care center to inform the parent or guardian:

(A) that the division has issued an order to require the licensee to cease operation of the child care center; and

(B) of the reason for the order to cease operation;

pending the outcome of proceedings conducted under sections 20 through 22 of this chapter.

(c) An emergency or another temporary order issued by an employee or agent of the division must be approved by the director.

(d) An approval under subsection (c) may be communicated orally to the employee or agent issuing the order. However, the division shall maintain a written record of the approval.

SECTION 10. IC 12-17.2-4-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. Except as provided in section **18.7 or** 29 of this chapter, the division shall give a licensee thirty (30) calendar days written notice by certified mail of an enforcement action. The licensee shall also be provided with the opportunity for an informal meeting with the division. The licensee must request the meeting within ten (10) working days after receipt of the certified notice.

SECTION 11. IC 12-17.2-4-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) An administrative hearing concerning the decision of the division to

impose a sanction under this chapter shall be provided upon a written request by the child care center. The request must be made within thirty (30) calendar days after receiving notice under section **18.7 or** 19 of this chapter. The written request must be made separately from an informal meeting request made under section 19 of this chapter.

(b) The administrative hearing shall be held within sixty (60) calendar days after receiving the written request.

SECTION 12. IC 12-17.2-4-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) After a license is revoked or suspended, the division shall **publish notice under IC 5-3-1 and** notify in writing each person responsible for the children in care ~~to ensure that those children are removed.~~ **that the license has been revoked or suspended.**

(b) The written notice shall be sent to the last known address of the person responsible for the child in care and shall state that the license of the child care center has been revoked or suspended.

SECTION 13. IC 12-17.2-5-3, AS AMENDED BY P.L.109-2002, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) An applicant must apply for a child care home license on forms provided by the division.

(b) An applicant must submit the required information as part of the application.

(c) An applicant must submit with the application a statement attesting that the applicant has not been:

(1) convicted of:
(A) a felony;
(B) a misdemeanor relating to the health or safety of children;
(C) a misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or
(D) a misdemeanor for operating a child care home without a license under section 35 of this chapter; and

(2) charged with:
(A) a felony;
(B) a misdemeanor relating to the health or safety of children;
(C) a misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or
(D) a misdemeanor for operating a child care home without a license under section 35 of this chapter;

during the pendency of the application.

(d) An applicant must submit the necessary information, forms, or consents for the division to:

(1) conduct a criminal history check on the ~~applicant and the~~ applicant's spouse; **and**

(2) obtain a national criminal history background check on the applicant through the state police department under IC 5-2-5-15.

(e) An applicant must do the following:

(1) Conduct a criminal history check of the applicant's:
(A) employees;
(B) volunteers; and
(C) household members who are:
(i) at least eighteen (18) years of age; or
(ii) less than eighteen (18) years of age but have previously been waived from juvenile court to adult court.

(2) Maintain records of each criminal history check.

SECTION 14. IC 12-17.2-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A license for a child care home expires two (2) years after the date of issuance, unless revoked, modified to a probationary or suspended status, or voluntarily returned.

(b) A license issued under this chapter:

(1) is not transferable;
(2) applies only to the licensee and the location stated in the application; and
(3) remains the property of the division.

(c) A current license shall be publicly displayed.

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

(e) A licensee shall publicly display and make available, as a handout, written documentation of:

(1) any changes in the status of the licensee's license; and

(2) a telephone number and an Internet site where information may be obtained from the division regarding:
(A) the current status of the licensee's license;
(B) any complaints filed with the division concerning the licensee; and
(C) violations of this article by the licensee; and

(3) a telephone number of the office of the Indiana child care resource and referral program of the county in which the child care home is located.

SECTION 15. IC 12-17.2-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) The division may grant a probationary license to a licensee who is temporarily unable to comply with a rule if:

(1) the noncompliance does not present an immediate threat to the health and well-being of the children;
(2) the licensee files a plan with the division to correct the areas of noncompliance within the probationary period; and
(3) the division approves the plan.

(b) A probationary license is valid for not more than six (6) months. The division may extend a probationary license for one (1) additional period of six (6) months.

(c) An existing license is invalidated when a probationary license is issued.

(d) At the expiration of the probationary license, the division shall reinstate the original license to the end of the original term of the license, issue a new license, or revoke the license.

(e) Upon receipt of a probationary license, the licensee shall return to the division the previously issued license.

(f) The division shall:

(1) upon issuing a probationary license under this section, provide written notice to the licensee that the division will provide the notice required under subdivision (2); and

(2) not more than seven (7) days after issuing a probationary license under this section, publish notice under IC 5-3-1 and provide written notice to the parent or guardian of each child enrolled in the child care home of the:
(A) issuance of the probationary license; and
(B) reason for the issuance of the probationary license.

SECTION 16. IC 12-17.2-5-18.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 18.7. (a) The division shall adopt rules under IC 4-22-2 to establish a list of violations of this article that would pose an immediate threat to the life or well-being of a child in the care of a licensee.**

(b) If an employee or agent of the division determines that a violation described in subsection (a) exists, the division shall:

(1) issue an emergency or another temporary order under IC 4-21.5-4 requiring the licensee to immediately cease operation of the child care home; and

(2) contact the parent or guardian of each child enrolled in the child care home to inform the parent or guardian:
(A) that the division has issued an order to require the licensee to cease operation of the child care home; and
(B) of the reason for the order to cease operation;

pending the outcome of proceedings conducted under sections 20 through 22 of this chapter.

(c) An emergency or another temporary order issued by an employee or agent of the division must be approved by the director.

(d) An approval under subsection (c) may be communicated orally to the employee or agent issuing the order. However, the division shall maintain a written record of the approval.

SECTION 17. IC 12-17.2-5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. Except as provided in section **18.7 or** 29 of this chapter, the division shall give a licensee thirty (30) calendar days written notice by certified mail of an enforcement action. The licensee shall also be provided with the opportunity for an informal meeting with the division. The licensee must request the meeting within ten (10) working days after receipt

of the certified notice.

SECTION 18. IC 12-17.2-5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) An administrative hearing concerning the decision of the division to impose a sanction under this chapter shall be provided upon a written request by the child care home. The request must be made within thirty (30) calendar days after receiving notice under section **18.7 or** 19 of this chapter. The written request must be made separately from an informal meeting request made under section 19 of this chapter.

(b) The administrative hearing shall be held within sixty (60) calendar days after receiving the written request.

SECTION 19. IC 12-17.2-5-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) After a license is revoked or suspended, the division shall **publish notice under IC 5-3-1 and** notify in writing each person responsible for the children in care ~~to ensure that those children are removed.~~ **that the license has been revoked or suspended.**

(b) The written notice shall be sent to the last known address of the person responsible for the child in care and shall state that the license of the child care home has been revoked or suspended.

SECTION 20. IC 12-17.6-1-6, AS ADDED BY P.L.273-1999, SECTION 177, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. "Provider" has the meaning set forth in ~~IC 12-7-2-149(2).~~ **IC 12-7-2-149.1(2).**

SECTION 21. [EFFECTIVE JULY 1, 2003] IC 12-7-2-149 IS REPEALED.

(Reference is to EHB 1689 as reprinted April 1, 2003.)

WEINZAPFEL	C. LAWSON
BUDAK	HOWARD
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1082–1; filed April 24, 2003, at 9:46 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1082 respectfully reports that said two committee have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 35-48-1-9.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 9.3. (a) "Controlled substance analog" means a substance:**

(1) the chemical structure of which is substantially similar to that of a controlled substance included in schedule I or II and that has; or

(2) that a person represents or intends to have;

a narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II.

(b) The definition set forth in subsection (a) does not include:

(1) a controlled substance;

(2) a substance for which there is an approved new drug application;

(3) a substance for which an exemption is in effect for investigational use by a person under Section 505 of the federal Food, Drug and Cosmetic Act (chapter 675, 52 Stat. 1052 (21 U.S.C. 355)), to the extent that conduct with respect to the substance is permitted under the exemption; or

(4) a substance to the extent not intended for human consumption before an exemption takes effect regarding the substance.

SECTION 2. IC 35-48-4-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 0.5. For purposes of this chapter, a "controlled substance analog" is considered to be a controlled substance in schedule I if the analog is in whole or in part intended for human consumption.**

SECTION 3. IC 35-48-4-4.6, AS AMENDED BY P.L.150-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.6. (a) A person who knowingly or intentionally:

(1) manufactures;

(2) finances the manufacture of;

(3) advertises;

(4) distributes; or

(5) possesses with intent to manufacture, finance the manufacture of, advertise, or distribute;

a substance described in section 4.5 of this chapter commits a Class C felony.

(b) A person who knowingly or intentionally possesses a substance described in section 4.5 of this chapter commits a Class C misdemeanor. However, the offense is a Class A misdemeanor if the person has a previous conviction under this section.

(c) In any prosecution brought under this section it is not a defense that the person believed the substance actually was a controlled substance.

(d) This section does not apply to the following:

(1) The manufacture, financing the manufacture of, processing, packaging, distribution, or sale of noncontrolled substances to licensed medical practitioners for use as placebos in professional practice or research.

(2) Persons acting in the course and legitimate scope of their employment as law enforcement officers.

(3) The retention of production samples of noncontrolled substances produced before September 1, 1986, where such samples are required by federal law.

~~(e) In addition to any other penalty imposed for conviction of an offense under this section, a court shall order restitution pursuant to IC 35-50-5-3 to cover the costs of an environmental cleanup incurred by a law enforcement agency or other person as a result of the offense.~~

~~(f) The amount collected under subsection (e) shall be used to reimburse the law enforcement agency that assumed the costs associated with the environmental cleanup described in subsection (e).~~

SECTION 4. IC 35-48-4-13.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 13.3. A person who recklessly, knowingly, or intentionally takes a person less than eighteen (18) years of age or an endangered adult (as defined in IC 12-10-3-2) into a building, structure, vehicle, or other place that is being used by any person to:**

(1) unlawfully possess drugs or controlled substances; or

(2) unlawfully:

(A) manufacture;

(B) keep;

(C) offer for sale;

(D) sell;

(E) deliver; or

(F) finance the delivery of;

drugs or controlled substances;

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

SECTION 5. IC 35-48-4-14.5, AS AMENDED BY P.L.17-2001, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14.5. (a) As used in this section, "chemical reagents or precursors" refers to one (1) or more of the following:

(1) Ephedrine.

(2) Pseudoephedrine.

(3) Phenylpropanolamine.

(4) The salts, isomers, and salts of isomers of a substance identified in subdivisions (1) through (3).

(5) Anhydrous ammonia or ammonia solution (as defined in

IC 22-11-20-1).
(6) Organic solvents.
(7) Hydrochloric acid.
(8) Lithium metal.
(9) Sodium metal.
(10) Ether.
(11) Sulfuric acid.
(12) Red phosphorous.
(13) Iodine.
(14) Sodium hydroxide (lye).
(15) Potassium dichromate.
(16) Sodium dichromate.
(17) Potassium permanganate.
(18) Chromium trioxide.

(b) A person who possesses **more than ten (10) grams of ephedrine, pseudoephedrine or phenylpropanolamine, the salts, isomers or salts of isomers of ephedrine, pseudoephedrine or phenylpropanolamine or a combination of any of these substances exceeding ten (10) grams commits a Class D felony. However, the offense is a Class C felony if the person possessed:**

(1) a firearm while possessing more ten (10) grams of ephedrine, pseudoephedrine or phenylpropanolamine, the salts, isomers or salts of isomers of ephedrine, pseudoephedrine or phenylpropanolamine or a combination of any of these substances exceeding ten (10) grams; or

(2) more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, the salts, isomers or salts of isomers of ephedrine, pseudoephedrine, or phenylpropanolamine, or a combination of any of these substances exceeding ten (10) grams in, on, or within one thousand (1,000) feet of:

(A) school property;
(B) a public park;
(C) a family housing complex; or
(D) a youth program center.

(c) A person who possesses anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with the intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6, commits a Class D felony. However, the offense is a Class C felony if the person possessed:

(1) a firearm while possessing anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6; or

(2) anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6 in, on, or within one thousand (1,000) feet of:

(A) school property;
(B) a public park;
(C) a family housing complex; or
(D) a youth program center.

(d) Subsection (b) does not apply to a:

(1) licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier or an agent of any of these persons if the possession is in the regular course of lawful business activities; or

(2) person who possesses more than ten (10) grams of a substance described in subsection (b) if the substance is possessed under circumstances consistent with typical medicinal or household use, including:

(A) the location in which the substance is stored;
(B) the possession of the substance in a variety of:
(i) strengths;
(ii) brands; or
(iii) types; or
(C) the possession of the substance:
(i) with different expiration dates; or
(ii) in forms used for different purposes.

~~(c)~~ **(e)** A person who possesses two (2) or more chemical reagents or precursors with the intent to manufacture:

(1) Methcathinone, a schedule I controlled substance under IC 35-48-2-4;

(2) Methamphetamine, a schedule II controlled substance under IC 35-48-2-6;

(3) Amphetamine, a schedule II controlled substance under IC 35-48-2-6; or

(4) Phentermine, a schedule IV controlled substance under IC 35-48-2-10;

commits a Class D felony.

~~(d)~~ **(f)** An offense under subsection ~~(c)~~ **(e)** is a Class C felony if the person possessed:

(1) a firearm while possessing two (2) or more chemical reagents or precursors with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6; or

(2) two (2) or more chemical reagents or precursors with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6 in, on, or within one thousand (1,000) feet of:

(A) school property;
(B) a public park;
(C) a family housing complex; or
(D) a youth program center.

(g) A person who sells, transfers, distributes, or furnishes a chemical reagent or precursor to another person with knowledge or the intent that the recipient will use the chemical reagent or precursors to manufacture methamphetamine, methcathinone, amphetamine, or phentermine commits unlawful sale of a precursor, a Class D felony.

SECTION 6. IC 35-48-4-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 17. (a) In addition to any other penalty imposed for conviction of an offense under this chapter involving the manufacture or intent to manufacture methamphetamine, a court shall order restitution under IC 35-50-5-3 to cover the costs, if necessary, of an environmental cleanup incurred by a law enforcement agency or other person as a result of the offense.**

(b) The amount collected under subsection (a) shall be used to reimburse the law enforcement agency that assumed the costs associated with the environmental cleanup described in subsection (a).

SECTION 7. [EFFECTIVE JULY 1, 2003] **(a) IC 35-48-4-13.3, as added by this act, and IC 35-48-4-14.5, as amended by this act, apply only to acts committed after June 30, 2003.**

(b) IC 35-48-1-9.3 and IC 35-48-4-0.5, both as added by this act, apply only to a controlled substance offense under IC 35-48-4 that occurs after June 30, 2003.

(Reference is to EHB 1082 as reprinted April 10, 2003.)

WEINZAPFEL	BRAY
FOLEY	CRAYCRAFT
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1242–1; filed April 24, 2003, at 9:50 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1242 respectfully reports that said two committee have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-13-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) All public funds of all political subdivisions shall be deposited in the designated depositories located in the respective territorial limits of the political subdivisions, except as provided in this section.

(b) Each board of finance of a political subdivision:

(1) that is not a city, town, or school corporation; and

(2) whose jurisdiction crosses one (1) or more county lines;

may limit its boundaries for the purpose of this section to that portion of the political subdivision within the county where its principal office is located.

(c) If there is no principal office or branch of a financial institution located in the county or political subdivision, or if no financial institution with a principal office or branch in the county or political subdivision will accept public funds under this chapter, the board of finance of the county and the boards of finance of the political subdivisions in the county shall designate one (1) or more financial institutions with a principal office or branch outside of the county or political subdivision, and in the state, as a depository or depositories.

(d) The board of trustees for a hospital organized or operated under IC 16-22-1 through IC 16-22-5 or IC 16-23-1 may invest any money in the hospital fund anywhere in the state with any financial institution designated by the state board of finance as depositories for state deposits.

(e) If only one (1) financial institution that has a branch or principal office in a county or political subdivision is willing to accept public funds, the board of finance for the county or political subdivision may:

(1) treat the financial institution that is located within the county or political subdivision as if the financial institution were not located within the county or political subdivision; and

(2) designate one (1) or more financial institutions to receive public funds under the requirements of subsection (c).

(f) The investing officer shall maintain the deposits as follows:

(1) In one (1) or more depositories designated for the political subdivision, if the sum of the monthly average balances of all the transaction accounts for the political subdivision does not exceed one hundred thousand dollars ($100,000).

(2) In each depository designated for the political subdivision, if subdivision (1) does not apply and fewer than three (3) financial institutions are designated by the local board of finance as a depository.

(3) In at least two (2) depositories designated for the political subdivision, if subdivision (1) does not apply and at least three (3) financial institutions are designated by the local board of finance as a depository.

SECTION 2. IC 5-13-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Each officer designated in section 1 of this chapter may deposit, invest, or reinvest any funds that are held by the officer and available for investment in transaction accounts issued or offered by a designated depository of a political subdivision for the rates and terms agreed upon periodically by the officer making the investment and the designated depository. ~~The fiscal body of a political subdivision shall require the investing officer to deposit and maintain deposits that are invested or reinvested under this subsection as follows:~~

~~(1) In one (1) or more depositories designated for the political subdivision, if the sum of the monthly average balances of all of the transaction accounts for the political subdivision does not exceed one hundred thousand dollars ($100,000).~~

~~(2) In each depository designated for the political subdivision, if subdivision (1) does not apply and less than three (3) financial institutions are designated by the local board of finance as a depository.~~

~~(3) In at least two (2) depositories designated for the political subdivision, if subdivision (1) does not apply and at least three (3) financial institutions are designated by the local board of finance as a depository.~~

(b) The investing officer making a deposit in a certificate of deposit shall obtain quotes of the specific rates of interest for the term of that certificate of deposit that each designated depository will pay on the certificate of deposit. Quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by the investing officer as a public record of the political subdivision under IC 5-14-3. A deposit made under this subsection shall be placed in the designated depository quoting the highest rate of interest. If more than one (1) depository submits a quote of the highest interest rate quoted for the investment, the deposit may be placed in any or all of the designated depositories quoting the highest rate in the amount or amounts determined by the investing officer, in the investing officer's discretion.

(c) If all of the designated depositories of a political subdivision decline to issue or receive any deposit account, or to issue or receive the deposit account at a rate of interest equal to the highest rate being offered other investors, investments may be made in the deposit accounts of any financial institution designated for state deposits as a depository by the state board of finance under IC 5-13-9.5.

SECTION 3. IC 5-13-11-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.5. (a) A contract may be renewed under this chapter if the county board of finance for a county subject to IC 5-13-7-1 or the fiscal body of a political subdivision and the investing officer of the political subdivision agree with the depository to renew the contract under the same terms or better terms as the original contract.**

(b) The term of a renewed contract may not be longer than the term of the original contract.

(c) A contract may be renewed any number of times.

SECTION 4. IC 5-14-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as provided in section 4 of this chapter. A request for inspection or copying must:

(1) identify with reasonable particularity the record being requested; and

(2) be, at the discretion of the agency, in writing on or in a form provided by the agency.

No request may be denied because the person making the request refuses to state the purpose of the request, unless such condition is required by other applicable statute.

(b) A public agency may not deny or interfere with the exercise of the right stated in subsection (a). The public agency shall either:

(1) provide the requested copies to the person making the request; or

(2) allow the person to make copies:

(A) on the agency's equipment; or

(B) on ~~his~~ **the person's** own equipment.

(c) Notwithstanding subsections (a) and (b), a public agency may or may not do the following:

(1) In accordance with a contract described in section 3.5 of this chapter, permit a person to inspect and copy through the use of enhanced access public records containing information owned by or entrusted to the public agency.

(2) Permit a governmental entity to use an electronic device to inspect and copy public records containing information owned by or entrusted to the public agency.

(d) Except as provided in subsection (e), a public agency that maintains or contracts for the maintenance of public records in an electronic data storage system shall make reasonable efforts to provide to a person making a request a copy of all disclosable data contained in the records on paper, disk, tape, drum, or any other method of electronic retrieval if the medium requested is compatible with the agency's data storage system. This subsection does not apply to an electronic map. ~~(as defined by IC 5-14-3-2).~~

(e) A state agency may adopt a rule under IC 4-22-2, and a political subdivision may enact an ordinance, prescribing the conditions under which a person who receives information on disk or tape under subsection (d) may or may not use the information for commercial purposes, including to sell, advertise, or solicit the purchase of merchandise, goods, or services, or sell, loan, give away, or otherwise deliver the information obtained by the request to any other person ~~(as defined in IC 5-14-3-2)~~ for these purposes. Use of information received under subsection (d) in connection with the preparation or publication of news, for nonprofit activities, or for academic research is not prohibited. A person who uses information in a manner contrary to a rule or ordinance adopted under this subsection may be prohibited by the state agency or political subdivision from obtaining a copy or any further data under

subsection (d).

(f) **Notwithstanding the other provisions of this section, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public under a statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the list unless access to the list is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:**

(1) A list of employees of a public agency.

(2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.

(3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:

(A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or

(B) specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes.

A policy adopted under subdivision (3) must be uniform and may not discriminate among similarly situated commercial entities.

(g) A public agency may not enter into or renew a contract or an obligation:

(1) for the storage or copying of public records; or

(2) that requires the public to obtain a license or pay copyright royalties for obtaining the right to inspect and copy the records unless otherwise provided by applicable statute;

if the contract, obligation, license, or copyright unreasonably impairs the right of the public to inspect and copy the agency's public records.

~~(g)~~ **(h)** If this section conflicts with IC 3-7, the provisions of IC 3-7 apply.

SECTION 5. IC 5-14-3-4, AS AMENDED BY P.L.1-2002, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

(2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.

(3) Those required to be kept confidential by federal law.

(4) Records containing trade secrets.

(5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.

(6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.

~~(11) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):~~

~~(A) Telephone number.~~

~~(B) Social Security number.~~

~~(C) Address.~~

~~(12)~~ **(11)** A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(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 ~~his~~ **the person's** scores.

(5) The following:

(A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of commerce, the Indiana development finance authority, the Indiana film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

However, all personnel file information shall be made available to the affected employee or ~~his~~ **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 recordkeeping 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 ~~his~~ **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 advisory committee. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations that concern the driver.
(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.
(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:
(A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;
(B) vulnerability assessments;
(C) risk planning documents;
(D) needs assessments;
(E) threat assessments;
(F) domestic preparedness strategies;
(G) the location of community drinking water wells and surface water intakes;
(H) the emergency contact information of emergency responders and volunteers;
(I) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and
(J) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. The public agency that owns, occupies, leases, or maintains the airport:
(i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and
(ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(19)(I) 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.
~~(c) Notwithstanding section 3 of this chapter, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public pursuant to statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the lists unless access to the lists is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:~~
~~(1) A list of employees of a public agency.~~
~~(2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.~~
~~(3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:~~
~~(A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or~~
~~(B) specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes.~~
~~A policy adopted under subdivision (3) must be uniform and may not discriminate among similarly situated commercial entities.~~
~~(d)~~ **(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.
~~(e)~~ **(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.
~~(f)~~ **(e)** Notwithstanding subsection ~~(c)~~ **(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 6. IC 5-14-3-9, AS AMENDED BY P.L.191-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) A denial of disclosure by a public agency occurs when the person making the request is physically present in the office of the agency, makes the request by telephone, or requests enhanced access to a document and:
(1) the person designated by the public agency as being responsible for public records release decisions refuses to

permit inspection and copying of a public record when a request has been made; or

(2) twenty-four (24) hours elapse after any employee of the public agency refuses to permit inspection and copying of a public record when a request has been made;

whichever occurs first.

(b) If a person requests by mail or by facsimile a copy or copies of a public record, a denial of disclosure does not occur until seven (7) days have elapsed from the date the public agency receives the request.

(c) If a request is made orally, either in person or by telephone, a public agency may deny the request orally. However, if a request initially is made in writing, by facsimile, or through enhanced access, or if an oral request that has been denied is renewed in writing or by facsimile, a public agency may deny the request if:

(1) the denial is in writing or by facsimile; and

(2) the denial includes:

(A) a statement of the specific exemption or exemptions authorizing the withholding of all or part of the public record; and

(B) the name and the title or position of the person responsible for the denial.

(d) **This subsection applies to a board, a commission, a department, a division, a bureau, a committee, an agency, an office, an instrumentality, or an authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state. If an agency receives a request to inspect or copy a record that the agency considers to be excepted from disclosure under section 4(b)(19) of this chapter, the agency may consult with the counterterrorism and security council established under IC 4-3-20. If an agency denies the disclosure of a record or a part of a record under section 4(b)(19) of this chapter, the agency or the counterterrorism and security council shall provide a general description of the record being withheld and of how disclosure of the record would have a reasonable likelihood of threatening the public safety.**

(e) A person who has been denied the right to inspect or copy a public record by a public agency may file an action in the circuit or superior court of the county in which the denial occurred to compel the public agency to permit the person to inspect and copy the public record. Whenever an action is filed under this subsection, the public agency must notify each person who supplied any part of the public record at issue:

(1) that a request for release of the public record has been denied; and

(2) whether the denial was in compliance with an informal inquiry response or advisory opinion of the public access counselor.

Such persons are entitled to intervene in any litigation that results from the denial. The person who has been denied the right to inspect or copy need not allege or prove any special damage different from that suffered by the public at large.

~~(e)~~ **(f)** The court shall determine the matter de novo, with the burden of proof on the public agency to sustain its denial. If the issue in de novo review under this section is whether a public agency properly denied access to a public record because the record is exempted under section 4(a) of this chapter, the public agency meets its burden of proof under this subsection by establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit.

~~(f)~~ **(g)** If the issue in a de novo review under this section is whether a public agency properly denied access to a public record because the record is exempted under section 4(b) of this chapter:

(1) the public agency meets its burden of proof under this subsection by:

(A) proving that the record falls within any one (1) of the categories of exempted records under section 4(b) of this chapter; and

(B) establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit; and

(2) a person requesting access to a public record meets the person's burden of proof under this subsection by proving that the denial of access is arbitrary or capricious.

~~(g)~~ **(h)** The court may review the public record in camera to determine whether any part of it may be withheld under this chapter.

~~(h)~~ **(i)** In any action filed under this section, a court shall award reasonable ~~attorney~~ **attorney's** fees, court costs, and other reasonable expenses of litigation to the prevailing party if:

(1) the plaintiff substantially prevails; or

(2) the defendant substantially prevails and the court finds the action was frivolous or vexatious.

The plaintiff is not eligible for the awarding of attorney's fees, court costs, and other reasonable expenses if the plaintiff filed the action without first seeking and receiving an informal inquiry response or advisory opinion from the public access counselor, unless the plaintiff can show the filing of the action was necessary because the denial of access to a public record under this chapter would prevent the plaintiff from presenting that public record to a public agency preparing to act on a matter of relevance to the public record whose disclosure was denied.

~~(i)~~ **(j)** A court shall expedite the hearing of an action filed under this section.

SECTION 7. IC 6-1.1-18-6, AS AMENDED BY P.L.90-2002, SECTION 162, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) The proper officers of a political subdivision may transfer money from one major budget classification to another within a department or office if:

(1) they determine that the transfer is necessary;

(2) the transfer does not require the expenditure of more money than the total amount set out in the budget as finally determined under this article; **and**

(3) the transfer is made at a regular public meeting and by proper ordinance or resolution. ~~and~~

~~(4) the transfer is certified to the county auditor.~~

(b) A transfer may be made under this section without notice and without the approval of the department of local government finance.

SECTION 8. IC 6-1.1-18-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. Notwithstanding the other provisions of this chapter, the ~~appropriating body~~ **fiscal officer** of a political subdivision may appropriate funds received from an insurance company if:

(1) the funds are received as a result of damage to property of the political subdivision; and

(2) the funds are appropriated for the purpose of repairing or replacing the damaged property.

However, this section applies only if the funds are in fact expended to repair or replace the property within the twelve (12) month period after they are received.

SECTION 9. IC 6-1.1-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Annually, after November 10th but prior to August 1st of the succeeding year, each county treasurer shall serve a written demand upon each county resident who is delinquent in the payment of personal property taxes. The written demand may be served upon the taxpayer:

(1) by registered or certified mail;

(2) in person by the county treasurer or ~~his deputy;~~ **the county treasurer's agent;** or

(3) by proof of certificate of mailing.

(b) The written demand required by this section shall contain:

(1) a statement that the taxpayer is delinquent in the payment of personal property taxes;

(2) the amount of the delinquent taxes;

(3) the penalties due on the delinquent taxes;

(4) the collection expenses which the taxpayer owes; and

(5) a statement that if the sum of the delinquent taxes, penalties, and collection expenses are not paid within thirty (30) days from the date the demand is made then:

(A) sufficient personal property of the taxpayer shall be sold to satisfy the total amount due plus the additional collection expenses incurred; or

(B) a judgment may be entered against the taxpayer in the circuit court of the county.

SECTION 10. IC 8-17-4.1-5 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The governing body shall prepare by ~~December 31~~ **April 15** of each year an operational report **for the prior calendar year** of the department within the county or municipality that has road and street responsibilities.

SECTION 11. IC 8-17-4.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. ~~(a)~~ This report shall be prepared on forms prescribed by the state board of accounts and must disclose ~~for the calendar year the following:~~

~~(1) The receipts of the department and the sources of the receipts.~~

~~(2) The expenditures of the department showing the purpose of each expenditure made and to account for all funds.~~

~~(3) The number of employees of the department each month and the work classifications of the employees.~~

~~(4) The proposed construction, reconstruction, and repair program following the year of the annual report.~~

~~(5) The maintenance expenses.~~

~~(b) The report must also include other~~ **all** information considered necessary by the state board of accounts to reflect the financial condition and operations of the department.

SECTION 12. IC 8-17-4.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The annual operational report must be completed and a copy filed with the state board of accounts, the governing body, and the department by ~~February 15~~ **June 1** following the operational report year. The department shall make the report available to the public.

SECTION 13. IC 8-23-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 8. (a) The public mass transportation fund is established for the purpose of promoting and developing public mass transportation in Indiana. The fund shall be administered by the department.

(b) The treasurer of state may invest the money in the fund in the same manner as other public funds may be invested.

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

~~(d) Money distributed from the fund in a county containing a consolidated city must be distributed to the consolidated city for promoting and developing public mass transportation and not to a public transportation corporation located within the county.~~

SECTION 14. IC 20-14-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The library board of any public library established as a 1901 city or town library consists of qualified and experienced persons of at least eighteen (18) years of age who have been residents of the municipality where the library is located for at least two (2) years immediately preceding their appointment. The members shall be appointed for two (2) year terms as follows:

(1) The board of commissioners of the county where the library is located shall appoint one (1) member.

(2) The fiscal body of the county where the library is located shall appoint one (1) member.

(3) The municipal executive shall appoint one (1) member.

(4) The municipal legislative body shall appoint one (1) member.

(5) The school board of the school corporation where the library is located shall appoint three (3) members who may be members of the school board.

(b) If a vacancy occurs on the library board for any cause, the appointing authority shall fill the respective vacancy. The appointing authority may at any time, for cause shown, remove any member of the library board and appoint a new member to fill the vacancy occasioned by this removal.

(c) The library board members shall serve without compensation.

(d) All appointments to membership on the library board shall be evidenced by certificates of appointment signed by the appointing authority. Certificates of appointment shall be handed to or mailed to the address of the appointee. Within ten (10) days after receiving the certificates of appointment, the appointees shall take an oath of office, before the clerk of the circuit court, that the appointee will faithfully discharge ~~his~~ **the appointee's** duties as a member of the library board to the best of ~~his~~ **the appointee's** ability. The appointee shall file the certificate, with the oath endorsed on it, with the clerk of the circuit court of the county in which the library is located.

(e) Within five (5) days after all the members of the library board have been appointed and have taken the oath of office, the members shall meet and organize by electing one (1) of their number president, one (1) vice president, and one (1) secretary. They shall also select committees or an executive board to carry on the work of the board should they determine that committees or an executive board is necessary for this purpose.

(f) The facilities of a public library established as a 1901 city or town library are open and free for the use and benefit of all of the residents of the library district.

(g) The fiscal officer ~~(or county treasurer acting under IC 36-4-10-6)~~ of the municipality operating a public library under this section shall prepare and file with the municipal legislative body, before January 16 each year, an itemized statement, under oath, of all the receipts and disbursements of the library board for the year ending December 31 immediately preceding the preparing and filing of the report. The report must contain an itemized statement of the sources of all receipts, of all disbursements made, and of the purpose for which each was made. This annual report may be inspected by the citizens of the municipality and township in which the library is located.

SECTION 15. IC 33-19-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 6.5. Credit Card Service Fee

Sec. 1. This chapter applies to any transaction in which:

(1) the clerk is required to collect money from a person, including:

(A) bail;

(B) a fine;

(C) a civil penalty;

(D) a court fee or court cost; or

(E) a fee for the preparation, duplication, or transmission of a document; and

(2) the person pays the clerk by means of a credit card, debit card, charge card, or similar method.

Sec. 2. A payment made under this chapter does not finally discharge the person's liability and the person has not paid the liability until the clerk receives payment or credit from the institution responsible for making the payment or credit. The clerk may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the clerk or charged directly to the clerk's account, the clerk shall collect a fee from the person using the bank or credit card. The fee is a permitted additional charge to the money the clerk is required to collect under section 1(1) of this chapter.

Sec. 3. The clerk shall forward credit card service fees collected under this chapter to the county auditor or city or town fiscal officer in accordance with IC 33-19-1-3(a). These funds may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

SECTION 16. IC 35-33-8-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 9. In addition to any other condition of bail imposed under this chapter, a defendant who posts bail by means of a credit card shall pay the credit card service fee under IC 33-19-6.5.**

SECTION 17. IC 35-33-9-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 7. In addition to any other condition of bail imposed under this chapter, a defendant who posts bail by means of a credit card shall pay the credit card service fee under IC 33-19-6.5.**

SECTION 18. IC 36-1-8-5, AS AMENDED BY P.L.251-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) This section applies to all funds raised by a general or special tax levy on all the taxable property of a political subdivision.

(b) Whenever the purposes of a tax levy have been fulfilled and an

unused and unencumbered balance remains in the fund, the fiscal body of the political subdivision shall order the balance of that fund to be transferred as follows, unless a statute provides that it be transferred otherwise:

(1) Funds of a county, to the general fund or rainy day fund of the county, as provided in section 5.1 of this chapter.

(2) Funds of a municipality, to the general fund or rainy day fund of the municipality, as provided in section 5.1 of this chapter.

(3) Funds of a township for redemption of poor relief obligations, to the poor relief fund of the township or rainy day fund of the township, as provided in section 5.1 of this chapter.

(4) Funds of any other political subdivision, to the general fund or rainy day fund of the political subdivision, as provided in section 5.1 of this chapter. However, if the political subdivision is dissolved or does not have a general fund or rainy day fund, then to the general fund of each of the units located in the political subdivision in the same proportion that the assessed valuation of the unit bears to the total assessed valuation of the political subdivision.

(c) Whenever an unused and unencumbered balance remains in the civil township fund of a township and a current tax levy for the fund is not needed, the township fiscal body may order any part of the balance of that fund transferred to the debt service fund of the school corporation located in or partly in the township; but if more than one (1) school corporation is located in or partly in the township, then any sum transferred shall be transferred to the debt service fund of each of those school corporations in the same proportion that the part of the assessed valuation of the school corporation in the township bears to the total assessed valuation of the township.

(d) Transfers to a political subdivision's rainy day fund must be made after the last day of the political subdivision's fiscal year and before March 1 of the subsequent calendar year.

SECTION 19. IC 36-1-8-5.1, AS AMENDED BY P.L.90-2002, SECTION 461, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.1. (a) A political subdivision may establish a rainy day fund ~~to receive transfers of unused and unencumbered funds under section 5 of this chapter.~~ **by the adoption of:**

(1) an ordinance, in the case of a county, city, or town; or

(2) a resolution, in the case of any other political subdivision.

(b) An ordinance or a resolution adopted under this section must specify the following:

(1) The purposes of the rainy day fund.

(2) The sources of funding for the rainy day fund.

~~(b)~~ **(c)** The rainy day fund is subject to the same appropriation process as other funds that receive tax money. ~~Before making an appropriation from the rainy day fund, the fiscal body shall make a finding that the proposed use of the rainy day fund is consistent with the intent of the fund.~~

~~(c)~~ **(d)** In any fiscal year, a political subdivision may transfer not more than ten percent (10%) of the political subdivision's ~~total~~ **annual** budget for that fiscal ~~year~~ **year, adopted under IC 6-1.1-17,** to the rainy day fund.

~~(d)~~ **(e) A political subdivision may use only the funding sources specified in the ordinance or resolution establishing the rainy day fund unless the political subdivision adopts a subsequent ordinance or resolution authorizing the use of another funding source.**

(f) The department of local government finance may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the rainy day fund of the political subdivision.

SECTION 20. IC 36-1-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) This section does not apply to a county treasurer governed by IC 36-2-10-23.

(b) As used in this section, "credit card" means a:

(1) credit card;

(2) debit card;

(3) charge card; or

(4) stored value card.

(c) A payment to a political subdivision or a municipally owned utility for any purpose may be made by any of the following financial instruments that the fiscal body of the political subdivision or the board of the municipally owned utility authorizes for use:

(1) Cash.

(2) Check.

(3) Bank draft.

(4) Money order.

(5) Bank card or credit card.

(6) Electronic funds transfer.

(7) Any other financial instrument authorized by the fiscal body.

(d) If there is a charge to the political subdivision or municipally owned utility for the use of a financial instrument, ~~other than a bank card or credit card,~~ the political subdivision or municipally owned utility ~~shall~~ **may** collect a sum equal to the amount of the charge from the person who uses the financial instrument.

(e) If authorized by the fiscal body of the political subdivision or the board of the municipally owned utility, the political subdivision or municipally owned utility may accept payments under this section with a bank card or credit card under the procedures set forth in this section. However, the procedure authorized for a particular type of payment must be uniformly applied to all payments of the same type.

(f) The political subdivision or municipally owned utility may contract with a bank card or credit card vendor for acceptance of bank cards or credit cards.

(g) The political subdivision or municipally owned utility may pay any applicable bank card or credit card service charge associated with the use of a bank card or credit card under this subsection.

(h) The authorization of the fiscal body of the political subdivision is not required by the bureau of motor vehicles or the bureau of motor vehicles commission to use electronic funds transfer or other financial instruments to transfer funds to the political subdivision.

SECTION 21. IC 36-2-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. ~~(a) When the county treasurer performs duties in a second class city under IC 36-4-10-6, the treasurer shall pay fees accruing exclusively on city business into the general fund of the city.~~

~~(b)~~ This chapter does not require the county sheriff to pay the following into the county general fund:

(1) Any damages set forth in a warrant that is issued by the department of state revenue and on which collection is made by the sheriff, including damages prescribed by IC 6-8.1-8.

(2) Sums, other than court fees, retained by the circuit court clerk for the sheriff from the collections obtained by warrants of the department of workforce development.

(3) Sums allowed by IC 36-8 to sheriffs for the feeding of prisoners.

SECTION 22. IC 36-4-3-5, AS AMENDED BY P.L.224-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition:

(1) signed by at least:

(A) fifty-one percent (51%) of the owners of land in the territory sought to be annexed; or

(B) the owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes; and

(2) requesting an ordinance annexing the area described in the petition.

(b) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town).".

(c) Except as provided in section 5.1 of this chapter, if the legislative body fails to pass the ordinance within one hundred fifty (150) days after the date of filing of a petition under subsection (a), the petitioners may file a duplicate copy of the petition in the circuit or superior court of a county in which the territory is located, and shall include a written statement of why the annexation should take place. Notice of the proceedings, in the form of a summons, shall be

served on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

(d) The court shall hear and determine the petition without a jury, and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

(1) essential municipal services and facilities are not available to the residents of the territory sought to be annexed;

(2) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;

(3) the population density of the territory sought to be annexed is at least three (3) persons per acre; and

(4) the territory sought to be annexed is contiguous to the municipality.

If the evidence does not establish all four (4) of the preceding factors, the court shall deny the petition and dismiss the proceeding.

(e) This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

~~(f) In a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the court shall hear and determine the petition without a jury and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:~~

~~(1) essential city services and facilities are or can be made available to the residents of the territory sought to be annexed;~~

~~(2) the city is physically and financially able to provide city services to the territory sought to be annexed; and~~

~~(3) the territory sought to be annexed is contiguous to the city. If the evidence does not establish all three (3) of the preceding factors, the court shall deny the petition and dismiss the proceeding.~~

SECTION 23. IC 36-4-3-11, AS AMENDED BY P.L.224-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Except as provided in section 5.1(i) of this chapter and subsection (d), whenever territory is annexed by a municipality under this chapter, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by: ~~(1) if the annexation is by a city in a county with a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000): (A) a majority of the owners of land in the annexed territory; or (B) the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory; or (2) if the annexation is by a municipality that is not described in subdivision (1):~~

~~(A)~~ **(1)** at least sixty-five percent (65%) of the owners of land in the annexed territory; or

~~(B)~~ **(2)** the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory.

The remonstrance must be filed within ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter, must be accompanied by a copy of that ordinance, and must state the reason why the annexation should not take place.

(b) On receipt of the remonstrance, the court shall determine whether the remonstrance has the necessary signatures. In determining the total number of landowners of the annexed territory and whether signers of the remonstrance are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(c) If the court determines that the remonstrance is sufficient, it shall fix a time, within sixty (60) days of its determination, for a hearing on the remonstrance. Notice of the proceedings, in the form of a summons, shall be served on the annexing municipality. The municipality is the defendant in the cause and shall appear and answer.

(d) If an annexation is initiated by property owners under section 5.1 of this chapter and all property owners within the area to be annexed petition the municipality to be annexed, a remonstrance to the annexation may not be filed under this section.

SECTION 24. IC 36-4-3-13, AS AMENDED BY P.L.170-2002, SECTION 144, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) Except as provided in subsections (e) and (g), at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

(1) The requirements of either subsection (b) or (c).

(2) The requirements of subsection (d).

(b) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality.

(2) One (1) of the following:

(A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.

(B) Sixty percent (60%) of the territory is subdivided.

(C) The territory is zoned for commercial, business, or industrial uses.

(c) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality as required by section 1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality.

(2) That the territory sought to be annexed is needed and can be used by the municipality for its development in the reasonably near future.

(d) The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:

(1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.

(2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.

(3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.

(4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria. ~~However, in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the fiscal plan of a city must show that these services will be provided to the annexed territory within four (4) years after the effective date of the annexation and in the same manner as those services are provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, or population density.~~

(e) ~~This subsection does not apply to a city located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000).~~ At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) One (1) of the following opposes the annexation:

(i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(f) The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

(1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or

(2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) This subsection applies only to cities located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed was contiguous to territory that was within the boundaries of one (1) or more municipalities. At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) One (1) of the following opposes the annexation:

(i) A majority of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(h) The most recent:

(1) federal decennial census;

(2) federal special census;

(3) special tabulation; or

(4) corrected population count;

shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.

SECTION 25. IC 36-4-3-16, AS AMENDED BY P.L.217-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) Within one (1) year after the expiration of:

(1) the one (1) year period for implementation of planned services of a noncapital nature under section 13(d)(4) of this chapter; **or**

(2) the three (3) year period for the implementation of planned services of a capital improvement nature under section 13(d)(5) of this chapter; ~~or~~

~~(3) the four (4) year period for the implementation of planned services of a capital improvement nature under section 13(d)(5) of this chapter by a city for annexed territory in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000);~~

any person who pays taxes on property located within the annexed territory may file a complaint alleging injury resulting from the failure of the municipality to implement the plan. The complaint must name the municipality as defendant and shall be filed with the circuit or superior court of the county in which the annexed territory is located.

(b) The court shall hear the case within sixty (60) days without a jury. In order to be granted relief, the plaintiff must establish one (1) of the following:

(1) That the municipality has without justification failed to implement the plan required by section 13 of this chapter within the specific time limit for implementation after annexation.

(2) That the municipality has not provided police protection, fire protection, sanitary sewers, and water for human consumption within the specific time limit for implementation, unless one (1) of these services is being provided by a separate taxing district or by a privately owned public utility.

(3) That the annexed territory is not receiving governmental and proprietary services substantially equivalent in standard and scope to the services provided by the municipality to other areas of the municipality, regardless of topography, patterns of land use, and population density similar to the annexed territory.

(c) The court may:

(1) grant an injunction prohibiting the collection of taxes levied by the municipality on the plaintiff's property located in the annexed territory;

(2) award damages to the plaintiff not to exceed one and one-fourth (1 1/4) times the taxes collected by the municipality for the plaintiff's property located in the annexed territory;

(3) order the annexed territory or any part of it to be disannexed from the municipality;

(4) order the municipality to submit a revised fiscal plan for providing the services to the annexed territory within time limits set up by the court; or

(5) grant any other appropriate relief.

(d) A change of venue from the county is not permitted for an action brought under this section.

(e) If the court finds for the plaintiff, the defendant shall pay all court costs and reasonable attorney's fees as approved by the court.

(f) The provisions of this chapter that apply to territory disannexed by other procedures apply to territory disannexed under this section.

SECTION 26. IC 36-4-6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) The legislative body may, by ordinance, make loans of money and issue bonds for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the city or for the payment of city debts.

(b) An ordinance adopted under this section:

(1) must include the terms of the bonds to be issued in evidence of the loan;

(2) must include the time and manner of giving notice of the sale of the bonds;

(3) must include the manner in which the bonds will be sold; and

(4) may authorize a total amount for any issue of bonds.

(c) Bonds issued under this section may be sold in parcels of any size and at any time their proceeds are needed by the city.

(d) Bonds issued and sold by a city under this section:

(1) are negotiable with or without registration, as may be

provided by the ordinance authorizing the issue;
(2) may bear interest at any rate;
(3) may run not longer than thirty (30) years;
(4) may contain an option allowing the city to redeem them in whole or in part at specified times prior to maturity; and
(5) may be sold for not less than par value.

(e) The city fiscal officer shall:
(1) manage and supervise the preparation, advertisement, negotiations, and sale of bonds under this section, subject to the terms of the ordinance authorizing the sale;
(2) certify the amount the purchaser is to pay, together with the name and address of the purchaser;
(3) receive the amount of payment certified;
(4) deliver the bonds to the purchaser;
(5) take a receipt for the securities delivered;
(6) pay the purchaser's payment into the city treasury; and
(7) report the proceedings in the sale to the legislative body.

The actions of the fiscal officer under this subsection are ministerial.

~~(f) This subsection applies only to second class cities subject to IC 36-4-10-6. Notwithstanding subsection (e), the fiscal officer of a city selling bonds under this section shall deliver them to the county treasurer after they have been properly executed and shall take his receipt for them. When a contract for the sale of all or any part of the bonds is consummated, the fiscal officer shall certify to the county treasurer the amount the purchaser is to pay, together with the name and address of the purchaser. The county treasurer shall then receive from the purchaser the amount certified by the fiscal officer, deliver the bonds to the purchaser, and take the purchaser's receipt for the bonds. The fiscal officer and county treasurer shall then report the proceedings in the sale to the legislative body. However, if the county treasurer is not present to receive the properly executed bonds from the fiscal officer or to issue the bonds, the fiscal officer shall proceed under subsection (e).~~

SECTION 27. IC 36-6-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. When his term of office expires, the executive shall:
(1) immediately deliver to the new executive custody of all funds and property of the township, except records necessary in the preparation of his annual report;
(2) deliver to the new executive, not later than the second Monday in the next January, his annual report and any records he has retained; and
(3) attend the annual meeting of the township legislative body ~~on the second Tuesday after the first Monday in the next January,~~ **held under IC 36-6-6-9** and submit to inquiries from the legislative body concerning the operation of the executive's office during the preceding calendar year.

SECTION 28. IC 36-6-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The legislative body shall make annual appropriations for assistants in township offices. Payments shall be made to assistants ~~monthly~~ on vouchers verified by the claimant and approved by the officer in whose office he is employed.

SECTION 29. IC 36-6-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Deputies and other employees of a township assessor must file their claims for compensation, which must be verified by the township assessor. Claims for employment that is not on an annual basis must show the actual number of days employed. Deputies and other employees of a township assessor shall be paid ~~monthly~~ out of the county treasury, on the warrant of the county auditor.

(b) Employees of the township assessor are entitled to no compensation other than that provided by this chapter.

SECTION 30. IC 36-7-4-208, AS AMENDED BY P.L.276-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 208. (a) ADVISORY. The county plan commission consists of nine (9) members, as follows:
(1) One (1) member appointed by the county executive from its membership.
(2) One (1) member appointed by the county fiscal body from its membership.
(3) The county surveyor or the county surveyor's designee.
(4) The county agricultural extension educator. **However, if the county does not have a county agricultural extension educator, the county extension board shall select a resident of the county who is a property owner with agricultural interest to serve on the commission under this subdivision for a period not to exceed one (1) year.**
(5) Five (5) members appointed in accordance with one (1) of the following:
(A) Four (4) citizen members, of whom no more than two (2) may be of the same political party and all four (4) of whom must be residents of unincorporated areas of the county, appointed by the county executive. Also one (1) township trustee, who must be a resident of an unincorporated area of the county, appointed by the county executive upon the recommendation of the township trustees whose townships are within the jurisdiction of the county plan commission.
(B) Five (5) citizen members, of whom not more than three (3) may be of the same political party, and all five (5) of whom must be residents of unincorporated areas of the county appointed by the county executive.

If a county executive changes the plan commission from having members described in clause (B) to having members described in clause (A), the county executive shall appoint a township trustee to replace the first citizen member whose term expires and who belongs to the same political party as the township trustee. Each member appointed to the commission is entitled to receive compensation for mileage at the same rate and the same compensation for services as a member of a county executive, a member of a county fiscal body, a county surveyor, or an appointee of a county surveyor receives for serving on the commission, as set forth in section 222.5 of this chapter.

(b) ADVISORY. The metropolitan plan commission consists of nine (9) members, as follows:
(1) One (1) member appointed by the county legislative body from its membership.
(2) One (1) member appointed by the second class city legislative body from its membership.
(3) Three (3) citizen members who are residents of unincorporated areas of the county, of whom no more than two (2) may be of the same political party, appointed by the county legislative body. One (1) of these members must be actively engaged in farming.
(4) Four (4) citizen members, of whom no more than two (2) may be of the same political party, appointed by the second class city executive. One (1) of these members must be from the metropolitan school authority or community school corporation and a resident of that school district, and the other three (3) members must be residents of the second class city.

(c) AREA. When there are six (6) county representatives, they are as follows:
(1) One (1) member appointed by the county executive from its membership.
(2) One (1) member appointed by the county fiscal body from its membership.
(3) The county superintendent of schools, or if that office does not exist, a representative appointed by the school corporation superintendents within the jurisdiction of the area plan commission.
(4) One (1) of the following appointed by the county executive:
(A) The county agricultural extension educator.
(B) The county surveyor or the county surveyor's designee.
(5) One (1) citizen member who is a resident of the unincorporated area of the county, appointed by the county executive.
(6) One (1) citizen member who is a resident of the unincorporated area of the county, appointed by the county fiscal body.

(d) AREA. When there are five (5) county representatives, they are the representatives listed or appointed under subsection (c)(3), (c)(4), (c)(5), and (c)(6) and:
(1) the county surveyor or the county surveyor's designee if the

county executive appoints the county agricultural extension educator under subsection (c)(4); or

(2) the county agricultural extension educator if the county executive appoints the county surveyor under subsection (c)(4).

(e) AREA. The appointing authority may appoint an alternate member to participate on a commission established under section 204 of this chapter in a hearing or decision if the regular member it has appointed is unavailable. An alternate member shall have all of the powers and duties of a regular member while participating on the commission.

SECTION 31. IC 36-8-3-3, AS AMENDED BY P.L.125-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A majority of the members of the safety board constitutes a quorum. The board shall adopt rules concerning the time of holding regular and special meetings and of giving notice of them. The board shall elect one (1) of its members chairman, who holds the position as long as prescribed by the rules of the board. The board shall record all of its proceedings.

(b) The members of the safety board may act only as a board. No member may bind the board or the city except by resolution entered in the records of the board authorizing him to act in its behalf as its authorized agent.

(c) The safety board shall appoint:

(1) the members and other employees of the police department other than those in an upper level policymaking position;

(2) the members and other employees of the fire department other than those in an upper level policymaking position;

(3) a market master; and

(4) other officials that are necessary for public safety purposes.

(d) The annual compensation of all members of the police and fire departments and other appointees shall be fixed by ordinance of the legislative body before:

(1) ~~August~~ **September** 20 for a second class city; and

(2) September 20 for a third class city;

of each year for the ensuing budget year. The ordinance may grade the members of the departments and regulate their pay by rank as well as by length of service. If the legislative body fails to adopt an ordinance fixing the compensation of members of the police or fire department, the safety board may fix their compensation, subject to change by ordinance.

(e) The safety board, subject to ordinance, may also fix the number of members of the police and fire departments and the number of appointees for other purposes and may, subject to law, adopt rules for the appointment of members of the departments and for their government.

(f) The safety board shall divide the city into police precincts and fire districts.

(g) The police chief has exclusive control of the police department, and the fire chief has exclusive control of the fire department, subject to the rules and orders of the safety board. In time of emergency, the police chief and the fire chief are, for the time being, subordinate to the city executive and shall obey his orders and directions, notwithstanding any law or rule to the contrary.

SECTION 32. IC 36-8-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) A police pension fund to be known as the 1925 fund is established in each municipality described in section 1(a) of this chapter.

(b) The 1925 fund shall be managed by a board of trustees (referred to as the "local board" in this chapter) having at least seven (7) but not more than nine (9) trustees, as follows:

(1) The municipal executive, the municipal fiscal officer, ~~(except in a city subject to IC 36-4-10-6, in which case the county treasurer),~~ and the police chief, who are ex officio voting members of the local board.

(2) One (1) retired member of the police department.

(3) At least three (3) but not more than five (5) active members of the police department.

However, in cities where there are not sufficient members of the police department to appoint a local board consisting of at least five (5) trustees, the local board may be composed of three (3) trustees, those being the executive, the fiscal officer, and the police chief.

(c) The trustees under subsections (b)(2) and (b)(3) shall be elected at a meeting of the members of the police department at the central police station on the second Monday in February of each year. The trustees are elected for terms of three (3) years, succeeding those trustees whose terms of office expire on that date. The trustees hold their offices until their successors are elected and qualified.

(d) If a vacancy occurs on the local board among those trustees elected by the police department, the police department shall, within a reasonable time, hold a special meeting upon the call of the municipal executive and elect a successor for the remainder of the trustee's term.

(e) A majority of all the trustees constitutes a quorum for the transaction of business.

(f) The trustees receive no pay for their services and shall be paid only their necessary expenses. However, the trustees, the secretary, and each member of the police department selected by the local board shall be paid their necessary traveling expenses from the 1925 fund when acting upon matters pertaining to the fund.

(g) The local board may make all necessary bylaws for:

(1) meetings of the trustees;

(2) the manner of their election, including the counting and canvassing of the votes;

(3) the collection of all money and other property due or belonging to the 1925 fund;

(4) all matters connected with the care, preservation, and disbursement of the fund; and

(5) all other matters connected with the proper execution of this chapter.

SECTION 33. IC 36-8-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The municipal executive is president of the local board, the municipal fiscal officer ~~(or county treasurer)~~ is its treasurer, and the local board shall select one (1) of its members secretary. The secretary shall be paid out of the 1925 fund a sum for ~~his~~ **the secretary's** services as fixed by the local board.

(b) The president shall preside over all meetings of the local board, call special meetings of the police department of the city, and preside over the annual and called meetings of the department concerning the 1925 fund.

(c) The treasurer:

(1) has custody of all money and securities due or belonging to the 1925 fund and shall collect the principal and interest on them;

(2) is liable on ~~his~~ **the treasurer's** bond as an officer for the municipality for the faithful accounting of all money and securities belonging to the fund that come into ~~his~~ **the treasurer's** hands;

(3) shall keep a separate account showing at all times the true condition of the fund; and

(4) shall, upon the expiration of ~~his~~ **the treasurer's** term of office, account to the local board for all money and securities coming into ~~his~~ **the treasurer's** hands, including the proceeds of them, and turn over to ~~his~~ **the treasurer's** successor all money and securities belonging to the fund remaining in ~~his~~ **the treasurer's** hands.

(d) The secretary shall:

(1) keep a true account of the proceedings of the local board and of the police department of the municipality when acting upon matters relating to the 1925 fund;

(2) keep a correct statement of the accounts of each member with the fund;

(3) collect and turn over to the treasurer of the local board all money belonging to the fund;

(4) give the local board a monthly account of ~~his~~ **the secretary's** acts and services as secretary; and

(5) turn over to ~~his~~ **the secretary's** successor all books and papers pertaining to the office.

(e) The secretary shall, in the manner prescribed by IC 5-4-1, execute a bond conditioned upon the faithful discharge of ~~his~~ **the secretary's** duties.

(f) The secretary and treasurer shall make complete and accurate reports of their trusts to the local board on the first Monday in February of each year, copies of which shall be filed with the

municipal clerk. The books of the secretary and treasurer must be open at all times to examination by members of the local board.

(g) Each member of the police department shall turn over to the secretary of the local board, within thirty (30) days after receiving it, all money and securities belonging to the 1925 fund that come into ~~his~~ **the secretary's** hands.

SECTION 34. IC 36-8-7-10, AS AMENDED BY P.L.35-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The local board shall determine how much of the 1937 fund may be safely invested and how much should be retained for the needs of the fund. Investments are restricted to the following:

(1) Interest bearing direct obligations of the United States or of the state or bonds lawfully issued by an Indiana political subdivision. The securities shall be deposited with and must remain in the custody of the treasurer of the local board, who shall collect the interest on them as it becomes due and payable.

(2) Savings deposits or certificates of deposit of a chartered national, state, or mutual bank whose deposits are insured by a federal agency. However, deposits may not be made in excess of the amount of insurance protection afforded a member or investor of the bank.

(3) Shares of a federal savings association organized under 12 U.S.C. 1461, as amended, and having its principal office in Indiana, or of a savings association organized and operating under Indiana statutes whose accounts are insured by a federal agency. However, shares may not be purchased in excess of the amount of insurance protection afforded a member or investor of the association.

(4) An investment made under IC 5-13-9.

(b) All securities must be kept on deposit with the unit's fiscal officer, ~~or county treasurer acting under IC 36-4-10-6,~~ who shall collect all interest due and credit it to the 1937 fund.

(c) The fiscal officer ~~(or county treasurer)~~ shall keep a separate account of the 1937 fund and shall fully and accurately set forth a statement of all money received and paid out by him. The officer shall, on the first Monday of January and June of each year, make a report to the local board of all money received and distributed by him. The president of the local board shall execute the officer's bond in the sum that the local board considers adequate, conditioned that ~~he~~ **the fiscal officer** will faithfully discharge the duties of ~~his~~ **the fiscal officer's** office and faithfully account for and pay over to the persons authorized to receive it all money that comes into ~~his~~ **the fiscal officer's** hands by virtue of ~~his~~ **the fiscal officer's** office. The bond and sureties must be approved by the local board and filed with the executive of the unit. The local board shall make a full and accurate report of the condition of the 1937 fund to the unit's fiscal officer on the first Monday of February in each year.

(d) All securities that were owned by and held in the name of the local board on January 1, 1938, shall be held and kept for the local board by the unit's fiscal officer ~~(or county treasurer)~~ until they mature and are retired. However, if an issue of the securities is refunded, the local board shall accept refunding securities in exchange for and in an amount equal to the securities refunded. All money received by the local board for the surrender of matured and retired securities shall be paid into and constitutes a part of the 1937 fund of the unit, as provided in section 8 of this chapter.

(e) Investments under this section are subject to section 2.5 of this chapter.

SECTION 35. IC 36-8-7-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. All money that is collected and received by the local board or an officer of it by virtue of subdivisions (1) through (4) of section 8 of this chapter shall be paid to the unit's fiscal officer, ~~(or county treasurer),~~ who shall credit this money to the 1937 fund. The 1937 fund is a public fund for purposes of IC 5-13.

SECTION 36. IC 36-8-7-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. The unit's fiscal officer ~~or county treasurer acting under IC 36-4-10-6,~~ is the custodian of all money belonging to the 1937 fund, and all money belonging to the fund shall be promptly paid to the officer. The officer is liable on ~~his~~ **the officer's** bond for the faithful performance of all duties imposed upon ~~him~~ **the officer** by this chapter in relation to the fund and for the faithful accounting of all money and securities that come into ~~his~~ **the officer's** possession and belong to the fund. The officer shall keep a separate account of the 1937 fund, which must always show the true condition of the fund.

SECTION 37. IC 36-8-12.2-8, AS ADDED BY P.L.33-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. **(a)** Money collected under this chapter must be deposited in **one (1) of** the **following:**

(1) The general fund of the unit that established the fire department under IC 36-8-2-3 or IC 36-8-13-3(a)(1). ~~and~~

(2) A hazardous materials response fund established under section 8.1 of this chapter by a city or town having a fire department established under IC 36-8-2-3.

(b) Money collected under this chapter may be used only for the following:

(1) Purchase of supplies and equipment used in providing hazardous materials emergency assistance under this chapter.

(2) Training for members of the fire department in skills necessary for providing hazardous materials emergency assistance under this chapter.

(3) Payment to persons with which the fire department contracts to provide services related to the hazardous materials emergency assistance provided by the fire department under this chapter.

SECTION 38. IC 36-8-12.2-8.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 8.1. (a) The fiscal body of each city or town that establishes a fire department under IC 36-8-2-3 may, by ordinance or resolution, establish a hazardous materials response fund.**

(b) The hazardous materials response fund shall be administered by the unit's fiscal officer, and the expenses of administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a particular fiscal year does not revert to the unit's general fund.

SECTION 39. IC 36-9-13-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. (a) For the purpose of obtaining money to pay the cost of:

(1) acquiring or constructing government buildings;

(2) acquiring land;

(3) acquiring systems;

(4) improving, reconstructing, or renovating government buildings, systems, or land;

(5) repaying any advances for preliminary expenses made to the building authority by an eligible entity;

(6) purchasing plans, designs, programs, and devices for governmental buildings or systems; or

(7) refinancing any loan made under section 31 of this chapter;

the board of directors of a building authority may issue revenue bonds of the authority.

(b) The bonds are payable solely from the income and revenues of the particular government buildings, systems, or land for which the bonds were issued.

(c) The bonds must be authorized by resolution of the board. The bonds:

(1) bear interest payable semiannually; and

(2) mature serially, either annually or semiannually, at times determined by the resolution authorizing the bonds.

However, the maturities of the bonds may not extend over a period longer than the period of the lease of the government buildings, systems, or land for which the bonds are issued.

(d) The bonds may, and all bonds maturing after five (5) years from date of issuance shall, be made redeemable before maturity at the option of the board of directors of the building authority. Such a redemption must be at the par value of the bonds, together with the premiums, and under the terms and conditions fixed by the resolution authorizing the issuance of the bonds.

(e) The principal and interest of the bonds may be made payable in any lawful medium.

(f) The resolution authorizing the issuance of the bonds must:

(1) determine the form of the bonds, including the interest coupons (if any) to be attached to them;

(2) fix the denomination or denominations of the bonds; and

(3) fix the place or places of payment of the principal and interest of the bonds, which must be at a state or national bank or trust company within Indiana and may also be at one (1) or more state or national banks or trust companies outside Indiana.

(g) The bonds are negotiable instruments under IC 26-1.

(h) The resolution authorizing the issuance of the bonds may provide for the registration of any of the bonds in the name of the owner as to principal alone.

(i) The bonds shall be executed by the president of the board of directors, the corporate seal of the authority shall be affixed to the bonds and attested by the secretary of the board, and the interest coupons (if any) attached to the bonds shall be executed by placing the facsimile signature of the treasurer of the board on them.

(j) The bonds may be sold at a private sale, a negotiated sale, or a public sale.

~~(j) Notice~~ **(k) If the bonds are sold at a public sale, notice** of the sale of the bonds shall be published in accordance with IC 5-3-1.

~~(k)~~ **(l)** The board of directors shall sell the bonds at public sale, for not less than their par value. The board shall award the bonds to the highest bidder, as determined by computing the total interest on the bonds from the date of sale to the dates of maturity and deducting from that amount the premium bid, if any. Any premium received from the sale of the bonds shall be used solely for the payment of principal and interest on the bonds. If the bonds are not sold on the date fixed for the sale, then the sale may be continued from day to day until a satisfactory bid has been received.

~~(l)~~ **(m)** The board of directors may issue temporary bonds, with or without coupons. These bonds, which must be issued in the manner prescribed by this section, may be exchanged for the bonds that are subsequently issued.

SECTION 40. IC 36-10-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) A tax on the taxable property in the district, as it appears on the tax duplicate, shall be levied annually by the city legislative body for park purposes.

(b) The tax shall be collected the same as other city taxes are collected, and the city fiscal officer ~~(or county treasurer acting under IC 36-4-10-6)~~ shall, between the first and fifth days of each month, notify the board of the amount of taxes collected for park purposes during the preceding month. At the date of notification, the city fiscal officer ~~(or county treasurer)~~ shall credit the park fund with the amount.

(c) The board may expend on behalf of the city all sums of money collected from:

(1) taxes;

(2) the sale of privileges in the parks of the city;

(3) the sale of bonds of the city for park purposes; and

(4) any other source.

All gifts, donations, or payments that are given or paid to the city for park purposes belong to the general park fund, the special nonreverting operating fund, or the special nonreverting capital fund to be used by the board as provided by this chapter. Warrants for expenditures shall be drawn by the city fiscal officer upon a voucher of the board signed by the president or vice president and secretary.

(d) The city legislative body may borrow money for the use of the department and may issue the bonds of the city to pay back the borrowed money in the manner provided by statute for the issue of bonds for the general purposes of the city. However, the board may not contract debts beyond the amount of its annual income and the amount available from the sale of bonds or other sources.

(e) All money remaining in the treasury to the credit of the board at the end of the calendar year belongs to the general park fund, the special nonreverting operating fund, or the special nonreverting capital fund for use by the board for park purposes.

(f) Park and recreation facilities and programs shall be made available to the public free of charge as far as possible. However, if it is necessary in order to provide a particular activity, the board may charge a reasonable fee.

(g) The city legislative body may establish by ordinance upon request of the board:

(1) a special nonreverting operating fund for park purposes from which expenditures may be made as provided by ordinance, either by appropriation by the board or by the city legislative body; or

(2) a special nonreverting capital fund for the purpose of acquiring land or making specific capital improvements from which expenditures may be made by appropriation by the city legislative body.

The city legislative body shall designate the fund or funds into which the city fiscal officer ~~(or county treasurer)~~ shall deposit fees from golf courses, swimming pools, skating rinks, or other major facilities requiring major expenditures for management and maintenance. Money received from fees other than from major facilities or received from the sale of surplus property shall be deposited by the city fiscal officer ~~(or county treasurer)~~ either in the special nonreverting operating fund or in the nonreverting capital fund, as directed by the board. However, if neither fund has been established, money received from fees or from the sale of surplus property shall be deposited in the general park fund. Money from either special fund may be disbursed only on approved claims allowed and signed by the president and secretary of the board.

(h) Money placed in the special nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the fiscal body repeals the ordinance establishing the fund. The fiscal body may not repeal the ordinance under suspension of the rules.

(i) Money procured from fees or received from the sale of surplus property shall be deposited at least once each month with the city fiscal officer.

SECTION 41. IC 36-4-10-6 IS REPEALED [EFFECTIVE JULY 1, 2003].

SECTION 42. [EFFECTIVE JULY 1, 2003] **(a) The state board of accounts shall review the format and content of the annual operational report required under IC 8-17-4.1-5, as amended by this act, and shall prescribe a streamlined report that addresses:**

(1) easing the preparation of;

(2) the informational requirements of the users of; and

(3) the promotion of accuracy within;

the revised report.

(b) This SECTION expires January 1, 2004.

SECTION 43. **An emergency is declared for this act**.

(Reference is to EHB 1242 as reprinted March 28, 2003.)

STEVENSON	SKILLMAN
AYRES	DEMBOWSKI
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT

EHB 1369–2; filed April 25, 2003, at 9:29 a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1369 respectfully reports that said two committee have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-1.1-12.1-3, AS AMENDED BY P.L.90-2002, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) An applicant must provide a statement of benefits to the designating body. If the designating body requires information from the applicant for economic revitalization area status for use in making its decision about whether to designate an economic revitalization area, the applicant shall provide the completed statement of benefits form to the designating body before the hearing required by section 2.5(c) of this chapter.

Otherwise, the statement of benefits form must be submitted to the designating body before the initiation of the redevelopment or rehabilitation for which the person desires to claim a deduction under this chapter. The department of local government finance shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the proposed redevelopment or rehabilitation.

(2) An estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the redevelopment or rehabilitation and an estimate of the annual salaries of these individuals.

(3) An estimate of the value of the redevelopment or rehabilitation.

With the approval of the designating body, the statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(b) The designating body must review the statement of benefits required under subsection (a). The designating body shall determine whether an area should be designated an economic revitalization area or whether a deduction should be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the value of the redevelopment or rehabilitation is reasonable for projects of that nature.

(2) Whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(4) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(5) Whether the totality of benefits is sufficient to justify the deduction.

A designating body may not designate an area an economic revitalization area or approve a deduction unless the findings required by this subsection are made in the affirmative.

(c) Except as provided in subsections (a) through (b), the owner of property which is located in an economic revitalization area is entitled to a deduction from the assessed value of the property. If the area is a residentially distressed area, the period is not more than five (5) years. For all other economic revitalization areas designated before July 1, 2000, the period is three (3), six (6), or ten (10) years. For all economic revitalization areas designated after June 30, 2000, the period is the number of years determined under subsection (d). The owner is entitled to a deduction if:

(1) the property has been rehabilitated; or

(2) the property is located on real estate which has been redeveloped.

The owner is entitled to the deduction for the first year, and any successive year or years, in which an increase in assessed value resulting from the rehabilitation or redevelopment occurs and for the following years determined under subsection (d). However, property owners who had an area designated an urban development area pursuant to an application filed prior to January 1, 1979, are only entitled to a deduction for a five (5) year period. In addition, property owners who are entitled to a deduction under this chapter pursuant to an application filed after December 31, 1978, and before January 1, 1986, are entitled to a deduction for a ten (10) year period.

(d) For an area designated as an economic revitalization area after June 30, 2000, that is not a residentially distressed area, the designating body shall determine the number of years for which the property owner is entitled to a deduction. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

(1) as part of the resolution adopted under section 2.5 of this chapter; or

(2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor who shall make the deduction as provided in section 5 of this chapter.

A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

(e) Except for deductions related to redevelopment or rehabilitation of real property in a county containing a consolidated city or a deduction related to redevelopment or rehabilitation of real property initiated before December 31, 1987, in areas designated as economic revitalization areas before that date, a deduction for the redevelopment or rehabilitation of real property may not be approved for the following facilities:

(1) Private or commercial golf course.

(2) Country club.

(3) Massage parlor.

(4) Tennis club.

(5) Skating facility (including roller skating, skateboarding, or ice skating).

(6) Racquet sport facility (including any handball or racquetball court).

(7) Hot tub facility.

(8) Suntan facility.

(9) Racetrack.

(10) Any facility the primary purpose of which is:

(A) retail food and beverage service;

(B) automobile sales or service; or

(C) other retail;

unless the facility is located in an economic development target area established under section 7 of this chapter.

(11) Residential, unless:

(A) the facility is a multifamily facility that contains at least twenty percent (20%) of the units available for use by low and moderate income individuals;

(B) the facility is located in an economic development target area established under section 7 of this chapter; or

(C) the area is designated as a residentially distressed area.

(12) A package liquor store that holds a liquor dealer's permit under IC 7.1-3-10 or any other entity that is required to operate under a license issued under IC 7.1. This subdivision does not apply to an applicant that:

(A) was eligible for tax abatement under this chapter before July 1, 1995; ~~or~~

(B) is described in IC 7.1-5-7-11; **or**

(C) operates an entity under:

(i) a beer wholesaler's permit under IC 7.1-3-3;

(ii) a liquor wholesaler's permit under IC 7.1-3-8; or

(iii) a wine wholesaler's permit under IC 7.1-3-13;

for which the applicant claims a deduction under this chapter.

(f) This subsection applies only to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). Notwithstanding subsection (e)(11), in a county subject to this subsection a designating body may, before September 1, 2000, approve a deduction under this chapter for the redevelopment or rehabilitation of real property consisting of residential facilities that are located in unincorporated areas of the county if the designating body makes a finding that the facilities are needed to serve any combination of the following:

(1) Elderly persons who are predominately low-income or moderate-income persons.

(2) Disabled persons.

A designating body may adopt an ordinance approving a deduction under this subsection only one (1) time. This subsection expires January 1, 2011.

SECTION 2. IC 7.1-2-3-16.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16.5. (a) As used in this section, "facility" includes the following:

(1) A facility to which IC 7.1-3-1-25(a) applies.

(2) A tract that contains a premises that is described in ~~IC 7.1-3-1-14(c)(2).~~ **IC 7.1-3-1-14(c)(2).**

(3) A horse track or satellite facility to which IC 7.1-3-17.7 applies.

(4) A tract that contains an entertainment complex.

(b) As used in this section, "tract" has the meaning set forth in IC 6-1.1-1-22.5.

(c) A facility may advertise alcoholic beverages:

(1) in the facility's interior; or

(2) on the facility's exterior.

(d) The commission may not exercise the prohibition power contained in section 16(a) of this chapter on advertising by a brewer, distiller, rectifier, or vintner in or on a facility.

(e) Notwithstanding IC 7.1-5-5-10 and IC 7.1-5-5-11, a facility may provide advertising to a permittee that is a brewer, distiller, rectifier, or vintner in exchange for compensation from that permittee.

SECTION 3. IC 7.1-3-1-14, AS AMENDED BY P.L.136-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) It is lawful for an appropriate permittee, unless otherwise specifically provided in this title, to sell alcoholic beverages each day Monday through Saturday from 7 a.m., prevailing local time, until 3 a.m., prevailing local time, the following day. Sales shall cease wholly on Sunday at 3 a.m., prevailing local time, and not be resumed until the following Monday at 7 a.m., prevailing local time.

(b) It is lawful for the holder of a supplemental retailer's permit ~~which is not specified in subsection (c)~~ to sell the appropriate alcoholic beverages on Sunday from ~~noon,~~ **10 a.m.,** prevailing local time, until ~~12:30 a.m.,~~ **3 a.m.,** prevailing local time, the following day.

~~(c) It is lawful for the holder of a supplemental retailer's permit to sell the appropriate alcoholic beverages on Sunday from 11:00 a.m., prevailing local time, until 12:30 a.m., prevailing local time, the following day if the holder of the permit meets the following criteria:~~

~~(1) the holder of the permit is a hotel; or~~

~~(2) the holder of the permit meets the requirements of 905 IAC 1-41-2(a).~~

~~(d) Notwithstanding subsections (b) and (c), if December 31 (New Year's Eve) is on a Sunday, it is lawful for the holder of a supplemental retailer's permit to sell the appropriate alcoholic beverages on Sunday, December 31 from the time provided in subsection (b) or (c) until 3 a.m. the following day.~~

~~(e)~~ **(c)** It is lawful for the holder of a permit under this article to sell alcoholic beverages at athletic or sports events held on Sunday upon premises that:

(1) are described in section 25(a) of this chapter;

(2) are a facility used in connection with the operation of a paved track more than two (2) miles in length that is used primarily in the sport of auto racing; or

(3) are being used for a professional or an amateur tournament;

beginning one (1) hour before the scheduled starting time of the event or, if the scheduled starting time of the event is 1 p.m. or later, beginning at noon.

~~(f)~~ **(d)** It is lawful for the holder of a valid beer, wine, or liquor wholesaler's permit to sell to the holder of a valid retailer's or dealer's permit at any time.

SECTION 4. IC 7.1-3-9-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 12. (a) This section applies to:**

(1) the holder of a three-way permit that is issued to a civic center, a sports arena, a stadium, an exhibition hall, an auditorium, a theater, a tract that contains a premises that is described in IC 7.1-3-1-14(c)(2), or a convention center; or

(2) the holder of a catering permit while catering alcoholic beverages at a civic center, a sports arena, a stadium, an exhibition hall, an auditorium, a theater, a tract that contains a premises that is described in IC 7.1-3-1-14(c)(2), or a convention center.

(b) As used in this section, "suite" means an area in a building or facility referred to in subsection (a) that:

(1) is not accessible to the general public;

(2) has accommodations for not more than seventy-five (75) persons; and

(3) is accessible only to persons who possess a ticket:

(A) to an event in a building or facility referred to in subsection (a); and

(B) that entitles the person to occupy the area while viewing the event described in clause (A).

The term does not include a restaurant, lounge, or concession area, even if access to the restaurant, lounge, or concession area is limited to certain ticket holders.

(c) A permittee may allow the self-service of individual servings of alcoholic beverages in a suite.

(d) A person who:

(1) possesses a ticket described in subsection (b)(3); and

(2) is at least twenty-one (21) years of age;

may obtain an alcoholic beverage in a suite by self-service.

(e) A permittee may do any of the following:

(1) Demand that a person occupying a suite provide:

(A) a written statement under IC 7.1-5-7-4; and

(B) identification indicating that the person is at least twenty-one (21) years of age.

(2) Supervise the self-service of alcoholic beverages.

(3) Have an employee in the suite who holds an employee permit under IC 7.1-3-18-9 to serve some or all of the alcoholic beverages.

SECTION 5. IC 7.1-3-20-16, AS AMENDED BY P.L.170-2002, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) A permit that is authorized by this section may be issued without regard to the quota provisions of IC 7.1-3-22.

(b) The commission may issue a three-way permit to sell alcoholic beverages for on premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant facility in the passenger terminal complex of a publicly owned airport which is served by a scheduled commercial passenger airline certified to enplane and deplane passengers on a scheduled basis by a federal aviation agency. A permit issued under this subsection shall not be transferred to a location off the airport premises.

(c) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a redevelopment project consisting of a building or group of buildings that:

(1) was formerly used as part of a union railway station;

(2) has been listed in or is within a district that has been listed in the federal National Register of Historic Places maintained pursuant to the National Historic Preservation Act of 1966, as amended; and

(3) has been redeveloped or renovated, with the redevelopment or renovation being funded in part with grants from the federal, state, or local government.

A permit issued under this subsection shall not be transferred to a location outside of the redevelopment project.

(d) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant:

(1) on land; or

(2) in a historic river vessel;

within a municipal riverfront development project funded in part with state and city money. A permit issued under this subsection may not be transferred. **If an applicant already holds a retailer's permit for the premises, the applicant is not eligible for a permit under this section.**

(e) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a renovation project consisting of a building that:

(1) was formerly used as part of a passenger and freight railway station; and

(2) was built before 1900.

The permit authorized by this subsection may be issued without regard to the proximity provisions of IC 7.1-3-21-11.

(f) The commission may issue a three-way permit for the sale of alcoholic beverages for on premises consumption at a cultural center for the visual and performing arts to a town that:

(1) is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and

(2) has a population of more than twenty thousand (20,000) but less than twenty-three thousand (23,000).

SECTION 6. IC 7.1-3-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) ~~Corporations.~~ The commission shall not issue an alcoholic beverage wholesaler's, retailer's or dealer's permit of any type to a corporation unless sixty percent (60%) of the outstanding common stock is owned by persons who have been continuous and bona fide residents of this state for five (5) years.

(b) The commission shall not issue ~~an alcoholic beverage~~ **a liquor** wholesaler's permit ~~of any type~~ to a corporation unless at least one (1) of the stockholders shall have been a resident, for at least one (1) year immediately prior to making application for the permit, of the county in which the licensed premises are to be situated.

(c) Each officer and stockholder of a corporation shall possess all other qualifications required of an individual applicant for that particular type of permit.

SECTION 7. IC 7.1-3-21-5.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.2. (a) The commission shall not issue an alcoholic beverage wholesalers, retailer's or dealer's permit of any type to a limited partnership unless at least sixty percent (60%) of the partnership interest is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue ~~an alcoholic beverage~~ **a liquor** wholesaler's permit ~~of any type~~ to a limited partnership unless for at least one (1) year immediately before making application for the permit, at least one (1) of the persons having a partnership interest has been a resident of the county in which the licensed premises are to be situated.

(c) Each general partner and limited partner of a limited partnership must possess all other qualifications required of an individual applicant for that particular type of permit.

SECTION 8. IC 7.1-3-21-5.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.4. (a) The commission shall not issue an alcoholic beverage wholesalers, retailer's or dealer's permit of any type to a limited liability company unless at least sixty percent (60%) of the membership interest is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue ~~an alcoholic beverage~~ **a liquor** wholesaler's permit ~~of any type~~ to a limited liability company unless for at least one (1) year immediately before making application for the permit, at least one (1) of the persons having a membership interest has been a resident of the county in which the licensed premises are to be situated.

(c) Each manager and member of a limited liability company must possess all other qualifications required of an individual applicant for that particular type of permit.

SECTION 9. IC 7.1-5-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. ~~Retailer Owning Interest in Another Permit Prohibited.~~ **(a) Except as provided in subsection (b),** it is unlawful for a holder of a retailer's permit of any type to acquire, hold, own, or possess an interest of any type in a manufacturer's or wholesaler's permit of any type.

(b) It is lawful for a holder of a retailer's permit of any type to acquire, hold, own, or possess an interest of any type in a brewer's permit for a brewery that manufactures not more than twenty thousand (20,000) barrels of beer in a calendar year.

SECTION 10. IC 7.1-5-9-5 IS REPEALED [EFFECTIVE JULY 1, 2003]

(Reference is to EHB 1369 as printed April 4, 2003.)

KUZMAN	SERVER
ALDERMAN	LEWIS
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT

EHB 1749–1; filed April 25, 2003, at 11:25 a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1749 respectfully reports that said two committee have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 2-5-23-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. Beginning May 1, 1997, the health policy advisory committee is established. At the request of the chairman, the health policy advisory committee shall provide information and otherwise assist the commission to perform the duties of the commission under this chapter. The health policy advisory committee members are ex officio and may not vote. The health policy advisory committee members shall be appointed from the general public and must include one (1) individual who represents each of the following:

(1) The interests of public hospitals.

(2) The interests of community mental health centers.

(3) The interests of community health centers.

(4) The interests of the long term care industry.

(5) The interests of health care professionals licensed under IC 25, but not licensed under IC 25-22.5.

(6) The interests of rural hospitals. An individual appointed under this subdivision must be licensed under IC 25-22.5.

(7) The interests of health maintenance organizations (as defined in IC 27-13-1-19).

(8) The interests of for-profit health care facilities (as defined in ~~IC 27-8-10-1(l)).~~ **IC 27-8-10-1).**

(9) A statewide consumer organization.

(10) A statewide senior citizen organization.

(11) A statewide organization representing people with disabilities.

(12) Organized labor.

(13) The interests of businesses that purchase health insurance policies.

(14) The interests of businesses that provide employee welfare benefit plans (as defined in 29 U.S.C. 1002) that are self-funded.

(15) A minority community.

(16) The uninsured. An individual appointed under this subdivision must be and must have been chronically uninsured.

(17) An individual who is not associated with any organization, business, or profession represented in this subsection other than as a consumer.

SECTION 2. IC 12-15-35-28, AS AMENDED BY P.L.107-2002, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28. (a) The board has the following duties:

(1) The adoption of rules to carry out this chapter, in accordance with the provisions of IC 4-22-2 and subject to any office approval that is required by the federal Omnibus Budget Reconciliation Act of 1990 under Public Law 101-508 and its implementing regulations.

(2) The implementation of a Medicaid retrospective and prospective DUR program as outlined in this chapter, including the approval of software programs to be used by the pharmacist for prospective DUR and recommendations concerning the provisions of the contractual agreement between the state and any other entity that will be processing and reviewing Medicaid drug claims and profiles for the DUR program under this chapter.

(3) The development and application of the predetermined criteria and standards for appropriate prescribing to be used in retrospective and prospective DUR to ensure that such criteria and standards for appropriate prescribing are based on the compendia and developed with professional input with provisions for timely revisions and assessments as necessary.
(4) The development, selection, application, and assessment of interventions for physicians, pharmacists, and patients that are educational and not punitive in nature.
(5) The publication of an annual report that must be subject to public comment before issuance to the federal Department of Health and Human Services and to the Indiana legislative council by December 1 of each year.
(6) The development of a working agreement for the board to clarify the areas of responsibility with related boards or agencies, including the following:
(A) The Indiana board of pharmacy.
(B) The medical licensing board of Indiana.
(C) The SURS staff.
(7) The establishment of a grievance and appeals process for physicians or pharmacists under this chapter.
(8) The publication and dissemination of educational information to physicians and pharmacists regarding the board and the DUR program, including information on the following:
(A) Identifying and reducing the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care among physicians, pharmacists, and recipients.
(B) Potential or actual severe or adverse reactions to drugs.
(C) Therapeutic appropriateness.
(D) Overutilization or underutilization.
(E) Appropriate use of generic drugs.
(F) Therapeutic duplication.
(G) Drug-disease contraindications.
(H) Drug-drug interactions.
(I) Incorrect drug dosage and duration of drug treatment.
(J) Drug allergy interactions.
(K) Clinical abuse and misuse.
(9) The adoption and implementation of procedures designed to ensure the confidentiality of any information collected, stored, retrieved, assessed, or analyzed by the board, staff to the board, or contractors to the DUR program that identifies individual physicians, pharmacists, or recipients.
(10) The implementation of additional drug utilization review with respect to drugs dispensed to residents of nursing facilities shall not be required if the nursing facility is in compliance with the drug regimen procedures under 410 IAC 16.2-3-8 and 42 CFR 483.60.
(11) The research, development, and approval of a preferred drug list for:
(A) Medicaid's fee for service program;
(B) Medicaid's primary care case management program; and
(C) the primary care case management component of the children's health insurance program under IC 12-17.6;
in consultation with the therapeutics committee.
(12) The approval of the review and maintenance of the preferred drug list at least two (2) times per year.
(13) The preparation and submission of a report concerning the preferred drug list at least two (2) times per year to the select joint commission on Medicaid oversight established by IC 2-5-26-3.
(14) The collection of data reflecting prescribing patterns related to treatment of children diagnosed with attention deficit disorder or attention deficit hyperactivity disorder.
(15) Advising the Indiana comprehensive health insurance association established by IC 27-8-10-2.1 concerning implementation of chronic disease management and pharmaceutical management programs under IC 27-8-10-3.5.

(b) The board shall use the clinical expertise of the therapeutics committee in developing a preferred drug list. The board shall also consider expert testimony in the development of a preferred drug list.

(c) In researching and developing a preferred drug list under subsection (a)(11), the board shall do the following:
(1) Use literature abstracting technology.
(2) Use commonly accepted guidance principles of disease management.
(3) Develop therapeutic classifications for the preferred drug list.
(4) Give primary consideration to the clinical efficacy or appropriateness of a particular drug in treating a specific medical condition.
(5) Include in any cost effectiveness considerations the cost implications of other components of the state's Medicaid program and other state funded programs.

(d) Prior authorization is required for coverage under a program described in subsection (a)(11) of a drug that is not included on the preferred drug list.

(e) The board shall determine whether to include a single source covered outpatient drug that is newly approved by the federal Food and Drug Administration on the preferred drug list not later than sixty (60) days after the date of the drug's approval. However, if the board determines that there is inadequate information about the drug available to the board to make a determination, the board may have an additional sixty (60) days to make a determination from the date that the board receives adequate information to perform the board's review. Prior authorization may not be automatically required for a single source drug that is newly approved by the federal Food and Drug Administration and that is:
(1) in a therapeutic classification:
(A) that has not been reviewed by the board; and
(B) for which prior authorization is not required; or
(2) the sole drug in a new therapeutic classification that has not been reviewed by the board.

(f) The board may not exclude a drug from the preferred drug list based solely on price.

(g) The following requirements apply to a preferred drug list developed under subsection (a)(11):
(1) The office or the board may require prior authorization for a drug that is included on the preferred drug list under the following circumstances:
(A) To override a prospective drug utilization review alert.
(B) To permit reimbursement for a medically necessary brand name drug that is subject to generic substitution under IC 16-42-22-10.
(C) To prevent fraud, abuse, waste, overutilization, or inappropriate utilization.
(D) To permit implementation of a disease management program.
(E) To implement other initiatives permitted by state or federal law.
(2) All drugs described in IC 12-15-35.5-3(b) must be included on the preferred drug list.
(3) The office may add a new single source drug that has been approved by the federal Food and Drug Administration to the preferred drug list without prior approval from the board.
(4) The board may add a new single source drug that has been approved by the federal Food and Drug Administration to the preferred drug list.

(h) At least two (2) times each year, the board shall provide a report to the select joint commission on Medicaid oversight established by IC 2-5-26-3. The report must contain the following information:
(1) The cost of administering the preferred drug list.
(2) Any increase in Medicaid physician, laboratory, or hospital costs or in other state funded programs as a result of the preferred drug list.
(3) The impact of the preferred drug list on the ability of a Medicaid recipient to obtain prescription drugs.
(4) The number of times prior authorization was requested, and the number of times prior authorization was:
(A) approved; and
(B) disapproved.

(i) The board shall provide the first report required under

subsection (h) not later than six (6) months after the board submits an initial preferred drug list to the office.

SECTION 3. IC 27-8-10-1, AS AMENDED BY P.L.1-2001, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) "Association" means the Indiana comprehensive health insurance association established under section 2.1 of this chapter.

(c) "Association policy" means a policy issued by the association that provides coverage specified in section 3 of this chapter. The term does not include a Medicare supplement policy that is issued under section 9 of this chapter.

(d) "Carrier" means an insurer providing medical, hospital, or surgical expense incurred health insurance policies.

(e) "Church plan" means a plan defined in the federal Employee Retirement Income Security Act of 1974 under 26 U.S.C. 414(e).

(f) "Commissioner" refers to the insurance commissioner.

(g) "Creditable coverage" has the meaning set forth in the federal Health Insurance Portability and Accountability Act of 1996 (26 U.S.C. 9801(c)(1)).

(h) "Eligible expenses" means those charges for health care services and articles provided for in section 3 of this chapter.

(i) **"Federal income poverty level" has the meaning set forth in IC 12-15-2-1.**

(j) "Federally eligible individual" means an individual:

(1) for whom, as of the date on which the individual seeks coverage under this chapter, the aggregate period of creditable coverage is at least eighteen (18) months and whose most recent prior creditable coverage was under a:

(A) group health plan;

(B) governmental plan; or

(C) church plan;

or health insurance coverage in connection with any of these plans;

(2) who is not eligible for coverage under:

(A) a group health plan;

(B) Part A or Part B of Title XVIII of the federal Social Security Act; or

(C) a state plan under Title XIX of the federal Social Security Act (or any successor program);

and does not have other health insurance coverage;

(3) with respect to whom the individual's most recent coverage was not terminated for factors relating to nonpayment of premiums or fraud;

(4) who, if after being offered the option of continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (29 U.S.C. 1191b(d)(1)), or under a similar state program, elected such coverage; and

(5) who, if after electing continuation coverage described in subdivision (4), has exhausted continuation coverage under the provision or program.

~~(j)~~ **(k)** "Governmental plan" means a plan as defined under the federal Employee Retirement Income Security Act of 1974 (26 U.S.C. 414(d)) and any plan established or maintained for its employees by the United States government or by any agency or instrumentality of the United States government.

~~(k)~~ **(l)** "Group health plan" means an employee welfare benefit plan (as defined in 29 U.S.C. 1167(1)) to the extent that the plan provides medical care payments to, or on behalf of, employees or their dependents, as defined under the terms of the plan, directly or through insurance, reimbursement, or otherwise.

~~(l)~~ **(m)** "Health care facility" means any institution providing health care services that is licensed in this state, including institutions engaged principally in providing services for health maintenance organizations or for the diagnosis or treatment of human disease, pain, injury, deformity, or physical condition, including a general hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, tuberculosis hospital, chronic disease hospital, maternity hospital, outpatient clinic, home health care agency, bioanalytical laboratory, or central services facility servicing one (1) or more such institutions.

~~(m)~~ **(n)** "Health care institutions" means skilled nursing facilities, home health agencies, and hospitals.

~~(n)~~ **(o)** "Health care provider" means any physician, hospital, pharmacist, or other person who is licensed in Indiana to furnish health care services.

~~(o)~~ **(p)** "Health care services" means any services or products included in the furnishing to any individual of medical care, dental care, or hospitalization, or incident to the furnishing of such care or hospitalization, as well as the furnishing to any person of any other services or products for the purpose of preventing, alleviating, curing, or healing human illness or injury.

~~(p)~~ **(q)** "Health insurance" means hospital, surgical, and medical expense incurred policies, nonprofit service plan contracts, health maintenance organizations, limited service health maintenance organizations, and self-insured plans. However, the term "health insurance" does not include short term travel accident policies, accident only policies, fixed indemnity policies, automobile medical payment, or incidental coverage issued with or as a supplement to liability insurance.

~~(q)~~ **(r)** "Insured" means all individuals who are provided qualified comprehensive health insurance coverage under an individual policy, including all dependents and other insured persons, if any.

~~(r)~~ **(s)** "Medicaid" means medical assistance provided by the state under the Medicaid program under IC 12-15.

~~(s)~~ **(t)** "Medical care payment" means amounts paid for:

(1) the diagnosis, care, mitigation, treatment, or prevention of disease or amounts paid for the purpose of affecting any structure or function of the body;

(2) transportation primarily for and essential to Medicare services referred to in subdivision (1); and

(3) insurance covering medical care referred to in subdivisions (1) and (2).

~~(t)~~ **(u)** "Medically necessary" means health care services that the association has determined:

(1) are recommended by a legally qualified physician;

(2) are commonly and customarily recognized throughout the physician's profession as appropriate in the treatment of the patient's diagnosed illness; and

(3) are not primarily for the scholastic education or vocational training of the provider or patient.

~~(u)~~ **(v)** "Medicare" means Title XVIII of the federal Social Security Act (42 U.S.C. 1395 et seq.).

~~(v)~~ **(w)** "Policy" means a contract, policy, or plan of health insurance.

~~(w)~~ **(x)** "Policy year" means a twelve (12) month period during which a policy provides coverage or obligates the carrier to provide health care services.

~~(x)~~ **(y)** "Health maintenance organization" has the meaning set out in IC 27-13-1-19.

~~(y)~~ **(z) "Resident" means an individual who is:**

(1) legally domiciled in Indiana for at least twelve (12) months before applying for an association policy; or

(2) a federally eligible individual and legally domiciled in Indiana.

(aa) "Self-insurer" means an employer who provides services, payment for, or reimbursement of any part of the cost of health care services other than payment of insurance premiums or subscriber charges to a carrier. However, the term "self-insurer" does not include an employer who is exempt from state insurance regulation by federal law, or an employer who is a political subdivision of the state of Indiana.

~~(z)~~ **(bb)** "Services of a skilled nursing facility" means services that must commence within fourteen (14) days following a confinement of at least three (3) consecutive days in a hospital for the same condition.

~~(aa)~~ **(cc)** "Skilled nursing facility", "home health agency", "hospital", and "home health services" have the meanings assigned to them in 42 U.S.C. 1395x.

~~(bb)~~ **(dd)** "Medicare supplement policy" means an individual policy of accident and sickness insurance that is designed primarily as a supplement to reimbursements under Medicare for the hospital,

medical, and surgical expenses of individuals who are eligible for Medicare benefits.

~~(cc)~~ **(ee)** "Limited service health maintenance organization" has the meaning set forth in IC 27-13-34-4.

SECTION 4. IC 27-8-10-2.1, AS AMENDED BY P.L.192-2002(ss), SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.1. (a) There is established a nonprofit legal entity to be referred to as the Indiana comprehensive health insurance association, which must assure that health insurance is made available throughout the year to each eligible Indiana resident applying to the association for coverage. All carriers, health maintenance organizations, limited service health maintenance organizations, and self-insurers providing health insurance or health care services in Indiana must be members of the association. The association shall operate under a plan of operation established and approved under subsection (c) and shall exercise its powers through a board of directors established under this section.

(b) The board of directors of the association consists of ~~seven (7)~~ **nine (9)** members whose principal residence is in Indiana selected as follows:

(1) ~~Three (3)~~ **Four (4)** members to be appointed by the commissioner from the members of the association, one (1) of which must be a representative of a health maintenance organization.

(2) Two (2) members to be appointed by the commissioner shall be consumers representing policyholders.

(3) Two (2) members shall be the state budget director or designee and the commissioner of the department of insurance or designee.

(4) One (1) member to be appointed by the commissioner must be a representative of health care providers.

The commissioner shall appoint the chairman of the board, and the board shall elect a secretary from its membership. The term of office of each appointed member is three (3) years, subject to eligibility for reappointment. Members of the board who are not state employees may be reimbursed from the association's funds for expenses incurred in attending meetings. The board shall meet at least semiannually, with the first meeting to be held not later than May 15 of each year.

(c) The association shall submit to the commissioner a plan of operation for the association and any amendments to the plan necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation becomes effective upon approval in writing by the commissioner consistent with the date on which the coverage under this chapter must be made available. The commissioner shall, after notice and hearing, approve the plan of operation if the plan is determined to be suitable to assure the fair, reasonable, and equitable administration of the association and provides for the sharing of association losses on an equitable, proportionate basis among the member carriers, health maintenance organizations, limited service health maintenance organizations, and self-insurers. If the association fails to submit a suitable plan of operation within one hundred eighty (180) days after the appointment of the board of directors, or at any time thereafter the association fails to submit suitable amendments to the plan, the commissioner shall adopt rules under IC 4-22-2 necessary or advisable to implement this section. These rules are effective until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner. The plan of operation must:

(1) establish procedures for the handling and accounting of assets and money of the association;

(2) establish the amount and method of reimbursing members of the board;

(3) establish regular times and places for meetings of the board of directors;

(4) establish procedures for records to be kept of all financial transactions, and for the annual fiscal reporting to the commissioner;

(5) establish procedures whereby selections for the board of directors will be made and submitted to the commissioner for approval;

(6) contain additional provisions necessary or proper for the execution of the powers and duties of the association; and

(7) establish procedures for the periodic advertising of the general availability of the health insurance coverages from the association.

(d) The plan of operation may provide that any of the powers and duties of the association be delegated to a person who will perform functions similar to those of this association. A delegation under this section takes effect only with the approval of both the board of directors and the commissioner. The commissioner may not approve a delegation unless the protections afforded to the insured are substantially equivalent to or greater than those provided under this chapter.

(e) The association has the general powers and authority enumerated by this subsection in accordance with the plan of operation approved by the commissioner under subsection (c). The association has the general powers and authority granted under the laws of Indiana to carriers licensed to transact the kinds of health care services or health insurance described in section 1 of this chapter and also has the specific authority to do the following:

(1) Enter into contracts as are necessary or proper to carry out this chapter, subject to the approval of the commissioner.

(2) Sue or be sued, including taking any legal actions necessary or proper for recovery of any assessments for, on behalf of, or against participating carriers.

(3) Take legal action necessary to avoid the payment of improper claims against the association or the coverage provided by or through the association.

(4) Establish a medical review committee to determine the reasonably appropriate level and extent of health care services in each instance.

(5) Establish appropriate rates, scales of rates, rate classifications and rating adjustments, such rates not to be unreasonable in relation to the coverage provided and the reasonable operational expenses of the association.

(6) Pool risks among members.

(7) Issue policies of insurance on an indemnity or provision of service basis providing the coverage required by this chapter.

(8) Administer separate pools, separate accounts, or other plans or arrangements considered appropriate for separate members or groups of members.

(9) Operate and administer any combination of plans, pools, or other mechanisms considered appropriate to best accomplish the fair and equitable operation of the association.

(10) Appoint from among members appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the association, policy and other contract design, and any other function within the authority of the association.

(11) Hire an independent consultant.

(12) Develop a method of advising applicants of the availability of other coverages outside the association. ~~and may promulgate a list of health conditions the existence of which would deem an applicant eligible without demonstrating a rejection of coverage by one (1) carrier.~~

(13) Provide for the use of managed care plans for insureds, including the use of:

(A) health maintenance organizations; and

(B) preferred provider plans.

(14) Solicit bids directly from providers for coverage under this chapter.

(f) **The board shall obtain an actuarial recommendation for development of an equitable methodology for determination of member assessments.**

(g) Rates for coverages issued by the association may not be unreasonable in relation to the benefits provided, the risk experience, and the reasonable expenses of providing the coverage. Separate scales of premium rates based on age apply for individual risks. Premium rates must take into consideration the extra morbidity and administration expenses, if any, for risks insured in the association. The rates for a given classification may ~~not~~ be:

(1) not more than one hundred fifty percent (150%) of the average premium rate for that class charged by the five (5) carriers with the largest premium volume in the state during the

preceding calendar year **for an insured whose family income is less than three hundred fifty-one percent (351%) of the federal income poverty level for the same size family; and (2) an amount equal to:**

(A) not less than one hundred fifty-one percent (151%); and

(B) not more than two hundred percent (200%);

of the average premium rate for that class charged by the five (5) carriers with the largest premium volume in the state during the preceding calendar year, for an insured whose family income is more than three hundred fifty percent (350%) of the federal income poverty level for the same size family.

In determining the average rate of the five (5) largest carriers, the rates charged by the carriers shall be actuarially adjusted to determine the rate that would have been charged for benefits identical to those issued by the association. All rates adopted by the association must be submitted to the commissioner for approval.

~~(g)~~ **(h)** Following the close of the association's fiscal year, the association shall determine the net premiums, the expenses of administration, and the incurred losses for the year. Any net loss shall be assessed by the association to all members in proportion to their respective shares of total health insurance premiums, excluding premiums for Medicaid contracts with the state of Indiana, received in Indiana during the calendar year (or with paid losses in the year) coinciding with or ending during the fiscal year of the association or any other equitable basis as may be provided in the plan of operation. ~~For self-insurers, health maintenance organizations, and limited service health maintenance organizations that are members of the association, the proportionate share of losses must be determined through the application of an equitable formula based upon claims paid, excluding claims for Medicaid contracts with the state of Indiana, or the value of services provided.~~ In sharing losses, the association may abate or defer in any part the assessment of a member, if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. The association may also provide for interim assessments against members of the association if necessary to assure the financial capability of the association to meet the incurred or estimated claims expenses or operating expenses of the association until the association's next fiscal year is completed. **Except as provided in sections 12 and 13 of this chapter,** net gains, if any, must be held at interest to offset future losses or allocated to reduce future premiums. Assessments must be determined by the board members specified in subsection (b)(1), subject to final approval by the commissioner.

~~(h)~~ **(i)** The association shall conduct periodic audits to assure the general accuracy of the financial data submitted to the association, and the association shall have an annual audit of its operations by an independent certified public accountant.

~~(i)~~ **(j)** The association is subject to examination by the department of insurance under IC 27-1-3.1. The board of directors shall submit, not later than March 30 of each year, a financial report for the preceding calendar year in a form approved by the commissioner.

~~(j)~~ **(k)** All policy forms issued by the association must conform in substance to prototype forms developed by the association, must in all other respects conform to the requirements of this chapter, and must be filed with and approved by the commissioner before their use.

~~(k)~~ **(l)** The association may not issue an association policy to any individual who, on the effective date of the coverage applied for, does not meet the eligibility requirements of section 5.1 of this chapter.

~~(l) The association shall pay an agent's referral fee of twenty-five dollars ($25) to each insurance agent who refers an applicant to the association if that applicant is accepted.~~

(m) The association and the premium collected by the association shall be exempt from the premium tax, the adjusted gross income tax, or any combination of these upon revenues or income that may be imposed by the state.

(n) Members who after July 1, 1983, during any calendar year, have paid one (1) or more assessments levied under this chapter may either:

(1) take a credit against premium taxes, adjusted gross income taxes, or any combination of these, or similar taxes upon revenues or income of member insurers that may be imposed by the state, up to the amount of the taxes due for each calendar year in which the assessments were paid and for succeeding years until the aggregate of those assessments have been offset by either credits against those taxes or refunds from the association; or

(2) any member insurer may include in the rates for premiums charged for insurance policies to which this chapter applies amounts sufficient to recoup a sum equal to the amounts paid to the association by the member less any amounts returned to the member insurer by the association, and the rates shall not be deemed excessive by virtue of including an amount reasonably calculated to recoup assessments paid by the member.

(o) The association shall provide for the option of monthly collection of premiums.

SECTION 5. IC 27-8-10-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. (a) The association shall:**

(1) approve and implement chronic disease management and pharmaceutical management programs based on:

(A) an analysis of the highest cost health care services covered under association policies;

(B) a review of chronic disease management and pharmaceutical management programs used in populations similar to insureds; and

(C) a determination of the chronic disease management and pharmaceutical management programs expected to best improve health outcomes in a cost effective manner;

(2) consider recommendations of the drug utilization review board established by IC 12-15-35-19 concerning chronic disease management and pharmaceutical management programs;

(3) when practicable, coordinate programs adopted under this section with comparable programs implemented by the state; and

(4) implement a copayment structure for prescription drugs covered under an association policy.

(b) A program approved and implemented under this section may not require prior authorization for a prescription drug that is prescribed for the treatment of:

(1) human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS) and is included on the AIDS drug assistance program formulary adopted by the state department of health under the federal Ryan White CARE Act (42 U.S.C. 300ff et seq.); or

(2) hemophilia according to recommendations of the:

(A) Advisory Committee on Blood Safety and Availability of the United States Department of Health and Human Services; or

(B) Medical and Scientific Advisory Council of the National Hemophilia Foundation.

(c) The copayment structure implemented under subsection (a) must be based on an annual actuarial analysis.

(d) A disease management program for which federal funding is available is considered to be approved by the association under this section.

(e) An insured who has a chronic disease for which at least one (1) chronic disease management program is approved under this section shall participate in an approved chronic disease management program for the chronic disease as a condition of coverage of treatment for the chronic disease under an association policy.

SECTION 6. IC 27-8-10-3.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.6. (a) The association shall approve a mail order or Internet based pharmacy (as defined in IC 25-26-18-1) through which an insured may obtain prescription drugs covered under an association policy.**

(b) A prescription drug that is covered under an association

policy is covered if the prescription drug is obtained from:

(1) a pharmacy approved under subsection (a); or

(2) a pharmacy that:

(A) is not approved under subsection (a); and

(B) agrees to sell the prescription drug at the same price as a pharmacy approved under subsection (a).

(c) A prescription drug that is:

(1) covered under an association policy; and

(2) obtained from a pharmacy not described in subsection (b);

is covered for an amount equal to the price at which a pharmacy described in subsection (b) will sell the prescription drug, with the remainder of the charge for the prescription drug to be paid by the insured.

SECTION 7. IC 27-8-10-5.1, AS AMENDED BY P.L.233-1999, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.1. (a) **A person is not eligible for an association policy if the person is eligible for Medicaid. A person other than a federally eligible individual may not apply for an association policy unless the person has applied for Medicaid not more than sixty (60) days before applying for the association policy.**

(b) Except as provided in ~~subsections (b), and~~ **subsection** (c), a person is not eligible for an association policy if, at the effective date of coverage, the person has or is eligible for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana as set forth in IC 27. Coverage under any association policy is in excess of, and may not duplicate, coverage under any other form of health insurance.

~~(b)~~ **(c)** Except as provided in IC 27-13-16-4 **and subsection (a),** a person is eligible for an association policy upon a showing that:

(1) the person has been rejected by one (1) carrier for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana, as set forth in IC 27, without material underwriting restrictions;

(2) an insurer has refused to issue insurance except at a rate exceeding the association plan rate; or

(3) the person is a federally eligible individual.

For the purposes of this subsection, eligibility for Medicare coverage does not disqualify a person who is less than sixty-five (65) years of age from eligibility for an association policy.

~~(c) The board of directors may establish procedures that would permit:~~

~~(1) an association policy to be issued to persons who are covered by a group insurance arrangement when that person or a dependent's health condition is such that the group's coverage is in jeopardy of termination or material rate increases because of that person's or dependent's medical claims experience; and~~

~~(2) an association policy to be issued without any limitation on preexisting conditions to a person who is covered by a health insurance arrangement when that person's coverage is scheduled to terminate for any reason beyond the person's control.~~

(d) Coverage under an association policy terminates as follows:

(1) On the first date on which an insured is no longer a resident of Indiana.

(2) On the date on which an insured requests cancellation of the association policy.

(3) On the date of the death of an insured.

(4) At the end of the policy period for which the premium has been paid.

(5) On the first date on which the insured no longer meets the eligibility requirements under this section.

~~(d)~~ **(e)** An association policy must provide that coverage of a dependent unmarried child terminates when the child becomes nineteen (19) years of age (or twenty-five (25) years of age if the child is enrolled full-time in an accredited educational institution). The policy must also provide in substance that attainment of the limiting age does not operate to terminate a dependent unmarried child's coverage while the dependent is and continues to be both:

(1) incapable of self-sustaining employment by reason of mental retardation or mental or physical disability; and

(2) chiefly dependent upon the person in whose name the contract is issued for support and maintenance.

However, proof of such incapacity and dependency must be furnished to the carrier within one hundred twenty (120) days of the child's attainment of the limiting age, and subsequently as may be required by the carrier, but not more frequently than annually after the two (2) year period following the child's attainment of the limiting age.

~~(e)~~ **(f)** An association policy that provides coverage for a family member of the person in whose name the contract is issued must, as to the family member's coverage, also provide that the health insurance benefits applicable for children are payable with respect to a newly born child of the person in whose name the contract is issued from the moment of birth. The coverage for newly born children must consist of coverage of injury or illness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. If payment of a specific premium is required to provide coverage for the child, the contract may require that notification of the birth of a child and payment of the required premium must be furnished to the carrier within thirty-one (31) days after the date of birth in order to have the coverage continued beyond the thirty-one (31) day period.

~~(f)~~ **(g)** Except as provided in subsection ~~(g),~~ **(h),** an association policy may contain provisions under which coverage is excluded during a period of three (3) months following the effective date of coverage as to a given covered individual for preexisting conditions, as long as medical advice or treatment was recommended or received within a period of three (3) months before the effective date of coverage. This subsection may not be construed to prohibit preexisting condition provisions in an insurance policy that are more favorable to the insured.

~~(g)~~ **(h)** If a person applies for an association policy within six (6) months after termination of the person's coverage under a health insurance arrangement and the person meets the eligibility requirements of subsection ~~(b),~~ **(c),** then an association policy may not contain provisions under which:

(1) coverage as to a given individual is delayed to a date after the effective date or excluded from the policy; or

(2) coverage as to a given condition is denied;

on the basis of a preexisting health condition. This subsection may not be construed to prohibit preexisting condition provisions in an insurance policy that are more favorable to the insured.

~~(h)~~ **(i)** For purposes of this section, coverage under a health insurance arrangement includes, but is not limited to, coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985.

SECTION 8. IC 27-8-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) An association policy offered under this chapter must contain provisions under which the association is obligated to renew the contract until:

(1) the date on which coverage terminates under section 5.1 of this chapter; or

(2) the day on which the individual in whose name the contract is issued first becomes eligible for Medicare coverage, except that in a family policy covering both husband and wife, the age of the younger spouse must be used as the basis for meeting the durational requirement of this ~~subsection.~~ **subdivision.**

(b) The association may not change the rates for association policies or Medicare supplement policies except on a class basis with a clear disclosure in the policy of the association's right to do so.

(c) An association policy offered under this chapter must provide that upon the death of the individual in whose name the contract is issued, every other individual then covered under the contract may elect, within a period specified in the contract, to continue coverage under the same or a different contract until such time as he would have ceased to be entitled to coverage had the individual in whose name the contract was issued lived.

SECTION 9. IC 27-8-10-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2003]: **Sec. 12. (a) As used in this section, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.**

(b) As used in this section, "provider" means an individual, a partnership, a corporation, or a governmental entity that is enrolled in the Medicaid program under rules adopted under IC 4-22-2 by the office.

(c) The association and the office shall jointly consider the use of all or a part of:

(1) assessments made under this chapter; or

(2) funds, if any, realized by the state due to a reduction in tax credits taken under this chapter;

as the nonfederal share of payments under a payment program described in subsection (d).

(d) In conjunction with the joint efforts described in subsection (c), the association and the office shall consider and, if feasible, develop Medicaid payment programs that, using funding described in subsection (c):

(1) provide Medicaid add-on payments to providers or affiliated entities of providers on the basis of the provider's provision of care to individuals covered under an association policy; or

(2) to the extent not prohibited by applicable federal Medicaid law, condition a provider's Medicaid payment on the provider's remittance of funds to the association or another nongovernmental entity established to fund care to individuals covered under an association policy.

(e) If mutually agreed, the association and the office may implement a payment program developed under subsection (d) following approval of a Medicaid state plan amendment by the federal Centers for Medicare and Medicaid Services.

(f) If:

(1) federal financial participation is disallowed by the federal Centers for Medicare and Medicaid Services for the funds used as the non-federal share of a Medicaid payment made under a program developed under this section; and

(2) the office is required to pay to the federal Centers for Medicare and Medicaid Services a refund of the federal financial participation described in subdivision (1);

the provider receiving the Medicaid payment described in subdivision (1) shall refund to the office the federal financial participation described in subdivision (2) not less than five (5) business days before the date that the office's payment described in subdivision (2) is required to be made to the federal Centers for Medicare and Medicaid services. The elections under IC 12-15-13-3(b) do not apply to a notice directing a provider to pay a refund required of the provider under this subsection.

(g) Notwithstanding section 3 of this chapter, subject to applicable federal Medicaid requirements, the rate of provider reimbursement for a health care service following implementation of a payment program under this section must be an amount determined by the association, according to standards and criteria relied upon by the association, to be equal to the greater of the:

(1) Medicare reimbursement rate for the health care service plus ten percent (10%); or

(2) lowest prevailing rate of reimbursement for the health care service in Indiana under a commercial health insurance policy.

(h) Notwithstanding section 2.1(h) of this chapter, if a payment program is implemented under this section, the board shall determine member assessments in an amount sufficient to ensure a net gain and distributions provided for under section 13 of this chapter.

(i) Assessments made under this chapter may be adjusted by the board to ensure that the assessments are not impermissible health care related taxes under 42 U.S.C. 1396b(w), as amended.

SECTION 10. IC 27-8-10-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 13. (a) This section applies beginning in the calendar year immediately following the calendar year during which a program described in section 12 of this chapter is implemented.**

(b) As used in this section, "net gain" means any funds retained by the association and a nongovernmental entity described in section 12(d)(2) of this chapter after all expenses are paid.

(c) If the association experiences a net gain in any calendar year, a member that:

(1) is a nonprofit entity not subject to taxation described in section 2.1(n) of this chapter; and

(2) paid an assessment under this chapter during the calendar year in which the net gain occurred;

is eligible to receive a distribution from the association during the immediately succeeding calendar year.

(d) The amount of a distribution to an eligible member under subsection (c) is equal to the eligible member's proportionate share of the net gain not to exceed fifty percent (50%) of the amount of the assessment the member paid during the calendar year in which the net gain occurred.

(e) An eligible member may submit a claim for a distribution under this section in the manner and form specified by the association.

(f) After distributions are made to eligible members under subsection (c), any remaining net gain shall be distributed as follows:

(1) Forty percent (40%) must be distributed to the office of Medicaid policy and planning established by IC 12-8-6-1.

(2) Forty percent (40%) must be distributed to members according to each member's proportionate share of the total assessment amount paid by the members that has not been offset by:

(A) credits against taxes or refunds from the association under section 2.1(n) of this chapter; or

(B) distributions under subsection (c).

(3) Ten percent (10%) must be held in reserve by the association to assist in funding payments to providers.

(4) Ten percent (10%) must be allocated by the association to reduce premiums.

(f) The association shall make distributions under this section according to written guidelines established by the association.

SECTION 11. IC 27-8-10-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 14. (a) Notwithstanding section 2.1 of this chapter, for the period beginning July 1, 2003, and ending March 15, 2004:**

(1) fifty percent (50%) of any net loss determined under section 2.1(g) of this chapter shall be assessed by the association to all members in proportion to their respective shares of total health insurance premiums, excluding premiums for Medicaid contracts with the state, received in Indiana during the calendar year (or with paid losses in the year) coinciding with or ending during the fiscal year of the association; and

(2) fifty percent (50%) of any net loss determined under section 2.1(g) of this chapter shall be assessed by the association to all members in proportion to their respective shares of the number of individuals in Indiana who are covered under health insurance provided by a member, excluding individuals who are covered under Medicaid contracts with the state during the calendar year coinciding with or ending during the fiscal year of the association.

(b) This section expires March 15, 2004.

SECTION 12. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "association" refers to the comprehensive health insurance association established under IC 27-8-10-2.1.**

(b) The office of Medicaid policy and planning established by IC 12-8-6-1 and the association shall cooperatively investigate methods of decreasing association costs related to coverage of individuals diagnosed with hemophilia, including the potential for a demonstration waiver under Section 1115 of the federal Social Security Act.

(c) The office and the association shall, not later than December 31, 2003, compile the results of the investigation

required under subsection (b) and report to the legislative council.

(d) This SECTION expires June 30, 2004.

SECTION 13. [EFFECTIVE JULY 1, 2003] **(a) Notwithstanding IC 27-8-10-3, the amount of reimbursement for a health care service covered under an Indiana comprehensive health insurance association policy is the amount of reimbursement for the same health care service under Medicare plus ten percent (10%) until the earlier of:**

(1) the date that a payment program is implemented under IC 27-8-10-12, as added by this act; or

(2) March 15, 2004.

(b) If the amount of reimbursement for health care services covered under an Indiana comprehensive health insurance association policy is specified under a contract with a health care provider, this SECTION applies to a contract specifying the amount of reimbursement for health care services that is entered into, delivered, amended, or renewed after June 30, 2003.

(c) This SECTION expires June 30, 2004.

SECTION 14. [EFFECTIVE JULY 1, 2003] **IC 27-8-10-3.5 and IC 27-8-10-3.6, both as added by this act, and IC 27-8-10-2.1, IC 27-8-10-5.1, and IC 27-8-10-6, all as amended by this act, apply to an association policy that is issued, delivered, amended, or renewed after June 30, 2003**.

SECTION 15. **An emergency is declared for this act.**

(Reference is to EHB 1749 as reprinted April 10, 2003.)

FRY	MILLER
RIPLEY	LANANE
House Conferees	Senate Conferees

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

RULES SUSPENSION

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 160.1 and 162.1 and recommends that Rule 160.1 be suspended so that the following conference committee reports are eligible for consideration after April 14, 2003, and that House Rule 162.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 3 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed House Bills 1243–1, 1407–1, 1458–1, 1470–1, and 1834–1 and Engrossed Senate Bills 210–1, 280–1, 479–1, and 506–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 160.1 be suspended so that the following conference committee reports are eligible for consideration after April 14, 2003, and that House Rule 162.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 3 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed House Bills 1243–1, 1407–1, 1458–1, 1470–1, and 1834–1 and Engrossed Senate Bills 210–1, 280–1, 479–1, and 506–1.

PELATH

Motion prevailed.

CONFERENCE COMMITTEE REPORTS

Engrossed House Bill 1243–1

The conference committee report was reread. Roll Call 673: yeas 88, nays 0. Report adopted.

Engrossed House Bill 1407–1

The conference committee report was reread. Roll Call 674: yeas 89, nays 0. Report adopted.

Engrossed House Bill 1458–1

The conference committee report was reread. Roll Call 675: yeas 76, nays 11. Report adopted.

Engrossed Senate Bill 210–1

The conference committee report was reread. Representative Alderman was excused from voting. Roll Call 676: yeas 87, nays 0. Report adopted.

Engrossed Senate Bill 479–1

The conference committee report was reread. Roll Call 677: yeas 91, nays 0. Report adopted.

Engrossed House Bill 1834–1

The conference committee report was reread. Representatives Espich, Foley, and Whetstone were excused from voting. Roll Call 678: yeas 88, nays 1. Report adopted.

Engrossed Senate Bill 280–1

The conference committee report was reread. Roll Call 679: yeas 91, nays 1. Report adopted.

Engrossed Senate Bill 506–1

The conference committee report was reread. Roll Call 680: yeas 86, nays 6. Report adopted.

RULES SUSPENSION

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 160.1 and 162.1 and recommends that Rule 160.1 be suspended so that the following conference committee reports are eligible for consideration after April 14, 2003, and that House Rule 162.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 3 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed House Bills 1171–1 and 1242–1 and Engrossed Senate Bills 405–1 and 435–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 160.1 be suspended so that the following conference committee reports are eligible for consideration after April 14, 2003, and that House Rule 162.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 3 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed House Bills 1171–1 and 1242–1 and Engrossed Senate Bills 405–1 and 435–1.

PELATH

Motion prevailed.

CONFERENCE COMMITTEE REPORTS

Engrossed House Bill 1171–1

The conference committee report was reread. Roll Call 681: yeas 91, nays 0. Report adopted.

Engrossed Senate Bill 435–1

The conference committee report was reread. Roll Call 682: yeas 91, nays 0. Report adopted.

Engrossed Senate Bill 405–1

The conference committee report was reread. Roll Call 683: yeas 83, nays 6. Report adopted.

MOTIONS TO CONCUR IN SENATE AMENDMENTS

HOUSE MOTION

Mr. Speaker: I move that the House reconsider its actions whereby it dissented from the Senate amendments to Engrossed House Bill 1811 and that the House now concur in the Senate amendments to said bill.

CRAWFORD

Roll Call 684: yeas 91, nays 0. Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that the House reconsider its actions whereby it dissented from the Senate amendments to Engrossed House Bill 1410 and that the House now concur in the Senate amendments to said bill.

MAYS

Roll Call 685: yeas 90, nays 1. Motion prevailed.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
EHB 1470–2; filed April 25, 2003, at 2:51 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1470 respectfully reports that said two committee have conferred and agreed as follows to wit:

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

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning gaming.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-33-4-3, AS AMENDED BY HEA 1902-2003, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The commission shall do the following:

(1) Adopt rules that the commission determines necessary to protect or enhance the following:

(A) The credibility and integrity of gambling operations authorized by this article.

(B) The regulatory process provided in this article.

(2) Conduct all hearings concerning civil violations of this article. (3) Provide for the establishment and collection of license fees and taxes imposed under this article.

(4) Deposit the license fees and taxes in the state gaming fund established by IC 4-33-13.

(5) Levy and collect penalties for noncriminal violations of this article.

(6) Deposit the penalties in the state gaming fund established by IC 4-33-13.

(7) Be present through the commission's inspectors and agents during the time gambling operations are conducted on a riverboat to do the following:

(A) Certify the revenue received by a riverboat.

(B) Receive complaints from the public.

(C) Conduct other investigations into the conduct of the gambling games and the maintenance of the equipment that the commission considers necessary and proper.

(8) Adopt emergency rules under IC 4-22-2-37.1 if the commission determines that:

(A) the need for a rule is so immediate and substantial that rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 are inadequate to address the need; and

(B) an emergency rule is likely to address the need.

(9) Adopt rules to establish and implement a voluntary exclusion program that meets the requirements of subsection (c).

(b) The commission shall begin rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 to adopt an emergency rule adopted under subsection (a)(8) not later than thirty (30) days after the adoption of the emergency rule under subsection (a)(8).

(c) Rules adopted under subsection (a)(9) must provide the following:

(1) Except as provided by rule of the commission, a person who participates in the voluntary exclusion program agrees to refrain from entering a riverboat or other facility under the jurisdiction of the commission.

(2) That the name of a person participating in the program will be included on a list of persons excluded from all facilities under the jurisdiction of the commission.

(3) Except as provided by rule of the commission, a person who participates in the voluntary exclusion program may not petition the commission for readmittance to a facility under the jurisdiction of the commission.

(4) That the list of patrons entering the voluntary exclusion program is confidential and may only be disseminated by the commission to the owner of a facility under the jurisdiction of the commission for purposes of enforcement.

(5) That the personal information of a person who participates in the voluntary exclusion program is confidential.

(6) That an owner of a facility under the jurisdiction of the commission shall make all reasonable attempts as determined by the commission to cease all direct marketing efforts to a person participating in the program.

(7) That an owner of a facility under the jurisdiction of the commission may not cash the check of a person participating in the program or extend credit to the person in any manner. However, the voluntary exclusion program does not preclude an owner from seeking the payment of a debt accrued by a person before entering the program.

SECTION 2. IC 4-33-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The commission may eject or exclude or authorize the ejection or exclusion of a person from riverboat gambling facilities if:

(1) **the person's name is on the list of persons voluntarily excluding themselves from all riverboats in a program established under the rules of the commission;**

(2) the person violates this article; or

~~(2)~~ **(3)** the commission determines that the person's conduct or reputation is such that the person's presence within the riverboat gambling facilities may:

(A) call into question the honesty and integrity of the gambling operations; or

(B) interfere with the orderly conduct of the gambling operations.

(b) A person, **other than a person participating in a voluntary exclusion program,** may petition the commission for a hearing on the person's ejection or exclusion under this section.

SECTION 3. IC 4-33-4-8, AS AMENDED BY HEA 1902-2003, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. If a licensee, an operating agent, or an employee of a licensee or an operating agent violates this article or engages in a fraudulent act, the commission may do any combination of the following:

(1) Suspend, revoke, or restrict the license of the licensee, or suspend, revoke, or restrict the gambling operations of an operating agent.

(2) Require the removal of a licensee or an employee of a licensee.

(3) Impose a civil penalty of not more than five thousand dollars ($5,000) against an individual who has been issued an occupational license ~~or a person who has been issued a supplier's license~~ for each violation of this article.

(4) Impose a civil penalty of not more than the greater of:

(A) ten thousand dollars ($10,000); or

(B) an amount equal to the licensee's or operating agent's daily gross receipts for the day of the violation;

against an owner or operating agent for each violation of this article.

(5) Impose a civil penalty of not more than twenty-five thousand dollars ($25,000) against a person who has been issued a supplier's license for each violation of this article.

SECTION 4. IC 12-23-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. **(a)** For each state fiscal year, the division may not spend more than an amount equal to five percent (5%) of the total amount received by the division from the fund established under section 2 of this chapter for the administrative costs associated with the use of money received from the fund.

(b) The division shall allocate at least twenty-five percent (25%) of the funds derived from the riverboat admissions tax under IC 4-33-12-6 to the prevention and treatment of compulsive gambling.

(c) The division shall reimburse the Indiana gaming commission for the costs incurred in administering a voluntary exclusion program established under the rules of the Indiana gaming commission. The division shall pay the reimbursement from funds derived from the riverboat admissions tax under IC 4-33-12-6.

(Reference is to EHB 1470 as reprinted April 2, 2003.)

WELCH	RIEGSECKER
WHETSTONE	L. LUTZ
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1525–2; filed April 25, 2003, at 3:39 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1525 respectfully reports that said two committee have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 35-40-6-4, AS ADDED BY P.L.139-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. **(a) As used in this section, "identifying information" has the meaning set forth in IC 35-43-5-1.**

(b) A prosecuting attorney or a victim assistance program shall do the following:

(1) Inform a victim that the victim may be present at all public stages of the criminal justice process to the extent that:
(A) the victim's presence and statements do not interfere with a defendant's constitutional rights; and
(B) there has not been a court order restricting, limiting, or prohibiting attendance at the criminal proceedings.
(2) Timely notify a victim of all criminal justice hearings and proceedings that are scheduled for a criminal matter in which the victim was involved.
(3) Promptly notify a victim when a criminal court proceeding has been rescheduled or canceled.
(4) Obtain an interpreter or translator, if necessary, to advise a victim of the rights granted to a victim under the law.
(5) Coordinate efforts of local law enforcement agencies that are designed to promptly inform a victim after an offense occurs of the availability of, and the application process for, community services for victims and the families of victims, including information concerning services such as the following:
(A) Victim compensation funds.
(B) Victim assistance resources.
(C) Legal resources.
(D) Mental health services.
(E) Social services.
(F) Health resources.
(G) Rehabilitative services.
(H) Financial assistance services.
(I) Crisis intervention services.
(J) Transportation and child care services to promote the participation of a victim or a member of the victim's immediate family in the criminal proceedings.
(6) Inform the victim that the court may order a defendant convicted of the offense involving the victim to pay restitution to the victim under IC 35-50-5-3.
(7) Upon request of the victim, inform the victim of the terms and conditions of release of the person accused of committing a crime against the victim.
(8) Upon request of the victim, give the victim notice of the criminal offense for which:
(A) the defendant accused of committing the offense against the victim was convicted or acquitted; or
(B) the charges were dismissed against the defendant accused of committing the offense against the victim.
(9) In a county having a victim-offender reconciliation program (VORP), provide an opportunity for a victim, if the accused person or the offender agrees, to:
(A) meet with the accused person or the offender in a safe, controlled environment;
(B) give to the accused person or the offender, either orally or in writing, a summary of the financial, emotional, and physical effects of the offense on the victim and the victim's family; and
(C) negotiate a restitution agreement to be submitted to the sentencing court for damages incurred by the victim as a result of the offense.
(10) Assist a victim in preparing verified documentation necessary to obtain a restitution order under IC 35-50-5-3.
(11) Advise a victim of other rights granted to a victim under the law.

(c) Except as provided in subsection (d), a prosecuting attorney shall not disclose victim identifying information during discovery and other proceedings.

(d) For good cause shown, the court may order the disclosure of victim identifying information. The court may impose reasonable restrictions on the disclosure of victim identifying information, including a requirement that the identifying information not be disclosed to the defendant.

SECTION 2. IC 35-44-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A person who knowingly or intentionally:

(1) forcibly resists, obstructs, or interferes with a law enforcement officer or a person assisting the officer while the officer is lawfully engaged in the execution of ~~his~~ **the law enforcement officer's** duties as an officer;
(2) forcibly resists, obstructs, or interferes with the authorized service or execution of a civil or criminal process or order of a court; or
(3) flees from a law enforcement officer after the officer has, by visible or audible means, identified himself **or herself** and ordered the person to stop;

commits resisting law enforcement, a Class A misdemeanor, except as provided in subsection (b).

(b) The offense under subsection (a) is a:

(1) Class D felony if,
~~(A) the offense is described in subsection (a)(3) and the person uses a vehicle to commit the offense; or~~
~~(B)~~ while committing any offense described in subsection (a), the person draws or uses a deadly weapon **or** inflicts bodily injury on another person; ~~or operates a vehicle in a manner that creates a substantial risk of bodily injury to another person;~~
(2) Class C felony if:
(A) the offense is described in subsection (a)(3) and the person uses a vehicle to commit the offense; or
(B) while committing any offense described in subsection (a), the person operates a vehicle in a manner that:
(i) creates a substantial risk of bodily injury to another person; or
(ii) causes serious bodily injury to another person; and

(3) Class B felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes the death of another person.

(c) For purposes of this section, a law enforcement officer includes an alcoholic beverage enforcement officer and a conservation officer of the department of natural resources.

SECTION 3. IC 35-44-3-9, AS AMENDED BY P.L.243-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001 (RETROACTIVE)]: Sec. 9. (a) As used in this section, "juvenile facility" means the following:

(1) A secure facility (as defined in IC 31-9-2-114) in which a child is detained under IC 31 or used for a child awaiting adjudication or adjudicated under IC 31 as a child in need of services or a delinquent child.

(2) A shelter care facility (as defined in IC 31-9-2-117) in which a child is detained under IC 31 or used for a child awaiting adjudication or adjudicated under IC 31 as a child in need of services or a delinquent child.

(b) A person who, without the prior authorization of the person in charge of a penal facility or juvenile facility knowingly or intentionally:

(1) delivers, or carries into the penal facility or juvenile facility with intent to deliver, an article to an inmate or child of the facility;

(2) carries, or receives with intent to carry out of the penal facility or juvenile facility, an article from an inmate or child of the facility; or

(3) delivers, or carries to a ~~work site~~ **worksite** with the intent to deliver, alcoholic beverages to an inmate or child of a jail work crew or community work crew;

commits trafficking with an inmate, a Class A misdemeanor. However, the offense is a Class C felony if the article is a controlled substance or a deadly weapon.

(c) It is a defense to a charge under subsection (b)(1) that the article delivered to an inmate or child was:

(1) not contraband (as defined in IC 11-11-2-1) or prohibited property (as defined in IC 11-11-2-1);

(2) necessary for the health or safety of the inmate or child; and

(3) delivered because the facility had not provided the inmate or child with the article after the inmate, the child, or an employee of the facility requested the article.

SECTION 4. IC 35-46-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. **(a)** A person **at least** eighteen (18) years of age ~~or older~~ who knowingly or intentionally encourages, aids, induces, or causes a person ~~under~~ **less than** eighteen (18) years of age to commit an act of delinquency (as defined by IC 31-37-1 or IC 31-37-2) commits contributing to delinquency, a Class A misdemeanor.

(b) However, ~~the~~ **an** offense **described in subsection (a)** is a Class C felony if:

(1) the:

(A) person knowingly or intentionally furnishes:

(i) an alcoholic beverage to a person less than eighteen (18) years of age in violation of IC 7.1-5-7-8 when the person knew or reasonably should have known that the person was less than eighteen (18) years of age; or

(ii) a controlled substance (as defined in IC 35-48-1-9) or a drug (as defined in IC 9-13-2-49.1) in violation of Indiana law; and

(B) consumption, ingestion, or use of the alcoholic beverage, controlled substance, or drug is the proximate cause of the death of any person; or

(2) the person **is at least eighteen (18) years of age and** knowingly or intentionally encourages, aids, induces, or causes a person less than eighteen (18) years of age to commit an act that would be a felony if committed by an adult under **any of the following:**

~~(1)~~ **(A)** IC 35-48-4-1.

~~(2)~~ **(B)** IC 35-48-4-2.

~~(3)~~ **(C)** IC 35-48-4-3.

~~(4)~~ **(D)** IC 35-48-4-4.

~~(5)~~ **(E)** IC 35-48-4-4.5.

~~(6)~~ **(F)** IC 35-48-4-4.6. ~~or~~

~~(7)~~ **(G)** IC 35-48-4-5.

SECTION 5. [EFFECTIVE JULY 1, 2003] **IC 35-44-3-3 and IC 35-46-1-8, both as amended by this act, apply only to offenses committed after June 30, 2003.**

SECTION 6. [EFFECTIVE JULY 1, 2003] **(a) An employee of a penal facility who was the subject of an adverse employment decision based on a violation of IC 35-44-3-9(b)(1) involving the delivery of an article that was not contraband (as defined in IC 11-11-2-1) or prohibited property (as defined in IC 11-11-2-1) after January 1, 2002, and before July 1, 2003, is entitled to a redetermination of any employment action taken in response to the violation, including but not limited to, a rehearing or reinstatement.**

(b) This SECTION expires July 1, 2008.

SECTION 7. **An emergency is declared for this act.**

(Reference is to EHB 1525 as printed April 4, 2003.)

KUZMAN	LANDSKE
DUNCAN	MRVAN
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1010–1; filed April 25, 2003, at 3:46 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1010 respectfully reports that said two committee have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 8-10-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A special and distinct revolving fund is hereby created, to be known as the Indiana port fund. Expenditures from said fund shall be made only for the acquisition of **the following:**

(1) Land including lands under water and riparian rights, or options for the purchase of such land for a port site, and incidental expenses incurred in connection with such acquisition. ~~and for~~

(2) Studies in connection with the port project.

(3) Studies in connection with transportation by water, intermodal transportation, and other modes of transportation. ~~and~~

(4) ~~including~~ Administrative expenses of the commission.

(5) Transfers to the fund established by IC 14-13-2-19 to carry out the purposes of IC 14-13-2.

~~Said~~ **The** fund shall be held in the name of the Indiana port commission, shall be administered by the commission, and all expenditures therefrom shall be made by the commission, subject, however, to the approval by governor and the state budget committee of all expenditures of moneys advanced to said fund by the state of Indiana. Requests for such approval shall be made in such form as shall be prescribed by the budget committee, but expenditures for acquisition of land including lands under water and riparian rights, or options for the purchase of such land, shall be specifically requested and approved as to the land to be acquired and the amount to be expended. No transfers from said fund to any other fund of the state shall be made except pursuant to legislative action. All unexpended funds appropriated to the Indiana board of public harbors and terminals by Acts 1957, c.286, s.6, are hereby transferred to and made a part of the Indiana port fund created by this section, and shall be expended for the purpose and in the manner provided by this chapter, subject only to the restrictions contained in this chapter and no others; provided, however, that not to exceed one hundred thousand dollars ($100,000) shall be expended for any purpose other than the acquisition of land, including lands under water and riparian rights, or options for the purchase of such land for a port site, and

incidental expenses incurred in connection with such acquisition.

(b) Upon the sale of port revenue bonds for any port project, the funds expended from the Indiana port fund in connection with the development of such project and any obligation or expense incurred by the commission for surveys, preparation of plans and specifications, and other engineering or other services in connection with development of such project shall be reimbursed to the state general fund from the proceeds of such bonds.

SECTION 2. IC 8-22-3.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (f), the commission may designate an area within the jurisdiction of an airport authority under IC 8-22-3 as an airport development zone if the commission finds by resolution the following:

(1) In order to promote opportunities for the gainful employment of the citizens of the eligible entity and the attraction of a qualified airport development project to the eligible entity, an area under the jurisdiction of the airport authority should be declared an airport development zone.

(2) The public health and welfare of the eligible entity will be benefited by designating the area as an airport development zone.

(b) If the airport development zone will be located in a consolidated city or in a county described in section 1(3), 1(4), or 1(5) of this chapter, the resolution adopted under subsection (a) must also include a finding that there has been proposed a qualified airport development project to be located in the airport development zone, with the proposal supported by:

(1) financial and economic data; and

(2) preliminary commitments by business enterprises that evidence a reasonable likelihood that the proposed qualified airport development project will be initiated and accomplished.

(c) If the airport development zone will be located in a city described in section 1(2) of this chapter, the resolution adopted under subsection (a) must also include findings stating that the most recent federal decennial census for the city indicates that:

(1) the unemployment rate for the city is at least thirteen percent (13%);

(2) the population of the city has decreased by at least ~~twenty~~ **ten** percent ~~(20%)~~ **(10%)** as compared to the population reported in the preceding federal decennial census for the city;

(3) the median per capita income for city residents does not exceed eighty percent (80%) of the median per capita income for all residents of the United States; and

(4) at least twenty-five percent (25%) of the population of the city is below the federal income poverty level (as defined in IC 12-15-2-1).

(d) The resolution adopted under subsection (a) must describe the boundaries of the area. The description may be by reference to the area's location in relation to public ways or streams, or otherwise, as determined by the commission.

(e) If the airport development zone will be located in a county described in section 1(4) or 1(5) of this chapter, the resolution adopted under subsection (a) and any qualified airport development project to be located in the airport development zone, must be approved by the executive of:

(1) the county, if the entire airport development zone or qualified airport development project will be located outside the boundaries of any municipality located in the county;

(2) a municipality located in the county, if the entire airport development zone or qualified airport development project will be located within the boundary of the municipality; or

(3) the county and a municipality located in the county, if the airport development zone or qualified airport development project will be located within the boundary of the county and in part within the boundary of the municipality.

(f) If the airport development zone will be located in a county described in section 1(5) of this chapter, the commission may designate the airport plus the area outside of the airport property but not to exceed a total area of three (3) square miles as an airport development zone, if the commission finds by resolution the following:

(1) In order to promote opportunities for the gainful employment of the citizens of the eligible entity and the attraction of a qualified airport development project to the eligible entity, an area under the jurisdiction of the airport authority should be declared an airport development zone.

(2) The public health and welfare of the eligible entity will be benefited by designating the area as an airport development zone.

SECTION 3. IC 36-7-4-311 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 311. (a) ADVISORY. The advisory plan commission may appoint, prescribe the duties, and fix the compensation of such employees as are necessary for the discharge of the duties of the commission. This compensation must be in conformity with salaries and compensation fixed up to that time by the fiscal body of the municipality or county, as the case may be. The commission may contract for special or temporary services and any professional counsel.

(b) AREA.

~~(1) Except as provided in subdivision (2),~~ The area plan commission shall appoint an executive director for the planning department and fix the director's compensation. To be qualified for the position, the executive director must have training and experience in the field of planning and zoning. The commission may not give any consideration to political affiliation in the appointment of the executive director.

~~(2) This subdivision applies to an area plan commission of a county in which the largest city has a population of less than twenty-five thousand (25,000) or to a county that has no cities. When there is a vacancy in the position of executive director of the planning department, the area plan commission shall give to the county commissioners the name of a person recommended for the position. The county commissioners shall appoint an executive director who may be the person recommended by the area plan commission. The county commissioners may remove the executive director. The county commissioners shall fix the director's compensation. To be qualified for the position, an executive director must have training and experience in the field of planning and zoning. In making the appointment, the county commissioners may not give any consideration to political affiliation of the executive director.~~

SECTION 4. IC 36-7-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The following members of the commission shall be appointed from each county in the region:

(1) A representative of the county executive who may be either a member of the executive or a person appointed by it.

(2) A representative of the county fiscal body who must be a member of the fiscal body.

(b) The following members of the commission shall be appointed from each county in the region having a population of more than fifty thousand (50,000):

(1) The county surveyor or a person appointed by ~~him.~~ **the surveyor.**

(2) Two (2) persons appointed by the executive of each municipality having a population of more than fifty thousand (50,000).

(3) ~~Except for a commission in which a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) participates,~~ One (1) person appointed by the executive of each of the seven (7) largest municipalities having a population of less than fifty thousand (50,000). If there are fewer than seven (7) municipalities, enough additional persons appointed by the county executive to bring the total appointed under this subdivision to seven (7).

~~(4) For a commission in which a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) participates, the membership is as follows:~~

~~(A) For a county having a population of not more than four hundred thousand (400,000), one (1) person appointed by the executive of each of the eight (8) largest municipalities~~

~~having a population of less than fifty thousand (50,000).~~

~~(B) For a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), one (1) person appointed by the executive of each city having a population of less than fifty thousand (50,000) and one (1) person appointed by the executive of each of the five (5) towns with the largest population.~~

(c) The following members of the commission shall be appointed from each county in the region having a population of less than fifty thousand (50,000):

(1) One (1) person appointed by the executive of each of the five (5) largest municipalities or of each municipality if there are fewer than five (5).

(2) If there are fewer than five (5) municipalities, enough additional persons appointed by the county executive to bring the total appointed under this subsection to five (5).

(d) One (1) voting member of the commission shall be appointed by the governor.

(e) At least two-thirds (2/3) of the commission members must be elected officials. All persons appointed to the commission must be:

(1) knowledgeable in matters of physical, social, or economic development of the region; and

(2) residents of the municipality, county, or region that they represent.

A member of the commission may also serve as a member of a plan commission in the region.

(f) Members of the commission shall serve without salary but may be reimbursed for expenses incurred in the performance of their duties.

(g) The respective appointing authorities shall certify their appointments, and the certification shall be retained as a part of the records of the commission.

(h) ~~This subsection applies to a commission that does not include members from a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).~~ If a vacancy occurs by resignation or otherwise, the respective appointing authority shall appoint a member for the unexpired term. Members shall be certified annually, and their terms expire on December 31 of each year.

SECTION 5. IC 36-7-7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) The commission shall prepare and adopt an annual appropriation budget for its operation, which shall be apportioned to each participating county on a pro rata per capita basis. After adoption, any amount that does not exceed an amount for each participating county equal to

~~(1) seventy cents ($0.70) per capita for each participating county in a commission in which a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) participates; and~~

~~(2)~~ thirty cents ($0.30) per capita ~~for all other commissions;~~

shall be certified to the respective county auditor who shall advertise the amount and establish the rate in the same manner as other county budgets. Any amount of the adopted budget that exceeds an amount equal to ~~seventy cents ($0.70) per capita for each participating county in a commission in which a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) participates and~~ thirty cents ($0.30) per capita for each participating county ~~for all other commissions~~ is subject to review by the county fiscal body in the usual manner of budget review. The tax so levied and certified shall be estimated and entered upon the tax duplicates by the county auditor and shall be collected and enforced by the county treasurer in the same manner as other county taxes are estimated, entered, collected, and enforced. The tax, as collected by the county treasurer, shall be transferred to the commission.

(b) In fixing and determining the amount of the necessary levy for the purpose provided in this section, the commission shall take into consideration the amount of revenue, if any, to be derived from the federal grants, contractual services, and miscellaneous revenues above the amount of those revenues considered necessary to be applied upon or reserved upon the operation, maintenance, and administrative expenses for working capital throughout the year.

(c) After approval no sums may be expended except as budgeted unless the commission authorizes their expenditure. Before the expenditure of sums appropriated as provided in this section, a claim must be filed and processed as other claims for allowance or disallowance, for payment as provided by law.

(d) Any two (2) of the following officers may allow claims:

(1) Chairman.

(2) Vice chairman.

(3) Secretary.

(4) Treasurer.

The treasurer of the commission may receive, disburse, and otherwise handle funds of the commission subject to applicable statutes and procedures established by the commission.

(e) The commission shall act as a board of finance under the statutes relating to the deposit of public funds by political subdivisions.

(f) Any appropriated money remaining unexpended or unencumbered at the end of the year becomes part of a nonreverting cumulative fund to be held in the name of the commission. Unbudgeted expenditures from this fund may be authorized by vote of the commission and upon other approval as required by statute. The commission is responsible for the safekeeping and deposit of such sums, and the state board of accounts shall prescribe the methods and forms for keeping the accounts, records, and books to be used by the commission. The books, records, and accounts of the commission shall be periodically audited by the state board of accounts, and these audits shall be paid for as provided by statute.

SECTION 6. IC 36-7-7.6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 7.6. Northwestern Indiana Regional Planning Commission

Sec. 1. This chapter applies to the area consisting of the following counties:

(1) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(2) A county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000).

(3) A county having a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000).

Sec. 2. As used in this chapter, "commission" means the northwestern Indiana regional planning commission established by section 3 of this chapter.

Sec. 3. The northwestern Indiana regional planning commission is established for the area described in section 1 of this chapter.

Sec. 4. (a) The following members shall be appointed to the commission:

(1) A member of the county executive of each county described in section 1 of this chapter, to be appointed by the county executive.

(2) A member of the county fiscal body of each county described in section 1 of this chapter, to be appointed by the county fiscal body.

(3) The county surveyor of each county described in section 1 of this chapter.

(4) For a county having a population of not more than four hundred thousand (400,000), one (1) person appointed by the executive of each of the eleven (11) largest municipalities.

(5) For a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), one (1) person appointed by the executive of each of the nineteen (19) largest municipalities.

(b) One (1) voting member of the commission shall be appointed by the governor. The member appointed under this subsection may not vote in a weighted vote under section 9 of this chapter.

(c) A member of the commission who is a county surveyor may not vote in a weighted vote under section 9 of this chapter.

Sec. 5. (a) All commission members must be elected officials.

(b) All persons appointed to the commission must be:

(1) knowledgeable in matters of physical, social, or economic development of the region; and

(2) residents of the municipality, county, or region that they represent.

(c) A member of the commission may also serve as a member of a plan commission in the region.

(d) Members of the commission shall serve without salary but may be reimbursed for expenses incurred in the performance of their duties.

(e) The respective appointing authorities shall certify their appointments, and the certification shall be retained as a part of the records of the commission.

(f) Each member serves at the pleasure of the appointing authority. The appointing authority shall give written notice to the commission of a change of an appointee and the effective date of that change.

(g) If a vacancy occurs by resignation or otherwise, the appointing authority shall promptly appoint a replacement member.

(h) If a member of the commission is absent for more than three (3) consecutive meetings of the full commission, the commission shall notify that member's appointing authority and request the appointing authority to do one (1) of the following:

(1) Replace the member.

(2) Take action to assure the member's conscientious attendance at meetings of the full commission.

Sec. 6. (a) At its first regular meeting in each year, the commission shall elect from its members a chairperson, vice chairperson, secretary, and treasurer.

(b) Not more than two (2) of the officers elected under subsection (a) may be from the same county.

(c) The vice chairperson may act as chairperson during the absence or disability of the chairperson.

Sec. 7. (a) The commission shall fix the time and place for holding regular meetings, but it shall meet:

(1) at least quarterly; and

(2) at other times established by the commission or the executive board of the commission.

(b) The chairperson of the commission or five (5) members of the commission may call a special meeting of the commission upon written request to the secretary of the commission. The secretary shall send to all commission members at least forty-eight (48) hours in advance of a special meeting a written notice fixing the time and place of the special meeting. Written notice of a special meeting is not required if:

(1) the time of the special meeting has been fixed in a regular meeting; or

(2) all members are present at the special meeting.

(c) A commission member may waive notice of any meeting by filing a written waiver with the secretary of the commission.

Sec. 8. The commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations. The commission's record is a public record.

Sec. 9. (a) Twenty-six (26) commission members constitute a quorum.

(b) An action of the commission is official only if both the following apply:

(1) The action is authorized at a regular meeting or a properly called special meeting in which at least one (1) member from each county described in section 1 of this chapter is present.

(2) The action is authorized by:

(A) the affirmative votes of twenty-six (26) members of the commission; or

(B) a weighted affirmative vote of more than fifty (50) if a motion is made under subsection (c).

(c) The weighted voting authorized under this chapter may not be used after June 30, 2007. Upon a motion by any one (1) member of the commission that is properly seconded by another member at:

(1) a regular meeting; or

(2) a properly called special meeting;

the commission shall use the weighted voting process described in subsection (d).

(d) Until June 30, 2007, each commission member has a weighted vote determined as follows:

(1) In the case of a member appointed by the executive of a municipality, the member's weighted vote is determined in STEP FIVE of the following formula:

STEP ONE: Determine the population of the municipality as reported by the 2000 decennial census.

STEP TWO: Determine the sum of the population of the counties described in section 1 of this chapter as reported by the 2000 decennial census.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Round the number determined in STEP THREE to the nearest ten-thousandth (0.0001).

STEP FIVE: Multiply the number determined in STEP FOUR by one hundred (100).

(2) In the case of a member appointed by the executive of a county, the member's weighted vote is determined in STEP FIVE of the following formula:

STEP ONE: Determine the population of the area in the county that is not within a municipality as reported by the 2000 decennial census.

STEP TWO: Determine the sum of the population of the counties described in section 1 of this chapter as reported by the 2000 decennial census.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Round the number determined in STEP THREE to the nearest ten-thousandth (0.0001).

STEP FIVE: Multiply the number determined in STEP FOUR by fifty (50).

(3) In the case of a member appointed by a fiscal body, the member's weighted vote is determined in STEP FIVE of the following formula:

STEP ONE: Determine the population of the area in the county that is not within a municipality as reported by the 2000 decennial census.

STEP TWO: Determine the sum of the population of the counties described in section 1 of this chapter as reported by the 2000 decennial census.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Round the number determined in STEP THREE to the nearest ten-thousandth (0.0001).

STEP FIVE: Multiply the number determined in STEP FOUR by fifty (50).

Sec. 10. (a) The commission shall elect from among its members, by the affirmative votes of a majority of the members serving on the commission, an executive board that consists of the following:

(1) The four (4) officers of the commission.

(2) One (1) member of the commission from each county described in section 1 of this chapter.

(3) The member of the commission appointed by the governor.

(b) If a vacancy occurs in a position on the executive board referred to in subsection (a)(2), a successor shall be elected from among the members in the same manner as the member whose position has been vacated.

(c) The executive board shall conduct the business of the commission, except for:

(1) the adoption and amendment of bylaws, rules, and procedures for the operation of the commission;

(2) the election of officers and members of the executive board as provided in this chapter; and

(3) the adoption of the annual appropriation budget after review by the executive board.

(d) The executive board shall meet regularly at least one (1) time each month, unless otherwise determined by its members. The executive board shall notify the full membership of the commission of all its meetings with copies of its preliminary or final agendas and shall report all its actions and determinations to the full membership of the commission.

(e) A majority of members of the executive board constitutes a quorum. An action of the executive board is official only if it is authorized by an affirmative vote of a majority of the total number of members serving on the board at a regular or properly called special meeting. Any action of the executive board shall be reviewed at the next regular meeting of the commission following the executive board's action. Upon either:

(1) a decision by the majority of the board; or

(2) written request of a member of the commission;

an issue shall be brought to a vote of the full commission.

Sec. 11. (a) After review and recommendation by the executive board, the commission shall appoint an executive director, who serves at the pleasure of the commission. The executive director must be qualified by training and experience in the management of public agencies and must be knowledgeable in planning.

(b) The executive director is the chief administrative officer and regular technical adviser of the commission. Subject to supervision by the commission and in furtherance of the purposes of the commission, the executive director:

(1) shall execute the commission functions;

(2) shall appoint and remove the staff of the commission;

(3) shall submit to the commission annually, or more often if required, a status report on the operation of the commission;

(4) may, with the approval of the executive board, execute contracts, leases, or agreements with other persons on behalf of the commission;

(5) shall be given access by all governmental agencies, upon the executive director's written request, to all studies, reports, surveys, records, and other information and material in their possession that are required by the executive director for the accomplishment of the activities and objectives of the commission;

(6) shall propose annually a budget for the operation of the commission and administer the budget as approved by the commission;

(7) shall keep the records and care for and preserve all papers and documents of the commission; and

(8) shall perform other duties and may exercise other powers that the commission or the executive board delegates to the executive director.

Sec. 12. The purpose of the commission is to institute and maintain a comprehensive planning and programming process for:

(1) transportation;

(2) economic development; and

(3) environmental;

policy and provide a coordinative management process for the counties described in section 1 of this chapter. The commission shall coordinate its activities with all member units in the counties and shall coordinate and assist the planning programs of member units and the state that are related to its purpose.

Sec. 13. The commission may do any of the following in support of a purpose listed under section 12 of this chapter:

(1) Transact business and enter into contracts.

(2) Receive grants or appropriations from federal, state, or local governmental entities or from individuals or foundations and enter into agreements or contracts regarding the acceptance or use of those grants and appropriations to carry out any of the activities of the commission.

(3) Apply for, receive, and disburse gifts, contributions, and grants of funds or in-kind services.

(4) Acquire by grant, purchase, gift, devise, lease, or otherwise and hold, use, sell, improve, maintain, operate, own, manage, lease, or dispose of:

(A) real and personal property of every kind and nature; and

(B) any right and interest;

as necessary for the exercise of, or convenient or useful for the carrying out of, the commission's purposes under this chapter.

(5) Make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of the commission's purposes.

(6) Employ and fix the reasonable compensation of any employees and agents the commission considers necessary.

(7) Contract for special and temporary services and for professional assistance.

(8) Hold, use, administer, and expend money that is appropriated or transferred to the commission.

(9) Make contracts and leases for facilities and services.

(10) Act as a coordinating agency for programs and activities of other public and private agencies that are related to the commission's objectives.

(11) Enter into agreements or partnerships to do the following:

(A) Assist in coordinating activities involving state and local government, business organizations, and nonprofit organizations.

(B) Assist in the development and implementation of programs by other regional agencies and entities.

(12) Enter into coordinative arrangements with:

(A) any unit of government in Indiana or an adjoining state;

(B) an overlapping multicounty or interstate planning or development agency;

(C) a state agency;

(D) a federal agency;

(E) a private entity; or

(F) a minority business enterprise as defined by IC 4-13-16.5;

that are appropriate to the achievement of the commission's objectives or to address a common issue.

(13) Provide any administrative, management, or technical services to a unit of local government that requests the services. The local unit and the commission may enter into a contract concerning the commission's provision of administrative, management, or technical services and the cost to the local unit for the services.

(14) Conduct all necessary studies for the accomplishment of the commission's purpose.

(15) Publicize the commission's purposes, objectives, and findings and distribute reports on those purposes, objectives, and findings.

(16) Provide recommendations to units of local government and to other public and private agencies.

Sec. 14. The commission may adopt by resolution any regional comprehensive or functional plan, program, or policy as the commission's official recommendation for the development of the region, subject to the power of a county to exempt itself under section 15 of this chapter. The commission shall provide an annual report of its activities to the legislative bodies of the counties and municipalities in the region.

Sec. 15. If the commission receives a petition that:

(1) is signed by a majority of the commission members representing a county affected by a particular program; and

(2) objects to the establishment of the program within that county;

the commission may not implement the program in that county.

Sec. 16. (a) The commission must appoint advisory committees to assist in the achievement of its objectives. The membership of advisory committees shall not be limited to the members of the commission.

(b) At least one (1) advisory committee must be appointed

with a membership that is representative of the private sector of the communities served by the commission and must include members representative of:

(1) higher education institutions;

(2) minority business enterprises;

(3) labor and workforce organizations; and

(4) manufacturing entities;

active in at least one (1) of the communities served by the commission.

(c) Members of advisory committees are not entitled to compensation for their services but may be reimbursed by the commission for expenses incurred in the performance of their duties.

Sec. 17. A county or municipality may periodically, upon the request of the commission, assign or detail to the commission any employees of the county or municipality to make special surveys or studies requested by the commission.

Sec. 18. (a) The commission shall prepare and adopt an annual appropriation budget for its operation. The appropriation budget shall be apportioned to each participating county on a pro rata per capita basis. After adoption of the appropriation budget, any amount that does not exceed an amount for each participating county equal to seventy cents ($0.70) per capita for each participating county shall be certified to the respective county auditor. The county auditor shall advertise the amount and establish the rate in the same manner as for other county budgets.

(b) The tax levied under this section and certified shall be estimated and entered upon the tax duplicates by the county auditor and shall be collected and enforced by the county treasurer in the same manner as other county taxes are estimated, entered, collected, and enforced. The tax collected by the county treasurer shall be transferred to the commission.

(c) In fixing and determining the amount of the necessary levy for the purpose provided in this section, the commission shall take into consideration the amount of revenue, if any, to be derived from federal grants, contractual services, and miscellaneous revenues above the amount of those revenues considered necessary to be applied upon or reserved upon the operation, maintenance, and administrative expenses for working capital throughout the year.

(d) After the budget is approved, amounts may not be expended except as budgeted unless the commission authorizes their expenditure. Before the expenditure of sums appropriated as provided in this section, a claim must be filed and processed as other claims for allowance or disallowance for payment as provided by law.

(e) Any two (2) of the following officers may allow claims:

(1) Chairperson.

(2) Vice chairperson.

(3) Secretary.

(4) Treasurer.

(f) The treasurer of the commission may receive, disburse, and otherwise handle funds of the commission, subject to applicable statutes and to procedures established by the commission.

(g) The commission shall act as a board of finance under the statutes relating to the deposit of public funds by political subdivisions.

(h) Any appropriated money remaining unexpended or unencumbered at the end of a year becomes part of a nonreverting cumulative fund to be held in the name of the commission. Unbudgeted expenditures from this fund may be authorized by vote of the commission and upon other approval as required by statute. The commission is responsible for the safekeeping and deposit of the amounts in the nonreverting cumulative fund, and the state board of accounts shall prescribe the methods and forms for keeping the accounts, records, and books to be used by the commission. The books, records, and accounts of the commission shall be audited periodically by the state board of accounts, and those audits shall be paid for as provided by statute.

SECTION 7. IC 36-7-7-4.1 IS REPEALED [EFFECTIVE JULY 1, 2003].

SECTION 8. [EFFECTIVE JULY 1, 2003] **(a) A regional planning commission under IC 36-7-7 that includes a county described in IC 36-7-7.6-1, as added by this act, becomes on July 1, 2003, the northwestern Indiana regional planning commission, subject to IC 36-7-7.6, as added by this act.**

(b) A municipality or county required to make an appointment to the northwestern Indiana regional planning commission under IC 36-7-7.6-4, as added by this act, shall make the appointment before July 15, 2003.

(c) On July 1, 2003, all property of the regional planning commission described in subsection (a) becomes the property of the northwestern Indiana regional planning commission, subject to IC 36-7-7.6, as added by this act.

(d) This SECTION expires January 1, 2004.

SECTION 9. **An emergency is declared for this act.**

(Reference is to EHB 1010 as printed April 4, 2003.)

PELATH	LANDSKE
AYRES	ROGERS
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1242–2; filed April 25, 2003, at 3:50 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1242 respectfully reports that said two committee have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-13-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) All public funds of all political subdivisions shall be deposited in the designated depositories located in the respective territorial limits of the political subdivisions, except as provided in this section.

(b) Each board of finance of a political subdivision:

(1) that is not a city, town, or school corporation; and

(2) whose jurisdiction crosses one (1) or more county lines;

may limit its boundaries for the purpose of this section to that portion of the political subdivision within the county where its principal office is located.

(c) If there is no principal office or branch of a financial institution located in the county or political subdivision, or if no financial institution with a principal office or branch in the county or political subdivision will accept public funds under this chapter, the board of finance of the county and the boards of finance of the political subdivisions in the county shall designate one (1) or more financial institutions with a principal office or branch outside of the county or political subdivision, and in the state, as a depository or depositories.

(d) The board of trustees for a hospital organized or operated under IC 16-22-1 through IC 16-22-5 or IC 16-23-1 may invest any money in the hospital fund anywhere in the state with any financial institution designated by the state board of finance as depositories for state deposits.

(e) If only one (1) financial institution that has a branch or principal office in a county or political subdivision is willing to accept public funds, the board of finance for the county or political subdivision may:

(1) treat the financial institution that is located within the county or political subdivision as if the financial institution were not located within the county or political subdivision; and

(2) designate one (1) or more financial institutions to receive public funds under the requirements of subsection (c).

(f) The investing officer shall maintain the deposits as follows:

(1) In one (1) or more depositories designated for the political subdivision, if the sum of the monthly average balances of all the transaction accounts for the political subdivision does not exceed one hundred thousand dollars

($100,000).

(2) In each depository designated for the political subdivision, if subdivision (1) does not apply and fewer than three (3) financial institutions are designated by the local board of finance as a depository.

(3) In at least two (2) depositories designated for the political subdivision, if subdivision (1) does not apply and at least three (3) financial institutions are designated by the local board of finance as a depository.

SECTION 2. IC 5-13-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Each officer designated in section 1 of this chapter may deposit, invest, or reinvest any funds that are held by the officer and available for investment in transaction accounts issued or offered by a designated depository of a political subdivision for the rates and terms agreed upon periodically by the officer making the investment and the designated depository. ~~The fiscal body of a political subdivision shall require the investing officer to deposit and maintain deposits that are invested or reinvested under this subsection as follows:~~

~~(1) In one (1) or more depositories designated for the political subdivision, if the sum of the monthly average balances of all of the transaction accounts for the political subdivision does not exceed one hundred thousand dollars ($100,000).~~

~~(2) In each depository designated for the political subdivision, if subdivision (1) does not apply and less than three (3) financial institutions are designated by the local board of finance as a depository.~~

~~(3) In at least two (2) depositories designated for the political subdivision, if subdivision (1) does not apply and at least three (3) financial institutions are designated by the local board of finance as a depository.~~

(b) The investing officer making a deposit in a certificate of deposit shall obtain quotes of the specific rates of interest for the term of that certificate of deposit that each designated depository will pay on the certificate of deposit. Quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by the investing officer as a public record of the political subdivision under IC 5-14-3. A deposit made under this subsection shall be placed in the designated depository quoting the highest rate of interest. If more than one (1) depository submits a quote of the highest interest rate quoted for the investment, the deposit may be placed in any or all of the designated depositories quoting the highest rate in the amount or amounts determined by the investing officer, in the investing officer's discretion.

(c) If all of the designated depositories of a political subdivision decline to issue or receive any deposit account, or to issue or receive the deposit account at a rate of interest equal to the highest rate being offered other investors, investments may be made in the deposit accounts of any financial institution designated for state deposits as a depository by the state board of finance under IC 5-13-9.5.

SECTION 3. IC 5-13-11-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.5. (a) A contract may be renewed under this chapter if the county board of finance for a county subject to IC 5-13-7-1 or the fiscal body of a political subdivision and the investing officer of the political subdivision agree with the depository to renew the contract under the same terms or better terms as the original contract.**

(b) The term of a renewed contract may not be longer than the term of the original contract.

(c) A contract may be renewed any number of times.

SECTION 4. IC 5-14-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as provided in section 4 of this chapter. A request for inspection or copying must:

(1) identify with reasonable particularity the record being requested; and

(2) be, at the discretion of the agency, in writing on or in a form provided by the agency.

No request may be denied because the person making the request refuses to state the purpose of the request, unless such condition is required by other applicable statute.

(b) A public agency may not deny or interfere with the exercise of the right stated in subsection (a). The public agency shall either:

(1) provide the requested copies to the person making the request; or

(2) allow the person to make copies:

(A) on the agency's equipment; or

(B) on ~~his~~ **the person's** own equipment.

(c) Notwithstanding subsections (a) and (b), a public agency may or may not do the following:

(1) In accordance with a contract described in section 3.5 of this chapter, permit a person to inspect and copy through the use of enhanced access public records containing information owned by or entrusted to the public agency.

(2) Permit a governmental entity to use an electronic device to inspect and copy public records containing information owned by or entrusted to the public agency.

(d) Except as provided in subsection (e), a public agency that maintains or contracts for the maintenance of public records in an electronic data storage system shall make reasonable efforts to provide to a person making a request a copy of all disclosable data contained in the records on paper, disk, tape, drum, or any other method of electronic retrieval if the medium requested is compatible with the agency's data storage system. This subsection does not apply to an electronic map. ~~(as defined by IC 5-14-3-2).~~

(e) A state agency may adopt a rule under IC 4-22-2, and a political subdivision may enact an ordinance, prescribing the conditions under which a person who receives information on disk or tape under subsection (d) may or may not use the information for commercial purposes, including to sell, advertise, or solicit the purchase of merchandise, goods, or services, or sell, loan, give away, or otherwise deliver the information obtained by the request to any other person ~~(as defined in IC 5-14-3-2)~~ for these purposes. Use of information received under subsection (d) in connection with the preparation or publication of news, for nonprofit activities, or for academic research is not prohibited. A person who uses information in a manner contrary to a rule or ordinance adopted under this subsection may be prohibited by the state agency or political subdivision from obtaining a copy or any further data under subsection (d).

(f) **Notwithstanding the other provisions of this section, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public under a statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the list unless access to the list is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:**

(1) A list of employees of a public agency.

(2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.

(3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:

(A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or

(B) specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes.

A policy adopted under subdivision (3) must be uniform and may not discriminate among similarly situated commercial entities.

(g) A public agency may not enter into or renew a contract or an obligation:

(1) for the storage or copying of public records; or

(2) that requires the public to obtain a license or pay copyright royalties for obtaining the right to inspect and copy the records

unless otherwise provided by applicable statute;
if the contract, obligation, license, or copyright unreasonably impairs the right of the public to inspect and copy the agency's public records.

~~(g)~~ **(h)** If this section conflicts with IC 3-7, the provisions of IC 3-7 apply.

SECTION 5. IC 5-14-3-4, AS AMENDED BY P.L.1-2002, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

(2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.

(3) Those required to be kept confidential by federal law.

(4) Records containing trade secrets.

(5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.

(6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.

~~(11) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):~~

~~(A) Telephone number.~~

~~(B) Social Security number.~~

~~(C) Address.~~

~~(12)~~ **(11)** A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(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 ~~his~~ **the person's** scores.

(5) The following:

(A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of commerce, the Indiana development finance authority, the Indiana film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

However, all personnel file information shall be made available to the affected employee or ~~his~~ **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 recordkeeping 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 ~~his~~ **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 advisory committee. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations that concern the driver.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

(A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;

(B) vulnerability assessments;

(C) risk planning documents;

(D) needs assessments;

(E) threat assessments;

(F) domestic preparedness strategies;

(G) the location of community drinking water wells and surface water intakes;

(H) the emergency contact information of emergency responders and volunteers;

(I) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and

(J) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. The public agency that owns, occupies, leases, or maintains the airport:

(i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and

(ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(19)(I) 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.

~~(c) Notwithstanding section 3 of this chapter, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public pursuant to statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the lists unless access to the lists is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:~~

~~(1) A list of employees of a public agency.~~

~~(2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.~~

~~(3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:~~

~~(A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or~~

~~(B) specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes.~~

~~A policy adopted under subdivision (3) must be uniform and may not discriminate among similarly situated commercial entities.~~

~~(d)~~ **(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.

~~(e)~~ **(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.

~~(f)~~ **(e)** Notwithstanding subsection ~~(e)~~ **(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 6. IC 5-14-3-9, AS AMENDED BY P.L.191-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) A denial of disclosure by a public agency occurs when the person making the request is physically present in the office of the agency, makes the request by telephone, or requests enhanced access to a document and:

(1) the person designated by the public agency as being responsible for public records release decisions refuses to permit inspection and copying of a public record when a request has been made; or

(2) twenty-four (24) hours elapse after any employee of the public agency refuses to permit inspection and copying of a public record when a request has been made;

whichever occurs first.

(b) If a person requests by mail or by facsimile a copy or copies of a public record, a denial of disclosure does not occur until seven (7) days have elapsed from the date the public agency receives the request.

(c) If a request is made orally, either in person or by telephone, a public agency may deny the request orally. However, if a request initially is made in writing, by facsimile, or through enhanced access, or if an oral request that has been denied is renewed in writing or by facsimile, a public agency may deny the request if:

(1) the denial is in writing or by facsimile; and

(2) the denial includes:

(A) a statement of the specific exemption or exemptions authorizing the withholding of all or part of the public record; and

(B) the name and the title or position of the person responsible for the denial.

(d) **This subsection applies to a board, a commission, a department, a division, a bureau, a committee, an agency, an office, an instrumentality, or an authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state. If an agency receives a request to inspect or copy a record that the agency considers to be excepted from disclosure under section 4(b)(19) of this chapter, the agency may consult with the counterterrorism and security council established under IC 4-3-20. If an agency denies the disclosure of a record or a part of a record under section 4(b)(19) of this chapter, the agency or the counterterrorism and**

security council shall provide a general description of the record being withheld and of how disclosure of the record would have a reasonable likelihood of threatening the public safety.

(e) A person who has been denied the right to inspect or copy a public record by a public agency may file an action in the circuit or superior court of the county in which the denial occurred to compel the public agency to permit the person to inspect and copy the public record. Whenever an action is filed under this subsection, the public agency must notify each person who supplied any part of the public record at issue:

(1) that a request for release of the public record has been denied; and

(2) whether the denial was in compliance with an informal inquiry response or advisory opinion of the public access counselor.

Such persons are entitled to intervene in any litigation that results from the denial. The person who has been denied the right to inspect or copy need not allege or prove any special damage different from that suffered by the public at large.

~~(e)~~ **(f)** The court shall determine the matter de novo, with the burden of proof on the public agency to sustain its denial. If the issue in de novo review under this section is whether a public agency properly denied access to a public record because the record is exempted under section 4(a) of this chapter, the public agency meets its burden of proof under this subsection by establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit.

~~(f)~~ **(g)** If the issue in a de novo review under this section is whether a public agency properly denied access to a public record because the record is exempted under section 4(b) of this chapter:

(1) the public agency meets its burden of proof under this subsection by:

(A) proving that the record falls within any one (1) of the categories of exempted records under section 4(b) of this chapter; and

(B) establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit; and

(2) a person requesting access to a public record meets the person's burden of proof under this subsection by proving that the denial of access is arbitrary or capricious.

~~(g)~~ **(h)** The court may review the public record in camera to determine whether any part of it may be withheld under this chapter.

~~(h)~~ **(i)** In any action filed under this section, a court shall award reasonable ~~attorney~~ **attorney's** fees, court costs, and other reasonable expenses of litigation to the prevailing party if:

(1) the plaintiff substantially prevails; or

(2) the defendant substantially prevails and the court finds the action was frivolous or vexatious.

The plaintiff is not eligible for the awarding of attorney's fees, court costs, and other reasonable expenses if the plaintiff filed the action without first seeking and receiving an informal inquiry response or advisory opinion from the public access counselor, unless the plaintiff can show the filing of the action was necessary because the denial of access to a public record under this chapter would prevent the plaintiff from presenting that public record to a public agency preparing to act on a matter of relevance to the public record whose disclosure was denied.

~~(i)~~ **(j)** A court shall expedite the hearing of an action filed under this section.

SECTION 7. IC 6-1.1-18-6, AS AMENDED BY P.L.90-2002, SECTION 162, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) The proper officers of a political subdivision may transfer money from one major budget classification to another within a department or office if:

(1) they determine that the transfer is necessary;

(2) the transfer does not require the expenditure of more money than the total amount set out in the budget as finally determined under this article; **and**

(3) the transfer is made at a regular public meeting and by proper ordinance or resolution. ~~and~~

~~(4) the transfer is certified to the county auditor.~~

(b) A transfer may be made under this section without notice and without the approval of the department of local government finance.

SECTION 8. IC 6-1.1-18-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. Notwithstanding the other provisions of this chapter, the ~~appropriating body~~ **fiscal officer** of a political subdivision may appropriate funds received from an insurance company if:

(1) the funds are received as a result of damage to property of the political subdivision; and

(2) the funds are appropriated for the purpose of repairing or replacing the damaged property.

However, this section applies only if the funds are in fact expended to repair or replace the property within the twelve (12) month period after they are received.

SECTION 9. IC 6-1.1-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Annually, after November 10th but prior to August 1st of the succeeding year, each county treasurer shall serve a written demand upon each county resident who is delinquent in the payment of personal property taxes. The written demand may be served upon the taxpayer:

(1) by registered or certified mail;

(2) in person by the county treasurer or ~~his deputy;~~ **the county treasurer's agent;** or

(3) by proof of certificate of mailing.

(b) The written demand required by this section shall contain:

(1) a statement that the taxpayer is delinquent in the payment of personal property taxes;

(2) the amount of the delinquent taxes;

(3) the penalties due on the delinquent taxes;

(4) the collection expenses which the taxpayer owes; and

(5) a statement that if the sum of the delinquent taxes, penalties, and collection expenses are not paid within thirty (30) days from the date the demand is made then:

(A) sufficient personal property of the taxpayer shall be sold to satisfy the total amount due plus the additional collection expenses incurred; or

(B) a judgment may be entered against the taxpayer in the circuit court of the county.

SECTION 10. IC 8-17-4.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The governing body shall prepare by ~~December 31~~ **April 15** of each year an operational report **for the prior calendar year** of the department within the county or municipality that has road and street responsibilities.

SECTION 11. IC 8-17-4.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. ~~(a)~~ This report shall be prepared on forms prescribed by the state board of accounts and must disclose ~~for the calendar year the following:~~

~~(1) The receipts of the department and the sources of the receipts.~~

~~(2) The expenditures of the department showing the purpose of each expenditure made and to account for all funds.~~

~~(3) The number of employees of the department each month and the work classifications of the employees.~~

~~(4) The proposed construction, reconstruction, and repair program following the year of the annual report.~~

~~(5) The maintenance expenses.~~

~~(b) The report must also include other~~ **all** information considered necessary by the state board of accounts to reflect the financial condition and operations of the department.

SECTION 12. IC 8-17-4.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The annual operational report must be completed and a copy filed with the state board of accounts, the governing body, and the department by ~~February 15~~ **June 1** following the operational report year. The department shall make the report available to the public.

SECTION 13. IC 8-22-2-4, AS AMENDED BY P.L.137-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The board shall choose, annually, at its first regular meeting in January, one (1) of its members president, and another of its members vice president to perform the duties of the president during the absence or disability of

the president. The eligible entity shall provide a suitable office for the board in the entity, or, at the option of the board, at the airport, at the expense of the department of aviation, where its maps, plans, documents, records, and accounts shall be kept, subject to public inspection at all reasonable times. Before February 2 each year the board shall make a report to the executive of its proceedings with a full statement of its receipts and disbursements for the preceding year, including a report of the acquisition of air navigation facilities and of other property that has come under the control of the board, improvements made, general character of the work of the board, and progress of aviation and air commerce under its control. Money received by the board shall be paid into the entity's treasury and credited to the department of aviation, and all expenditures relating to the property and business under the control of the department, except as otherwise provided, may be provided for by special levy of taxes under section 7 of this chapter, and shall be paid from the entity's treasury when ordered by the board. A majority of the members **physically present** constitutes a ~~quorum,~~ **quorum for a meeting.** ~~and~~ An action of the board must be taken by a majority of the members **participating in person and by a means of a communication under section 4.5 of this chapter** at a regular or duly called special meeting. In case of a tie vote on any question, the executive shall decide. The board shall fix a time for holding regular meetings. Regular or special meetings shall be held at the office of the board or at another public place in any county where the board owns or operates an airport. Special meetings of the board may be called at any time by its president, or by any two (2) of its members, upon a written request to the secretary. Whenever in the opinion of the president or of any two (2) members, a special meeting is necessary, he or they shall cause the secretary to notify the members by mailing written notice of the time of the meeting, at least one (1) day before the meeting. A member may waive notice in writing and the presence of a member at a special meeting is considered a waiver of notice.

SECTION 14. IC 8-22-2-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.5. (a) This section applies to a meeting of the board at which a quorum of members is physically present at the place where the meeting is conducted.**

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

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

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

to simultaneously communicate with each other during the meeting.

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

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

(2) may not be counted for purposes of establishing a quorum.

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

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

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

(3) each member who was absent.

(e) Before a member may participate in a meeting from a location other than the meeting site, the board must establish procedures for a member to participate in a meeting by a means of communication as set forth in this section.

SECTION 15. IC 8-22-3-9, AS AMENDED BY P.L.137-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The board shall elect, at its first regular meeting to be conducted on the first July 1 or January 1 after appointment of the board members, and annually thereafter, one (1) of its members president, and another of its members vice president, who performs the duties of the president during the absence of or disability of the president. The board shall keep a suitable office at the airport where its maps, plans, documents, records, and accounts shall be kept, subject to public inspection at all reasonable times.

(b) The board shall provide by rule for regular meetings to be held not less than at monthly intervals throughout the year.

(c) The board shall convene in a special meeting when one is called. The president or a majority of the members of the board may call a special meeting. The board shall establish by rule a procedure for calling special meetings.

(d) Regular or special meetings shall be held at the office of the board or at another public place in any county where the board owns or operates an airport. The board may adjourn any regular or special meeting to a specific day designated at the time of adjournment, and that meeting is a continuation of the meeting so adjourned. This subsection does not apply to an authority that was established under IC 19-6-3 (before its repeal on April 1, 1980).

(e) A majority of the members of the board **who are physically present** constitutes a quorum for a meeting. The board may act officially by an affirmative vote of a majority of those ~~present at~~ **participating in** the meeting **in person and by a means of a communication under section 9.5 of this chapter** at which the action is taken.

(f) The board shall keep a written record of its proceedings, which shall be available for public inspection in the office of the board. The board shall record the aye and nay tally of the vote for each ordinance or resolution.

(g) The board shall adopt a system of rules of procedure under which its meetings are to be held. The board may suspend the rules of procedure by unanimous vote of the members of the board who are present at the meeting. The board may not suspend the rules of procedure beyond the duration of the meeting at which the suspension of rules occurs.

(h) The board may supervise its internal affairs as do local legislative and administrative bodies.

SECTION 16. IC 8-22-3-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 9.5. (a) This section applies to a meeting of the board at which a quorum of members is physically present at the place where the meeting is conducted.**

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

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

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

to simultaneously communicate with each other during the meeting.

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

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

(2) may not be counted for purposes of establishing a quorum.

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

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

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

(3) each member who was absent.

(e) Before a member may participate in a meeting from a location other than the meeting site, the board must establish procedures for a member to participate in a meeting by a means of communication as set forth in this section.

SECTION 17. IC 8-23-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 8. (a) The public mass transportation fund is established for the purpose of promoting and developing public mass transportation in Indiana. The fund shall be administered by the department.

(b) The treasurer of state may invest the money in the fund in the same manner as other public funds may be invested.

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

~~(d) Money distributed from the fund in a county containing a consolidated city must be distributed to the consolidated city for promoting and developing public mass transportation and not to a~~

~~public transportation corporation located within the county.~~

SECTION 18. IC 20-14-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The library board of any public library established as a 1901 city or town library consists of qualified and experienced persons of at least eighteen (18) years of age who have been residents of the municipality where the library is located for at least two (2) years immediately preceding their appointment. The members shall be appointed for two (2) year terms as follows:

(1) The board of commissioners of the county where the library is located shall appoint one (1) member.

(2) The fiscal body of the county where the library is located shall appoint one (1) member.

(3) The municipal executive shall appoint one (1) member.

(4) The municipal legislative body shall appoint one (1) member.

(5) The school board of the school corporation where the library is located shall appoint three (3) members who may be members of the school board.

(b) If a vacancy occurs on the library board for any cause, the appointing authority shall fill the respective vacancy. The appointing authority may at any time, for cause shown, remove any member of the library board and appoint a new member to fill the vacancy occasioned by this removal.

(c) The library board members shall serve without compensation.

(d) All appointments to membership on the library board shall be evidenced by certificates of appointment signed by the appointing authority. Certificates of appointment shall be handed to or mailed to the address of the appointee. Within ten (10) days after receiving the certificates of appointment, the appointees shall take an oath of office, before the clerk of the circuit court, that the appointee will faithfully discharge ~~his~~ **the appointee's** duties as a member of the library board to the best of ~~his~~ **the appointee's** ability. The appointee shall file the certificate, with the oath endorsed on it, with the clerk of the circuit court of the county in which the library is located.

(e) Within five (5) days after all the members of the library board have been appointed and have taken the oath of office, the members shall meet and organize by electing one (1) of their number president, one (1) vice president, and one (1) secretary. They shall also select committees or an executive board to carry on the work of the board should they determine that committees or an executive board is necessary for this purpose.

(f) The facilities of a public library established as a 1901 city or town library are open and free for the use and benefit of all of the residents of the library district.

(g) The fiscal officer ~~(or county treasurer acting under IC 36-4-10-6)~~ of the municipality operating a public library under this section shall prepare and file with the municipal legislative body, before January 16 each year, an itemized statement, under oath, of all the receipts and disbursements of the library board for the year ending December 31 immediately preceding the preparing and filing of the report. The report must contain an itemized statement of the sources of all receipts, of all disbursements made, and of the purpose for which each was made. This annual report may be inspected by the citizens of the municipality and township in which the library is located.

SECTION 19. IC 33-19-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 6.5. Credit Card Service Fee

Sec. 1. This chapter applies to any transaction in which:

(1) the clerk is required to collect money from a person, including:

(A) bail;

(B) a fine;

(C) a civil penalty;

(D) a court fee or court cost; or

(E) a fee for the preparation, duplication, or transmission of a document; and

(2) the person pays the clerk by means of a credit card, debit card, charge card, or similar method.

Sec. 2. A payment made under this chapter does not finally discharge the person's liability and the person has not paid the liability until the clerk receives payment or credit from the institution responsible for making the payment or credit. The clerk may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the clerk or charged directly to the clerk's account, the clerk shall collect a fee from the person using the bank or credit card. The fee is a permitted additional charge to the money the clerk is required to collect under section 1(1) of this chapter.

Sec. 3. The clerk shall forward credit card service fees collected under this chapter to the county auditor or city or town fiscal officer in accordance with IC 33-19-1-3(a). These funds may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

SECTION 20. IC 35-33-8-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 9. In addition to any other condition of bail imposed under this chapter, a defendant who posts bail by means of a credit card shall pay the credit card service fee under IC 33-19-6.5.**

SECTION 21. IC 35-33-9-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 7. In addition to any other condition of bail imposed under this chapter, a defendant who posts bail by means of a credit card shall pay the credit card service fee under IC 33-19-6.5.**

SECTION 22. IC 36-1-8-5, AS AMENDED BY P.L.251-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) This section applies to all funds raised by a general or special tax levy on all the taxable property of a political subdivision.

(b) Whenever the purposes of a tax levy have been fulfilled and an unused and unencumbered balance remains in the fund, the fiscal body of the political subdivision shall order the balance of that fund to be transferred as follows, unless a statute provides that it be transferred otherwise:

(1) Funds of a county, to the general fund or rainy day fund of the county, as provided in section 5.1 of this chapter.

(2) Funds of a municipality, to the general fund or rainy day fund of the municipality, as provided in section 5.1 of this chapter.

(3) Funds of a township for redemption of poor relief obligations, to the poor relief fund of the township or rainy day fund of the township, as provided in section 5.1 of this chapter.

(4) Funds of any other political subdivision, to the general fund or rainy day fund of the political subdivision, as provided in section 5.1 of this chapter. However, if the political subdivision is dissolved or does not have a general fund or rainy day fund, then to the general fund of each of the units located in the political subdivision in the same proportion that the assessed valuation of the unit bears to the total assessed valuation of the political subdivision.

(c) Whenever an unused and unencumbered balance remains in the civil township fund of a township and a current tax levy for the fund is not needed, the township fiscal body may order any part of the balance of that fund transferred to the debt service fund of the school corporation located in or partly in the township; but if more than one (1) school corporation is located in or partly in the township, then any sum transferred shall be transferred to the debt service fund of each of those school corporations in the same proportion that the part of the assessed valuation of the school corporation in the township bears to the total assessed valuation of the township.

(d) Transfers to a political subdivision's rainy day fund must be made after the last day of the political subdivision's fiscal year and before March 1 of the subsequent calendar year.

SECTION 23. IC 36-1-8-5.1, AS AMENDED BY P.L.90-2002, SECTION 461, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.1. (a) A political subdivision may establish a rainy day fund ~~to receive transfers of unused and unencumbered funds under section 5 of this chapter.~~ **by the adoption of:**

(1) an ordinance, in the case of a county, city, or town; or
(2) a resolution, in the case of any other political subdivision.

(b) An ordinance or a resolution adopted under this section must specify the following:

(1) The purposes of the rainy day fund.
(2) The sources of funding for the rainy day fund.

~~(b)~~ **(c)** The rainy day fund is subject to the same appropriation process as other funds that receive tax money. ~~Before making an appropriation from the rainy day fund, the fiscal body shall make a finding that the proposed use of the rainy day fund is consistent with the intent of the fund.~~

~~(c)~~ **(d)** In any fiscal year, a political subdivision may transfer not more than ten percent (10%) of the political subdivision's ~~total~~ **annual** budget for that fiscal ~~year~~ **year, adopted under IC 6-1.1-17,** to the rainy day fund.

~~(d)~~ **(e) A political subdivision may use only the funding sources specified in the ordinance or resolution establishing the rainy day fund unless the political subdivision adopts a subsequent ordinance or resolution authorizing the use of another funding source.**

(f) The department of local government finance may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the rainy day fund of the political subdivision.

SECTION 24. IC 36-1-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) This section does not apply to a county treasurer governed by IC 36-2-10-23.

(b) As used in this section, "credit card" means a:

(1) credit card;
(2) debit card;
(3) charge card; or
(4) stored value card.

(c) A payment to a political subdivision or a municipally owned utility for any purpose may be made by any of the following financial instruments that the fiscal body of the political subdivision or the board of the municipally owned utility authorizes for use:

(1) Cash.
(2) Check.
(3) Bank draft.
(4) Money order.
(5) Bank card or credit card.
(6) Electronic funds transfer.
(7) Any other financial instrument authorized by the fiscal body.

(d) If there is a charge to the political subdivision or municipally owned utility for the use of a financial instrument, ~~other than a bank card or credit card,~~ the political subdivision or municipally owned utility ~~shall~~ **may** collect a sum equal to the amount of the charge from the person who uses the financial instrument.

(e) If authorized by the fiscal body of the political subdivision or the board of the municipally owned utility, the political subdivision or municipally owned utility may accept payments under this section with a bank card or credit card under the procedures set forth in this section. However, the procedure authorized for a particular type of payment must be uniformly applied to all payments of the same type.

(f) The political subdivision or municipally owned utility may contract with a bank card or credit card vendor for acceptance of bank cards or credit cards.

(g) The political subdivision or municipally owned utility may pay any applicable bank card or credit card service charge associated with the use of a bank card or credit card under this subsection.

(h) The authorization of the fiscal body of the political subdivision is not required by the bureau of motor vehicles or the bureau of motor vehicles commission to use electronic funds transfer or other financial instruments to transfer funds to the political subdivision.

SECTION 25. IC 36-2-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. ~~(a) When the county treasurer performs duties in a second class city under IC 36-4-10-6, the treasurer shall pay fees accruing exclusively on city business into the general fund of the city.~~

~~(b)~~ This chapter does not require the county sheriff to pay the following into the county general fund:

(1) Any damages set forth in a warrant that is issued by the department of state revenue and on which collection is made by the sheriff, including damages prescribed by IC 6-8.1-8.
(2) Sums, other than court fees, retained by the circuit court clerk for the sheriff from the collections obtained by warrants of the department of workforce development.
(3) Sums allowed by IC 36-8 to sheriffs for the feeding of prisoners.

SECTION 26. IC 36-4-3-5, AS AMENDED BY P.L.224-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition:

(1) signed by at least:
(A) fifty-one percent (51%) of the owners of land in the territory sought to be annexed; or
(B) the owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes; and
(2) requesting an ordinance annexing the area described in the petition.

(b) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town).".

(c) Except as provided in section 5.1 of this chapter, if the legislative body fails to pass the ordinance within one hundred fifty (150) days after the date of filing of a petition under subsection (a), the petitioners may file a duplicate copy of the petition in the circuit or superior court of a county in which the territory is located, and shall include a written statement of why the annexation should take place. Notice of the proceedings, in the form of a summons, shall be served on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

(d) The court shall hear and determine the petition without a jury, and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

(1) essential municipal services and facilities are not available to the residents of the territory sought to be annexed;
(2) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;
(3) the population density of the territory sought to be annexed is at least three (3) persons per acre; and
(4) the territory sought to be annexed is contiguous to the municipality.

If the evidence does not establish all four (4) of the preceding factors, the court shall deny the petition and dismiss the proceeding.

(e) This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

~~(f) In a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the court shall hear and determine the petition without a jury and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:~~

~~(1) essential city services and facilities are or can be made available to the residents of the territory sought to be annexed;~~
~~(2) the city is physically and financially able to provide city services to the territory sought to be annexed; and~~
~~(3) the territory sought to be annexed is contiguous to the city.~~

~~If the evidence does not establish all three (3) of the preceding factors, the court shall deny the petition and dismiss the proceeding.~~

SECTION 27. IC 36-4-3-11, AS AMENDED BY P.L.224-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Except as provided in section 5.1(i) of this chapter and subsection (d), whenever territory is annexed by a municipality under this chapter, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by: ~~(1) if the annexation is by a city in a county with a population of~~

~~more than two hundred thousand (200,000) but less than three hundred thousand (300,000): (A) a majority of the owners of land in the annexed territory; or (B) the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory; or (2) if the annexation is by a municipality that is not described in subdivision (1):~~

~~(A)~~ **(1)** at least sixty-five percent (65%) of the owners of land in the annexed territory; or

~~(B)~~ **(2)** the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory.

The remonstrance must be filed within ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter, must be accompanied by a copy of that ordinance, and must state the reason why the annexation should not take place.

(b) On receipt of the remonstrance, the court shall determine whether the remonstrance has the necessary signatures. In determining the total number of landowners of the annexed territory and whether signers of the remonstrance are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(c) If the court determines that the remonstrance is sufficient, it shall fix a time, within sixty (60) days of its determination, for a hearing on the remonstrance. Notice of the proceedings, in the form of a summons, shall be served on the annexing municipality. The municipality is the defendant in the cause and shall appear and answer.

(d) If an annexation is initiated by property owners under section 5.1 of this chapter and all property owners within the area to be annexed petition the municipality to be annexed, a remonstrance to the annexation may not be filed under this section.

SECTION 28. IC 36-4-3-13, AS AMENDED BY P.L.170-2002, SECTION 144, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) Except as provided in subsections (e) and (g), at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

(1) The requirements of either subsection (b) or (c).

(2) The requirements of subsection (d).

(b) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality.

(2) One (1) of the following:

(A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.

(B) Sixty percent (60%) of the territory is subdivided.

(C) The territory is zoned for commercial, business, or industrial uses.

(c) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality as required by section 1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality.

(2) That the territory sought to be annexed is needed and can be used by the municipality for its development in the reasonably near future.

(d) The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:

(1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.

(2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.

(3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.

(4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria. ~~However, in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the fiscal plan of a city must show that these services will be provided to the annexed territory within four (4) years after the effective date of the annexation and in the same manner as those services are provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, or population density.~~

(e) ~~This subsection does not apply to a city located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000).~~ At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) One (1) of the following opposes the annexation:

(i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(f) The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

(1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or

(2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) This subsection applies only to cities located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed was contiguous to

territory that was within the boundaries of one (1) or more municipalities. At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) One (1) of the following opposes the annexation:

(i) A majority of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(h) The most recent:

(1) federal decennial census;

(2) federal special census;

(3) special tabulation; or

(4) corrected population count;

shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.

SECTION 29. IC 36-4-3-16, AS AMENDED BY P.L.217-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) Within one (1) year after the expiration of:

(1) the one (1) year period for implementation of planned services of a noncapital nature under section 13(d)(4) of this chapter; **or**

(2) the three (3) year period for the implementation of planned services of a capital improvement nature under section 13(d)(5) of this chapter; ~~or~~

~~(3) the four (4) year period for the implementation of planned services of a capital improvement nature under section 13(d)(5) of this chapter by a city for annexed territory in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000);~~

any person who pays taxes on property located within the annexed territory may file a complaint alleging injury resulting from the failure of the municipality to implement the plan. The complaint must name the municipality as defendant and shall be filed with the circuit or superior court of the county in which the annexed territory is located.

(b) The court shall hear the case within sixty (60) days without a jury. In order to be granted relief, the plaintiff must establish one (1) of the following:

(1) That the municipality has without justification failed to implement the plan required by section 13 of this chapter within the specific time limit for implementation after annexation.

(2) That the municipality has not provided police protection, fire protection, sanitary sewers, and water for human consumption within the specific time limit for implementation, unless one (1) of these services is being provided by a separate taxing district or by a privately owned public utility.

(3) That the annexed territory is not receiving governmental and proprietary services substantially equivalent in standard and scope to the services provided by the municipality to other areas of the municipality, regardless of topography, patterns of land use, and population density similar to the annexed territory.

(c) The court may:

(1) grant an injunction prohibiting the collection of taxes levied by the municipality on the plaintiff's property located in the annexed territory;

(2) award damages to the plaintiff not to exceed one and one-fourth (1 1/4) times the taxes collected by the municipality for the plaintiff's property located in the annexed territory;

(3) order the annexed territory or any part of it to be disannexed from the municipality;

(4) order the municipality to submit a revised fiscal plan for providing the services to the annexed territory within time limits set up by the court; or

(5) grant any other appropriate relief.

(d) A change of venue from the county is not permitted for an action brought under this section.

(e) If the court finds for the plaintiff, the defendant shall pay all court costs and reasonable attorney's fees as approved by the court.

(f) The provisions of this chapter that apply to territory disannexed by other procedures apply to territory disannexed under this section.

SECTION 30. IC 36-4-6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) The legislative body may, by ordinance, make loans of money and issue bonds for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the city or for the payment of city debts.

(b) An ordinance adopted under this section:

(1) must include the terms of the bonds to be issued in evidence of the loan;

(2) must include the time and manner of giving notice of the sale of the bonds;

(3) must include the manner in which the bonds will be sold; and

(4) may authorize a total amount for any issue of bonds.

(c) Bonds issued under this section may be sold in parcels of any size and at any time their proceeds are needed by the city.

(d) Bonds issued and sold by a city under this section:

(1) are negotiable with or without registration, as may be provided by the ordinance authorizing the issue;

(2) may bear interest at any rate;

(3) may run not longer than thirty (30) years;

(4) may contain an option allowing the city to redeem them in whole or in part at specified times prior to maturity; and

(5) may be sold for not less than par value.

(e) The city fiscal officer shall:

(1) manage and supervise the preparation, advertisement, negotiations, and sale of bonds under this section, subject to the terms of the ordinance authorizing the sale;

(2) certify the amount the purchaser is to pay, together with the name and address of the purchaser;

(3) receive the amount of payment certified;

(4) deliver the bonds to the purchaser;

(5) take a receipt for the securities delivered;

(6) pay the purchaser's payment into the city treasury; and

(7) report the proceedings in the sale to the legislative body.

The actions of the fiscal officer under this subsection are ministerial.

~~(f) This subsection applies only to second class cities subject to IC 36-4-10-6. Notwithstanding subsection (e), the fiscal officer of a city selling bonds under this section shall deliver them to the county treasurer after they have been properly executed and shall take his receipt for them. When a contract for the sale of all or any part of the bonds is consummated, the fiscal officer shall certify to the county treasurer the amount the purchaser is to pay, together with the name and address of the purchaser. The county treasurer shall then receive from the purchaser the amount certified by the fiscal officer, deliver the bonds to the purchaser, and take the purchaser's receipt for the bonds. The fiscal officer and county treasurer shall then report the proceedings in the sale to the legislative body. However, if the county treasurer is not present to receive the properly executed bonds from the fiscal officer or to issue the bonds, the fiscal officer shall proceed under subsection (e).~~

SECTION 31. IC 36-6-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. When his term of office expires, the executive shall:

(1) immediately deliver to the new executive custody of all funds and property of the township, except records necessary in the preparation of his annual report;

(2) deliver to the new executive, not later than the second Monday in the next January, his annual report and any records he has retained; and

(3) attend the annual meeting of the township legislative body ~~on the second Tuesday after the first Monday in the next January,~~ **held under IC 36-6-6-9** and submit to inquiries from the legislative body concerning the operation of the executive's office during the preceding calendar year.

SECTION 32. IC 36-6-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The legislative body shall make annual appropriations for assistants in township offices. Payments shall be made to assistants ~~monthly~~ on vouchers verified by the claimant and approved by the officer in whose office he is employed.

SECTION 33. IC 36-6-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Deputies and other employees of a township assessor must file their claims for compensation, which must be verified by the township assessor. Claims for employment that is not on an annual basis must show the actual number of days employed. Deputies and other employees of a township assessor shall be paid ~~monthly~~ out of the county treasury, on the warrant of the county auditor.

(b) Employees of the township assessor are entitled to no compensation other than that provided by this chapter.

SECTION 34. IC 36-7-4-208, AS AMENDED BY P.L.276-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 208. (a) ADVISORY. The county plan commission consists of nine (9) members, as follows:

(1) One (1) member appointed by the county executive from its membership.

(2) One (1) member appointed by the county fiscal body from its membership.

(3) The county surveyor or the county surveyor's designee.

(4) The county agricultural extension educator. **However, if the county does not have a county agricultural extension educator, the county extension board shall select a resident of the county who is a property owner with agricultural interest to serve on the commission under this subdivision for a period not to exceed one (1) year.**

(5) Five (5) members appointed in accordance with one (1) of the following:

(A) Four (4) citizen members, of whom no more than two (2) may be of the same political party and all four (4) of whom must be residents of unincorporated areas of the county, appointed by the county executive. Also one (1) township trustee, who must be a resident of an unincorporated area of the county, appointed by the county executive upon the recommendation of the township trustees whose townships are within the jurisdiction of the county plan commission.

(B) Five (5) citizen members, of whom not more than three (3) may be of the same political party, and all five (5) of whom must be residents of unincorporated areas of the county appointed by the county executive.

If a county executive changes the plan commission from having members described in clause (B) to having members described in clause (A), the county executive shall appoint a township trustee to replace the first citizen member whose term expires and who belongs to the same political party as the township trustee. Each member appointed to the commission is entitled to receive compensation for mileage at the same rate and the same compensation for services as a member of a county executive, a member of a county fiscal body, a county surveyor, or an appointee of a county surveyor receives for serving on the commission, as set forth in section 222.5 of this chapter.

(b) ADVISORY. The metropolitan plan commission consists of nine (9) members, as follows:

(1) One (1) member appointed by the county legislative body from its membership.

(2) One (1) member appointed by the second class city legislative body from its membership.

(3) Three (3) citizen members who are residents of unincorporated areas of the county, of whom no more than two (2) may be of the same political party, appointed by the county legislative body. One (1) of these members must be actively engaged in farming.

(4) Four (4) citizen members, of whom no more than two (2) may be of the same political party, appointed by the second class city executive. One (1) of these members must be from the metropolitan school authority or community school corporation and a resident of that school district, and the other three (3) members must be residents of the second class city.

(c) AREA. When there are six (6) county representatives, they are as follows:

(1) One (1) member appointed by the county executive from its membership.

(2) One (1) member appointed by the county fiscal body from its membership.

(3) The county superintendent of schools, or if that office does not exist, a representative appointed by the school corporation superintendents within the jurisdiction of the area plan commission.

(4) One (1) of the following appointed by the county executive:

(A) The county agricultural extension educator.

(B) The county surveyor or the county surveyor's designee.

(5) One (1) citizen member who is a resident of the unincorporated area of the county, appointed by the county executive.

(6) One (1) citizen member who is a resident of the unincorporated area of the county, appointed by the county fiscal body.

(d) AREA. When there are five (5) county representatives, they are the representatives listed or appointed under subsection (c)(3), (c)(4), (c)(5), and (c)(6) and:

(1) the county surveyor or the county surveyor's designee if the county executive appoints the county agricultural extension educator under subsection (c)(4); or

(2) the county agricultural extension educator if the county executive appoints the county surveyor under subsection (c)(4).

(e) AREA. The appointing authority may appoint an alternate member to participate on a commission established under section 204 of this chapter in a hearing or decision if the regular member it has appointed is unavailable. An alternate member shall have all of the powers and duties of a regular member while participating on the commission.

SECTION 35. IC 36-8-3-3, AS AMENDED BY P.L.125-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A majority of the members of the safety board constitutes a quorum. The board shall adopt rules concerning the time of holding regular and special meetings and of giving notice of them. The board shall elect one (1) of its members chairman, who holds the position as long as prescribed by the rules of the board. The board shall record all of its proceedings.

(b) The members of the safety board may act only as a board. No member may bind the board or the city except by resolution entered in the records of the board authorizing him to act in its behalf as its authorized agent.

(c) The safety board shall appoint:

(1) the members and other employees of the police department other than those in an upper level policymaking position;

(2) the members and other employees of the fire department other than those in an upper level policymaking position;

(3) a market master; and

(4) other officials that are necessary for public safety purposes.

(d) The annual compensation of all members of the police and fire departments and other appointees shall be fixed by ordinance of the legislative body before:

(1) ~~August~~ **September** 20 for a second class city; and

(2) September 20 for a third class city;

of each year for the ensuing budget year. The ordinance may grade the members of the departments and regulate their pay by rank as well as by length of service. If the legislative body fails to adopt an ordinance fixing the compensation of members of the police or fire department, the safety board may fix their compensation, subject to

change by ordinance.

(e) The safety board, subject to ordinance, may also fix the number of members of the police and fire departments and the number of appointees for other purposes and may, subject to law, adopt rules for the appointment of members of the departments and for their government.

(f) The safety board shall divide the city into police precincts and fire districts.

(g) The police chief has exclusive control of the police department, and the fire chief has exclusive control of the fire department, subject to the rules and orders of the safety board. In time of emergency, the police chief and the fire chief are, for the time being, subordinate to the city executive and shall obey his orders and directions, notwithstanding any law or rule to the contrary.

SECTION 36. IC 36-8-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) A police pension fund to be known as the 1925 fund is established in each municipality described in section 1(a) of this chapter.

(b) The 1925 fund shall be managed by a board of trustees (referred to as the "local board" in this chapter) having at least seven (7) but not more than nine (9) trustees, as follows:

(1) The municipal executive, the municipal fiscal officer, ~~(except in a city subject to IC 36-4-10-6, in which case the county treasurer),~~ and the police chief, who are ex officio voting members of the local board.

(2) One (1) retired member of the police department.

(3) At least three (3) but not more than five (5) active members of the police department.

However, in cities where there are not sufficient members of the police department to appoint a local board consisting of at least five (5) trustees, the local board may be composed of three (3) trustees, those being the executive, the fiscal officer, and the police chief.

(c) The trustees under subsections (b)(2) and (b)(3) shall be elected at a meeting of the members of the police department at the central police station on the second Monday in February of each year. The trustees are elected for terms of three (3) years, succeeding those trustees whose terms of office expire on that date. The trustees hold their offices until their successors are elected and qualified.

(d) If a vacancy occurs on the local board among those trustees elected by the police department, the police department shall, within a reasonable time, hold a special meeting upon the call of the municipal executive and elect a successor for the remainder of the trustee's term.

(e) A majority of all the trustees constitutes a quorum for the transaction of business.

(f) The trustees receive no pay for their services and shall be paid only their necessary expenses. However, the trustees, the secretary, and each member of the police department selected by the local board shall be paid their necessary traveling expenses from the 1925 fund when acting upon matters pertaining to the fund.

(g) The local board may make all necessary bylaws for:

(1) meetings of the trustees;

(2) the manner of their election, including the counting and canvassing of the votes;

(3) the collection of all money and other property due or belonging to the 1925 fund;

(4) all matters connected with the care, preservation, and disbursement of the fund; and

(5) all other matters connected with the proper execution of this chapter.

SECTION 37. IC 36-8-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The municipal executive is president of the local board, the municipal fiscal officer ~~(or county treasurer)~~ is its treasurer, and the local board shall select one (1) of its members secretary. The secretary shall be paid out of the 1925 fund a sum for ~~his~~ **the secretary's** services as fixed by the local board.

(b) The president shall preside over all meetings of the local board, call special meetings of the police department of the city, and preside over the annual and called meetings of the department concerning the 1925 fund.

(c) The treasurer:

(1) has custody of all money and securities due or belonging to the 1925 fund and shall collect the principal and interest on them;

(2) is liable on ~~his~~ **the treasurer's** bond as an officer for the municipality for the faithful accounting of all money and securities belonging to the fund that come into ~~his~~ **the treasurer's** hands;

(3) shall keep a separate account showing at all times the true condition of the fund; and

(4) shall, upon the expiration of ~~his~~ **the treasurer's** term of office, account to the local board for all money and securities coming into ~~his~~ **the treasurer's** hands, including the proceeds of them, and turn over to ~~his~~ **the treasurer's** successor all money and securities belonging to the fund remaining in ~~his~~ **the treasurer's** hands.

(d) The secretary shall:

(1) keep a true account of the proceedings of the local board and of the police department of the municipality when acting upon matters relating to the 1925 fund;

(2) keep a correct statement of the accounts of each member with the fund;

(3) collect and turn over to the treasurer of the local board all money belonging to the fund;

(4) give the local board a monthly account of ~~his~~ **the secretary's** acts and services as secretary; and

(5) turn over to ~~his~~ **the secretary's** successor all books and papers pertaining to the office.

(e) The secretary shall, in the manner prescribed by IC 5-4-1, execute a bond conditioned upon the faithful discharge of ~~his~~ **the secretary's** duties.

(f) The secretary and treasurer shall make complete and accurate reports of their trusts to the local board on the first Monday in February of each year, copies of which shall be filed with the municipal clerk. The books of the secretary and treasurer must be open at all times to examination by members of the local board.

(g) Each member of the police department shall turn over to the secretary of the local board, within thirty (30) days after receiving it, all money and securities belonging to the 1925 fund that come into ~~his~~ **the secretary's** hands.

SECTION 38. IC 36-8-7-10, AS AMENDED BY P.L.35-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The local board shall determine how much of the 1937 fund may be safely invested and how much should be retained for the needs of the fund. Investments are restricted to the following:

(1) Interest bearing direct obligations of the United States or of the state or bonds lawfully issued by an Indiana political subdivision. The securities shall be deposited with and must remain in the custody of the treasurer of the local board, who shall collect the interest on them as it becomes due and payable.

(2) Savings deposits or certificates of deposit of a chartered national, state, or mutual bank whose deposits are insured by a federal agency. However, deposits may not be made in excess of the amount of insurance protection afforded a member or investor of the bank.

(3) Shares of a federal savings association organized under 12 U.S.C. 1461, as amended, and having its principal office in Indiana, or of a savings association organized and operating under Indiana statutes whose accounts are insured by a federal agency. However, shares may not be purchased in excess of the amount of insurance protection afforded a member or investor of the association.

(4) An investment made under IC 5-13-9.

(b) All securities must be kept on deposit with the unit's fiscal officer, ~~or county treasurer acting under IC 36-4-10-6,~~ who shall collect all interest due and credit it to the 1937 fund.

(c) The fiscal officer ~~(or county treasurer)~~ shall keep a separate account of the 1937 fund and shall fully and accurately set forth a statement of all money received and paid out by him. The officer shall, on the first Monday of January and June of each year, make a report to the local board of all money received and distributed by him. The president of the local board shall execute the officer's bond

in the sum that the local board considers adequate, conditioned that ~~he~~ **the fiscal officer** will faithfully discharge the duties of ~~his~~ **the fiscal officer's** office and faithfully account for and pay over to the persons authorized to receive it all money that comes into ~~his~~ **the fiscal officer's** hands by virtue of ~~his~~ **the fiscal officer's** office. The bond and sureties must be approved by the local board and filed with the executive of the unit. The local board shall make a full and accurate report of the condition of the 1937 fund to the unit's fiscal officer on the first Monday of February in each year.

(d) All securities that were owned by and held in the name of the local board on January 1, 1938, shall be held and kept for the local board by the unit's fiscal officer ~~(or county treasurer)~~ until they mature and are retired. However, if an issue of the securities is refunded, the local board shall accept refunding securities in exchange for and in an amount equal to the securities refunded. All money received by the local board for the surrender of matured and retired securities shall be paid into and constitutes a part of the 1937 fund of the unit, as provided in section 8 of this chapter.

(e) Investments under this section are subject to section 2.5 of this chapter.

SECTION 39. IC 36-8-7-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. All money that is collected and received by the local board or an officer of it by virtue of subdivisions (1) through (4) of section 8 of this chapter shall be paid to the unit's fiscal officer, ~~(or county treasurer),~~ who shall credit this money to the 1937 fund. The 1937 fund is a public fund for purposes of IC 5-13.

SECTION 40. IC 36-8-7-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. The unit's fiscal officer ~~or county treasurer acting under IC 36-4-10-6,~~ is the custodian of all money belonging to the 1937 fund, and all money belonging to the fund shall be promptly paid to the officer. The officer is liable on ~~his~~ **the officer's** bond for the faithful performance of all duties imposed upon ~~him~~ **the officer** by this chapter in relation to the fund and for the faithful accounting of all money and securities that come into ~~his~~ **the officer's** possession and belong to the fund. The officer shall keep a separate account of the 1937 fund, which must always show the true condition of the fund.

SECTION 41. IC 36-8-12.2-8, AS ADDED BY P.L.33-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. **(a)** Money collected under this chapter must be deposited in **one (1) of** the **following:**

(1) The general fund of the unit that established the fire department under IC 36-8-2-3 or IC 36-8-13-3(a)(1). ~~and~~

(2) A hazardous materials response fund established under section 8.1 of this chapter by a city or town having a fire department established under IC 36-8-2-3.

(b) Money collected under this chapter may be used only for the following:

(1) Purchase of supplies and equipment used in providing hazardous materials emergency assistance under this chapter.

(2) Training for members of the fire department in skills necessary for providing hazardous materials emergency assistance under this chapter.

(3) Payment to persons with which the fire department contracts to provide services related to the hazardous materials emergency assistance provided by the fire department under this chapter.

SECTION 42. IC 36-8-12.2-8.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 8.1. (a) The fiscal body of each city or town that establishes a fire department under IC 36-8-2-3 may, by ordinance or resolution, establish a hazardous materials response fund.**

(b) The hazardous materials response fund shall be administered by the unit's fiscal officer, and the expenses of administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a particular fiscal year does not revert to the unit's general fund.

SECTION 43. IC 36-9-13-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. (a) For the purpose of obtaining money to pay the cost of:

(1) acquiring or constructing government buildings;

(2) acquiring land;

(3) acquiring systems;

(4) improving, reconstructing, or renovating government buildings, systems, or land;

(5) repaying any advances for preliminary expenses made to the building authority by an eligible entity;

(6) purchasing plans, designs, programs, and devices for governmental buildings or systems; or

(7) refinancing any loan made under section 31 of this chapter;

the board of directors of a building authority may issue revenue bonds of the authority.

(b) The bonds are payable solely from the income and revenues of the particular government buildings, systems, or land for which the bonds were issued.

(c) The bonds must be authorized by resolution of the board. The bonds:

(1) bear interest payable semiannually; and

(2) mature serially, either annually or semiannually, at times determined by the resolution authorizing the bonds.

However, the maturities of the bonds may not extend over a period longer than the period of the lease of the government buildings, systems, or land for which the bonds are issued.

(d) The bonds may, and all bonds maturing after five (5) years from date of issuance shall, be made redeemable before maturity at the option of the board of directors of the building authority. Such a redemption must be at the par value of the bonds, together with the premiums, and under the terms and conditions fixed by the resolution authorizing the issuance of the bonds.

(e) The principal and interest of the bonds may be made payable in any lawful medium.

(f) The resolution authorizing the issuance of the bonds must:

(1) determine the form of the bonds, including the interest coupons (if any) to be attached to them;

(2) fix the denomination or denominations of the bonds; and

(3) fix the place or places of payment of the principal and interest of the bonds, which must be at a state or national bank or trust company within Indiana and may also be at one (1) or more state or national banks or trust companies outside Indiana.

(g) The bonds are negotiable instruments under IC 26-1.

(h) The resolution authorizing the issuance of the bonds may provide for the registration of any of the bonds in the name of the owner as to principal alone.

(i) The bonds shall be executed by the president of the board of directors, the corporate seal of the authority shall be affixed to the bonds and attested by the secretary of the board, and the interest coupons (if any) attached to the bonds shall be executed by placing the facsimile signature of the treasurer of the board on them.

(j) The bonds may be sold at a private sale, a negotiated sale, or a public sale.

~~(j) Notice~~ **(k) If the bonds are sold at a public sale, notice** of the sale of the bonds shall be published in accordance with IC 5-3-1.

~~(k)~~ **(l)** The board of directors shall sell the bonds at public sale, for not less than their par value. The board shall award the bonds to the highest bidder, as determined by computing the total interest on the bonds from the date of sale to the dates of maturity and deducting from that amount the premium bid, if any. Any premium received from the sale of the bonds shall be used solely for the payment of principal and interest on the bonds. If the bonds are not sold on the date fixed for the sale, then the sale may be continued from day to day until a satisfactory bid has been received.

~~(l)~~ **(m)** The board of directors may issue temporary bonds, with or without coupons. These bonds, which must be issued in the manner prescribed by this section, may be exchanged for the bonds that are subsequently issued.

SECTION 44. IC 36-10-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) A tax on the taxable property in the district, as it appears on the tax duplicate,

shall be levied annually by the city legislative body for park purposes.

(b) The tax shall be collected the same as other city taxes are collected, and the city fiscal officer ~~(or county treasurer acting under IC 36-4-10-6)~~ shall, between the first and fifth days of each month, notify the board of the amount of taxes collected for park purposes during the preceding month. At the date of notification, the city fiscal officer ~~(or county treasurer)~~ shall credit the park fund with the amount.

(c) The board may expend on behalf of the city all sums of money collected from:

(1) taxes;
(2) the sale of privileges in the parks of the city;
(3) the sale of bonds of the city for park purposes; and
(4) any other source.

All gifts, donations, or payments that are given or paid to the city for park purposes belong to the general park fund, the special nonreverting operating fund, or the special nonreverting capital fund to be used by the board as provided by this chapter. Warrants for expenditures shall be drawn by the city fiscal officer upon a voucher of the board signed by the president or vice president and secretary.

(d) The city legislative body may borrow money for the use of the department and may issue the bonds of the city to pay back the borrowed money in the manner provided by statute for the issue of bonds for the general purposes of the city. However, the board may not contract debts beyond the amount of its annual income and the amount available from the sale of bonds or other sources.

(e) All money remaining in the treasury to the credit of the board at the end of the calendar year belongs to the general park fund, the special nonreverting operating fund, or the special nonreverting capital fund for use by the board for park purposes.

(f) Park and recreation facilities and programs shall be made available to the public free of charge as far as possible. However, if it is necessary in order to provide a particular activity, the board may charge a reasonable fee.

(g) The city legislative body may establish by ordinance upon request of the board:

(1) a special nonreverting operating fund for park purposes from which expenditures may be made as provided by ordinance, either by appropriation by the board or by the city legislative body; or
(2) a special nonreverting capital fund for the purpose of acquiring land or making specific capital improvements from which expenditures may be made by appropriation by the city legislative body.

The city legislative body shall designate the fund or funds into which the city fiscal officer ~~(or county treasurer)~~ shall deposit fees from golf courses, swimming pools, skating rinks, or other major facilities requiring major expenditures for management and maintenance. Money received from fees other than from major facilities or received from the sale of surplus property shall be deposited by the city fiscal officer ~~(or county treasurer)~~ either in the special nonreverting operating fund or in the nonreverting capital fund, as directed by the board. However, if neither fund has been established, money received from fees or from the sale of surplus property shall be deposited in the general park fund. Money from either special fund may be disbursed only on approved claims allowed and signed by the president and secretary of the board.

(h) Money placed in the special nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the fiscal body repeals the ordinance establishing the fund. The fiscal body may not repeal the ordinance under suspension of the rules.

(i) Money procured from fees or received from the sale of surplus property shall be deposited at least once each month with the city fiscal officer.

SECTION 45. IC 36-4-10-6 IS REPEALED [EFFECTIVE JULY 1, 2003].

SECTION 46. [EFFECTIVE JULY 1, 2003] **(a) The state board of accounts shall review the format and content of the annual operational report required under IC 8-17-4.1-5, as amended by this act, and shall prescribe a streamlined report that addresses:**

(1) easing the preparation of;
(2) the informational requirements of the users of; and
(3) the promotion of accuracy within;

the revised report.

(b) This SECTION expires January 1, 2004.

SECTION 47. **An emergency is declared for this act**.

(Reference is to EHB 1242 as reprinted March 28, 2003.)

STEVENSON	SKILLMAN
AYRES	DEMBOWSKI
House Conferees	Senate Conferees

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

OTHER BUSINESS ON THE SPEAKER'S TABLE

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report on Engrossed House Bills 1019–1, 1047–1, 1056–1, 1219–1, 1336–1, 1378–1, and 1437–1.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report on Engrossed House Bills 1171–1, 1221–1, 1243–1, and 1407–1.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report on Engrossed House Bills 1458–1, 1558–1, 1620–1, 1630–1, 1659–1, 1788–1, 1798–1, and 1834–1.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report on Engrossed House Bills 1552–1, 1573–1, 1605–1, and 1707–1.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report on Engrossed Senate Bills 62–1, 405–1, 435–1, and 506–1.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report on Engrossed Senate Bills 207–1, 343–1, 389–1, 410–1, 440–1, and 460–1.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has concurred in the House amendments to Engrossed Senate Bills 160 and 475.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that

pursuant to Rule 81(c) of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has made the following change in conferees appointments to Engrossed House Bill 1210:

Conferee: Clark replacing Wyss

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Acts 395, 417, and 420 for signature.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolutions 52 and 78 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 7:35 p.m. with the Speaker in the Chair.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report on Engrossed House Bills 1082–1, 1689–1, and 1714–1.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1701.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed Senate Bills 160, 169, and 242.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolution 75 and the same is herewith returned to the House.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolutions 31 and 38 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
EHB 1019–2; filed April 25, 2003, at 4:27 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1019 respectfully reports that said two committee have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 27-1-3-30 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 30. (a) As used in this section, "accident and sickness insurance policy" has the meaning set forth in IC 27-8-14.2-1.**

(b) As used in this section, "health maintenance organization" has the meaning set forth in IC 27-13-1-19.

(c) As used in this section, "mandated benefit" means certain health coverage or an offering of certain health coverage that is required under:

(1) an accident and sickness insurance policy; or

(2) a contract with a health maintenance organization.

(d) As used in this section, "mandated benefit proposal" means a bill or resolution pending before the general assembly that, if enacted, would require certain health coverage or an offering of certain health coverage under:

(1) an accident and sickness insurance policy; or

(2) a contract with a health maintenance organization.

(e) The commissioner shall establish a task force to review mandated benefits and mandated benefit proposals.

(f) The task force must consist of nine (9) members appointed by the governor as follows:

(1) Two (2) members representing the insurance industry.

(2) Two (2) members representing consumers.

(3) Two (2) members representing health care providers.

(4) Two (2) members representing the business sector.

(5) The commissioner or the commissioner's designee.

A registered lobbyist may not serve as a member of the task force.

(g) Members of the task force shall serve on a voluntary basis without reimbursement.

(h) The department shall provide administrative support for the functions of the task force.

(i) The task force shall review mandated benefits and mandated benefit proposals as determined by the members of the task force and report to the legislative council not later than December 31 of each year.

(j) Any recommendations made by the task force must be approved by at least five (5) members of the task force.

(k) The department may adopt rules under IC 4-22-2 to implement this section.

(l) Information that identifies a person and that is obtained by the task force under this section is confidential.

SECTION 2. IC 27-8-24.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]:

Chapter 24.1. Coverage for Treatment of Inherited Metabolic Disease

Sec. 1. As used in this chapter, "accident and sickness insurance policy" has the meaning set forth in IC 27-8-5-27(a).

Sec. 2. As used in this chapter, "covered individual" means an individual who is entitled to coverage under an accident and sickness insurance policy.

Sec. 3. As used in this chapter, "inherited metabolic disease" means a disease:

(1) caused by inborn errors of amino acid, organic acid, or urea cycle metabolism; and

(2) treatable by the dietary restriction of one (1) or more amino acids.

Sec. 4. As used in this chapter, "medical food" means a formula that is:

(1) intended for the dietary treatment of a disease or condition for which nutritional requirements are established by medical evaluation; and

(2) formulated to be consumed or administered enterally

under the direction of a physician.

Sec. 5. An accident and sickness insurance policy must provide coverage for medical food that is:

(1) medically necessary; and

(2) prescribed by a covered individual's treating physician for treatment of the covered individual's inherited metabolic disease.

Sec. 6. The coverage that must be provided under this chapter shall not be subject to dollar limits, coinsurance, or deductibles that are less favorable to a covered individual than the dollar limits, coinsurance, or deductibles that apply to coverage for:

(1) prescription drugs generally under the accident and sickness insurance policy, if prescription drugs are covered under the accident and sickness insurance policy; or

(2) physical illness generally under the accident and sickness insurance policy, if prescription drugs are not covered under the accident and sickness insurance policy.

SECTION 3. IC 27-13-7-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 18. (a) As used in this section, "inherited metabolic disease" means a disease:**

(1) caused by inborn errors of amino acid, organic acid, or urea cycle metabolism; and

(2) treatable by the dietary restriction of one (1) or more amino acids.

(b) As used in this section, "medical food" means a formula that is:

(1) intended for the dietary treatment of a disease or condition for which nutritional requirements are established by medical evaluation; and

(2) formulated to be consumed or administered enterally under the direction of a physician.

(c) A group health maintenance organization contract that provides coverage for basic health care services must provide coverage for medical food that is:

(1) medically necessary; and

(2) prescribed for an enrollee by the enrollee's treating physician for treatment of the enrollee's inherited metabolic disease.

(d) The coverage that must be provided under this section shall not be subject to dollar limits, copayments, or deductibles that are less favorable to an enrollee than the dollar limits, copayments, or deductibles that apply to coverage for:

(1) prescription drugs generally under the group contract, if prescription drugs are covered under the group contract; or

(2) physical illness generally under the group contract, if prescription drugs are not covered under the group contract.

SECTION 4. [EFFECTIVE JULY 1, 2003] **(a) IC 27-8-24.1, as added by this act, applies to an accident and sickness insurance policy that is issued, delivered, amended, or renewed after December 31, 2003.**

(b) IC 27-13-7-18, as added by this act, applies to a health maintenance organization contract that is entered into, delivered, amended, or renewed after December 31, 2003.

(Reference is to EHB 1019 as reprinted April 9, 2003.)

FRENZ	MILLER
RIPLEY	BREAUX
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
ESB 268–1; filed April 25, 2003, at 4:46 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 268 respectfully reports that said two committee have conferred and agreed as follows to wit:

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

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 2-5-19-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. The committee shall do the following:

(1) Advise and assist the Bureau of the Census in the preparation and organization of decennial census data for use by the general assembly in reapportioning the following:

(A) The house of representatives of the general assembly.

(B) The senate of the general assembly.

(C) The United States House of Representatives.

(2) Work with the Bureau of the Census in defining the boundaries of census blocks in Indiana.

(3) Coordinate Indiana's efforts to obtain an accurate population count in each decennial census.

(4) Work with other state and federal agencies to assist in the local review program conducted in Indiana.

(5) Work with the code revision commission to prepare legislation for introduction in the regular session of the general assembly that meets during the year of the effective date of the decennial census under IC 1-1-3.5 to propose amendments to Indiana law to reflect the population information obtained as a result of the decennial census.

(6) Study costs and other relevant aspects of acquisition by the state of a geographic information system.

(7) Make recommendations concerning changes or amendments to IC 3 (the elections code) to the general assembly, **including legislation for the implementation and administration of the Help America Vote Act of 2002 (42 U.S.C. 15301 through 15545).**

SECTION 2. IC 3-5-2-26.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 26.2. "HAVA" refers to the Help America Vote Act of 2002 (42 U.S.C. 15301 through 15545).**

SECTION 3. IC 3-5-2-53 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 53. "Voting system" means **the following:**

(1) Before January 1, 2006, a combination of mechanical, electromechanical, or electronic equipment that is used to cast and count votes. The term includes the software and firmware required to program and to control the equipment. Equipment that is not an integral part of a voting system but that can be used as an adjunct to the system is considered to be a component of the system.

(2) After December 31, 2005, as provided in 42 U.S.C. 15481:

(A) the total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support that equipment) that is used:

(i) to define ballots;

(ii) to cast and count votes;

(iii) to report or display election results; and

(iv) to maintain and produce any audit trail information; and

(B) the practices and associated documentation used:

(i) to identify system components and versions of those components;

(ii) to test the system during its development and maintenance;

(iii) to maintain records of system errors and defects;

(iv) to determine specific system changes to be made to a system after the initial qualification of the system; and

(v) to make available any materials to the voter (such as notices, instructions, forms, or paper ballots).

SECTION 4. IC 3-5-4-7, AS AMENDED BY P.L.122-2000,

SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. Except as otherwise provided in this title, a reference to a federal statute or regulation in this title is a reference to the statute or regulation as in effect January 1, ~~2000.~~ **2003.**

SECTION 5. IC 3-5-8-2, AS ADDED BY P.L.126-2002, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. **(a)** The statement required by section 1 of this chapter must contain the following:

(1) A statement of the qualifications that an individual must meet to vote in Indiana, including qualifications relating to registration.

(2) A statement describing the circumstances that permit a voter who has moved from the precinct where the voter is registered to return to that precinct to vote.

(3) A statement that an individual who meets the qualifications and circumstances listed in subdivisions (1) and (2) may vote in the election.

(4) A statement describing how a voter who is challenged at the polls may be permitted to vote.

(5) **The date of the election and the hours during which the polls will be open, as required by 42 U.S.C. 15482.**

(6) Instructions on how to vote, including how to cast a vote and how to cast a provisional ballot, as required by 42 U.S.C. 15482.

(7) Instructions for mail-in registrants and first time voters under IC 3-7-33-4.5 and 42 U.S.C. 15483, as required under 42 U.S.C. 15482.

(8) General information on voting rights under applicable federal and state laws, including the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated, as required under 42 U.S.C. 15482.

(9) General information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation, as required under 42 U.S.C. 15482.

(10) A statement informing the voter what assistance is available to assist the voter at the polls.

~~(6)~~ **(11)** A statement informing the voter what circumstances will spoil the voter's ballot and the procedures available for the voter to request a new ballot.

~~(7)~~ **(12)** A statement describing which voters will be permitted to vote at the closing of the polls.

~~(8)~~ **(13)** Other information that the commission considers important for a voter to know.

(b) The voter's bill of rights is not required to contain the information described in subsection (a)(5), (a)(6), (a)(7), (a)(8), and (a)(9) before January 1, 2004.

SECTION 6. IC 3-5-8-3, AS ADDED BY P.L.126-2002, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a) As required by 42 U.S.C. 15483, and after December 31, 2003, the precinct election board shall post the voter's bill of rights in a public place in each polling place on election day.**

(b) The commission may require a copy of the voter's bill of rights to be distributed with voter registration materials or other materials that are given to voters.

SECTION 7. IC 3-6-3.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 3.7. The Secretary of State

Sec. 1. Except as provided by IC 3-7-11-1, the secretary of state is the state's chief election official.

Sec. 2. In addition to performing the duties related to elections specified in this title, the secretary of state, with the consent of the co-directors of the election division shall do the following:

(1) Work with the federal Election Assistance Commission to encourage students enrolled at institutions of higher education (including community colleges) to assist state and local governments in the administration of elections by serving as nonpartisan poll workers or assistants.

(2) Consult with the federal Election Assistance Commission in the development of materials, seminars, and advertising targeted at students to implement the Help America Vote College Program conducted by the Election Assistance Commission under 42 U.S.C. 15521.

(3) Consult with the Help America Vote Foundation established under 36 U.S.C. 1526 in developing programs to encourage secondary school students (including students educated in the home) to participate in the election process in a nonpartisan manner as poll workers or assistants to local election officials in precinct polling places.

(4) Consult and coordinate with (and provide administrative support to) the co-directors of the election division in the development and implementation of the state plan under HAVA (42 U.S.C. 15401 through 15406).

(5) Perform all duties required to be performed by the state or the chief state election official under HAVA.

Sec. 3. The secretary of state may develop programs to encourage Indiana secondary school students and students in institutions of higher education in Indiana to assist state and local governments in the administration of elections.

SECTION 8. IC 3-6-4.2-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. The election division shall assist the secretary of state in the implementation of HAVA.**

SECTION 9. IC 3-6-4.2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. The election division shall do the following:

(1) Prepare and distribute paper ballots for the election or retention of persons to federal and state offices and for public questions in compliance with this title.

(2) Maintain complete and uniform descriptions and maps of all precincts in Indiana.

(3) Promptly update the information required by subdivision (2) after each precinct establishment order is filed with the commission under IC 3-11-1.5.

(4) Issue media watcher cards under IC 3-6-10-6.

(5) Prepare and transfer to the department of state revenue voter registration affidavits for inclusion in state adjusted gross income tax booklets under IC 6-8.1-3-19.

(6) After December 31, 2003, serve in accordance with 42 U.S.C. 1973ff-1(b) as the office in Indiana responsible for providing information regarding voter registration procedures and absentee ballot procedures to absent uniformed services voters and overseas voters.

(7) As required by 42 U.S.C. 1973ff-1(c), submit a report to the federal Election Assistance Commission not later than ninety (90) days after each general election setting forth the combined number of absentee ballots:

(A) transmitted to absent uniformed services voters and overseas voters for the election; and

(B) returned by absent uniformed services voters and overseas voters and cast in the election.

(8) Implement the state plan in accordance with the requirements of HAVA (42 U.S.C. 15401 through 15406) and this title, and appoint members of the committee established under 42 U.S.C. 15405.

(9) Submit reports required under 42 U.S.C. 15408 to the federal Election Assistance Commission concerning the use of federal funds under Title II, Subtitle D, Part I of HAVA.

SECTION 10. IC 3-6-4.2-12.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12.1. (a) This section applies to the development, implementation, and amendment of the state plan under HAVA (42 U.S.C. 15401 through 15406).**

(b) An individual appointed by the co-directors to serve on the committee established to develop the state plan to implement HAVA under 42 U.S.C. 15405 is entitled to receive the compensation or reimbursement provided under subsection (d) or (e).

(c) For purposes of subsection (d), an individual who holds:

(1) a state office is considered an employee of the state; or

(2) an office of a political subdivision is considered an employee of the political subdivision.

(d) Each member of the committee who is not a state employee or an employee of a political subdivision is entitled to receive both of the following:

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

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

(e) Each member of the committee who is a state employee or an employee of a political subdivision is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(f) The committee's expenses, including the payment of per diem and reimbursements under this section, shall be paid from the Section 101 account of the election administration assistance fund established under IC 3-11-6.5.

SECTION 11. IC 3-6-4.2-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12.5. (a) As authorized under 42 U.S.C. 15421, the secretary of state with the consent of the co-directors of the election division shall apply to the Secretary of Health and Human Services for payments under the HAVA (42 U.S.C. 15421 through 15425) to do the following:**

(1) Make polling places (including the path of travel, entrances, exits, and voting areas of each polling place) more accessible to individuals with disabilities, including the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as other voters.

(2) Provide individuals with disabilities and other individuals described in subdivision (1) with information about the accessibility of polling places, including outreach programs to inform the individuals about the availability of accessible polling places and training election officials, poll workers, and election volunteers on how best to promote the access and participation of individuals with disabilities in elections.

(b) If the secretary of state receives payments from the Secretary of Health and Human Services under 42 U.S.C. 15421 through 15425, the election division shall expend the money as described in the application submitted under 42 U.S.C. 15423.

SECTION 12. IC 3-6-4.2-14, AS AMENDED BY P.L.26-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) Each year in which a general or municipal election is held, the election division shall call a meeting of all the members of the county election boards and the boards of registration to instruct them as to their duties under this title **and federal law (including HAVA and NVRA).** The election division may, but is not required to, call a meeting under this section during a year in which a general or a municipal election is not held.

(b) Each circuit court clerk shall attend a meeting called by the election division under this section.

(c) The co-directors of the election division shall set the time and place of the instructional meeting. In years in which a primary election is held, the election division:

(1) may conduct the meeting before the first day of the year; and

(2) shall conduct the meeting before primary election day.

The instructional meeting may not last for more than two (2) days.

(d) Each member of a county election board or board of registration **and an individual who has been elected or selected to serve as circuit court clerk but has not yet begun serving in that office** is entitled to receive all of the following:

(1) A per diem of twenty-four dollars ($24) for attending the instructional meeting called by the election division under this section.

(2) A mileage allowance at the state rate for the distance necessarily traveled in going and returning from the place of the instructional meeting called by the election division under this section.

(3) Reimbursement for the payment of the instructional meeting registration fee from the county general fund without appropriation.

(4) An allowance for lodging for each night preceding conference attendance equal to the lodging allowance provided to state employees in travel status.

SECTION 13. IC 3-6-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 4.5. Administrative Complaints Concerning Uniform and Nondiscriminatory Election Technology and Administrative Requirements Under Title III of the Help America Vote Act of 2002

Sec. 1. This chapter applies after December 31, 2003.

Sec. 2. As used in this chapter, "Title III" refers to Title III of HAVA (42 U.S.C. 15481 through 15485).

Sec. 3. As required by 42 U.S.C. 15512, this chapter establishes the state based administrative complaint procedures to remedy grievances concerning uniform and nondiscriminatory election technology and administrative requirements under Title III.

Sec. 4. The remedies provided under this chapter are supplemental to any other remedies provided to an aggrieved party under this title.

Sec. 5. As required by 42 U.S.C. 15512, the procedures prescribed by this chapter must be uniform and nondiscriminatory.

Sec. 6. As provided by 42 U.S.C. 15512, a person who believes there is a violation of any provision of Title III, including a violation that has occurred, is occurring, or is about to occur, may file a complaint with the election division.

Sec. 7. As required by 42 U.S.C. 15512, a complaint filed under this chapter must be written, signed, and sworn to before an individual authorized to administer an oath under IC 33-16-4.

Sec. 8. The complaint filed under section 7 of this chapter must state the following:

(1) The name and mailing address of the person alleged to be committing the violation of Title III described in the complaint.

(2) Whether the person filing the complaint has filed a complaint concerning the violation with a county election board under IC 3-6-5.1.

(3) The nature of the injury suffered (or about to be suffered) by the person filing the complaint.

Sec. 9. The election division shall promptly provide a copy of the complaint by first class mail to the members of the commission and the persons identified in the complaint.

Sec. 10. A person entitled to file a complaint under this chapter may file a complaint with the county election board where the violation allegedly occurred under IC 3-6-5.1. If a person filed a complaint under IC 3-6-5.1, the election division shall not begin enforcement procedures under this chapter regarding the complaint until the person filing the complaint files a complaint with the election division under this chapter.

Sec. 11. This section applies if the complaint alleges that either co-director of the election division has committed the violation. The aggrieved person shall file the complaint with the chair of the commission. The chair of the commission shall perform the duties otherwise performed by the election division concerning a complaint.

Sec. 12. As permitted under 42 U.S.C. 15512, the election division (or commission) may consolidate complaints filed under this chapter.

Sec. 13. The election division shall determine whether a complaint filed under this chapter describes a violation of Title III if the facts set forth in the complaint are assumed to be true. If the election division determines that:

(1) even if the facts set forth in the complaint are assumed to be true, there is no violation of Title III; or

(2) the person has not complied with section 7 of this chapter;

the election division shall dismiss the complaint and publish the order dismissing the matter in the Indiana Register.

Sec. 14. If the election division dismisses a complaint under section 13 of this chapter, the election division shall provide a copy of this determination by certified mail to:

(1) the person who filed the notice;

(2) the person alleged to have committed the violation;

(3) the members of the commission; and

(4) the attorney general.

Sec. 15. If the election division determines that the complaint alleges a violation of Title III if the facts alleged in the complaint are assumed to be true and that the person has complied with section 7 of this chapter, the election division shall conduct an investigation under IC 3-6-4.2.

Sec. 16. The election division, upon completing the investigation, shall submit the results of the investigation to the commission, which shall then issue a written report. The election division shall provide a copy of the report by certified mail to:

(1) the person who filed the complaint;

(2) the person alleged to have committed the violation;

(3) the members of the commission; and

(4) the attorney general.

Sec. 17. The report described in section 16 of this chapter must:

(1) indicate the date when the complaint alleging the violation was received by the election division;

(2) contain findings of fact regarding the alleged violation and state whether a violation of Title III has occurred, or appeared to be likely to occur when the complaint was filed;

(3) state what steps, if any, the person alleged to have committed the violation has taken to correct the violation or to prevent a reoccurrence of the violation;

(4) suggest any additional measures that could be taken to correct a violation;

(5) indicate the date when a violation was corrected or is expected to be corrected; and

(6) provide any additional information or recommendations useful in resolving this complaint.

Sec. 18. As required by 42 U.S.C. 15512, at the request of the person filing a complaint, or at the request of a member of the commission, the commission shall conduct a hearing on the complaint and prepare a record of the hearing. A request for a hearing must be filed with the election division not later than noon seven (7) days after the report is mailed under section 16 of this chapter.

Sec. 19. After concluding the hearing, the commission shall:

(1) affirm the report;

(2) amend the report; or

(3) refer the matter to the election division for further investigation and submission of a subsequent report to the commission.

Sec. 20. As required by 42 U.S.C. 15512, if the commission determines that based on the evidence presented, there is no violation of any provision of Title III or that the person has not complied with section 7 of this chapter, the commission shall dismiss the complaint and publish the order dismissing the matter in the Indiana Register.

Sec. 21. As authorized by 42 U.S.C. 15512, if the commission determines that there is a violation of any provision of Title III, the commission shall determine and provide the appropriate remedy if authorized by law to do so. If providing the remedy would require additional or amended Indiana legislation, the commission shall notify the census data advisory committee and provide recommendations regarding the form and content of this legislation.

Sec. 22. The secretary of state may file a civil action seeking declaratory or injunctive relief to secure or implement a remedy determined by the commission to be appropriate under section 21 of this chapter.

Sec. 23. The commission shall forward a written summary of any action taken by the commission under section 20 or 21 of this chapter by certified mail to:

(1) the person who filed the complaint;

(2) the person alleged to have committed the violation; and

(3) the attorney general.

Sec. 24. As required by 42 U.S.C. 15512, the commission shall make the final determination regarding the complaint not later than ninety (90) days after the date the complaint is filed. The person filing the complaint may file a written consent permitting the commission to take a longer period to make the final determination regarding the complaint.

Sec. 25. As required by 42 U.S.C. 15512, if the commission fails to make the final determination regarding the complaint within the period applicable to the complaint under section 24 of this chapter, the complaint shall be resolved not later than sixty (60) days after the deadline applicable to the complaint under section 24 of this chapter.

Sec. 26. A complaint described by section 25 of this chapter shall be resolved by referral to an arbitrator selected jointly by the commission and the person who filed the complaint.

Sec. 27. As provided by 42 U.S.C. 15512, the record and other materials from any proceedings conducted by the commission shall be made available for use by the arbitrator.

Sec. 28. The arbitrator shall file a report with the election division setting forth the resolution of the complaint. The report must specify the following:

(1) Whether a violation of Title III has occurred or was about to occur when the complaint was filed.

(2) The appropriate remedy to correct any violation.

(3) Whether providing the remedy would require additional or amended Indiana legislation or a civil action for declaratory or injunctive relief.

(4) Any other information and recommendations necessary to fully provide any appropriate relief under this chapter.

SECTION 14. IC 3-6-5-17, AS AMENDED BY P.L.212-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) Each county election board shall submit a report to the election division after each primary, special, municipal, and general election describing the activities of the board during the previous year. The board shall include the following in the report:

(1) Information relating to the expenses of office maintenance and elections within the county or political subdivisions within the county.

(2) A copy of the statement of the county election board containing the votes cast for each candidate and on each public question in each precinct at the last election preceding the submission of the report.

(3) Any additional information relating to elections that the commission prescribes.

(b) The report described in subsection (a) must be postmarked, ~~or~~ hand delivered, **or transmitted** to the election division **using the computerized list under IC 3-7-26.3** not later than fourteen (14) days after each election.

(c) The election division shall send a copy of each report to the office not later than ten (10) days after receiving the report.

SECTION 15. IC 3-6-5-17.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 17.5. (a) As required by 42 U.S.C. 1973ff-1(c), each county election board shall submit a report to the election division after each general election setting forth the combined number of absentee ballots:**

(1) transmitted by the county election board to absent uniformed services voters and overseas voters for the election; and

(2) returned by absent uniformed services voters and overseas voters and cast in the election.

(b) The report must be:

(1) postmarked or hand delivered to the election division

not later than fourteen (14) days after the election; and

(2) in the form prescribed by the federal Election Assistance Commission under Section 703(b) of HAVA (42 U.S.C. 1973ff-1 (note)).

SECTION 16. IC 3-6-5-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. **(a)** A county election board may appoint and at its pleasure remove clerks, custodians, and other employees that are necessary in the execution of its powers. The county election board may determine the duties, rank, and salaries of its appointees.

(b) The county election board may employ students enrolled at institutions of higher education (including community colleges) to assist in the administration of elections by serving as nonpartisan assistants, in accordance with the requirements of the Help America Vote College Program conducted by the Election Assistance Commission under 42 U.S.C. 15521.

SECTION 17. IC 3-6-5.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 5.1. County Procedures for Resolving Administrative Complaints Concerning Uniform and Nondiscriminatory Election Technology and Administrative Requirements Under Title III of the Help America Vote Act of 2002

Sec. 1. This chapter applies after December 31, 2003.

Sec. 2. As used in this chapter, "Title III" refers to Title III of HAVA (42 U.S.C. 15481 through 15485).

Sec. 3. This chapter establishes a county based administrative complaint procedure to supplement the state based administrative complaint procedure under IC 3-6-4.5 to remedy grievances concerning uniform and nondiscriminatory election technology and administrative requirements under Title III. A person who files a complaint under this chapter retains the right to file a complaint with the election division under IC 3-6-4.5.

Sec. 4. The remedies provided under this chapter are supplemental to any other remedies provided to an aggrieved party under this title.

Sec. 5. The procedures prescribed by this chapter must be uniform and nondiscriminatory.

Sec. 6. A person who believes there is a violation of any provision of Title III, including a violation that has occurred, is occurring, or is about to occur, may file a complaint with the circuit court clerk of the county where the violation occurred, is occurring, or is about to occur.

Sec. 7. A complaint filed under this chapter must be written, signed, and sworn to before an individual authorized to administer an oath under IC 33-16-4.

Sec. 8. The complaint filed under section 6 of this chapter must state the following:

(1) The name and mailing address of the person alleged to be committing the violation of Title III described in the complaint.

(2) Whether the person filing the complaint has filed a complaint concerning the violation with the election division under IC 3-6-4.5.

(3) The nature of the injury suffered (or about to be suffered) by the person filing the complaint.

Sec. 9. The circuit court clerk shall promptly provide a copy of the complaint by first class mail to the members of the county election board and the persons identified in the complaint.

Sec. 10. If the county election board is notified at any time that the person who filed a complaint under this chapter has filed a complaint with the election division under IC 3-6-4.5 regarding this matter, the county election board shall dismiss the proceeding under this chapter.

Sec. 11. This section applies if the complaint alleges that the circuit court clerk has committed the violation. The aggrieved person shall file the complaint with the chair of the county election board. The chair shall perform the duties otherwise performed by the circuit court clerk concerning a complaint.

Sec. 12. The county election board may consolidate complaints filed under this chapter.

Sec. 13. The circuit court clerk shall determine whether a complaint filed under this chapter describes a violation of Title III if the facts set forth in the complaint are assumed to be true. The circuit court clerk may consult with the election division in making this determination. If the circuit court clerk determines that:

(1) even if the facts set forth in the complaint are assumed to be true, there is no violation of Title III; or

(2) that the person has not complied with section 7 of this chapter;

the circuit court clerk shall dismiss the complaint and publish notice of the order dismissing the matter in accordance with IC 5-3-1.

Sec. 14. If the circuit court clerk dismisses a complaint under section 13 of this chapter, the circuit court clerk shall provide a copy of this determination by certified mail to:

(1) the person who filed the notice;

(2) the person alleged to have committed the violation;

(3) the members of the county election board; and

(4) the election division.

Sec. 15. If the circuit court clerk determines that the complaint alleges a violation of Title III if the facts alleged in the complaint are assumed to be true and that the person has complied with section 7 of this chapter, the circuit court clerk shall conduct an investigation under IC 3-6-5.

Sec. 16. The circuit court clerk, upon completing the investigation, shall submit the results of the investigation to the county election board, which shall then issue a written report. The circuit court clerk shall provide a copy of the report by certified mail to:

(1) the person who filed the complaint;

(2) the person alleged to have committed the violation;

(3) the members of the county election board; and

(4) the election division.

Sec. 17. The report described in section 16 of this chapter must:

(1) indicate the date when the complaint alleging the violation was received by the county election board;

(2) contain findings of fact regarding the alleged violation and state whether a violation of Title III has occurred or appeared to be likely to occur when the complaint was filed;

(3) state what steps, if any, the person alleged to have committed the violation has taken to correct the violation or to prevent a reoccurrence of the violation;

(4) suggest any additional measures that could be taken to correct a violation;

(5) indicate the date when a violation was corrected or is expected to be corrected; and

(6) provide any additional information or recommendations useful in resolving this complaint.

Sec. 18. At the request of the person filing a complaint, or at the request of a member of the county election board, the board shall conduct a hearing on the complaint and prepare a record of the hearing. This request must be filed not later than noon seven (7) days after the report was mailed under section 16 of this chapter.

Sec. 19. After concluding the hearing, the county election board shall:

(1) affirm the report;

(2) amend the report;

(3) refer the matter to the circuit court clerk for further investigation and submission of a subsequent report to the county election board; or

(4) refer the matter to the election division.

Sec. 20. If the county election board determines that based on the evidence presented, there is no violation of any provision of Title III or that the person has not complied with section 7 of this chapter, the county election board shall dismiss the complaint and publish notice of the order dismissing the matter in accordance with IC 5-3-1.

Sec. 21. If the county election board determines that there is a violation of any provision of Title III, the county election board

shall determine and provide the appropriate remedy if authorized by law to do so. If the county election board determines that it is not authorized by law to provide the appropriate remedy, the county election board shall dismiss the complaint.

Sec. 22. The county election board shall forward a written summary of any action taken by the commission under section 20 or 21 of this chapter by certified mail to:

(1) the person who filed the complaint;

(2) the person alleged to have committed the violation; and

(3) the election division.

SECTION 18. IC 3-6-6-13, AS AMENDED BY P.L.126-2002, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) A county election board shall fill a vacancy in a precinct election office before the hour set for the opening of the polls, upon the nomination of the appropriate county chairman.

(b) This subsection applies to a precinct election office when, at noon, fourteen (14) days before election day, the appropriate county chairman has made no nomination for the office. The county election board, by unanimous vote of the entire membership of the board, may fill the office by appointing an individual who would be eligible to serve in the office if nominated by the county chairman.

(c) If a vacancy is filled by the county election board under subsection (b), the board may, by unanimous vote of the entire membership of the board, fill the office by appointing a student:

(1) enrolled at an institution of higher education (including a community college); and

(2) who is a registered voter of the county;

to serve as a nonpartisan precinct election officer.

SECTION 19. IC 3-6-6-39, AS ADDED BY P.L.126-2002, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 39. **(a)** The county election board **by unanimous vote of the entire membership of the board** may permit an individual who is not a voter to ~~be a poll clerk or an election sheriff~~ **serve as any precinct election officer (other than inspector), or to assist a precinct election officer,** if the individual satisfies all the following:

(1) The individual is at least sixteen (16) years of age but not more than seventeen (17) years of age.

(2) The individual is a citizen of the United States.

(3) The individual is a resident of the county.

(4) The individual has a cumulative grade point average equivalent to not less than 3.0 on a 4.0 scale.

(5) The individual has the written approval of the principal of the school the individual attends at the time of the appointment **or, if the student is educated in the home, the approval of the individual responsible for the education of the student.**

(6) The individual has the approval of the individual's parent or legal guardian.

(7) The individual has satisfactorily completed any training required by the county election board.

(8) The individual otherwise is eligible to serve as a precinct election officer under this chapter.

(b) After January 1, 2004, an individual appointed to a precinct election office or assistant under this section must serve in a nonpartisan manner in accordance with the standards developed by the Help America Vote Foundation under 36 U.S.C. 152602.

SECTION 20. IC 3-7-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The NVRA official shall do the following:

(1) Coordinate with the commission to oversee the implementation and administration of NVRA by the state, county, municipal, and nongovernmental offices designated as registration sites under this article.

(2) Develop training programs to assist the offices described in subdivision (1) in properly administering registration services.

(3) Protect the fundamental rights of voters.

(4) Consult with the federal Election **Assistance** Commission under 42 U.S.C. 1973gg-7 to develop a federal mail registration form.

(5) Comply with 42 U.S.C. 1973gg-4(b) by making federal and state mail registration forms available for distribution through governmental and private entities, with particular emphasis on making the forms available for organized voter registration programs.

(6) Comply with 42 U.S.C. 1973gg-6(g) by notifying a county registration officer whenever the NVRA official receives information from a United States attorney that:

(A) a person has been convicted of a felony in a district court of the United States; or

(B) the conviction has been overturned.

(7) Receive notices from voter registration agencies in other states indicating that a person has registered in that state and requests that the person's registration in Indiana be canceled.

(8) Forward notices received under subdivision (7) to the appropriate circuit court clerk or board of registration for cancellation of the voter's registration as provided in 42 U.S.C. 1973gg-6(a)(3)(A).

(9) Assist the federal Election **Assistance** Commission under 42 U.S.C. 1973gg-7(a)(3) by preparing reports concerning the impact of NVRA on election administration in Indiana.

(10) Recommend improvements to the Federal Election Commission concerning federal and state procedures, forms, or other matters affected by NVRA.

(11) Develop public awareness programs to assist voters in understanding the services available to them under NVRA.

SECTION 21. IC 3-7-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. If the NVRA official determines that the notice alleges a violation of NVRA or this article if the facts set forth in the notice are assumed to be true, the NVRA official shall conduct an investigation under ~~IC 3-6-4.~~ **IC 3-6-4.2.**

SECTION 22. IC 3-7-12-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28. (a) In addition to the reports required for the statewide voter file, the county voter registration office shall file a report with the election division not later than noon January 31 of each year.

(b) The report must include the following:

(1) A statement of the number of voters registered in each precinct of the county as of December 31 of the preceding year.

(2) Any revisions to the county NVRA implementation plan adopted during the preceding year.

(3) Other data prescribed by the division.

(c) This section expires January 1, 2006.

SECTION 23. IC 3-7-12-28.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 28.1. (a) This section applies after December 31, 2005.**

(b) In addition to the reports required for the statewide voter file, the county voter registration office shall file a report with the election division not later than noon January 31 of each year.

(c) The report must include the following:

(1) Any revisions to the county NVRA implementation plan adopted during the preceding year.

(2) Other data prescribed by the division.

SECTION 24. IC 3-7-12-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 38. After concluding the hearing, the county election board shall:

(1) affirm the report;

(2) amend the report;

(3) refer the matter to the **circuit court** clerk for further investigation and submission of a subsequent report to the board; or

(4) refer the matter to the NVRA official.

SECTION 25. IC 3-7-13-13, AS AMENDED BY P.L.126-2002, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) Except as provided in ~~subsection~~ **subsections** (b) **and (c),** when an individual registers to vote, the individual must provide the individual's driver's license number issued under IC 9-24-11 ~~or the individual's identification card number issued under IC 9-24-16.~~ **as provided under 42 U.S.C. 15483.**

(b) If an individual does not have a driver's license issued under IC 9-24-11, ~~or an identification card issued under IC 9-24-16,~~ the individual must provide the last four (4) digits of the individual's Social Security number when the individual registers to vote, **as provided under 42 U.S.C. 15483.**

(c) **This subsection applies after December 31, 2005. As required under 42 U.S.C. 15483, if an individual does not have a Social Security number, the election division shall assign the individual a number to be associated with the individual's registration in the computerized list maintained under IC 3-7-26.3. If the individual has an identification card number issued under IC 9-24-16, the election division shall assign that number as the voter's number under this subsection. If the individual does not have an identification card number issued under IC 9-24-16, the election division shall assign a unique identifying number to the voter's registration record in the computerized list, as provided under 42 U.S.C. 15483.**

(d) The number provided by the individual under subsection (a) or (b), **or the number assigned to the individual under subsection (c),** is the individual's voter identification number.

~~(d)~~ **(e)** A voter's voter identification number may not be changed unless:

(1) the voter made an error when providing the number when registering to vote;

(2) the election division or a county voter registration office made an error when entering the number into the computerized list under IC 3-7-26.3;

(3) the voter obtains or provides a driver's license number under IC 9-24-11 or a Social Security number after the voter was assigned a number under subsection (c); or

(4) the voter ceases to have a driver's license number under IC 9-24-11 after the voter provided that number under subsection (a).

~~(e)~~ **(f)** If a voter transfers the voter's registration and the voter's voter identification number is not included in the voter's registration records, the voter registration officer of the county in which the voter's registration is to be transferred shall require the voter to provide the number required by subsection (a) or (b) before the voter's registration is transferred. **If, after December 31, 2005, the voter does not have either of the numbers described in subsection (a) or (b), a voter identification number shall be assigned to the voter under subsection (c).**

SECTION 26. IC 3-7-22-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. This chapter prescribes procedures for voter registration by mail as provided in 42 U.S.C. 1973gg-4 **and after December 31, 2003, 42 U.S.C. 15483.**

SECTION 27. IC 3-7-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As provided in 42 U.S.C. 1973gg-4(a)(1) **and after December 31, 2003, 42 U.S.C. 15483,** a ~~circuit court clerk or board of~~ **county voter** registration **office** shall accept and use the mail voter registration form prescribed by the federal Election **Assistance** Commission under 42 U.S.C. 1973gg-7(a)(2).

SECTION 28. IC 3-7-22-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. As provided in 42 U.S.C. 1973gg-4(a)(2) **and after December 31, 2003, 42 U.S.C. 15483,** a ~~circuit court clerk or board of~~ **county voter** registration **office** shall accept and use a mail voter registration form prescribed by the commission that complies with 42 U.S.C. 1973gg-7(b)(2), **42 U.S.C. 15483 after December 31, 2003,** and this article.

SECTION 29. IC 3-7-22-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) A mail registration form prescribed under section 3 of this chapter may only require information necessary to enable the ~~circuit court clerk or board of~~ **county voter** registration **office** to do the following:

(1) Assess the eligibility of the applicant, **including after December 31, 2003, the eligibility of the applicant under 42 U.S.C. 15483.**

(2) Administer the voter registration and election process.

(b) The information required under subsection (a) may include the following:

(1) The signature of the applicant.

(2) Data relating to previous registration by the applicant.

(c) The form may not include any requirement for notarization or other formal authentication.

SECTION 30. IC 3-7-22-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. A mail registration form prescribed under section 3 of this chapter must meet the following requirements:

(1) The form must include a statement that does the following:

(A) Sets forth each eligibility requirement for registration (including citizenship).

(B) Contains an attestation that the applicant meets each of the eligibility requirements.

(C) Requires the signature of the applicant, under penalty of perjury.

(2) The form must include, in print that is identical to the print used in the attestation part of the application, information setting forth the penalties provided by law for submission of a false voter registration application.

(3) After December 31, 2003, the question "Are you a citizen of the United States of America?" and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.

(4) After December 31, 2003, the question "Will you be 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be eighteen (18) years of age on or before election day.

(5) After December 31, 2003, a statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under 42 U.S.C. 15483 must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time.

SECTION 31. IC 3-7-26-2, AS AMENDED BY P.L.199-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The election division shall develop and maintain a statewide voter registration file.

(b) Subject to section 20 of this chapter, not later than ~~July~~ **January** 1, 2004, the election division shall maintain the statewide voter registration file so that the file is accessible by the election division and county voter registration offices through a secure connection over the Internet.

(c) The statewide voter registration file must comply with the standards and requirements described in 42 U.S.C. 15483.

SECTION 32. IC 3-7-26-3, AS AMENDED BY P.L.199-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Each county voter registration office shall provide the voter registration information required under section 7 of this chapter to the election division.

(b) The voter registration office shall ~~periodically~~ update the voter registration information as provided in this chapter and in IC 3-7-38.1.

(c) The election division shall format the statewide voter registration file required under section 2(b) of this chapter so that only the county voter registration office of a particular county is able to change data in the file for that particular county's voters.

SECTION 33. IC 3-7-26-8, AS AMENDED BY P.L.199-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) Until a county has the capability to transmit the information over the Internet as required under subsection (b), the information required by section 7 of this chapter shall be provided on magnetic media or other machine readable form to the election division.

(b) Subject to section 20 of this chapter, not later than ~~July~~ **January** 1, 2004, a county voter registration office shall transmit the information required by section 7 of this chapter to the election division over the Internet, in a manner and using a method prescribed by the election division, through a secure connection to the statewide voter registration file.

(c) The commission shall prescribe a format to ensure the standardization and readability of the data provided under subsection (a) or (b).

SECTION 34. IC 3-7-26-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 21. This chapter expires January 1, 2006.**

SECTION 35. IC 3-7-26.3 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 26.3. Statewide Voter Registration List

Sec. 1. This chapter applies after December 31, 2005.

Sec. 2. As used in this chapter, "computerized list" refers to the statewide voter registration list established under section 3 of this chapter.

Sec. 3. As required under 42 U.S.C. 15483, and not later than January 1, 2006, the secretary of state with the consent of the co-directors of the election division shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, and interactive statewide voter registration list under this chapter.

Sec. 4. As required under 42 U.S.C. 15483, the computerized list must:

(1) be defined, maintained, and administered at the state level;

(2) contain the name and registration information of every voter in Indiana; and

(3) assign a unique identifier to each voter in Indiana.

Sec. 5. In accordance with 42 U.S.C. 15483, the computerized list serves as:

(1) the single system for storing and managing the official list of voters throughout Indiana; and

(2) the official voter registration list for the conduct of all elections in Indiana.

Sec. 6. As required under 42 U.S.C. 15483, the computerized list must be coordinated with other agency data bases within Indiana.

Sec. 7. As required under 42 U.S.C. 15483, each county voter registration office, the election division, and the secretary of state must be able to obtain immediate electronic access to the information contained in the computerized list.

Sec. 8. The computerized list must be formatted so that only the county voter registration office of a county may change data in the file concerning the voters registered in that county.

Sec. 9. As required under 42 U.S.C. 15483, a county voter registration office must electronically enter all voter registration information obtained by the county voter registration office into the computerized list on an expedited basis at the time the information is provided to the county voter registration office.

Sec. 10. As required under 42 U.S.C. 15483, the secretary of state and the election division shall provide the support required for the county voter registration office to enter the information into the computerized list.

Sec. 11. As required under 42 U.S.C. 15483, the county voter registration office shall perform list maintenance with respect to the computerized list on a regular basis. The list maintenance activity required under this section includes the removal of an individual from the list when required by this article and NVRA following:

(1) the death of the individual;

(2) the individual's confirmation that the individual resides outside the county in which the individual is registered; or

(3) an inactive voter's failure to respond to a notice or otherwise act in accordance with 42 U.S.C. 1973gg-6 to require the voter's registration to be reclassified as active within the period prescribed by NVRA.

Sec. 12. As required under 42 U.S.C. 15483, the election division shall coordinate the computerized list with the department of correction records concerning individuals disfranchised under IC 3-7-46.

Sec. 13. As required under 42 U.S.C. 15483, the election division shall coordinate the computerized list with the state department of health concerning individuals identified as deceased under IC 3-7-45.

Sec. 14. As required under 42 U.S.C. 15483, the computerized list maintenance performed under sections 11 through 13 of this chapter must ensure that:

(1) the name of each voter appears in the computerized list;

(2) only voters who are not eligible to vote are removed from the computerized list; and

(3) duplicate names of an individual voter are eliminated from the computerized list.

Sec. 15. As required under 42 U.S.C. 15483, the election division and each county voter registration office shall provide adequate technological security measures to prevent unauthorized access to the computerized list.

Sec. 16. As required under 42 U.S.C. 15483, the election division and each county voter registration office shall ensure that voter registration records are accurate and updated regularly.

Sec. 17. As required under 42 U.S.C. 15483, the election division and each county voter registration office shall perform the list maintenance required under NVRA to ensure that inactive voters described in section 11(3) of this chapter and 42 U.S.C. 1973gg-6(d)(1)(B) are removed from the official list of eligible voters.

Sec. 18. As required under 42 U.S.C. 15483, the secretary of state, the co-directors of the election division, and the bureau of motor vehicles commission shall enter into an agreement to match information in the computerized list data base with information in the data base of the bureau of motor vehicles commission to enable the election division (acting on behalf of the secretary of state) and the commission to verify the accuracy of the information provided on voter registration applications.

Sec. 19. (a) As required under 42 U.S.C. 15483, the bureau of motor vehicles commission shall enter into an agreement with the Commissioner of Social Security under 42 U.S.C. 405(r)(8)(A) to verify information set forth on voter registration applications.

(b) The following information is subject to verification under this section:

(1) Whether the name (including the first name and any family forename or surname), date of birth (including month, day, and year), and Social Security number of an individual provided to the Commissioner of Social Security match the information contained in the Commissioner's records.

(2) Whether the individual is shown in the records of the Commissioner of Social Security as deceased.

Sec. 20. As required by 42 U.S.C. 15483, the agreement under section 19 of this chapter must include:

(1) safeguards to assure the maintenance of the confidentiality of any information disclosed to the bureau;

(2) procedures to permit the bureau to use the information to maintain the bureau's records; and

(3) procedures to permit the election division to coordinate the records of the computerized list established under this chapter with the bureau's data base as provided by section 6 of this chapter.

Sec. 21. As provided by 42 U.S.C. 15483, the information provided by the Commissioner of Social Security or by an individual to the bureau of motor vehicles is confidential. The information may be used only for the purposes described under 42 U.S.C. 15483 and sections 19 and 20 of this chapter.

SECTION 36. IC 3-7-27-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) As required under 42 U.S.C. 1973gg-6(I), a county voter registration office shall retain records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of the voter registration list. These records include the following:

(1) Lists of names and addresses of voters who were sent notices under the voter list maintenance program.

(2) Information concerning whether a voter has responded to a notice described by subdivision (1) as of the date the inspection of the record is made.

(b) The county voter registration office shall retain the records

described by this section for at least two (2) years. Except for records concerning declinations to register to vote or that indicate the identity of a voter registration agency where a person registered, the county voter registration office shall make the records available for public inspection and photocopying at a reasonable cost as provided in IC 5-14-3.

(c) ~~This subsection applies to a county that maintains voter registration information on a computerized system.~~ In accordance with IC 5-14-3-3(g) and notwithstanding any other statute, a county voter registration office shall, with regard to voter registration information **concerning voters of the county** on a computerized system, act in accordance with a nondiscriminatory uniform policy adopted by the county election board. The policy must either permit a person to duplicate or obtain a duplicate copy of a computer tape, computer disc, microfilm, or other similar record system that contains this voter registration information or not permit the person to duplicate or obtain a duplicate copy of the information.

(d) A person who requests computerized voter registration information under subsection (c) must provide a written statement that the person will not:

(1) use the information to solicit merchandise, goods, services, or subscriptions; or

(2) sell, loan, give away, or otherwise deliver the information obtained by the request to any other person;

for a purpose other than political activities or political fundraising activities.

(e) Publication of information obtained under subsection (d) in a news broadcast or newspaper is not prohibited.

SECTION 37. IC 3-7-27-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) This section applies to a county that maintains voter registration information in a computerized system.

(b) The county voter registration office shall prepare an entry in the computerized system that accurately reflects the information set forth in the original affidavit of registration **and, if the applicant was required to provide documentation under IC 3-7-33-4.5, whether the required documentation has been provided.**

(c) If the documentation required under IC 3-7-33-4.5 has been provided, the entry must include the following:

(1) The date the documentation was filed with the county voter registration office.

(2) Whether the documentation was filed with the county voter registration office:

(A) by a precinct election board after the person voted in person at the polling place;

(B) by the county election board after the person applied to cast an absentee ballot; or

(C) by the applicant as part of the original filing of the application to register to vote, or in a subsequent filing received by the county voter registration office.

(3) A brief description of the type of documentation provided. The election division shall provide each county voter registration office with a suggested coding system for identifying the types of documentation.

(d) However, the county voter registration office is only required to enter a voter's voting history for the previous ten (10) years if that history is available.

~~(c)~~ **(e)** The county voter registration office is not required to prepare a duplicate paper copy of a registration properly entered into the computerized system.

~~(d)~~ **(f)** The computerized system must be able to generate lists of voters organized alphabetically and by precinct of residence.

(g) This section expires January 1, 2006.

SECTION 38. IC 3-7-27-20.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 20.1. (a) This section applies after December 31, 2005.**

(b) The county voter registration office shall prepare an entry in the computerized system that accurately reflects the information set forth in the original affidavit of registration. However, the county voter registration office is required to enter a voter's voting history for the previous ten (10) years only if that history is available.

(c) The county voter registration office is not required to prepare a duplicate paper copy of a registration properly entered into the computerized system.

SECTION 39. IC 3-7-27-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. (a) This section applies to a county whose voter registration records are maintained on a computerized system described by section 20 of this chapter.

(b) The ~~circuit court clerk or board of~~ **county voter** registration **office** is not required to maintain duplicate paper copies of original registrations if the county maintains a regularly updated copy of the computerized record at a secure location outside of the **county voter registration** office ~~of the circuit court clerk or board of registration~~ that would prevent loss of registration information if the records in the **county voter registration** office ~~of the circuit court clerk or board of registration~~ were not available.

(c) Notwithstanding IC 5-15, a ~~circuit court clerk or board of~~ **county voter** registration **office** may dispose of duplicate paper copies of original registrations made before January 1, 1995, by destroying the duplicate paper copies.

(d) This section expires January 1, 2006.

SECTION 40. IC 3-7-27-21.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 21.1. (a) This section applies after December 31, 2005.**

(b) The county voter registration office is not required to maintain duplicate paper copies of original registrations.

(c) Notwithstanding IC 5-15, a county voter registration office may dispose of duplicate paper copies of original registrations made before January 1, 2006, by destroying the duplicate paper copies.

SECTION 41. IC 3-7-27-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) This section applies **before January 1, 2006,** to a county whose voter registration records are maintained on a computerized system described by section 20 of this chapter. **After December 31, 2005, this section applies to all counties.**

(b) **Before January 1, 2006,** the ~~circuit court clerk or board of~~ **county voter** registration **office** may maintain the original affidavits of registration in a secure location outside of the **county voter registration** office ~~of the circuit court clerk or board of registration~~ if:

(1) the county maintains a regularly updated copy of the computerized record as described in section 21(b) of this chapter; and

(2) the original affidavits are not located in the same location as the updated copy of the computerized record.

After December 31, 2005, the county voter registration office may maintain the original affidavits of registration in a secure location outside the county voter registration office.

SECTION 42. IC 3-7-27-23, AS ADDED BY P.L.176-1999, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. (a) This section applies to a county that maintains voter registration information in a computerized system.

(b) If a county voter registration office enters into a contract to acquire voter registration computer software provided by a person other than a person who:

(1) had previously furnished the voter registration computer software to the county; or

(2) is currently providing technical assistance regarding the computer software to the county voter registration office;

the county voter registration office shall notify the person who furnished the software or is providing support for the software of this determination. This notice shall be sent by certified mail, return receipt requested, to the most recent address provided to the county by this person.

(c) Not later than sixty (60) days after the county voter registration office mails the notice described in subsection (b), the person receiving the notice shall provide the person who has entered into a contract with the county voter registration office with information concerning the specifications for the computer software program

furnished to the county or supported by that person. A person is not required to provide proprietary information to another person under this subsection but is required to act in good faith to permit the county voter registration office to install the voter registration software supplied by another person.

(d) This section expires January 1, 2006.

SECTION 43. IC 3-7-29-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Not later than ten (10) days before the election at which the registration record is to be used, the ~~circuit court clerk or board of registration~~ **county voter registration office** shall prepare certified copies of the list of registered voters for each precinct in the county.

(b) The lists must contain the **following information concerning each registered voter:**

(1) The full name **of the voter.**

(2) The address ~~and~~ **of the voter.**

(3) The assigned **county** identification number. ~~of each registered voter.~~

(4) After December 31, 2003, whether the voter is required to provide additional identification before voting either in person or by absentee ballot.

(c) The names shall be arranged in the same order as they are in the registration record of the precinct.

SECTION 44. IC 3-7-29-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a) This subsection applies before January 1, 2006.** When the inspector of a precinct procures the ballots and other election supplies for an election, the inspector shall also procure from the ~~circuit court clerk or board of registration:~~ **county voter registration office:**

(1) in a county whose registration records are not maintained on a computerized system described by IC 3-7-27-20, the duplicate copy of the registration record; or

(2) in a county with a computerized registration system, the certified copies of the registration record of the precinct with the information required under section 1 of this chapter;

and other necessary registration supplies.

(b) This subsection applies after December 31, 2005. When the inspector of a precinct procures the ballots and other election supplies for an election, the inspector shall also procure from the county voter registration office the certified copies of the registration record of the precinct with the information required under section 1 of this chapter and other necessary registration supplies.

SECTION 45. IC 3-7-29-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. **(a) This subsection applies before January 1, 2006.** The ~~circuit court clerk or board of registration~~ **county voter registration office** in a county with a computerized registration system may also provide the inspector of each precinct in the county with a certified photocopy of the signature on the affidavit of registration of each voter of the precinct for the comparison of signatures under IC 3-10-1-24.5 or IC 3-11-8-25.

(b) This subsection applies after December 31, 2005. The county voter registration office may also provide the inspector of each precinct in the county with a certified photocopy of the signature on the affidavit of registration of each voter of the precinct for the comparison of signatures under IC 3-10-1-24.5 or IC 3-11-8-25.

SECTION 46. IC 3-7-30-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As required under 42 U.S.C. 1973gg-6(a)(6), the records of **the statewide voter registration system or** a ~~circuit court clerk or board of registration~~ **county voter registration office** indicating the identity of the voter registration agency through which an individual registered ~~is~~ **are** confidential.

SECTION 47. IC 3-7-30-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. Certain uses of information from the statewide voter file are prohibited:

(1) before January 1, 2006, under IC 3-7-26;

(2) after December 31, 2005, under IC 3-7-26.3.

SECTION 48. IC 3-7-30-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. Certain voter registration information in the statewide voter registration file maintained by the election division:

(1) under IC 3-7-26 **before January 1, 2006; and**

(2) under IC 3-7-26.3 after December 31, 2005;

is confidential.

SECTION 49. IC 3-7-33-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. **(a)** A ~~circuit court clerk or board of registration~~ **county voter registration office** shall compare a registration form that has been received by the ~~clerk or board~~ **county voter registration office** with the registration record and determine if the individual has already registered according to the records of the ~~clerk or board.~~ **county voter registration office.**

(b) This section expires January 1, 2006.

SECTION 50. IC 3-7-33-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) This section applies to a voter registration application submitted on a registration by mail form under ~~IC 3-7-31.~~ **IC 3-7-22.**

(b) Except as provided in subsection (c), and as provided in 42 U.S.C. 1973gg-6(a)(1), an eligible applicant whose application is postmarked not later than twenty-nine (29) days before the election shall be registered to vote in the election.

(c) If a postmark on a registration by mail form is missing or illegible, an eligible applicant shall be registered to vote in the election if the form is received by the ~~circuit court clerk or board of registration~~ **county voter registration office** not later than twenty-four (24) days before the election.

SECTION 51. IC 3-7-33-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.5. (a) This section applies after December 31, 2003.**

(b) Except as provided in subsection (c), this section applies to an individual who:

(1) submits an application to register to vote by mail under IC 3-7-22; and

(2) has not previously voted in:

(A) a general election in Indiana (or a special election for federal office in Indiana); or

(B) a general election (or a special election for federal office) in the county where the individual has submitted an application under this chapter if a statewide voter registration system is not operational in accordance with the requirements of IC 3-7-26 and 42 U.S.C. 15483 on the date the application is received by the county voter registration office.

(c) This section does not apply to an individual who complies with the requirements in any of the following:

(1) The individual submits an application to register to vote by mail under this chapter and includes with that mailing a copy of:

(A) a current and valid photo identification; or

(B) a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter.

(2) The individual submits an application to register to vote by mail under this chapter that includes the individual's:

(A) Indiana driver's license number; or

(B) last four (4) digits of the individual's Social Security number;

and the county voter registration office or election division matches the information submitted by the applicant with an existing Indiana identification record bearing the same number, name, and date of birth set forth in the voter registration application.

(3) The individual is an absent uniformed services voter or overseas voter.

(4) The individual is entitled to vote other than in person under the federal Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)) due to a determination by the election division that a permanent or temporarily accessible polling place cannot be provided for the individual.

(5) The individual is entitled to vote other than in person

under any other federal law.

(d) When a county voter registration office receives a voter registration application by mail, the office shall determine whether the applicant is subject to the requirements to provide additional documentation under this section and 42 U.S.C. 15483.

(e) As required by 42 U.S.C. 15483, a county voter registration office shall administer the requirements of this section in a uniform and nondiscriminatory manner.

(f) If the county voter registration office determines that the applicant:

(1) is not required to submit additional documentation under this section; or

(2) has provided the documentation required under this section;

the county voter registration office shall process the application in accordance with section 5 of this chapter.

(g) If the county voter registration office determines that the applicant is required to submit additional documentation under this section and 42 U.S.C. 15483, the office shall process the application under section 5 of this chapter and, if the applicant is otherwise eligible to vote, add the information concerning this documentation to the voter's computerized registration entry under IC 3-7-27-20(c).

(h) The county voter registration office shall remove the notation described in subsection (g) after the voter votes in an election for a federal office.

SECTION 52. IC 3-7-33-5, AS AMENDED BY P.L.122-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) When the ~~circuit court clerk or board of registration~~ **county voter registration office** receives an application for a new registration or an application with information that revises or adds information to the applicant's current voter registration record, the ~~clerk or board~~ **county voter registration office** shall determine if the applicant appears to be eligible to register to vote based on the information in the application.

(b) As required under 42 U.S.C. 1973gg-6(a)(2), the ~~circuit court clerk or board of registration~~ **county voter registration office** shall send a notice to each person from whom the ~~clerk or board~~ **county voter registration office** receives a voter registration application. The ~~clerk or board~~ **county voter registration office** shall send a notice to the applicant at the mailing address provided in the application.

(c) The notice required by subsection (b) must set forth the following:

(1) A statement that the application has been received.

(2) The disposition of the application by the ~~clerk or board.~~ **county voter registration office.**

(3) If the ~~clerk or board~~ **county voter registration office** determines that the applicant appears to be eligible, the notice must state the following:

(A) The applicant is registered to vote under the residence address when the applicant receives the notice. An applicant is presumed to have received the notice unless the notice is returned by the United States Postal Service due to an unknown or insufficient address.

(B) The name of the precinct in which the voter is registered.

(C) The address of the polling place for the precinct in which the voter is registered.

(D) The voter's voter identification number.

(4) **In accordance with 42 U.S.C. 1973ff-1(d),** if the ~~clerk or board~~ **county voter registration office** has denied the application, the notice must include the reasons for the denial.

(d) The notice required by subsection (b) may include a voter registration card.

(e) If the notice is returned by the United States Postal Service due to an unknown or insufficient address, the ~~clerk or board~~ **county voter registration office** shall determine that the applicant is ineligible and deny the application.

SECTION 53. IC 3-7-34-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. This chapter applies when a ~~circuit court clerk or board of~~ **county voter** registration **office** receives a registration form that is not properly completed under:

(1) IC 3-7 or **after December 31, 2003, 42 U.S.C. 15483; or**

(2) is filed in an incorrect county.

SECTION 54. IC 3-7-34-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) This section applies when a ~~circuit court clerk or board of~~ **county voter** registration **office** receives a registration form that is not fully and properly completed so that the clerk or board can determine if the applicant is eligible to register under this article **or after December 31, 2003, fails to answer either of the questions set forth in IC 3-7-22-5(3) or IC 3-7-22-5(4).**

(b) **As required by 42 U.S.C. 15483,** the ~~clerk or board~~ **county voter registration office** shall promptly make:

(1) one (1) effort to contact the voter by mail if possible; and

(2) one (1) effort to contact the voter by telephone if a telephone number is listed.

SECTION 55. IC 3-7-34-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a) This subsection applies after December 31, 2003, to a registration application that is incomplete as a result of the failure of the applicant to answer either of the questions set forth in IC 3-7-22-5(3) or IC 3-7-22-5(4). If the county voter registration office obtains a written statement from the applicant:**

(1) answering either or both of the questions that were not answered on the original application; and

(2) not later than the twenty-ninth day before the date of the next general election following the date the application was filed;

the county voter registration office shall process the form under this article.

(b) This subsection applies to a registration application that is incomplete for a reason other than the failure of the applicant to answer either of the questions set forth in IC 3-7-22-5(3) or IC 3-7-22-5(4). If the ~~circuit court clerk or board of~~ **county voter** registration **office** obtains information under ~~section 2~~ **section 2(b)(1)** of this chapter that permits the ~~clerk or board~~ **county voter registration office** to complete the registration form, the ~~clerk or board~~ **county voter registration office** shall process the form under this article.

SECTION 56. IC 3-7-34-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. **(a)** If a registration form contains all of the information required to be supplied by the voter, but does not include the information required to be supplied by the bureau of motor vehicles commission or a voter registration agency, the ~~circuit court clerk or board of~~ **county voter** registration **office** shall promptly make one (1) effort to contact the officer, commission, or agency to obtain the information.

(b) This subsection applies after December 31, 2005. If the information is not obtained from the officer, commission, or agency under subsection (a) not later than seven (7) days after the county voter registration office provides the notice, the county voter registration office shall notify the NVRA official. The NVRA official shall contact the officer, commission, or agency to request that the information be provided to the county voter registration office or that the officer, commission, or agency file a statement with the county voter registration office indicating why the information is not available.

SECTION 57. IC 3-7-34-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. **(a) This subsection applies before January 1, 2006.** If the registration form is not compatible with the county's voter registration system, the ~~circuit court clerk or board of~~ **county voter** registration **office** may reproduce the form for the county's system and retain the original form to document the registration.

(b) This subsection applies after December 31, 2005. If the registration form is not compatible with the county's voter registration files of original voter registration affidavits, the county voter registration office may reproduce the form for the county's system and retain the original form to document the registration.

SECTION 58. IC 3-7-35-2, AS AMENDED BY P.L.38-1999,

SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The county voter registration office shall ensure that the software program used to generate the poll list for the precinct in which the voter resides indicates whether the name of the voter should be included on a poll list.

(b) The software program must generate a poll list that does not include the name of a voter unless the voter will be:

(1) at least eighteen (18) years of age when the election is conducted; or

(2) eligible to vote in the election under this article.

(c) This section expires January 1, 2006.

SECTION 59. IC 3-7-35-2.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.1. (a) This section applies after December 31, 2005.**

(b) The county voter registration office shall generate a poll list for the precinct where the voter resides that does not include the name of a voter unless the voter will be:

(1) at least eighteen (18) years of age when the election is conducted; or

(2) eligible to vote in the election under this article.

SECTION 60. IC 3-7-35-3, AS AMENDED BY P.L.38-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The county voter registration office shall ensure that the software program used to generate a jury list indicates whether the name of the voter should be used for jury service.

(b) The software program must generate a jury list that does not include the name of a voter unless the voter will be at least eighteen (18) years of age when the jury is empaneled.

(c) This section expires January 1, 2006.

SECTION 61. IC 3-7-35-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.1. (a) This section applies after December 31, 2005.**

(b) The county voter registration office shall generate information to be used in the compilation of a jury list that does not include the name of a voter unless the voter will be at least eighteen (18) years of age when the jury is empaneled.

SECTION 62. IC 3-7-38.1-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 11. This chapter expires January 1, 2006.**

SECTION 63. IC 3-7-38.2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. A voter list maintenance program conducted under this chapter or **before January 1, 2006,** IC 3-7-38.1 must be:

(1) uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973);

(2) not result in the removal of the name of a person from the official list of votes solely due to the person's failure to vote; and

(3) completed not later than ninety (90) days before a primary, general, or municipal election.

SECTION 64. IC 3-7-38.2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. As provided under 42 U.S.C. 1973gg-6(c)(2)(B)(I), this chapter and **before January 1, 2006,** IC 3-7-38.1 do not prevent the removal of a voter's name from the voter registration record during the final ninety (90) day period before a primary, general, or municipal election due to any of the following in accordance with this article:

(1) The written request of the voter.

(2) Disenfranchisement due to criminal conviction and incarceration.

(3) The death of the voter.

SECTION 65. IC 3-7-38.2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. As provided under 42 U.S.C. 1973gg-6(c)(2)(B)(ii), this chapter and **before January 1, 2006,** IC 3-7-38.1 do not prevent the correction of voter registration records under this article.

SECTION 66. IC 3-7-38.2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. To assist in performing voter list maintenance under this chapter and **before January 1, 2006,** to supplement the duplicate voter registration elimination program under IC 3-7-38.1, the NVRA official may submit the names of all registered voters in Indiana to the United States Postal Service National Change of Address Service. The submission under this chapter shall be compiled from the county voter registration information submitted to the ~~commission~~ **election division** under:

(1) IC 3-7-26 **before January 1, 2006; and**

(2) IC 3-7-26.3 after December 31, 2005.

SECTION 67. IC 3-7-40-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. **(a)** The circuit court clerk or board of registration shall add the "ZIP Code + Four" designation to the address of each voter in the voter registration record.

(b) This section expires January 1, 2006.

SECTION 68. IC 3-7-40-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. **(a) This subsection applies before January 1, 2006.** One (1) time each calendar year the NVRA official may submit to the United States Postal Service a list of the names and addresses of voters with rural route addresses.

(b) This subsection applies after December 31, 2005. The NVRA official may submit to the United States Postal Service a list of the names and addresses of voters with rural route addresses.

SECTION 69. IC 3-7-40-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. **(a) This subsection applies before January 1, 2006.** When notified by the NVRA official of a conversion from rural route addresses to numbered addresses under this chapter, the ~~circuit court clerk or board of~~ **county voter** registration **office** shall, as soon as practicable, do the following:

(1) Draw a red line through the rural route address appearing on the affidavit or form of registration and write the numbered address that replaces the rural route address on the affidavit or form.

(2) Make an appropriate entry in each computerized record for the precinct.

(b) This subsection applies after December 31, 2005. When notified by the NVRA official of a conversion from rural route addresses to numbered addresses under this chapter, the county voter registration office shall, as soon as practicable, amend:

(1) the original affidavit filed by the voter to indicate the numbered address that replaces the rural route address on the affidavit; and

(2) the entry for the voter in the computerized list under IC 3-7-26.3.

SECTION 70. IC 3-7-40-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) This section applies if the ~~circuit court clerk or board of~~ **county voter** registration **office** is notified by:

(1) the United States Postal Service; or

(2) a local public official or plan commission under this chapter;

that the mailing address, street name, or residence number of a voter's residence has been changed by the United States Postal Service, local public official, or plan commission.

(b) The ~~clerk or board~~ **county voter registration office** shall, as soon as practicable after the change becomes effective:

(1) draw a red line through the mailing address, street name, or residence number appearing on the affidavit or form of registration and write the changed mailing address, street name, or residence number on the affidavit or form; and

(2) make an appropriate entry in each computerized record for the precinct.

(c) This section expires January 1, 2006.

SECTION 71. IC 3-7-42-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. **(a) This subsection applies before January 1, 2006.** At the time of transfer, the ~~clerk or board~~ **county voter registration office** shall draw a red

line through the name or number of the precinct appearing on the affidavit or form of registration and shall write the name or number of the precinct to which the voter has been transferred and make an appropriate entry in the computerized record for the precinct.

(b) This subsection applies after December 31, 2005. At the time of transfer, the county voter registration office shall amend:

(1) the original affidavit filed by the voter to indicate the changed mailing address, street name, or residence number on the affidavit; and

(2) the entry for the voter in the computerized list under IC 3-7-26.3.

SECTION 72. IC 3-7-43-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a)** A request from a voter under this chapter may be made when the voter registers in another county in Indiana or in a jurisdiction outside of Indiana. A registration form under this section must be signed by the voter or, if not signed by the voter, after the NVRA official notifies the ~~circuit court clerk or board of~~ **county voter** registration **office** that the jurisdiction where the voter has registered ~~can provide a signed copy of the voter's request if desired by the clerk or board.~~ **has provided the election division with written notice of the voter's registration in the jurisdiction and request for cancellation of previous registrations.**

(b) The election division shall forward a copy of the notice to the appropriate county voter registration office.

SECTION 73. IC 3-7-43-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) This section applies to a voter who requests a cancellation of voter registration under IC 3-7-39-6.

(b) **This subsection applies before January 1, 2006.** The ~~circuit court clerk or board of~~ **county voter** registration **office** of the county in which a voter registers shall send the authorization of cancellation to the ~~circuit court clerk or board of registration~~ **county voter registration office** of the ~~county or~~ counties of previous residence within fifteen (15) days after receipt of the authorization. However, all authorizations shall be sent to the ~~clerk or board~~ **county voter registration office** not later than the fifteenth day before the date on which an election will be held.

(c) This subsection applies after December 31, 2005. The county voter registration office of the county in which a voter registers shall send the authorization of cancellation to the county voter registration office on an expedited basis, as required by IC 3-7-26.3.

SECTION 74. IC 3-7-43-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. **(a) This subsection applies before January 1, 2006.** The ~~circuit court clerk or board of~~ **county voter** registration **office** shall remove the affidavit of the voter from the registration record of the county and shall cancel the affidavit of registration by writing the word "canceled" and the date of the cancellation across the face of the affidavit and entering the cancellation in any computerized record.

(b) This subsection applies after December 31, 2005. The county voter registration office shall cancel the affidavit of registration and enter the date and other information concerning the cancellation in the computerized list under IC 3-7-26.3.

SECTION 75. IC 3-7-43-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) **This subsection applies before January 1, 2006.** If either of the addresses given by a person under IC 3-7-39 is outside Indiana, the county voter registration office shall, not later than fifteen (15) days after receipt, send the authorization of cancellation to the election division.

(b) **This section applies after December 31, 2005. If either of the addresses given by a person under IC 3-7-39 is outside Indiana, the county voter registration office shall send the authorization of cancellation to the election division on an expedited basis.**

(c) The election division shall promptly send the authorization to the voter registration office of the political subdivision that has jurisdiction over the address.

SECTION 76. IC 3-7-45-2, AS AMENDED BY P.L.199-2001, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) Not later than:

(1) January 31;
(2) April 30;
(3) July 31; and
(4) October 31;

of each year the state department of health shall submit a report to the election division electronically in a format prescribed by the commission.

(b) The state department of health shall report to the election division, by county, the names, ages, and known residence addresses of all persons who:

(1) died within Indiana but outside of the county during the preceding three (3) months; and
(2) maintained a residence address within the county during the two (2) years preceding the date of death.

(c) Each county health officer and municipal health officer shall report to the state department of health the names, ages, and known voting addresses in the county of all persons:

(1) who have died within the jurisdiction of the officer; or
(2) for whom burial permits have been issued by the officer;

during the previous three (3) months. The state department of health shall report this information to the election division.

(d) The state department of health shall report to the election division, by county, the names, ages, and known residence addresses of all persons:

(1) who died outside Indiana during the preceding three (3) months;
(2) who maintained a residence address within the county during the two (2) years preceding the date of death; and
(3) whose name was supplied to the state department of health under an agreement made under section 5 of this chapter.

(e) This section expires January 1, 2006.

SECTION 77. IC 3-7-45-2.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.1. (a) This section applies after December 31, 2005.**

(b) As required under 42 U.S.C. 15483, the election division shall coordinate the computerized list generated by the statewide voter registration system under IC 3-7-26.3 with the state department of health to permit a county voter registration office to cancel the registration records of deceased individuals on an expedited basis.

(c) The state department of health shall report to the election division, by county, the names, ages, and known residence addresses of all persons who:

(1) died within Indiana but outside the county of residence; and
(2) maintained a residence address within the county during the two (2) years preceding the date of death.

(d) Each county health officer and municipal health officer shall report to the state department of health the names, ages, and known voting addresses in the county of all persons:

(1) who have died within the jurisdiction of the officer; or
(2) for whom burial permits have been issued by the officer.

The state department of health shall report this information to the election division.

(e) The state department of health shall report to the election division, by county, the names, ages, and known residence addresses of all persons:

(1) who died outside Indiana;
(2) who maintained a residence address within the county during the two (2) years preceding the date of death; and
(3) whose names were supplied to the state department of health under an agreement made under section 5 of this chapter.

SECTION 78. IC 3-7-45-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a) This subsection applies before January 1, 2006.** Not later than thirty (30) days after receipt of the reports required by section 2 of this chapter, each ~~circuit court clerk or board of~~ **county voter** registration **office** shall cancel the registration of each deceased person listed in the reports.

(b) This subsection applies after December 31, 2005. As required by 42 U.S.C. 15483, after receipt of the reports required by section 2 of this chapter, each county voter registration office shall cancel the registration of each deceased person listed in the reports.

SECTION 79. IC 3-7-45-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) **This subsection applies before January 1, 2006.** Except as provided in subsection ~~(b),~~ **(c),** a ~~circuit court clerk~~ **county voter registration office** shall cancel the registration of a deceased person not later than thirty (30) days after receiving a copy of the deceased person's death certificate.

(b) **This subsection applies after December 31, 2005. Except as provided in subsection (c), a county voter registration office shall cancel the registration of a deceased person after receiving a copy of the deceased person's death certificate on an expedited basis, as required under 42 U.S.C. 15483. The county voter registration office shall enter the date and other information regarding the cancellation into the computerized list under IC 3-7-26.3.**

(c) A ~~circuit court clerk~~ **county voter registration office** may require additional written information before canceling the registration of a person under subsection (a) **or (b)** if the information contained in the death certificate is insufficient to identify the person whose registration is to be canceled. If:

(1) additional written information is not given to the ~~circuit court clerk,~~ **county voter registration office;** or

(2) the additional written information is insufficient to identify the person whose registration is to be canceled;

the ~~circuit court clerk~~ **county voter registration office** is not required to cancel the person's registration under subsection (a).

SECTION 80. IC 3-7-45-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The state department of health shall negotiate with appropriate agencies in each state other than Indiana to acquire information regarding the deaths of Indiana residents occurring in each of the other states. The state department of health may offer to share with each other state information regarding the deaths of the other state's residents in Indiana.

(b) If an agreement is made with the agency of another state under this section, the agreement must provide for acquisition of information about the deaths of Indiana residents in the other state so that the state department of health can forward that information ~~to counties~~ as provided in section 2 **or 2.1** of this chapter.

SECTION 81. IC 3-7-45-6, AS ADDED BY P.L.38-1999, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) The election division or a contractor acting on behalf of the election division under IC 3-7-38.1 may obtain a list of Indiana residents identified as deceased by the federal Social Security Administration.

(b) The election division or a contractor acting on behalf of the election division under IC 3-7-38.1 shall provide each county voter registration office with a report identifying the deceased individuals who are shown as residing in the county according to the statewide voter file prepared under IC 3-7-38.1.

(c) Except as provided in section 7 of this chapter, the county voter registration office shall cancel the registration of each deceased person listed in the report provided under subsection (b).

(d) This section expires January 1, 2006.

SECTION 82. IC 3-7-45-6.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6.1. (a) This section applies after December 31, 2005.**

(b) The election division shall obtain information regarding Indiana residents identified as deceased by the federal Social Security Administration as required by 42 U.S.C. 15483 and in conformity with IC 3-7-26.3.

(c) The election division shall provide each county voter registration office with a report identifying the deceased individuals who are shown as residing in the county.

(d) Except as provided in section 7 of this chapter, the county voter registration office shall cancel the registration of each deceased person listed in the report provided under subsection (c).

SECTION 83. IC 3-7-45-8, AS ADDED BY P.L.199-2001, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. The NVRA official shall notify ~~the circuit court clerk or board of~~ **each county voter** registration **office** of ~~each respective county of~~ the names of deceased persons obtained under this chapter.

SECTION 84. IC 3-7-46-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As permitted under 42 U.S.C. 1973gg-6(a)(3)(B) **and in the manner required under 42 U.S.C. 15483,** a ~~circuit court clerk or board of~~ **county voter** registration **office** shall remove from the official list of registered voters the name of a voter who is disfranchised under this chapter due to a criminal conviction.

SECTION 85. IC 3-7-46-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) This section applies to a person convicted of a felony in a district court of the United States.

(b) As required by 42 U.S.C. 1973gg-6(g)(5), the NVRA official shall notify the ~~circuit court clerk or board of~~ **county voter** registration **office** of the county in Indiana in which the person resides of the information provided by the United States attorney under 42 U.S.C. 1973gg-6(g)(2), 42 U.S.C. 1973gg-6(g)(3), and 42 U.S.C. 1973gg-6(g)(4).

(c) If the information provided under subsection (b) indicates that the person is disfranchised under section 2 of this chapter, the ~~clerk or board~~ **county voter registration office** shall remove the name of the person from the voter registration records **on an expedited basis as required by 42 U.S.C. 15483.**

SECTION 86. IC 3-7-46-4, AS AMENDED BY P.L.199-2001, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Not later than the second Tuesday of each month, the department of correction shall provide the NVRA official with a list identifying each person who:

(1) is a resident of Indiana;

(2) has been convicted of a crime; and

(3) has been placed in a department of correction facility during the previous month.

(b) The department of correction shall provide the information required by this section electronically in a format prescribed by the commission.

(c) This section expires January 1, 2006.

SECTION 87. IC 3-7-46-4.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.1. (a) This section applies after December 31, 2005.**

(b) As required under 42 U.S.C. 15483, the election division shall coordinate the computerized list generated by the statewide voter registration system under IC 3-7-26.3 with the department of correction to permit a county voter registration office to cancel the registration records of disfranchised individuals on an expedited basis.

(c) The department of correction shall provide the NVRA official with a list identifying each person who:

(1) is a resident of Indiana;

(2) has been convicted of a crime; and

(3) has been placed in a department of correction facility during the previous month.

(d) The department of correction shall provide the information required by this section electronically in a format prescribed by the election division.

SECTION 88. IC 3-7-46-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The NVRA official shall notify the ~~circuit court clerk or board of~~ **county voter** registration **office** of each county where a person on the **report** ~~list~~ resides **for processing under section 8 of this chapter.**

SECTION 89. IC 3-7-46-6 AS AMENDED BY SEA 136-2003, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) Not later than:

(1) January 31;

(2) April 30;

(3) July 31; and
(4) October 31;
of each year, a county sheriff shall provide the ~~circuit court clerk or board of~~ **county voter** registration **office** with a ~~list with~~ **report containing** the information set forth in subsection (b) **for processing under section 8 of this chapter.**

(b) The list required by subsection (a) must identify each person who:
(1) is a resident of Indiana;
(2) has been convicted of a crime; and
(3) has been placed in a county correctional facility during the previous ~~three (3) month period.~~ **quarter.**

SECTION 90. IC 3-7-46-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The ~~circuit court clerk or board of~~ **county voter** registration **office** shall notify the ~~clerk or board~~ **county voter registration office** of each county where a person on the list resides **that a voter registered in that county has been listed on the report described in section 6 of this chapter.**

SECTION 91. IC 3-7-46-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.5. If the information provided under section 5 or 6 of this chapter indicates that the person is disfranchised under section 2 of this chapter, the county voter registration office shall:**
(1) remove the name of the person from the voter registration records; and
(2) after January 1, 2006, enter the date and other information regarding the cancellation into the computerized list under IC 3-7-26.3;
on an expedited basis, as required under 42 U.S.C. 15483.

SECTION 92. IC 3-7-46-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. **(a) This subsection applies before January 1, 2006.** On the last day of each month, each county voter registration office shall prepare a list of the names and last known addresses of all persons within the county who have been disfranchised. The county voter registration office may secure the list at any time, but not later than the twenty-ninth day before a primary, general, or municipal election.

(b) This subsection applies after December 31, 2005. Each county voter registration office shall prepare a notice to be mailed to the names and last known addresses of all persons within the county who have been disfranchised.

SECTION 93. IC 3-7-46-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. **(a) This subsection applies before January 1, 2006.** Not later than thirty (30) days after preparation of the list under section 8 of this chapter, the circuit court clerk or board of registration shall send a notice to each alleged disfranchised person at the person's last known address using a form prescribed by the commission under this article.

(b) This subsection applies after December 31, 2005. After preparation of the notice under section 8 of this chapter, the county voter registration office shall mail the notice to the alleged disfranchised person not later than the day following the day that the voter's registration has been canceled under this chapter. The notice must be mailed to each alleged disfranchised person at the person's last known address using a form prescribed by the commission under this article.

SECTION 94. IC 3-10-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) Each county election board shall furnish the inspector of each precinct, for use on primary election day:
(1) a copy of the last regularly prepared registration record; or
(2) in a county with a computerized registration system, a certified copy under IC 3-7-29 of the list of all voters registered to vote in the precinct.

(b) The ~~circuit court clerk or board of~~ **county voter** registration **office** in a county with a computerized voting system may also provide the inspector of each precinct in the county with a certified photocopy of the signature on the affidavit or form of registration of each voter of the precinct for the comparison of signatures under section 24.5 of this chapter.

(c) If the name of a person offering to vote at the primary is in the registration record or listed in the certified copy prepared for the precinct, it is sufficient evidence of the person's right to vote unless the person is challenged.

(d) This section expires January 1, 2006.

SECTION 95. IC 3-10-1-7.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 7.1. (a) This section applies after December 31, 2005.**

(b) Each county election board shall furnish the inspector of each precinct for use on primary election day a certified copy under IC 3-7-29 of the list of all voters registered to vote in the precinct.

(c) The county voter registration office may also provide the inspector of each precinct in the county a certified photocopy of the signature on the affidavit or form of registration of each voter of the precinct for the comparison of signatures under section 24.6 of this chapter.

(d) If the name of a person offering to vote at the primary is in the registration record or listed in the certified copy prepared for the precinct, it is sufficient evidence of the person's right to vote unless the person is challenged.

SECTION 96. IC 3-10-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. **(a) This subsection applies before January 1, 2004.** A person who will be a voter at the general election for which the primary is being held and whose name does not appear on the registration record or on the certified copy of the registration record in a county with a computerized registration system may vote if the circuit court clerk or board of registration provides a signed certificate of error under IC 3-7-48 showing that the person is a registered voter of the precinct.

(b) This subsection applies after December 31, 2003. A person who will be a voter at the general election for which the primary is being held and whose name does not appear on the registration record of the precinct or on the certified copy of the registration record prepared under IC 3-7-29 may:
(1) vote if the county voter registration office provides a signed certificate of error; or
(2) cast a provisional ballot under IC 3-11.7, as provided by 42 U.S.C. 15482.

SECTION 97. IC 3-10-1-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 10.5. (a) This section applies after December 31, 2003.**

(b) This section does not apply to a voter who is challenged under section 10 of this chapter on the basis of party affiliation.

(c) In accordance with 42 U.S.C. 15482, a voter challenged under this chapter is entitled to cast a provisional ballot under IC 3-11.7 after executing the affidavit under section 9 of this chapter.

SECTION 98. IC 3-10-1-24, AS AMENDED BY P.L.199-2001, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 24. (a) A voter who desires to vote must give the voter's name and political party to the poll clerks of the precinct on primary election day. The poll clerks shall require the voter to write the following on the poll list:
(1) The voter's name.
(2) The voter's current residence address.
(3) The name of the voter's party.

(b) The poll clerks shall:
(1) ask the voter to provide **or update** the voter's voter identification number;
(2) tell the voter the number the voter may use as a voter identification number; and
(3) explain to the voter that the voter is not required to provide a voter identification number at the polls.

(c) If the voter is unable to sign the voter's name, the voter must sign the poll list by mark, which must be witnessed by one (1) of the poll clerks or assistant poll clerks acting under IC 3-6-6, who shall place the poll clerk's or assistant poll clerk's initials after or under the mark.

SECTION 99. IC 3-10-1-24.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 24.5. (a) This section does not apply to a precinct in a county with a computerized registration system whose inspector was:

(1) furnished with a list certified under IC 3-7-29; and

(2) not furnished with a certified photocopy of the signature on the affidavit of registration of each voter of the precinct for the comparison of signatures under this section.

(b) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under section 7 of this chapter. If the board determines that the voter's signature is authentic, the voter may then vote.

(c) If either poll clerk doubts the voter's identity following the comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by IC 3-11-8. If the poll clerk does not execute a challenger's affidavit under IC 3-11-8-21 or if the voter executes a challenged voter's affidavit under IC 3-11-8-22, the voter may then vote.

(d) This section expires January 1, 2006.

SECTION 100. IC 3-10-1-24.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 24.6. (a) This section applies after December 31, 2005.**

(b) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under section 7 of this chapter. If the board determines that the voter's signature is authentic, the voter may then vote.

(c) If either poll clerk doubts the voter's identity following the comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by IC 3-11-8. If the poll clerk does not execute a challenger's affidavit under IC 3-11-8-21 or if the voter executes a challenged voter's affidavit under IC 3-11-8-22, the voter may then vote.

SECTION 101. IC 3-10-1-31, AS AMENDED BY SEA 136-2003, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 31. (a) The inspector of each precinct shall deliver the bags required by section 30(a) and 30(c) of this chapter in good condition, together with poll lists, tally sheets, and other forms, to the circuit court clerk when making returns.

(b) Except for unused ballots disposed of under IC 3-11-3-31, the circuit court clerk shall carefully preserve the ballots and other material and keep all seals intact for twenty-two (22) months, as required by 42 U.S.C. 1974, after which they may be destroyed unless:

(1) an order issued under IC 3-12-6-19 or IC 3-12-11-16; or

(2) 42 U.S.C. 1973;

requires the continued preservation of the ballots or other material.

(c) **This subsection applies before January 1, 2006.** Upon delivery of the poll lists, the ~~circuit court clerk or board of~~ **the county voter** registration **office** may unseal the envelopes containing the poll lists. For the purposes of:

(1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46;

(2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42; ~~or~~

(3) adding the registration of a voter under IC 3-7-48-8; **or**

(4) recording that a voter subject to IC 3-7-33-4.5 submitted the documentation required under 42 U.S.C. 15843 and IC 3-11-8 or IC 3-11-10;

the ~~clerk or board~~ **county voter registration office** may inspect the poll lists and update the registration record of the county. The ~~clerk or board~~ **county voter registration office** shall use the poll lists to update the registration record to include the voter's voter identification number if the voter's voter identification number is not already included in the registration record. Upon completion of the inspection, the poll list shall be resealed and preserved with the ballots and other materials for the time period prescribed by subsection (b).

(d) **This subsection applies after December 31, 2005. Upon delivery of the poll lists, the county voter registration office may unseal the envelopes containing the poll lists. For purposes of:**

(1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46; or

(2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's current voter identification number if the voter's voter identification number is not included in the registration record. Upon completion of the inspection, the poll list shall be resealed and preserved with the ballots and other materials for the time period prescribed by subsection (b).

(e) After the expiration of the period described in subsection (b), the ballots may be destroyed in the manner provided by IC 3-11-3-31 or transferred to a state educational institution as provided by IC 3-12-2-12.

SECTION 102. IC 3-10-7-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 33. **(a)** A town election board shall canvass the votes from a municipal election in the manner prescribed by IC 3-12-4.

(b) After completion of the canvass, the town election board shall immediately file the poll lists, ballots, tally sheets, and other election forms with the circuit court clerk of the county containing the greatest percentage of population of the town for preservation and voter list maintenance in accordance with IC 3-10-1-31.

SECTION 103. IC 3-10-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. An affidavit executed under this chapter must contain the following information:

(1) The person's last, first, and middle name, in that order.

(2) The person's birthplace and date of birth.

(3) Whether the person is a United States citizen.

(4) The person's current address, including the county. If the person resides in a municipality, the address must include the street address, including apartment number or other designation, or the name and room number of the hotel or lodging house. If the person does not reside in a municipality, the address must include the mailing address and the street or road.

(5) The address of the person's previous residence, including the county.

(6) The person's statement that the person satisfies the conditions set forth in section 2 of this chapter.

(7) After December 31, 2005, the person's voter identification number to permit transfer of the registration under IC 3-7-13-13.

SECTION 104. IC 3-10-12-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. After December 31, 2005, the written affirmation described in section 3 of this chapter must include the person's voter identification number to permit transfer of the registration under IC 3-7-13-13.**

SECTION 105. IC 3-11-3-11, AS AMENDED BY P.L.126-2002, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. The county election board shall deliver the following to each inspector or the inspector's representative:

(1) The sealed package of paper ballots, provisional ballots, sample ballots, and any other supplies provided for the inspector's precinct by the election division.

(2) The local sample ballots, the ballot labels, if any, and all poll lists, registration lists, and other supplies considered necessary to conduct the election in the inspector's precinct.

(3) The local ballots printed under the direction of the county election board as follows:

(A) The number of ballots equal to one hundred percent (100%) of the number of voters in the inspector's precinct, according to the poll list.

(B) In those precincts where voting machines, ballot card

systems, or electronic voting systems are to be used, the number of paper ballots that will be required for emergency purposes only.

(C) Provisional ballots in the number considered necessary by the county election board.

(4) Twenty (20) ink pens suitable for printing the names of write-in candidates on the ballot or ballot envelope.

(5) Copies of the voter's bill of rights for posting as required by 42 U.S.C. 15482.

(6) Copies of the instructions for a provisional voter required by 42 U.S.C. 15482. The county election board shall provide at least the number of copies of the instructions as the number of provisional ballots provided under subdivision (3).

SECTION 106. IC 3-11-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. **(a) This subsection applies before January 1, 2006.** Each county election board shall prepare and have delivered to the inspectors of the precincts, at the time they receive the ballots for their precincts, a suitable number of blank poll list sheets and any other forms, papers, certificates, and oaths that are required to be furnished to precinct election boards. The forms and papers must have proper captions. ~~In a~~ **The** county ~~having a board of registration, the board of~~ **voter** registration ~~may~~ **office shall** cooperate with the county election board in the preparation of the poll lists.

(b) This subsection applies after December 31, 2005. Each county election board shall prepare and have delivered to the inspectors of the precincts, at the time they receive the ballots for their precincts, a suitable number of voter registration lists certified under IC 3-7-29 and any other forms, papers, certificates, and oaths that are required to be furnished to precinct election boards. The forms and papers must be prepared in compliance with IC 3-5-4-8. The county voter registration office shall cooperate with the county election board in the preparation of the lists certified under IC 3-7-29.

SECTION 107. IC 3-11-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) This section does not apply to a county with a computerized registration system that has furnished the inspector of a precinct with certified copies of the list of registered voters prepared under IC 3-7-29.

(b) The county election board shall prepare the poll lists in looseleaf sheet form or book form. The sheets must have adequate space and lines on each side for taking the signatures and addresses of the voters. The sheets may contain the names and addresses of the voters in the respective precincts in alphabetical order, with a space opposite each name for the signature and address of the voter when the voter votes and any other information required by law.

(c) This section expires January 1, 2006.

SECTION 108. IC 3-11-3-18, AS AMENDED BY P.L.199-2001, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) At the extreme top of a poll list sheet the heading "VOTERS POLL LIST" should appear, followed by the following information:

(1) The type of election.

(2) The date of the election.

(3) **After December 31, 2003, mail in registration requiring additional voter identification.**

(4) The name of the precinct, township (or ward), and county.

(b) Following the information required in subsection (a), the following headings should appear from left to right on each sheet:

(1) "Signature of Voter".

(2) "Address of Voter".

(3) "Voter Identification Number (Optional)".

(4) "If any voter shows his or her ballot after being marked, or by accident mutilates or defaces his or her ballot, note it in this column. Also note any other irregularity in this column.".

(c) This section expires January 1, 2006.

SECTION 109. IC 3-11-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. **(a)** After the polls are closed, the looseleaf poll list sheets that have been used in the precinct on election day shall be assembled and fastened together between two (2) manila tag board covers with the two (2) paper fasteners provided for that purpose. The manila tag board covers shall be punched and cut the same size as the poll list sheets.

(b) This section expires January 1, 2006.

SECTION 110. IC 3-11-3-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. **(a)** The looseleaf poll list sheets, the book form poll lists, and the covers required by sections 17 and 19 of this chapter are a part of the election supplies.

(b) This section expires January 1, 2006.

SECTION 111. IC 3-11-3-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. **As required by 42 U.S.C. 15482,** the inspector of each precinct shall post the samples of each of the state and local ballots provided by the county election board under this article in and about the polls. The sample ballots shall be printed on different paper than the genuine ballots.

SECTION 112. IC 3-11-4-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5.5. In accordance with 42 U.S.C. 1973ff-1(b), the election division is designated as the single office in Indiana responsible for providing information regarding voter registration procedures under IC 3-7 and absentee ballot procedures under this chapter to be used by absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in Indiana.**

SECTION 113. IC 3-11-4-6, AS AMENDED BY P.L.1-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) This section applies, notwithstanding any other provision of this title, to absentee ballot applications for the following:

(1) An absent uniformed services voter.

(2) An address confidentiality program participant (as defined in IC 5-26.5-1-6).

(3) An overseas voter.

(b) A county election board shall make blank absentee ballot applications available for persons covered by this section after November 20 preceding the election to which the application applies. Except as provided in subsection (c), the person may apply for an absentee ballot at any time after the applications are made available.

(c) A person covered by this section may apply for an absentee ballot for the next scheduled primary, general, or special election at any time by filing a standard form approved under 42 U.S.C. 1973ff(b).

(d) If the county election board receives an absentee ballot application from a person described by this section, the circuit court clerk shall mail to the person, free of postage as provided by 39 U.S.C. 3406, all ballots for the election immediately upon receipt of the ballots under sections 13 and 15 of this chapter.

(e) **In accordance with 42 U.S.C. 1973ff-3, whenever a voter files an application for an absentee ballot and indicates on the application that the voter:**

(1) is an absent uniformed services voter or an overseas voter; and

(2) does not expect to be in the county on the next general election day following the date the application is filed and expects to remain absent from the county until at least the date of the second general election following the date the application is filed;

the application is an adequate application for an absentee ballot for both subsequent general elections and any municipal or special election conducted during that period. The circuit court clerk and county election board shall process this application and send general election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and sent under this chapter.

(f) Whenever a voter described in subsection ~~(a)~~ **(a)(2)** files an application for a primary election absentee ballot and indicates on the application that

~~(1) the voter is an absent uniformed services voter and does not expect to be in the county on general election day and on the date of any special election conducted during the twelve (12) months following the date of the application;~~

~~(2)~~ the voter is an address confidentiality program participant,

~~or~~

~~(3) the voter is an overseas voter and does not expect to be in the county on general election day and on the date of any special election conducted during the twelve (12) months following the date of the application;~~

the application is an adequate application for a general election absentee ballot under this chapter and an absentee ballot for a special election conducted during the twelve (12) months following the date of the application. The circuit court clerk and county election board shall process this application and send general election and special election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and sent under this chapter.

~~(f)~~ **(g)** The name, address, telephone number, and any other identifying information relating to a program participant (as defined in IC 5-26.5-1-6) in the address confidentiality program, as contained in a voting registration record, is declared confidential for purposes of IC 5-14-3-4(a)(1). The county voter registration office may not disclose for public inspection or copying a name, an address, a telephone number, or any other information described in this subsection, as contained in a voting registration record, except as follows:

(1) To a law enforcement agency, upon request.

(2) As directed by a court order.

~~(g)~~ **(h)** The county election board shall by fax transmit an absentee ballot to and receive an absentee ballot from an absent uniformed services voter or an overseas voter at the request of the voter. If the voter wants to submit absentee ballots by fax, the voter must separately sign and date a statement on the cover of the fax transmission that states substantively the following: "I understand that by faxing my voted ballot I am voluntarily waiving my right to a secret ballot.".

~~(h)~~ **(i)** The county election board shall send confirmation to a voter described in subsection ~~(g)~~ **(h)** that the voter's absentee ballot has been received as follows:

(1) If the voter provides a fax number to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the fax number provided by the voter.

(2) If the voter provides an electronic mail address to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the electronic mail address provided by the voter.

(3) If:

(A) the voter does not provide a fax number or an electronic mail address; **or**

(B) the number or address provided does not permit the board to send the confirmation not later than the end of the first business day after the board receives the voter's absentee ballot;

the county election board shall send the confirmation by United States mail.

The county election board shall send the confirmation required by this subsection not later than the end of the first business day after the county election board receives the voter's absentee ballot.

SECTION 114. IC 3-11-4-17.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17.5. (a) Upon receiving an application for an absentee ballot, the county election board shall determine if the applicant is a voter of the precinct in which the applicant resides, according to the records of the county voter registration office. If the applicant is not a voter of the precinct according to the registration record **(or if the application as completed and filed does not otherwise comply with this chapter),** the county election board shall deny the application.

(b) **This subsection applies after December 31, 2003, to an absentee ballot application submitted by an absent uniformed services voter or an overseas voter. In accordance with 42 U.S.C. 1973ff-1(d), if the application is denied, the county election board shall provide the voter with the reasons for the denial of the application. Unless the voter is present when the board denies the application, the board shall send a written notice stating the reasons for the denial to the voter. The notice must be sent:**

(1) not later than forty-eight (48) hours after the application is denied; and

(2) to the voter at the address at which the voter requested that the absentee ballot be mailed.

(c) This subsection applies after December 31, 2003. If the county election board determines that the applicant is a voter of the precinct under subsection (a), the board shall then determine whether:

(1) the applicant was required to file any additional documentation under IC 3-7-33-4.5; and

(2) the applicant has filed this documentation according to the records of the county voter registration office.

If the applicant has not filed the required documentation, the county election board shall approve the application if the application otherwise complies with this chapter. The board shall add a notation to the application and to the record compiled under section 17 of this chapter indicating that the applicant will be required to provide additional documentation to the county voter registration office under IC 3-7-33-4.5 before the absentee ballot may be counted.

(d) If the applicant:

(1) is a voter of the precinct according to the registration record; ~~and~~

(2) states on the application that the applicant resides at an address that is within the same precinct but is not the same address shown on the registration record; **and**

(3) after December 31, 2005, provides a voter identification number on the application to permit transfer of registration under IC 3-7-13-13;

the county election board shall direct the county voter registration office to transfer the applicant's voter registration address to the address within the precinct shown on the application. The applicant's application for an absentee ballot shall be approved if the applicant is otherwise eligible to receive the ballot under this chapter.

SECTION 115. IC 3-11-4-17.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17.7. (a) This section applies when a voter:

(1) has been mailed the official ballot under this chapter; and

(2) notifies the county election board that the ballot has been destroyed, spoiled, lost, or not received by the voter after a reasonable time has elapsed for delivery of the ballot by mail.

(b) **As required under 42 U.S.C. 15481,** the voter may obtain a replacement official ballot under the procedures set forth in this chapter after the voter files a statement with the county election board. The statement must affirm, under penalties of perjury, that the voter did not receive the official ballot (or that the ballot was received by the voter, but was destroyed, spoiled, or lost), and must set forth any facts known by the voter concerning the destruction, spoiling, or loss of the ballot.

(c) After a voter files the statement required under subsection (b), the county election board may issue a replacement official ballot to the voter in accordance with this chapter and shall include information regarding the official replacement ballot in the certification provided to the precinct inspector under section 22 of this chapter.

(d) After receiving the official replacement ballot, the voter shall destroy any spoiled ballot in the possession of the voter or any lost or delayed official ballot that comes into the possession of the voter.

SECTION 116. IC 3-11-4-18, AS AMENDED BY P.L.126-2002, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) If a voter satisfies any of the following, the county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the voter at the address stated in the application:

(1) The voter will be absent from the county on election day.

(2) The voter will be absent from the precinct of the voter's residence on election day because of service as:

(A) a precinct election officer under IC 3-6-6;

(B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;

(C) a challenger or pollbook holder under IC 3-6-7; or

(D) a person employed by an election board to administer the election for which the absentee ballot is requested.

(3) The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury.
(4) The voter is a voter with disabilities.
(5) The voter is an elderly voter.
(6) The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury.
(7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.
(8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.

(b) **This subsection applies after December 31, 2003. If the county election board mails an absentee ballot to a voter required to file additional documentation with the county voter registration office before voting by absentee ballot under this chapter, the board shall include a notice to the voter in the envelope mailed to the voter under section 20 of this chapter. The notice must inform the voter that the voter must file the additional documentation required under IC 3-7-33-4.5 with the county voter registration office not later than noon on election day for the absentee ballot to be counted. The commission shall prescribe the form of this notice under IC 3-5-4-8.**

(c) The ballot shall be mailed:
(1) on the day of the receipt of the voter's application; or
(2) not more than five (5) days after the date of delivery of the ballots under section 15 of this chapter;
whichever is later.

~~(c)~~ **(d)** In addition to the ballot mailed under subsection ~~(b),~~ **(c),** the county election board shall mail a special absentee ballot for overseas voters.

~~(d)~~ **(e)** The ballot described in subsection ~~(c):~~ **(d):**
(1) must be mailed:
(A) on the day of the receipt of the voter's application; or
(B) not more than five (5) days after the date of delivery of the ballots under section 13(b) of this chapter;
whichever is later; and
(2) may not be mailed after the absentee ballots described by section 13(a) of this chapter have been delivered to the circuit court clerk or the clerk's authorized deputy.

(f) This subsection applies after December 31, 2005. As required by 42 U.S.C. 15481, an election board must establish a voter education program (specific to a paper ballot or optical scan ballot card provided as an absentee ballot under this chapter) to notify a voter of the effect of casting multiple ballots for a single office.

(g) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, when an absentee ballot is mailed under this section, the mailing must include:
(1) information concerning the effect of casting multiple votes for an office; and
(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 117. IC 3-11-4-21, AS AMENDED BY P.L.38-1999, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. (a) On the other side of the envelope required by section 20 of this chapter shall be printed an affidavit **in conformity with 42 U.S.C. 1973ff-1(b),** providing that the voter affirms under penalty of perjury that the following information is true:
(1) The name of the precinct and township (or ward and city or town).
(2) That the voter is:
(A) a resident of; or
(B) entitled under IC 3-10-11 or IC 3-10-12 to vote in;
the precinct.
(3) The voter's complete residence address, including the name of the city or town and county.
(4) That the voter is entitled to vote in the precinct, the type of election to be held, and the date of the election.
(5) That:
(A) the voter has personally marked the enclosed ballot or ballots in secret and has enclosed them in this envelope and sealed them without exhibiting them to any other person;
(B) the voter personally marked the enclosed ballot or ballots, enclosed them in this envelope, and sealed them with the assistance of an individual whose name is listed on the envelope and who affirms under penalty of perjury that the voter was not coerced or improperly influenced by the individual assisting the voter or any other person, in a manner prohibited by state or federal law, to cast the ballot for or against any candidate, political party, or public question; or
(C) as the properly authorized attorney in fact for the undersigned under IC 30-5-5-14, the attorney in fact affirms the voter personally marked the enclosed ballot or ballots in secret and enclosed them in this envelope and sealed them without exhibiting them to the attorney in fact or to any other person.
(6) The date and the voter's signature.

(b) If the affidavit is signed by an attorney in fact, the name of the attorney in fact must be indicated.

(c) A guardian or conservator of an individual may not sign an affidavit for the individual under this section unless the guardian or conservator also holds a power of attorney authorizing the guardian or conservator to sign the affidavit.

SECTION 118. IC 3-11-6.5-0.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.3. As used in this chapter, "fund" refers to the election administration assistance fund established by section 2 of this chapter.**

SECTION 119. IC 3-11-6.5-0.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.7. As used in this chapter, "purchase" includes the purchasing, leasing, and lease-purchasing of voting systems.**

SECTION 120. IC 3-11-6.5-1, AS ADDED BY P.L.239-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) As used in this section, "department" refers to the Indiana department of administration established by IC 4-13-1-2.

(b) The department shall award quantity purchase agreements to vendors for new voting systems or upgrades or expansion of existing voting systems by counties.

(c) Both of the following must apply before the department may issue a quantity purchase agreement to a voting system vendor:
(1) The commission has found that all of the following would be enhanced by the vendor's new or upgraded voting system:
(A) Reliability of a county's voting system.
(B) Efficiency of a county's voting system.
(C) Ease of use by voters.
(D) Public confidence in a county's voting system.
(2) The commission has otherwise approved the vendor's new voting system or the upgrade or expansion of the existing voting system for use under this title.

(d) The quantity purchase agreement must include options for a county to:
(1) purchase;
(2) lease-purchase; or
(3) lease;
new voting systems or upgrades or expansion of existing voting systems.

(e) The purchase of new voting systems or upgrades or expansions of existing voting systems by a county or under a quantity purchase agreement entered into by the department under this section is considered an acquisition by the state for purposes of 42 U.S.C. 15401 if the voting system, upgrade, or expansion complies with 42 U.S.C. 15481 through 15502.

(f) Not later than December 31, 2005, each county shall purchase at least one (1) voting system under this section for each polling place in the county to meet the requirements set forth under IC 3-11-15-13.

SECTION 121. IC 3-11-6.5-2, AS ADDED BY P.L.239-2001,

SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) **In accordance with 42 U.S.C. 15404,** the ~~voting system improvement~~ **election administration assistance** fund is established for the ~~purpose of~~ **following purposes:**

(1) As provided by 42 U.S.C. 15401, to carry out activities to improve the administration of elections for federal office.

(2) As provided by 42 U.S.C. 15401, to use funds provided to the state under Title II, Subtitle D, Part I of HAVA (42 U.S.C. 15401 through 15408) as a reimbursement of costs in obtaining voting equipment that complies with 42 U.S.C. 15481 if the state obtains the equipment after November 7, 2000.

(3) As provided by 42 U.S.C. 15401, to use funds provided to the state under Title II, Subtitle D, Part I of HAVA (42 U.S.C. 15401 through 15408) as a reimbursement of costs in obtaining voting equipment that complies with 42 U.S.C. 15481 under a multiyear contract incurred after December 31, 2000.

(4) For reimbursing counties for the

~~(1)~~ purchase

~~(2) lease-purchase; or~~

~~(3) lease;~~

of new voting systems or for the upgrade or expansion of existing voting systems **that would not qualify for reimbursement under subdivision (2) or (3).**

(b) The fund consists of the following:

(1) Money appropriated to the fund by the general assembly, including any money appropriated from the build Indiana fund.

(2) All money allocated to the state by the federal government:

(A) under Section 101 of HAVA (42 U.S.C. 15301), as required by 42 U.S.C. 15304;

(B) under Section 102 of HAVA (42 U.S.C. 15302), as required by 42 U.S.C. 15304;

(C) under Title II, Subtitle D, Part I of HAVA (42 U.S.C. 15401 through 15408); and

(D) under any other program for **the** improvement of ~~voting systems.~~ **election administration.**

(3) Proceeds of bonds issued by the Indiana bond bank for improvement of voting systems as authorized by law.

The auditor of state shall establish an account within the fund for money appropriated by the general assembly and ~~a~~ separate ~~account~~ **accounts** within the fund for any money received by the state from the federal government **for each source of allocations described under subdivision (2).** Proceeds of bonds issued by the Indiana bond bank under subdivision (3) may be deposited into ~~either~~ **any** account, as determined by the election division.

(c) The ~~election division~~ **secretary of state with the consent of the co-directors of the election division** shall administer the fund.

(d) The expenses of administering the fund shall be paid from money in the **Section 101 account of the** fund. **If money is not available for this purpose in the Section 101 account of the fund, the expenses of administering the fund shall be paid from money appropriated under subsection (b)(1).**

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund **and allocated among the accounts within the fund according to the balances of the respective accounts.**

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

(g) Money in the fund is appropriated continuously for the purposes stated in subsection (a).

~~(h) Money in the fund derived from appropriations made by the general assembly or that are the proceeds of bonds issued by the Indiana bond bank may be used only to reimburse counties for the:~~

~~(1) purchase;~~

~~(2) lease-purchase; or~~

~~(3) lease;~~

~~of new voting systems or upgrades or expansion of existing voting systems after June 30, 2001.~~

~~(i) Money in the fund derived from money received by the state from the federal government may be used for either of the following purposes:~~

~~(1) To reimburse counties for the:~~

~~(A) purchase;~~

~~(B) lease-purchase; or~~

~~(C) lease;~~

~~of new voting systems or upgrades or expansion of existing voting systems after June 30, 2001.~~

~~(2) To reimburse counties for the purchase of new voting systems or upgrades or expansion of existing voting systems after January 1, 1998, and before July 1, 2001.~~

SECTION 122. IC 3-11-6.5-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.1. (a) This section applies to money received under Title II, Subtitle D, Part I of HAVA (42 U.S.C. 15401 through 15408) and deposited in the account established under section 2 of this chapter for those funds.**

(b) Except as provided in subsection (c), money deposited in the account must be used to comply with the requirements of Title III of HAVA (42 U.S.C. 15481 through 15502).

(c) As authorized under 42 U.S.C. 15401(b), money deposited in the account may be used for other purposes authorized under Section 101 of HAVA (42 U.S.C. 15301) if the secretary of state with the approval of the co-directors of the election division files the certification required by Section 251(b)(2)(B) of HAVA (42 U.S.C. 15401(b)(2)(A)).

(d) If the secretary of state makes the certification described in subsection (c), the secretary of state with the approval of the co-directors of the election division may transfer amounts that do not in total exceed the amount described in Section 251(b)(2)(B) from the Title II account of the fund to the Section 101 account of the fund.

(e) In conformity with Section 254(a)(7) of HAVA (42 U.S.C. 15404), the state shall maintain expenditures by the state for activities funded by the payment of funds described by this section at a level that is not less than the level of those expenditures maintained by the state for the fiscal year ending June 30, 2000.

SECTION 123. IC 3-11-6.5-4, AS ADDED BY P.L.239-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. **(a) To receive reimbursement for the purchase of voting systems under this chapter, a county must file an application with the election division, in the form required by the election division. The secretary of state with the consent of the co-directors of the election division shall review the application and make a recommendation to the budget committee regarding the application. If a county filed an application under section 3 of this chapter (repealed) not later than January 31, 2003, the application may be amended to comply with this chapter or the county may file a new application under this subsection.**

(b) The budget agency, after review by the budget committee, shall approve a county's application for reimbursement under this chapter if the ~~county's application demonstrates to the~~ budget agency **determines** either of the following:

(1) ~~That~~ The county **has purchased or** will

~~(A)~~ purchase;

~~(B) lease-purchase; or~~

~~(C) lease;~~

a new voting system or an upgrade or expansion of an existing voting system ~~from a vendor that has a quantity purchase agreement awarded under section 1 of this chapter.~~ **to comply with HAVA that would be eligible for reimbursement under HAVA and this chapter from any fund account.**

(2) The county purchased a new voting system or an upgrade or expansion of the county's existing voting system after January 1, 1998, and before July 1, 2001, **that would not qualify for reimbursement from federal funds received under HAVA,** and the new voting system or upgrade or expansion of the county's existing voting system enhanced all of the following:

(A) Reliability of the county's voting system.

(B) Efficiency of the county's voting system.
(C) Ease of use of the county's voting system by voters.
(D) Public confidence in the county's voting system.

SECTION 124. IC 3-11-6.5-5, AS ADDED BY P.L.239-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) If a county's application is approved under section 4 of this chapter, the **secretary of state with the consent of the co-directors of the** election division shall, subject to this section, reimburse the county from the ~~voting system improvement~~ fund an amount ~~equal~~ to ~~fifty percent (50%) of the purchase price of a new voting system or the upgrade or expansion of an existing voting system. If the county has entered into an agreement to lease-purchase or lease a new voting system or the upgrade or expansion of an existing voting system each year the election division shall reimburse the county fifty percent (50%) of the county's lease-purchase or lease payments for that year.~~ **be determined by the secretary of state with the consent of the co-directors of the election division.**

(b) Payment of money from the ~~voting system improvement~~ fund is subject to the availability of money in the fund and the requirements of this chapter **and HAVA.**

(c) It is the intent of the general assembly that a county eligible for reimbursement under section 4 of this chapter be reimbursed from federal money received by the state to the maximum extent permitted by federal law.

(d) This section expires January 1, 2006.

SECTION 125. IC 3-11-6.5-6.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.1. When approving applications for reimbursement for voting systems under this chapter, the budget agency shall give priority to approving applications to replace a punch card voting system or voting machine system.**

SECTION 126. IC 3-11-6.5-7.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.1. (a) This section applies to money received under Section 102 of HAVA (42 U.S.C. 15302) and deposited in the account established under section 2 of this chapter for those funds.**

(b) Money deposited in the account must be used for the purposes set forth in Section 102 of HAVA (42 U.S.C. 15302).

(c) As permitted under 42 U.S.C. 15302, a county may apply to receive reimbursement from the fund.

(d) To receive reimbursement or voting systems under this section, a county must file an application with the election division in the form required by the election division. The secretary of state with the consent of the co-directors of the election division shall review the application and make a recommendation to the budget committee regarding the application. If a county filed an application under section 3 of this chapter not later than January 31, 2003, the application may be amended to comply with this chapter or the county may file a new application under this subsection.

(e) The budget agency, after review by the budget committee, shall approve a county's application for reimbursement if the budget agency determines that the county has purchased a voting system to comply with Section 102 of HAVA and is eligible for reimbursement under this section.

(f) The budget agency, after review by the budget committee, shall approve a county's application for disbursement of voting systems to the county if the budget agency determines that the county is entitled to receive voting systems under this section to comply with Section 102 of HAVA.

(g) If a county's application for reimbursement is approved under this section, the secretary of state shall, subject to subsection (j), reimburse the county from the fund in an amount not more than the amount determined by STEP TWO of the following formula:

STEP ONE: Determine the number of precincts in the county that used a voting machine voting system or a punch card voting system at the November 7, 2000, general election.

STEP TWO: Multiply the number determined in STEP ONE by four thousand dollars ($4,000).

(h) Payment of money from the fund under this section is subject to the availability of money in the fund and the requirements of this chapter and HAVA.

SECTION 127. IC 3-11-6.5-8, AS ADDED BY P.L.239-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) **This section applies to money received under Section 101 of HAVA (42 U.S.C. 15301) and deposited in the account established under section 2 of this chapter for those funds.**

(b) Money deposited in the account must be used in accordance with the requirements applicable under Section 101 of HAVA (42 U.S.C. 15301).

(c) The money may be used with the approval of the co-directors of the election division for the following purposes:

(1) By the secretary of state for any purpose authorized by this title and permitted under 42 U.S.C. 15301.

(2) To reimburse counties for the purchase of new voting systems eligible for reimbursement under section 7.1 of this chapter, to the extent that money received and deposited under section 7.1 of this chapter is insufficient to replace all voting machine systems and punch card voting systems in Indiana.

(3) To reimburse counties for the upgrade or expansion of existing voting systems to comply with HAVA.

(d) As permitted under 42 U.S.C. 15301, a county may apply to receive reimbursement under subsection (c).

(e) To receive ~~payment for the development and implementation of a program for educating voters about voting procedures,~~ **reimbursement under this section,** a county must make an application to the ~~budget agency~~ **election division** in the form required by the ~~budget agency.~~ **election division. If the county filed an application under section 3 of this chapter not later than January 31, 2003:**

(1) the application may be amended to comply with this chapter; or

(2) the county may file a new application under this section.

The secretary of state with the consent of the co-directors of the election division shall review the application and make a recommendation to the budget committee regarding the application.

~~(b)~~ **(f)** The budget agency, after review by the budget committee, shall approve a county's application for ~~payment~~ **reimbursement** under this ~~chapter~~ **section** if ~~the county's application demonstrates to~~ the budget agency ~~all of the following:~~

~~(1) That the county has developed a program for educating voters about the use of the county's voting system.~~

~~(2) That the commission has approved the program and the county's implementation plan for the program.~~

~~(3) That the program will enhance all of the following:~~

~~(A) Familiarity of voters with the county's voting system.~~

~~(B) Accessibility of the county's voting system to voters.~~

~~(C) Ease of use of the county's voting system by voters.~~

~~(D) Public confidence in the county's voting system.~~

determines that the application complies with the requirements for reimbursement under subsection (c)(2) or (c)(3).

~~(c)~~ **(g)** If a county's application is approved under ~~this section,~~ **subsection (c)(2),** the ~~division~~ **secretary of state with the consent of the co-directors of the election division** shall, subject to subsection ~~(d),~~ **(I),** pay the county from the ~~voting system education~~ fund an amount ~~equal to fifty percent (50%) of the amount of reasonable development and implementation costs of the county's program for educating voters about voting procedures, as determined by the budget agency.~~ **not more than the amount determined by STEP TWO of the following formula:**

STEP ONE: Determine the number of precincts in the county that used a voting machine voting system or a punch card voting system at the November 7, 2000, general election that cannot be replaced with funds available under section 7.1 of this chapter.

STEP TWO: Multiply the number determined in STEP

ONE by four thousand dollars ($4,000).

(h) If a county's application is approved under subsection (c)(3), the secretary of state with the consent of the co-directors of the election division shall, subject to subsection (I), pay the county from the fund in an amount to be determined by the secretary of state with the consent of the co-directors of the election division.

~~(d)~~ **(i)** Payment of money from the ~~voting system education~~ fund under this section is subject to the availability of money in the fund and the requirements of this chapter **and HAVA.**

SECTION 128. IC 3-11-8-3.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.4. (a) As authorized under 42 U.S.C. 15421, a county election board may apply on behalf of a county to the Secretary of Health and Human Services for payments under HAVA (42 U.S.C. 15421 through 15425) to do the following:**

(1) Make polling places (including the path of travel, entrances, exits, and voting areas of each polling place) more accessible to individuals with disabilities, including the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as other voters.

(2) Provide individuals with disabilities and other individuals described in subdivision (1) with information about the accessibility of polling places, including outreach programs to inform the individuals about the availability of accessible polling places and training election officials, poll workers, and election volunteers on how best to promote the access and participation of individuals with disabilities in elections.

(b) If a county election board submits an application under subsection (a), the application must:

(1) comply with 42 U.S.C. 15423; and

(2) be filed with the election division not later than the submission of the application under subsection (a).

(c) If a county election board receives payments from the Secretary of Health and Human Services under 42 U.S.C. 15421 through 15425, the payments shall be deposited in the county general fund and appropriated to the county election board for the purposes described in the application. The county election board shall spend the money for the purposes described in the application.

(d) As required by 42 U.S.C. 15425, the county election board shall file a report with the Secretary of Health and Human Services regarding the activities conducted with these funds and the expenditures made with respect to the categories listed in subsection (a)(1) and (a)(2). The county election board shall file a copy of the report with the election division and the state board of accounts not later than the date the report is submitted under this subsection.

SECTION 129. IC 3-11-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. **(a)** When the hour for closing the polls occurs, the precinct election board shall permit all voters who:

(1) have passed the challengers and who are waiting to announce their names to the poll clerks for the purpose of signing the poll list;

(2) have signed the poll list but who have not voted; or

(3) are in the act of voting;

to vote. In addition, the inspector shall require all voters who have not yet passed the challengers to line up in single file within the chute. The poll clerks shall record the names of the voters in the chute, and these voters may vote unless otherwise prevented according to law.

(b) This subsection applies:

(1) after December 31, 2003; and

(2) if a court order (or other order) has been issued to extend the hours that the polls are open under section 8 of this chapter.

As provided in 42 U.S.C. 15482, the inspector shall identify the voters who would not otherwise be eligible to vote after the closing of the polls under subsection (a) and shall provide a provisional ballot to the voter in accordance with IC 3-11.7.

SECTION 130. IC 3-11-8-15, AS AMENDED BY SEA 136-2003, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) Persons other than:

(1) members of a precinct election board;

(2) poll clerks and assistant poll clerks;

(3) election sheriffs;

(4) deputy election commissioners;

(5) pollbook holders;

~~(6) challengers;~~

~~(7)~~ **(6)** watchers; and

~~(8)~~ **(7)** minor children accompanying voters as provided under IC 3-11-11-8 and IC 3-11-12-29; **and**

(8) an assistant to a precinct election officer appointed under IC 3-6-6-39;

are not permitted in the polls during an election except for the purpose of voting.

(b) This subsection applies to a simulated election for minors conducted with the authorization of the county election board. An individual participating in the simulated election may be in the polls for the purpose of voting. A person supervising the simulated election may be in the polls to perform the supervision.

(c) The inspector of a precinct has authority over all simulated election activities conducted under subsection (b) and shall ensure that the simulated election activities do not interfere with the election conducted in that polling place.

SECTION 131. IC 3-11-8-22, AS AMENDED BY P.L.126-2002, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) A voter challenged under section 20 of this chapter may vote if the voter makes an affidavit in writing ~~that the voter is a legal voter of the precinct~~ **under section 23 of this chapter** and either of the following applies:

(1) The voter's name appears on the registration list.

(2) The voter does one (1) of the following:

(A) Produces a certificate of error issued by a registration official of the county in accordance with IC 3-7-48 showing that the voter is registered in the precinct where the voter resides and offers to vote.

(B) Produces an affidavit executed under IC 3-10-10 or IC 3-10-11 if the voter executed an affidavit under those provisions.

(C) Makes an oral or a written affirmation under IC 3-10-12.

(b) After December 31, 2003, a voter challenged under section 20 of this chapter:

(1) whose name does not appear on the registration list; and

(2) who is not permitted to cast a vote under IC 3-7-48-1, IC 3-7-48-5, IC 3-7-48-7, IC 3-10-10, IC 3-10-11-2, or IC 3-10-12;

is entitled to cast a provisional ballot under IC 3-11.7 if the voter makes an affidavit in writing that the voter is a legal voter of the precinct.

SECTION 132. IC 3-11-8-23, AS AMENDED BY P.L.126-2002, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. The affidavit of a challenged voter required by section 22 of this chapter must be sworn and affirmed and must contain the following:

(1) A statement that the voter is a citizen of the United States.

(2) The voter's date of birth to the best of the voter's information and belief.

(3) A statement that the voter has been a resident of the precinct for thirty (30) days immediately before this election or is qualified to vote in the precinct under IC 3-10-10, IC 3-10-11, or IC 3-10-12.

(4) The voter's name and a statement that the voter is generally known by that name.

(5) A statement that the voter has not voted and will not vote in any other precinct in this election.

(6) The voter's occupation.

(7) The voter's current residential address, including the street or number and if applicable, the voter's residential address thirty (30) days before the election, and the date the voter

moved.

(8) A statement that the voter understands that making a false statement on the affidavit is punishable under the penalties of perjury.

(9) After December 31, 2003, if the individual's name does not appear on the registration list and the individual is not entitled to vote under IC 3-7-48-1, IC 3-7-48-5, IC 3-7-48-7, IC 3-10-10, IC 3-10-11-2, or IC 3-10-12, a statement that the individual registered to vote and where the individual believes the individual registered to vote **during the registration period described by:**

(A) IC 3-7-13-10; or

(B) IC 3-7-36-11, if the voter registered under that section.

SECTION 133. IC 3-11-8-23.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 23.5. (a) This section applies after December 31, 2003.**

(b) In accordance with 42 U.S.C. 15482, a voter challenged under section 21 of this chapter is entitled to cast a provisional ballot under IC 3-11.7 after executing the affidavit under section 23 of this chapter.

SECTION 134. IC 3-11-8-25, AS AMENDED BY P.L.199-2001, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. (a) After a voter has passed the challengers or has been sworn in, the voter shall be admitted to the polls. Upon entering the polls, the voter shall announce the voter's name to the poll clerks or assistant poll clerks. A poll clerk, an assistant poll clerk, or a member of the precinct election board shall require the voter to write the following on the poll list:

(1) The voter's name.

(2) The voter's current residence address.

(b) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall:

(1) ask the voter to provide the voter's voter identification number;

(2) tell the voter the number the voter may use as a voter identification number; and

(3) explain to the voter that the voter is not required to provide a voter identification number at the polls.

(c) **This subsection applies after December 31, 2003. The poll clerk or assistant poll clerk shall examine the list provided under IC 3-7-29-1 or IC 3-11-3-18 to determine if the county election board has indicated that the voter is required to provide additional personal identification under 42 U.S.C. 15483 and IC 3-7-33-4.5 before voting in person. If the list (or a certification concerning absentee voters under IC 3-11-10-12) indicates that the voter is required to present this identification before voting in person, the poll clerk shall advise the voter that the voter must present a piece of identification described in subsection (d) to the poll clerk.**

(d) This subsection applies after December 31, 2003. As required by 42 U.S.C. 15483, a voter described by IC 3-7-33-4.5 who has not complied with IC 3-7-33-4.5 before appearing at the polls on election day must present one (1) of the following documents to the poll clerk:

(1) a current and valid photo identification; or

(2) a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter.

(e) This subsection applies after December 31, 2003. If a voter presents a document under subsection (d), the poll clerk shall add a notation to the list indicating the type of document presented by the voter. The election division shall prescribe a standardized coding system to classify documents presented under this subsection for entry into the county voter registration system.

(f) This subsection applies after December 31, 2003. If a voter required to present documentation under subsection (d) is unable to present the documentation to the poll clerk while present in the polls, the poll clerk shall notify the precinct election board. The board shall provide a provisional ballot to the voter under IC 3-11.7-2.

(g) This subsection applies after December 31, 2003. The precinct election board shall advise the voter that the voter may file a copy of the documentation with the county voter registration office to permit the provisional ballot to be counted under IC 3-11.7.

(h) This subsection does not apply to a precinct in a county with a computerized registration system whose inspector was:

(1) furnished with a list certified under IC 3-7-29; and

(2) not furnished with a certified photocopy of the signature on the affidavit of registration of each voter of the precinct for the comparison of signatures under this section.

In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under IC 3-7-29. If the board determines that the voter's signature is authentic, the voter may then vote. If either poll clerk doubts the voter's identity following comparison of the signatures the poll clerk shall challenge the voter in the manner prescribed by section 21 of this chapter.

~~(d)~~ **(i)** If, in a precinct governed by subsection ~~(c):~~ **(h):**

(1) the poll clerk does not execute a challenger's affidavit; or

(2) the voter executes a challenged voter's affidavit under section 22 of this chapter or had executed the affidavit before signing the poll list;

the voter may then vote.

(j) This section expires January 1, 2006.

SECTION 135. IC 3-11-8-25.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 25.1. (a) This section applies after December 31, 2005.**

(b) After a voter has passed the challengers or has been sworn in, the voter shall be admitted to the polls. Upon entering the polls, the voter shall announce the voter's name to the poll clerks or assistant poll clerks. A poll clerk, an assistant poll clerk, or a member of the precinct election board shall require the voter to write the following on the poll list:

(1) The voter's name.

(2) The voter's current residence address.

(c) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall:

(1) ask the voter to provide or update the voter's voter identification number;

(2) tell the voter the number the voter may use as a voter identification number; and

(3) explain to the voter that the voter is not required to provide or update a voter identification number at the polls.

(d) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under IC 3-7-29. If the board determines that the voter's signature is authentic, the voter may then vote. If either poll clerk doubts the voter's identity following comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by section 21 of this chapter.

(e) If, in a precinct governed by subsection (c):

(1) the poll clerk does not execute a challenger's affidavit; or

(2) the voter executes a challenged voter's affidavit under section 22 of this chapter or executed the affidavit before signing the poll list;

the voter may then vote.

SECTION 136. IC 3-11-8-25.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25.5. If an individual signs the individual's name and address on the poll list under section 25 of this chapter and then leaves the polls without casting a ballot **or after casting a provisional ballot,** the voter may not be permitted to reenter the polls to cast a ballot at the election.

SECTION 137. IC 3-11-8-26, AS AMENDED BY P.L.199-2001, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) If a voter:

(1) cannot sign; or
(2) is a voter with a disability that makes it difficult for the voter to sign;

the voter's name and address, the poll clerks shall, by proper interrogation, satisfy themselves that the voter is the person the voter represents the voter to be.

(b) If satisfied as to the voter's identity under subsection (a), one (1) of the poll clerks shall then place the following on the poll list:
(1) The voter's name.
(2) The voter's current residence address.

(c) The poll clerks shall:
(1) ask the voter to provide the voter's voter identification number;
(2) tell the voter the number the voter may use as a voter identification number; and
(3) explain to the voter that the voter is not required to provide a voter identification number at the polls.

(d) The poll clerk shall then add the clerk's initials in parentheses, after or under the signature. The voter then may vote.

(e) This section expires January 1, 2006.

SECTION 138. IC 3-11-8-26.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 26.1. (a) This section applies after December 31, 2005.**

(b) If a voter:
(1) cannot sign; or
(2) is a voter with a disability that makes it difficult for the voter to sign;

the voter's name and address, the poll clerks shall, by proper interrogation, satisfy themselves that the voter is the person the voter represents the voter to be.

(c) If satisfied as to the voter's identity under subsection (b), one (1) of the poll clerks shall then place the following on the poll list:
(1) The voter's name.
(2) The voter's current residence address.

(d) The poll clerks shall:
(1) ask the voter to provide or update the voter's voter identification number;
(2) tell the voter the number the voter may use as a voter identification number; and
(3) explain to the voter that the voter is not required to provide or update a voter identification number at the polls.

(e) The poll clerk shall then add the clerk's initials in parentheses, after or under the signature. The voter then may vote.

SECTION 139. IC 3-11-8-27.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION [EFFECTIVE JANUARY 1, 2004]: **Sec. 27.5. (a) This section applies after December 31, 2003.**

(b) In accordance with 42 U.S.C. 15482, a voter challenged under section 27 of this chapter is entitled to cast a provisional ballot under IC 3-11.7 after executing the affidavit under section 23 of this chapter.

SECTION 140. IC 3-11-10-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.5. (a) This section applies after December 31, 2003.**

(b) Upon receipt of an absentee ballot from a voter required to provide additional information to the county voter registration office under IC 3-7-33-4.5, the county election board shall contact the county voter registration office to determine if the additional information has been filed with the office by the voter.

(c) If the voter has filed the information with the county voter registration office, the county election board shall add a notation to the application indicating that the required information has been filed and that the absentee ballot may be counted if the ballot otherwise complies with this article.

(d) If the voter has not filed the information with the county voter registration office, the county election board shall add a notation on the application filed by a voter described under subsection (c) and on the envelope provided under this chapter reading substantially as follows:

"INSPECTOR: AS OF (insert date absentee ballot application approved) THIS VOTER WAS REQUIRED TO FILE ADDITIONAL DOCUMENTATION WITH THE COUNTY VOTER REGISTRATION OFFICE BEFORE THIS BALLOT MAY BE COUNTED. CHECK THE POLL LIST AND COUNTY ELECTION BOARD CERTIFICATION TO SEE IF THE VOTER HAS FILED THIS INFORMATION. IF NOT, PROCESS AS A PROVISIONAL BALLOT IF THIS BALLOT OTHERWISE COMPLIES WITH INDIANA LAW.".

SECTION 141. IC 3-11-10-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. **(a)** On election day each circuit court clerk (or an agent of the clerk) shall visit the appropriate post office to accept delivery of absentee envelopes at the latest possible time that will permit delivery of the ballots to the appropriate precinct election boards before 6 p.m.

(b) This subsection applies after December 31, 2003. Not later than noon on election day, the county voter registration office shall visit the appropriate post office to accept delivery of mail containing documentation submitted by a voter to comply with IC 3-7-33-4.5. The office shall immediately notify the county election board regarding the filing of this documentation to permit the board to provide certification of this filing to the appropriate precinct election boards before 6 p.m.

SECTION 142. IC 3-11-10-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) Each county election board shall have all absentee ballots delivered to the precinct election boards at their respective polls on election day.

(b) The absentee ballots shall be delivered during the hours that the polls are open and in sufficient time to enable the precinct election boards to vote the ballots during the time the polls are open.

(c) **This subsection applies after December 31, 2003. Along with the absentee ballots delivered to the precinct election boards under subsection (a), each county election board shall provide a list certified by the circuit court clerk. This list must state the name of each voter subject to IC 3-7-33-4.5 who:**
(1) filed the documentation required by IC 3-7-33-4.5 with the county voter registration office after the printing of the certified list under IC 3-7-29 or the poll list under IC 3-11-3-18; and
(2) as a result, is entitled to have the voter's absentee ballot counted if the ballot otherwise complies with this title.

(d) This subsection applies after December 31, 2003. If the county election board is notified not later than 3 p.m. on election day by the county voter registration office that a voter subject to IC 3-7-33-4.5 and not identified in the list certified under subsection (c) has filed documentation with the office that complies with IC 3-7-33-4.5, the county election board shall transmit a supplemental certified list to the appropriate precinct election board. If the board determines that the supplemental list may not be received before the closing of the polls, the board shall:
(1) attempt to contact the precinct election board to inform the board regarding the content of the supplemental list; and
(2) file a copy of the supplemental list for that precinct as part of the permanent records of the board.

(e) This subsection applies to a special write-in absentee ballot described in:
(1) 42 U.S.C. 1973ff for federal offices; and
(2) IC 3-11-4-12(d) for state offices.

If the county election board receives both a special write-in absentee ballot and the regular absentee ballot described by IC 3-11-4-12 from the same voter, the county election board shall reject the special write-in ballot and deliver only the regular absentee ballot to the precinct election board.

SECTION 143. IC 3-11-10-16, AS AMENDED BY P.L.126-2002, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) If the inspector finds under section 15 of this chapter that:

(1) the affidavit is properly executed;
(2) the signatures correspond;
(3) the absentee voter is a qualified voter of the precinct;
(4) the absentee voter is registered **and after December 31, 2003, is not required to file additional information with the county voter registration office under IC 3-7-33-4.5;**
(5) the absentee voter has not voted in person at the election; and
(6) in case of a primary election, if the absentee voter has not previously voted, the absentee voter has executed the proper declaration relative to age and qualifications and the political party with which the absentee voter intends to affiliate;

then the inspector shall open the envelope containing the absentee ballots so as not to deface or destroy the affidavit and take out each ballot enclosed without unfolding or permitting a ballot to be unfolded or examined.

(b) The inspector shall then hand the ballots to the judges who shall deposit the ballots in the proper ballot box and enter the absentee voter's name on the poll list, as if the absentee voter had been present and voted in person. If the voter has registered and voted under IC 3-7-36-14, the inspector shall attach to the poll list the circuit court clerk's certification that the voter has registered.

(c) If an absentee ballot is opened under this section in a precinct using voting machines, the precinct election board shall prepare certificates and memoranda under IC 3-12-2-6 that distinguish the votes cast by absentee ballots from votes cast on voting machines.

SECTION 144. IC 3-11-10-16.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 16.5. (a) This section applies after December 31, 2003.**

(b) If the inspector finds under section 16(a) of this chapter that the voter has not filed the additional information required to be filed with the county voter registration office under IC 3-7-33-4.5, but that all of the other findings listed under section 16(a) of this chapter apply, the inspector shall direct that the absentee ballot be processed as a provisional ballot under IC 3-11.7.

SECTION 145. IC 3-11-10-24.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 24.5. (a) This section applies after December 31, 2005.**

(b) As required by 42 U.S.C. 15481, an election board must establish a voter education program (specific to a paper ballot or optical scan ballot card provided as an absentee ballot under this chapter) to notify a voter of the effect of casting multiple ballots for a single office.

SECTION 146. IC 3-11-10-25, AS AMENDED BY P.L.126-2002, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. (a) A voter who votes by absentee ballot because of:
(1) illness or injury; or
(2) caring for a confined person at a private residence;

and who is within the county on election day may vote before an absentee voter board or by mail.

(b) If requested by a voter described in subsection (a) or by a voter with disabilities whose precinct is not accessible to voters with disabilities, an absentee voter board shall visit the voter's place of confinement, the residence of the voter with disabilities, or the private residence:
(1) during the regular office hours of the circuit court clerk;
(2) at a time agreed to by the board and the voter;
(3) on any of the twelve (12) days immediately before election day; and
(4) only once before an election, unless:
(A) the confined voter is unavailable at the time of the board's first visit due to a medical emergency; or
(B) the board, in its discretion, decides to make an additional visit.

(c) This subsection applies to a voter confined due to illness or injury. An absentee voter board may not be denied access to the voter's place of confinement if the board is present at the place of confinement at a time:
(1) agreed to by the board and the voter; and
(2) during the regular office hours of the circuit court clerk. A person who knowingly violates this subsection commits obstruction or interference with an election officer in the discharge of the officer's duty, a violation of IC 3-14-3-4.

(d) The county election board, by unanimous vote of the board's entire membership, may authorize an absentee voter board to visit a voter who is confined due to illness or injury and will be outside of the county on election day in accordance with the procedures set forth in subsection (b).

(e) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:
(1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;
(2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and
(3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(f) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:
(1) information concerning the effect of casting multiple votes for an office; and
(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 147. IC 3-11-10-26, AS AMENDED BY P.L.126-2002, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) As an alternative to voting by mail, a voter is entitled to cast an absentee ballot before an absentee voter board:
(1) in the office of the circuit court clerk; or
(2) at a satellite office established under section 26.3 of this chapter.

(b) The voter must sign an application on the form prescribed by the commission under IC 3-11-4-5.1 before being permitted to vote. The application must be received by the circuit court clerk not later than the time prescribed by IC 3-11-4-3.

(c) The voter may vote before the board not more than twenty-nine (29) days nor later than noon on the day before election day.

(d) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day.

(e) Notwithstanding subsection (d), in a county with a population of less than twenty thousand (20,000), the absentee voter board in the office of the circuit court clerk, with the approval of the county election board, may reduce the number of hours available to cast absentee ballots under this section to a minimum of four (4) hours on each of the two (2) Saturdays preceding election day.

(f) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:
(1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;
(2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and
(3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast

and counted.

(g) As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 148. IC 3-11-10-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28. **(a)** A voter voting before an absentee voter board shall mark the voter's ballot in the presence of the board, but not in such a manner that either of the members of the board can see for whom the voter voted, unless the voter requests the help of the board in marking a ballot under IC 3-11-9.

(b) The voter shall then, in the presence of the board, place the ballot in an envelope furnished by the county election board.

(c) The circuit court clerk shall provide, to the extent practicable, the same degree of privacy to absentee voters voting at the office of the circuit court clerk as provided to voters at the polls on election day.

(d) This subsection applies to a voter required to present additional information under IC 3-7-33-4.5. If the voter does not present the required additional information before receiving the absentee ballot, the absentee ballot shall be processed as a provisional ballot under IC 3-11.7.

(e) Upon accepting the completed absentee ballot from the voter, the board shall provide the voter with a notice:

(1) listing the documentation the voter may submit to the county voter registration office to comply with IC 3-7-33-4.5; and

(2) stating the address and hours of the county voter registration office.

SECTION 149. IC 3-11-10-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 35. **(a) After December 31, 2003, this section does not apply to an absentee ballot required to be treated as a provisional ballot under IC 3-11.7.**

(b) If an envelope containing an absentee ballot has not been opened before the close of the polls, then the envelope may not be opened without an order of a court.

SECTION 150. IC 3-11-11-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.2. (a) This section applies after December 31, 2005.**

(b) As required by 42 U.S.C. 15481, an election board must establish a voter education program to notify a voter of the effect of casting multiple ballots for a single office on a paper ballot.

SECTION 151. IC 3-11-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. **(a)** After a voter has signed the poll list, one (1) of the poll clerks or assistant poll clerks shall deliver to the voter one (1) of each ballot that the voter is entitled to vote at the election and one (1) pencil or pen. Both judges, on request, shall give an explanation of the voting method. If necessary, a precinct election officer shall assist a voter in determining if the proper initials appear on a ballot.

(b) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, when a voter receives a paper ballot under this section, the board must also provide the voter with:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 152. IC 3-11-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) **This section is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on a paper ballot.**

(b) After receiving ballots under section 6 of this chapter, a voter shall, without leaving the room, go alone into one (1) of the booths or compartments that is unoccupied and indicate:

(1) the candidates for whom the voter desires to vote by making a voting mark on or in the squares immediately before the candidates' names; and

(2) the voter's preference on each public question by making a voting mark in front of the word "yes" or "no" under the question.

~~(b)~~ **(c)** Write-in votes shall be cast by:

(1) making a voting mark on or in the square immediately before the space provided for write-in voting; and

(2) printing the name of the candidate in the space provided for write-in voting.

SECTION 153. IC 3-11-11-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. **(a)** A voter shall mark all ballots while screened from observation. The exterior of a voting booth or compartment and each area of the polls must be in plain view of the precinct election board. Each voting booth or compartment shall be placed so that a person voting on the opposite side of the railing or a person on the outside of the polls cannot see or determine how a voter votes. The inspector, judges, and poll clerks may not remain or allow any other person to remain in a position or near a position that would permit them to see or ascertain how a voter votes.

(b) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, a voter casting a paper ballot under this section must be:

(1) permitted to verify in a private and an independent manner the votes selected by the voter before the ballot is cast and counted;

(2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and

(3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

SECTION 154. IC 3-11-12-40 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 40. This chapter expires January 1, 2006.**

SECTION 155. IC 3-11-13-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.5. (a) This section applies after December 31, 2005.**

(b) As required by 42 U.S.C. 15481, an election board must establish a voter education program to notify a voter of the effect of casting multiple ballots for a single office on an optical scan ballot card tabulated at a central location.

SECTION 156. IC 3-11-13-18, AS AMENDED BY P.L.239-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) This subsection does not apply to an optical scan voting system **and expires January 1, 2006.** Each ballot card provided under section 17 of this chapter must have two (2) attached perforated stubs on which is printed the same serial number. The top stub shall be bound or stapled in the package of ballot cards retained by the precinct election officers. The following information must be printed on the second stub:

(1) The name of the political subdivision holding the election.

(2) The designation of the election.

(3) The date of the election.

(4) The instructions to the voters.

(5) In a primary election, the name of the political party.

(b) The county election board in a county using a ballot card voting system shall provide ballot cards to the precinct election board that permit voters to cast write-in votes for each officer to be voted for at that election.

(c) The ballot cards provided under subsection (b) must be:

(1) designed to be folded; or

(2) accompanied by a secrecy envelope;
to ensure the secrecy of each of the votes cast by a voter.

(d) **This subsection is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on an optical scan voting system.** A write-in vote shall be cast by printing the name of the candidate and the title of the office in the space provided for write-in votes on a ballot card or secrecy envelope.

SECTION 157. IC 3-11-13-20, AS AMENDED BY P.L.239-2001, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) This section does not apply to an optical scan voting system.

(b) Each county election board shall maintain a record of the serial numbers of all of the ballot cards provided to a precinct and shall note in this record the precinct to which each ballot card relates.

(c) This section expires January 1, 2006.

SECTION 158. IC 3-11-13-28.5, AS AMENDED BY P.L.239-2001, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28.5. (a) Unless challenged, a voter may proceed to vote.

(b) This subsection does not apply to an optical scan voting system. After a voter has signed the poll list, the poll clerk holding the ballot card shall remove the top stub, as described in section 18 of this chapter, and deliver to the voter one (1) of each ballot card that the voter is entitled to vote at the election. The top stub (and any second stub declined by the voter under section 33 of this chapter) shall be retained by the precinct election board and returned to the election board following the close of the polls.

(c) As each successive voter calls for a ballot, the poll clerks shall deliver to the voter the first initialed ballot of each type. The inspector shall then deliver to the poll clerks another ballot of each type, which the clerks shall initial as before.

(d) This subsection applies after December 31, 2005, to an optical scan ballot card ballot tabulated at a central location. As provided by 42 U.S.C. 15481, when a voter receives an optical scan ballot card ballot, the board must also provide the voter with:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 159. IC 3-11-13-28.7, AS AMENDED BY P.L.176-1999, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28.7. (a) The two (2) poll clerks of each precinct shall place their initials in ink on the secrecy envelope of a ballot card (or on the fold-over part of a ballot card described in section 18(c)(1) of this chapter) at the time the card is issued to a voter. The initials must be in the poll clerk's ordinary handwriting or printing and without a distinguishing mark of any kind.

(b) **This subsection is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on an optical scan voting system.** A write-in vote cast on a secrecy envelope or fold-over envelope:

(1) is not valid unless:

(A) the secrecy envelope is initialed by both poll clerks; and

(B) the vote includes both the name of the write-in candidate and the office for which the write-in vote is cast; and

(2) makes the secrecy envelope or fold-over envelope a ballot for purposes of this title.

SECTION 160. IC 3-11-13-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 29. (a) In addition to the instructions printed on the ballot card or ballot labels, instructions to voters shall be posted in each voting booth or placed on the marking device. Each voter shall be instructed by both judges, on request, on how to operate the voting device before the voter enters the voting booth.

(b) The instructions posted in the voting booth or placed on the marking device must state the following:

(1) That the voter should examine the ballot card to determine if it contains the initials of the poll clerks in ink on the back of the card.

(2) That the voter should not make an unnecessary mark or punch on the ballot card because the mark or punch may void the card.

(3) That the voter should examine the ballot card to determine if the card has any mark (other than the initials of the poll clerks) before voting.

(4) That the voter should return the ballot card to the poll clerks and request another ballot card if:

(A) the poll clerks' initials have not been properly placed on the card;

(B) the card has a mark (other than the initials of the poll clerks) before the voter places a voting mark on the ballot; or

(C) the voter has improperly marked or punched the card.

(5) That the voter should examine the ballot card after voting to determine that all marks or punches made on the card to indicate the voter's selections have been completely marked or punched.

(c) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, a voter casting an optical scan ballot card under this section must be:

(1) permitted to verify in a private and an independent manner the votes selected by the voter before the ballot is cast and counted;

(2) provided the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and

(3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

SECTION 161. IC 3-11-13-31.7, AS AMENDED BY P.L.176-1999, SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 31.7. (a) **This section is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on an optical scan voting system.**

(b) After receiving ballot cards, a voter shall, without leaving the room, go alone into one (1) of the booths or compartments that is unoccupied and indicate:

(1) the candidates for whom the voter desires to vote by punching a hole in or marking the squares immediately beside the candidates' names; and

(2) the voter's preference on each public question by punching a hole in or marking the square beside the word "yes" or "no" under the question.

~~(b)~~ **(c)** If an election is a general or municipal election and a voter desires to vote for all the candidates of one (1) political party or group of petitioners, the voter may punch a hole in or mark the circle enclosing the device and beside the name under which the candidates of the party or group of petitioners are printed. The voter's vote shall then be counted for all the candidates under that name. However, if the voter punches a hole in or marks the circle of an independent ticket comprised of two (2) candidates, the vote shall not be counted for any other independent candidate on the ballot.

SECTION 162. IC 3-11-14-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. (a) **This section is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on an electronic voting system.**

(b) If a voter is not challenged by a member of the precinct election board, the voter may pass the railing to the side where an electronic voting system is and into the voting booth. There the voter shall register the voter's vote in secret by indicating:

(1) the candidates for whom the voter desires to vote by touching a device on or in the squares immediately above the candidates' names;

(2) if the voter intends to cast a write-in vote, a write-in vote by touching a device on or in the square immediately below the

candidates' names and printing the name of the candidate in the window provided for write-in voting; and

(3) the voter's preference on each public question by touching a device above the word "yes" or "no" under the question.

~~(b)~~ **(c)** If an election is a general or municipal election and a voter desires to vote for all the candidates of one (1) political party or group of petitioners, the voter may cast a straight party ticket by touching that party's device. The voter's vote shall then be counted for all the candidates under that name. However, if the voter casts a vote by touching the circle of an independent ticket comprised of two (2) candidates, the vote shall not be counted for any other independent candidate on the ballot.

(d) As provided by 42 U.S.C. 15481, a voter casting a ballot on an electronic voting system must be:

(1) permitted to verify in a private and an independent manner the votes selected by the voter before the ballot is cast and counted;

(2) provided the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and

(3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

SECTION 163. IC 3-11-15-13, AS AMENDED BY SEA 477-2003, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: (a) To be approved **by the commission** for use in Indiana, a voting system shall meet the following standards:

(1) After December 31, 2005, the voting method used in each polling place must include a voting system that is accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters. A county complies with the standards described in this subdivision if each polling place in the county has at least one (1) voting system equipped for individuals with disabilities that complies with the standards described in this subdivision.

(2) A voting system must meet the Voting System Standards approved by the Federal Election Commission on April 30, 2002.

(b) The commission may adopt rules under IC 4-22-2 to require a voting system to meet standards more recent than standards described in subsection (a)(2). If the commission adopts rules under this subsection, a voting system must meet the standards described in the rules instead of the standards described in subsection (a)(2).

(c) This section expires January 1, 2006.

SECTION 164. IC 3-11-15-13.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 13.3. (a) This section applies after December 31, 2005.**

(b) To be approved by the commission for use in Indiana, a voting system must meet the Voting System Standards adopted by the Federal Election Commission on April 30, 2002.

(c) The commission may adopt rules under IC 4-22-2 to require a voting system to meet standards more recent than standards described in subsection (b). If the commission adopts rules under this subsection, a voting system must meet the standards described in the rules instead of the standards described in subsection (b).

(d) As provided by 42 U.S.C. 15481, to be used in an election in Indiana, a voting system must be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.

(e) As provided by 42 U.S.C. 15481, an election board conducting an election satisfies the requirements of subsection (d) if the election board provides at least one (1) electronic voting system or other voting system equipped for individuals with disabilities at each polling place.

SECTION 165. IC 3-11-15-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 13.5. (a) This section applies only to a voting system purchased with funds made available under Title II of HAVA (42 U.S.C. 15321 through 15472) after December 31, 2006.**

(b) As required by 42 U.S.C. 15481, the voting system must comply with the Voting System Standards for disability access set forth in section 13.1 of this chapter and 42 U.S.C. 15481(a)(3) to be used in an election.

SECTION 166. IC 3-11-15-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. **(a)** A voting system must be able to record accurately each vote and be able to produce an accurate report of all votes cast.

(b) As used in this subsection, "error rate" refers to the error rate of the voting system in counting ballots (determined by taking into account only those errors that are attributable to the voting system and not attributable to an act of the voter). As required by 42 U.S.C. 15481, a voting system must comply with the error rate standards established under section 3.2.1. of the Voting System Standards approved by the Federal Election Commission on April 30, 2002, as those standards were in effect on October 29, 2002.

(c) The inclusion of control logic and data processing methods incorporating parity and check-sums (or equivalent error detection and correction methods) must demonstrate that the system has been designed for accuracy.

SECTION 167. IC 3-11-15-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 32. In considering the compliance of a voting system with this chapter, the commission may determine whether the system conforms with other preferred coding practices and software characteristics set forth in ~~Appendix E of the Performance and Test Standards for Punchcard, Marksense, and Direct Recording Electronic Voting Systems.~~ **the Voting System Standards adopted by the Federal Election Commission on April 30, 2002.**

SECTION 168. IC 3-11-15-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 43. **(a)** The audit record provisions in this chapter are essential to the complete recording of election operations and reporting of the vote tally. This list of audit records must reflect all of the idiosyncrasies of a system.

(b) As required by 42 U.S.C. 15481, the voting system must:

(1) produce a permanent paper record with a manual audit capacity for the system; and

(2) provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced.

(c) The paper record produced under subsection (b) must be made available as an official record for a recount or contest conducted with respect to any election in which the voting system was used.

SECTION 169. IC 3-11.5-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) If the absentee ballot counters find under section 11 of this chapter that:

(1) the affidavit is properly executed;

(2) the signatures correspond;

(3) the absentee voter is a qualified voter of the precinct;

(4) the absentee voter is registered **and after December 31, 2003, is not required to file additional information with the county voter registration office under IC 3-7-33-4.5;**

(5) the absentee voter has not voted in person at the election; and

(6) in case of a primary election, if the absentee voter has not previously voted, the absentee voter has executed the proper declaration relative to age and qualifications and the political party with which the absentee voter intends to affiliate;

the absentee ballot counters shall open the envelope containing the absentee ballots so as not to deface or destroy the affidavit and take out each ballot enclosed without unfolding or permitting a ballot to be unfolded or examined.

(b) **This subsection applies after December 31, 2003. If the absentee ballot counters find under subsection (a) that the voter has not filed the additional information required to be filed with the county voter registration office under IC 3-7-33-4.5, but that all of the other findings listed under subsection (a) apply, the absentee ballot shall be processed as a provisional ballot under IC 3-11.7.**

(c) The absentee ballot counters shall then deposit the ballots in a secure envelope with the name of the precinct set forth on the outside of the envelope. After the absentee ballot counters or the county election board has made the findings described in subsection (a) or section 13 of this chapter for all absentee ballots of the precinct, the absentee ballot counters shall remove all the ballots deposited in the envelope under this section for counting under IC 3-11.5-5 or IC 3-11.5-6.

SECTION 170. IC 3-11.7-1-5, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Provisional ballots for:

(1) **Electors for** President and Vice President of the United States;

(2) United States Senator;

(3) United States Representative;

(4) all state offices; and

(5) the ratification or rejection of a public question to be voted for by the electorate of the entire state or for the retention of a judge of the Indiana supreme court or the Indiana court of appeals;

shall be prepared and printed under the direction of the election division.

(b) The election division shall have the ballots printed upon certification of the political party tickets, ~~and~~ independent candidates, **and public questions.**

(c) Ballots prepared under this section must provide space for the provisional voter to cast a write-in ballot **for each office.**

(d) The provisional ballots that are prepared and printed under this section shall be delivered to the circuit court clerk or the clerk's authorized deputy not later than forty-five (45) days before a general election or twenty-nine (29) days before a special election. The provisional ballots shall be delivered in the same manner that other official ballots are delivered.

SECTION 171. IC 3-11.7-2-1, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. **(a) As provided by 42 U.S.C. 15482, this section applies to the following individuals:**

(1) An individual:

~~(1)~~ **(A)** whose name does not appear on the registration list; and

~~(2)~~ **(B)** who is not permitted to vote under IC 3-7-48-1, IC 3-7-48-5, IC 3-7-48-7, IC 3-10-10, IC 3-10-11-2, or IC 3-10-12.

(2) An individual described by IC 3-10-1-10.5, IC 3-11-8-23.5, or IC 3-11-8-27.5 who is challenged as not eligible to vote.

(3) An individual who seeks to vote in an election as a result of a court order (or any other order) extending the time established for closing the polls under IC 3-11-8-8.

(b) This subsection applies after December 31, 2003. As required by 42 U.S.C. 15483, a voter who has registered to vote but has not:

(1) presented identification required under 42 U.S.C. 15483 to the poll clerk before voting in person under IC 3-11-8-25; or

(2) filed a copy of the identification required under 42 U.S.C. 15483 to the county voter registration office before the voter's absentee ballot is cast;

is entitled to vote a provisional ballot under this article.

(c) A precinct election officer shall inform an individual described by subsection (a)(1) or (a)(2) that the individual may cast a provisional ballot if the individual:

(1) is eligible to vote under IC 3-7-13-1;

(2) submitted a voter registration application during the registration period described by IC 3-7-13-10 (or IC 3-7-36-11, if the voter registered under that section); and

(3) executes an affidavit described in **IC 3-10-1-9 or** IC 3-11-8-23.

(d) A precinct election officer shall inform an individual described by subsection (a)(3) that the individual may cast a provisional ballot.

SECTION 172. IC 3-11.7-2-2, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) A provisional voter shall do the following:

(1) Mark the ballot in the presence of no other person, unless the voter requests help in marking a ballot under IC 3-11-9.

(2) Fold each ballot separately.

(3) Fold each ballot so as to conceal the marking.

(4) Enclose each ballot, with the seal and signature of the circuit court clerk on the outside, together with any unused ballot, in the envelope provided by the county election board under IC 3-11.7-1-8.

(5) Securely seal the envelope.

(b) A provisional voter may mark a ballot with a pen or a lead pencil.

(c) This subsection applies to a provisional voter described in section 1(a)(1), 1(a)(2), or 1(a)(3) of this chapter. As provided by 42 U.S.C. 15482, a precinct election officer shall give the provisional voter a copy of the written instructions prescribed by the county election board under IC 3-11.7-6-3 after the voter returns the envelope containing the provisional voter's ballots.

SECTION 173. IC 3-11.7-2-3, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The precinct election board shall affix to the envelope the challenger's affidavit and the affidavit executed by the provisional voter under section 1 of this chapter.

(b) **Except as provided in subsection (c) and in accordance with 42 U.S.C. 15482,** the precinct election board shall securely keep the sealed envelope, along with the affidavits affixed to the envelope, in another envelope or container marked "Provisional Ballots".

(c) This subsection applies to the sealed envelope and the affidavits affixed to the envelope of a provisional voter described in section 1(a)(3) of this chapter. As required by 42 U.S.C. 15482, the precinct election board shall keep the sealed envelope or container separate from the envelope or container described in subsection (b). The envelope or container described in this subsection must be labeled "Provisional Ballots Issued After Regular Poll Closing Hours".

SECTION 174. IC 3-11.7-2-4, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. **As required by 42 U.S.C. 15482,** at the close of the polls, the precinct election board shall **do the following:**

(1) Seal:

~~(1)~~ **(A)** all the provisional ballots; and

~~(2)~~ **(B)** any spoiled provisional ballots;

of provisional voters other than provisional voters described in section 1(a)(3) of this chapter in the container described in section 3(b) of this chapter and mark on the container the number of provisional ballots contained.

(2) Seal:

(A) all the provisional ballots; and

(B) any spoiled provisional ballots;

of provisional voters described in section 1(a)(3) of this chapter in the container described in section 1(a)(3) of this chapter and mark on the container the number of provisional ballots contained.

The inspector shall return the container with all the provisional ballots to the circuit court clerk after the close of the polls.

SECTION 175. IC 3-11.7-3-5, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. If a county chairman fails to make any recommendations **not later than the deadline specified under section 4 of this chapter,** the county election board may appoint any voters of the county.

SECTION 176. IC 3-11.7-5-2, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) Except as provided in section 5 of this chapter, if the county election board determines that all the following apply, a provisional ballot is valid and shall be counted under this chapter:

(1) The affidavit executed by the provisional voter under IC 3-11.7-2-1 is properly executed.

(2) The provisional voter is a qualified voter of the precinct.

(3) Based on all the information available to the county election board, including:

(A) information provided by the provisional voter;

(B) information contained in the county's voter registration records; and

(C) information contained in the statewide voter registration file;

the provisional voter registered to vote at a registration agency under this article on a date within the registration period.

(b) If the provisional voter has provided information regarding the registration agency where the provisional voter registered to vote, the board ~~may not determine that the provisional voter did not register unless both of the following apply:~~

~~(1) The board makes an actual inquiry of the registration agency where the provisional voter states the provisional voter registered.~~

~~(2) The registration agency informs the board that the registration agency has no record of the provisional voter's registration.~~

shall promptly make an inquiry to the agency regarding the alleged registration. The agency shall respond to the board not later than noon of the first Friday after the election, indicating whether the agency's records contain any information regarding the registration. If the agency does not respond to the board's inquiry, or if the agency responds that the agency has no record of the alleged registration, the board shall reject the provisional ballot. The board shall endorse the ballot with the word "Rejected" and document on the ballot the inquiry and response, if any, by the agency.

(c) This subsection applies after December 31, 2003. Except as provided in section 5 of this chapter, a provisional ballot cast by a voter described in IC 3-11.7-2-1(b) is valid and shall be counted if the county election board determines under this article that the voter filed the documentation required under IC 3-7-33-4.5 and 42 U.S.C. 15483 with the county voter registration office not later than the closing of the polls on election day.

SECTION 177. IC 3-11.7-5-3, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) If the board determines that ~~section 2(a)(1), 2(a)(2), or 2(a)(3) of this chapter does not apply, all the following apply:~~ **the affidavit executed by the provisional voter has not been properly executed, that the provisional voter is not a qualified voter of the precinct, or that the provisional voter did not register to vote at a registration agency under this article on a date within the registration period, the board shall make the following findings:**

(1) The provisional ballot is invalid.

(2) The provisional ballot may not be counted.

(3) The provisional ballot envelope containing the ballots cast by the provisional voter may not be opened.

(b) If the county election board determines that a provisional ballot is invalid, a notation shall be made on the provisional ballot envelope: "Provisional ballot determined invalid.".

SECTION 178. IC 3-11.7-5-8, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) During the counting of the ballots, one (1) counter shall read the name of the candidates **and ballot questions** voted for from the ballots.

(b) A:

(1) member of the county election board who is not a member of the same political party as the counter; or

(2) representative designated by the member;

shall view the ballots as the names **and ballot questions** are read.

SECTION 179. IC 3-11.7-6-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3. (a) As required by 42 U.S.C. 15482, a county election board shall establish a free access system such as a toll-free telephone number or an Internet web site that enables a provisional voter to determine:**

(1) whether the individual's provisional ballot was counted; and

(2) if the provisional ballot was not counted, the reason the provisional ballot was not counted.

(b) As required by 42 U.S.C. 15482, the county election board shall establish and maintain reasonable procedures to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used on the free access system established by the board under subsection (a).

(c) As required by 42 U.S.C. 15482, the county election board shall restrict access to the information available under subsection (a) about a provisional voter's ballot to the individual who cast the ballot.

(d) The county election board shall prescribe written instructions to inform a provisional voter how the provisional voter can determine whether the provisional voter's ballot has been counted.

SECTION 180. IC 3-12-1-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.2. (a) This chapter is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on a paper ballot, optical scan voting system, or electronic voting system.**

(b) The standards in this chapter apply to counting votes on every voting system, except where specific standards applicable only:

(1) to a type of voting system are provided under IC 3-12-2, IC 3-12-3, or IC 3-12-3.5; and

(2) in a recount or contest proceeding are provided under IC 3-12-6, IC 3-12-8, IC 3-12-11, or IC 3-12-12.

SECTION 181. IC 3-12-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) This chapter:

(1) is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on a paper ballot; and

(2) applies to each precinct where voting is by paper ballot.

(b) After the polls have closed, each precinct election board shall count the paper ballot votes for each candidate for each office and on each public question. The board shall begin by counting the state paper ballots and shall complete the count of the state paper ballots before counting the local paper ballots. The ballots shall be counted by laying each ballot upon a table in the order in which it is taken from the ballot box.

(c) Notwithstanding subsection (b), the precinct election board may count absentee ballots before the polls have closed. If the precinct election board counts absentee ballots under this subsection, a member of the precinct election board may not, before the polls have closed, provide any person other than a member of the precinct election board with information concerning the number of votes:

(1) a candidate received for an office; or

(2) cast to approve or reject a public question;

on absentee ballots counted under this subsection.

SECTION 182. IC 3-12-2.5-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 10. This chapter expires January 1, 2006.**

SECTION 183. IC 3-12-3-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.1. This chapter is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on an optical scan voting system.**

SECTION 184. IC 3-12-3.5-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.1. This chapter is enacted to**

comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on an electronic voting system.

SECTION 185. IC 3-12-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Each county election board may employ clerical assistants if necessary for the proper canvassing and tabulating of the vote. However, ~~no~~ **except as provided in subsection (d), not** more than one-half (½) of the assistants employed by the board may be members of the same political party.

(b) The county election board shall appoint the number of two (2) member write-in teams that are necessary to examine and count write-in votes cast on ballot card voting systems on election night. The county chairmen of the two (2) major political parties of a county shall each designate one (1) member of each write-in team. The write-in teams are considered employees of the county canvassing board and must meet the qualifications of canvassing board employees.

(c) **Except as provided in subsection (d),** a county election board may not employ a person to assist with canvassing unless the person would be eligible to serve as a precinct election officer under IC 3-6-6-7.

(d) The county election board may, by unanimous vote of the entire membership of the board, employ a student to assist the board under this section if the student is:

(1) enrolled at an institution of higher education (including a community college); and

(2) a registered voter of the county.

A student appointed under this subsection must serve the board in a nonpartisan manner.

SECTION 186. IC 3-12-4-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5.5. This chapter is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on a paper ballot, an optical scan voting system, or an electronic voting system by a county election board.**

SECTION 187. IC 3-12-5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.5. (a) This section applies to a statement required to be sent or delivered to the election division by a circuit court clerk under this chapter.**

(b) A statement described in subsection (a) may be sent by using the computerized list established under IC 3-7-26.3. A statement sent under this section complies with any requirement for the statement to be certified or sealed.

SECTION 188. IC 3-12-6-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.2. This chapter is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on a paper ballot, an optical scan voting system, or an electronic voting system in a recount conducted under this chapter.**

SECTION 189. IC 3-12-8-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.5. (a) This section does not apply to a contest concerning whether a contestee was ineligible as alleged under section 2(1) of this chapter.**

(b) This chapter is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on a paper ballot, an optical scan voting system, or an electronic voting system in a contest conducted under this chapter.

SECTION 190. IC 3-12-11-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.5. This chapter is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on a paper ballot, an optical scan voting system, or an electronic voting system in a recount conducted under this chapter.**

SECTION 191. IC 3-12-12-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.5. This chapter is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on a paper ballot, an optical scan voting system, or an electronic voting system in a recount conducted under this chapter.**

SECTION 192. IC 3-14-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. A person who **knowingly, intentionally, or recklessly** releases or removes any registration materials **or, after December 31, 2005, information contained in the computerized list maintained under IC 3-7-26.3** from the **county voter registration** office, ~~of the circuit court clerk or board of registration,~~ except when release or removal is necessary:

(1) to comply with IC 3-7; or

(2) for the destruction of the materials under IC 5-15-6;

commits a Class A misdemeanor.

SECTION 193. IC 3-14-4-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.5. **(a) This subsection applies before January 1, 2006.** A circuit court clerk, member of a board of registration, or county official, responsible for maintaining computerized voter registration information who recklessly fails to comply with IC 3-7-26 more than thirty (30) days after being required to perform a duty under IC 3-7-26 commits a Class B misdemeanor.

(b) This subsection applies after December 31, 2005. A circuit court clerk, a member of a board of registration, a county official, or another person responsible for maintaining computerized voter registration information who recklessly fails to comply with IC 3-7-26.3 more than thirty (30) days after being required to perform a duty under IC 3-7-26.3 commits a Class B misdemeanor.

SECTION 194. IC 3-14-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) An officer or employee of the commission or a county voter registration officer or employee who grants a request for voter registration information under IC 3-7-26 or IC 3-7-27 with knowledge that the information will be used in a manner prohibited by IC 3-7-26 or IC 3-7-27 commits a Class B infraction.

(b) An officer or employee of the commission who has previously received a judgment for committing an infraction under this section, and violates this section a second time shall be dismissed from the officer's or employee's position.

(c) This section expires January 1, 2006.

SECTION 195. IC 3-14-6-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.1. (a) This section applies after December 31, 2005.**

(b) A person who grants a request for voter registration information under IC 3-7-26.3 or IC 3-7-27 with knowledge that the information will be used in a manner prohibited by IC 3-7-26.3 or IC 3-7-27 commits a Class B infraction.

(c) A person who has previously received a judgment for committing an infraction under this section and knowingly, intentionally, or recklessly violates this section a second time commits a Class D felony.

SECTION 196. IC 3-14-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) This section does not apply to:

(1) political activities; or

(2) political fundraising activities.

(b) A person who uses voter registration information obtained under IC 3-7-26, **IC 3-7-26.3 (after December 31, 2005),** or IC 3-7-27 to solicit **the sale of** merchandise, goods, services, or subscriptions commits a Class B infraction.

(c) The court shall:

(1) keep a record; and

(2) send a copy of the record to the prosecuting attorney of the county in which the infraction proceeding was tried;

of a judgment for an infraction proceeding tried under this section.

(d) A person who:

(1) has previously received a judgment for committing an infraction under this section; and

(2) knowingly or intentionally uses voter registration information in violation of this section;

commits a Class A misdemeanor.

SECTION 197. IC 5-26.5-2-5, AS ADDED BY P.L.273-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. A program participant who is otherwise qualified to vote may apply to vote ~~in the same manner~~ as ~~an absent uniformed services voter under~~ **provided in** IC 3-11-4-6.

SECTION 198. IC 9-24-2.5-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12. As required under 42 U.S.C. 15483, the secretary of state (with the consent of the co-directors of the election division) and the commission shall enter into an agreement to match information in the computerized list established under IC 3-7-26.3 with information in the data base of the commission to enable the election division and the commission to verify the accuracy of the information provided on voter registration applications.**

SECTION 199. IC 9-24-2.5-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13. (a) As required under 42 U.S.C. 15483, the commission shall enter into an agreement with the Commissioner of Social Security under 42 U.S.C. 405(r)(8)(A) to verify information set forth on voter registration applications.**

(b) The information subject to verification under this section is the following:

(1) Whether the name (including the first name and any family forename or surname), date of birth (including month, day, and year), and Social Security number of an individual provided to the Commissioner of Social Security match the information contained in the Commissioner's records.

(2) Whether the individual is shown in the records of the Commissioner of Social Security as deceased.

(c) The agreement under subsection (b) must comply with 42 U.S.C. 15481 and IC 3-7-26.3.

SECTION 200. IC 11-8-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The commissioner shall **do the following:**

(1) Organize the department, subject to approval by the board, and employ personnel necessary to discharge the duties and powers of the department.

(2) Administer and supervise the department, including all state owned or operated correctional facilities.

(3) Except for employees of the parole board, be the appointing authority for all positions in the department within the scope of IC 4-15-2 and define the duties of those positions in accord with IC 4-15-2.

(4) Define the duties of a deputy commissioner and a superintendent.

(5) Accept committed persons for study, evaluation, classification, custody, care, training, and reintegration.

(6) Determine the capacity of all state owned or operated correctional facilities and programs and keep all Indiana courts having criminal or juvenile jurisdiction informed, on a quarterly basis, of the populations of those facilities and programs.

(7) Utilize state owned or operated correctional facilities and programs to accomplish the purposes of the department and acquire or establish, according to law, additional facilities and programs whenever necessary to accomplish those purposes.

(8) Develop policies, programs, and services for committed persons, for administration of facilities, and for conduct of employees of the department.

(9) Administer, according to law, the money or other property of the department and the money or other property retained by the department for committed persons.

(10) Keep an accurate and complete record of all department proceedings, which includes the responsibility for the custody and preservation of all papers and documents of the department.

(11) Make an annual report to the governor according to subsection (c).

(12) Develop, collect, and maintain information concerning offenders, sentencing practices, and correctional treatment as he considers useful in penological research or in developing programs.

(13) Cooperate with and encourage public and private agencies and other persons in the development and improvement of correctional facilities, programs, and services. ~~and~~

(14) Explain correctional programs and services to the public.

(15) As required under 42 U.S.C. 15483, after January 1, 2006, provide information to the election division to coordinate the computerized list of voters maintained under IC 3-7-26.3 with department records concerning individuals disfranchised under IC 3-7-46.

(b) The commissioner may:

(1) when authorized by law, adopt departmental rules under IC 4-22-2, subject to approval by the board;

(2) delegate powers and duties conferred on him by law to a deputy commissioner or commissioners and other employees of the department;

(3) issue warrants for the return of escaped committed persons (an employee of the department or any person authorized to execute warrants may execute a warrant issued for the return of an escaped person); and

(4) exercise any other power reasonably necessary in discharging his duties and powers.

(c) The annual report of the department shall be transmitted to the governor by September 1 of each year and must contain:

(1) a description of the operation of the department for the fiscal year ending June 30;

(2) a description of the facilities and programs of the department;

(3) an evaluation of the adequacy and effectiveness of those facilities and programs considering the number and needs of committed persons or other persons receiving services; and

(4) any other information required by law.

Recommendations for alteration, expansion, or discontinuance of facilities or programs, for funding, or for statutory changes may be included in the annual report.

SECTION 201. IC 12-28-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. Notwithstanding IC 4-6-2, the commission has the following powers, duties, and functions:

(1) Establish and maintain all necessary offices.

(2) Subject to IC 4-15-2:

(A) appoint;

(B) fix the compensation for; and

(C) prescribe the duties of;

the attorneys, other employees, and agents the commission considers necessary.

(3) Provide legal and other advocacy services throughout Indiana to individuals or organizations on matters related to the protection of the legal and human rights of developmentally disabled individuals, mentally ill individuals, and individuals who are seeking or receiving vocational rehabilitation services.

(4) Enter into contractual relationships and sue and be sued in the name of the services.

(5) Apply for, solicit, and accept contributions or grants of money, property, or services made by gift, devise, bequest, grant, or other means from any source that the commission considers best to assist the services in performing its purpose.

(6) Provide information and referral services.

(7) Adopt rules under IC 4-22-2 to do the following:

(A) Establish and operate local protection and advocacy service units.

(B) Operate the service.

(C) Perform the commission's duties.

(8) Ensure full participation in the electoral process in individuals with disabilities, including registering to vote, casting a vote, and accessing polling places, in accordance

with 42 U.S.C. 15461 through 15462.

SECTION 202. IC 16-19-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. **(a)** The state department shall study the vital statistics and endeavor to make intelligent and profitable use of the collected records of death and sickness among the people.

(b) As required under 42 U.S.C. 15483, after January 1, 2006, the department shall provide information to the election division to coordinate the computerized list of voters maintained under IC 3-7-26.3 with the department records concerning individuals identified as deceased under IC 3-7-45.

SECTION 203. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 3-7-26-20; IC 3-11-6.5-3; IC 3-11-6.5-6; IC 3-11-6.5-7.

SECTION 204. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 3-5-2 apply throughout this SECTION.**

(b) Not later than December 31, 2003, each county voter registration office shall identify each registered voter in the county who:

(1) registered by mail under IC 3-7-22 by submitting an application after December 31, 2002; and

(2) would be required to provide personal identification under 42 U.S.C. 15483 before voting either in person or by mail at an election conducted after December 31, 2003.

(c) Not later than March 1, 2004, the county voter registration office shall mail a notice to each voter identified in subsection (b). The notice must:

(1) inform the voter regarding the additional personal identification required by federal law before the voter casts a ballot in person or by mail; and

(2) encourage the voter to submit photocopies of the required documentation to the county voter registration office before election day.

(d) Not later than July 1, 2003, the election division shall provide each county voter registration office with a sample notice for purposes of mailings required under this SECTION.

(e) A county:

(1) may mail a notice to a voter under this SECTION at any time after receiving the sample notice under subsection (d); and

(2) is not required to mail the notice to all voters described in subsection (b) as part of the same mailing.

(f) This SECTION expires December 31, 2004.

SECTION 205. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 3-5-2 apply throughout this SECTION.**

(b) Not later than July 1, 2003, the commission shall act under IC 3-11-4-5.1 to approve absentee ballot application forms that include a notice that certain voters who registered by mail are required to provide additional personal identification before voting an absentee ballot by mail.

(c) Notwithstanding IC 3-5-4-8, an absentee ballot application form approved by the commission before December 31, 2003, that does not comply with subsection (b) may not be accepted for filing with a county election board after December 31, 2003.

(d) This SECTION expires December 31, 2004.

SECTION 206. [EFFECTIVE UPON PASSAGE] **(a) The election division of the office of the secretary of state shall study the congressional recommendation set forth in Section 701 of the Help America Vote Act of 2002 that the single office in Indiana designated under IC 3-11-4-5.5 to provide absentee balloting and voter registration information to military and overseas voters also be authorized to accept valid voter registration applications, absentee ballot applications, and absentee ballots from all military and overseas voters who wish to register to vote or vote in Indiana.**

(b) The election division shall consult with circuit court clerks and county voter registration officers in conducting this study and shall publish a report containing the results of this study not later than June 1, 2004.

(c) The election division shall submit the report to the census data advisory committee along with suggestions for additional legislation necessary to implement any recommendations contained in the report.

(d) The election division shall consider incorporating the features described in subsection (a) into the statewide voter registration system established under IC 3-7-26.

(e) This SECTION expires January 2, 2005.

SECTION 207. [EFFECTIVE UPON PASSAGE] **(a) Before January 1, 2004, the Indiana election commission shall act under IC 3-11-4-5.1 to make any revision required to the absentee ballot application form prescribed by the commission under that section to conform the application to the standard oath prescribed for absent uniformed services voters and overseas voters under 42 U.S.C. 1973ff-1(b).**

(b) An absentee ballot application form approved by the commission before January 1, 2004, that does not comply with any requirement under 42 U.S.C. 1973ff-1(b) may not be used for any election conducted after December 31, 2003.

(c) This SECTION expires January 1, 2005.

SECTION 208. [EFFECTIVE UPON PASSAGE] **(a) Before January 1, 2004, the Indiana election commission shall act under IC 3-5-4-8 to make any revision required to the affidavit printed on the absentee ballot mailing envelope described by IC 3-11-4-21 to conform the application to the standard oath prescribed for absent uniformed services voters and overseas voters under 42 U.S.C. 1973ff-1(b).**

(b) An absentee ballot mailing envelope approved by the commission before January 1, 2004, that does not comply with any requirement under 42 U.S.C. 1973ff-1(b) or IC 3-11-4-21 may not be used for any election conducted after December 31, 2003.

(c) This SECTION expires January 1, 2005.

SECTION 209. [EFFECTIVE UPON PASSAGE] **(a) The definitions set forth in IC 3-5-2 apply to this SECTION.**

(b) Notwithstanding IC 3-5-4-8, a registration by mail form approved by the commission under IC 3-7-22 before January 1, 2003, may not be filed by an applicant or processed by a county voter registration office after December 31, 2003.

(c) The election division shall:

(1) notify the offices and entities designated as mail-in registration form distribution sites under IC 3-7 or a county NVRA plan that the registration forms previously furnished to those offices and entities will be obsolete after December 31, 2003; and

(2) provide each office or entity with mail-in registration forms that comply with IC 3-7-22, as amended by this act, not later than December 31, 2003.

(d) The election division shall provide mail-in registration forms under subsection (c) in the quantity that the election division determines should be sufficient for the office or entity to supply voter registration applications to voters until December 31, 2004. In complying with this subsection, the election division shall attempt to reduce costs by publicizing the availability of a downloadable voter registration application on the election division's web site.

(e) This SECTION expires January 1, 2005.

SECTION 210. [EFFECTIVE UPON PASSAGE] **(a) The secretary of state with the consent of the co-directors of the election division shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, and interactive statewide voter registration list in accordance with the requirements set forth in 42 U.S.C. 15483 and IC 3-7-26.3, as added by this act.**

(b) Not later than January 1, 2004, the secretary of state with the consent of the co-directors of the election division may certify to the federal Election Assistance Commission under Section 303(d)(1)(B) of the Help America Vote Act of 2002 that the state will not meet the deadline of January 1, 2004, to establish a statewide voter registration system that complies with 42 U.S.C. 15483.

(c) As required by Section 303(d)(1)(B) of the Help America Vote Act of 2002, the certification must state:

(1) that the inability of the state to meet this deadline is for good cause; and

(2) the reasons for the inability to meet the deadline.

(d) This SECTION expires January 1, 2006.

SECTION 211. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies to a voter who has not been assigned a voter identification number under IC 3-7-13-13.**

(b) Not later than January 1, 2006, the election division shall assign a voter identification number to the voter's registration record in the computerized list maintained under IC 3-7-26.3. The number must be assigned in accordance with IC 3-7-13-13.

(c) This SECTION expires January 1, 2006.

SECTION 212. [EFFECTIVE APRIL 1, 2003 (RETROACTIVE)] **(a) The definitions set forth in IC 3-5-2 apply throughout this SECTION.**

(b) Not later than April 7, 2003, the governor, in consultation and coordination with the secretary of state and the co-directors of the election division, shall notify the federal Administrator of General Services that the state of Indiana intends to use payments under Section 101 of HAVA (42 U.S.C. 15301) in accordance with Section 101 of HAVA.

(c) This section expires December 31, 2003.

SECTION 213. [EFFECTIVE APRIL 1, 2003 (RETROACTIVE)] **(a) The definitions set forth in IC 3-5-2 apply throughout this SECTION.**

(b) Not later than April 7, 2003, the governor, in consultation and coordination with the secretary of state and the co-directors of the election division, shall give the notice to the federal Administrator of General Services under Section 102(b) of HAVA (42 U.S.C. 15302) in accordance with Section 102 of HAVA.

(c) This section expires December 31, 2003.

SECTION 214. [EFFECTIVE UPON PASSAGE] **(a) The definitions set forth in IC 3-5-2 apply to this SECTION.**

(b) Subject to subsection (d), a voting machine system may not be used in an election in Indiana after December 31, 2003.

(c) Subject to subsection (e), a punch card voting system may not be used in an election in Indiana after December 31, 2003.

(d) Notwithstanding subsection (b), a voting machine system may be used in an election in Indiana after December 31, 2003, and before January 1, 2006, if not later than December 31, 2003, the secretary of state with the consent of the co-directors of the election division certifies to the federal Administrator of General Services under Section 102(a)(3)(B) of HAVA (42 U.S.C. 15302) that the state cannot replace all voting machine systems in Indiana before January 1, 2004.

(e) Notwithstanding subsection (c), a punch card voting system may be used in an election in Indiana after December 31, 2003, and before January 1, 2006, if not later than December 31, 2003, the secretary of state with the consent of the co-directors of the election division certifies to the federal Administrator of General Services under Section 102(a)(3)(B) of HAVA (42 U.S.C. 15302) that the state cannot replace all punch card voting systems in Indiana before January 1, 2004.

(f) This SECTION expires January 1, 2006.

SECTION 215. [EFFECTIVE UPON PASSAGE] **(a) The definitions set forth in IC 3-5-2 apply throughout this SECTION.**

(b) The census data advisory committee shall prepare legislation for introduction in the 2004 session of the Indiana general assembly to make appropriate amendments to Indiana statutes by removing references to voting machine systems and punch card voting systems.

(c) This SECTION expires January 1, 2006.

SECTION 216. [EFFECTIVE UPON PASSAGE] **(a) The definitions set forth in IC 3-5-2 apply throughout this SECTION.**

(b) Not later than June 30, 2003, the secretary of state with the consent of the co-directors of the election division shall file a statement with the federal Election Assistance Commission.

(c) The statement under subsection (b) must certify that the state is in compliance with the requirements referred to in Section 253(b) of HAVA (42 U.S.C. 15403) and be in the form authorized by Section 253 of HAVA.

(d) This SECTION expires December 31, 2003.

SECTION 217. [EFFECTIVE JULY 1, 2003] **(a) Each county election board shall determine, not later than December 31, 2003, whether the board will adopt an order authorizing the appointment of a precinct election officer under IC 3-6-6-39, as amended by this act.**

(b) An order adopted under this SECTION remains in effect until repealed by the unanimous vote of the entire membership of the county election board.

(c) This SECTION expires January 1, 2004.

SECTION 218. **An emergency is declared for this act.**

(Reference is to ESB 268 as printed April 8, 2003.)

SKILLMAN	MAHERN
BREAUX	RICHARDSON
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT

EHB 1430–1; filed April 25, 2003, at 5:39 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1430 respectfully reports that said two committee have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-1.1-19-4.5, AS AMENDED BY SEA 136-2003, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. (a) With respect to every appeal petition that is delivered to the tax control board by the department of local government finance under section 4.1 of this chapter and that includes a request for emergency financial relief (except an appeal petition described in section 4.7 of this chapter), the tax control board shall, after having made the study of the appeal petition and related materials that the tax control board considers necessary, make an appropriate recommendation to the department of local government finance. If the appeal petition requests an excessive tax levy under subsection (c), the tax control board shall expedite the board's review as necessary to permit the referendum to be conducted without a special election. In respect of the appeal petition, the tax control board may make to the department of local government finance any of the recommendations described in section 4.4(a) of this chapter, subject to the limitations described in section 4.4(b) of this chapter.

(b) In addition, if the tax control board concludes that the appellant school corporation cannot, in the ensuing calendar year, carry out the public educational duty committed to the appellant school corporation by law if, for the ensuing calendar year, the appellant school corporation does not receive emergency financial relief, the tax control board may recommend to the department of local government finance that the order of the county board of tax adjustment or the county auditor in respect of the budget, tax levy, or tax rate of the appellant school corporation be approved, or disapproved and modified, as specified in the tax control board's recommendation and that the appellant school corporation receive emergency financial relief from the state, on terms to be specified by the tax control board in the board's recommendation, in the form of:

(1) a grant or grants from any funds of the state that are available for such a purpose;

(2) a loan or loans from any funds of the state that are available for such a purpose;

(3) permission to the appellant school corporation to borrow funds from a source other than the state or assistance in obtaining the loan;

(4) an advance or advances of funds that will become payable to the appellant school corporation under any law providing for the payment of state funds to school corporations;

(5) permission to the appellant school corporation to:

(A) cancel any unpaid obligation of the appellant school corporation's general fund to the appellant school corporation's cumulative building fund; or

(B) use, for general fund purposes, any unobligated balance in the appellant school corporation's cumulative building fund and the proceeds of any levy made or to be made by the appellant school corporation for the appellant school corporation's cumulative building fund;

(6) permission to use, for general fund purposes, any unobligated balance in any construction fund, including any unobligated proceeds of a sale of the school corporation's general obligation bonds; or

(7) a combination of the emergency financial relief described in subdivisions (1) through (6).

(c) In addition to, or in lieu of, any recommendation that the tax control board may make under this section, the tax control board may recommend that the appellant school corporation be permitted to make a referendum tax levy for the ensuing calendar year under this subsection. The recommendation may not be put into effect until a majority of the individuals who vote in a referendum that is conducted in accordance with the following requirements approves the appellant school corporation's making a referendum tax levy for the ensuing calendar year:

(1) Whenever:

(A) the tax control board recommends to the department of local government finance that the appellant school corporation be permitted to make a referendum tax levy for the ensuing calendar year if a majority of the individuals voting in a referendum held in the appellant school corporation approves the appellant school corporation's making a referendum tax levy;

(B) the department of local government finance gives the board's written approval of the recommendation; and

(C) the appellant school corporation requests that the tax control board take the steps necessary to cause a referendum to be conducted;

the tax control board shall proceed in accordance with this subsection.

(2) The question to be submitted to the voters in the referendum must read as follows:

"For the __ (insert number) calendar year or years immediately following the holding of the referendum, shall the school corporation impose a property tax rate that does not exceed _____ (insert amount) cents ($0.__) (insert amount) on each one hundred dollars ($100) of assessed valuation and that is in addition to the school corporation's normal tax rate?".

The voters in a referendum may not approve a referendum tax levy that is imposed for more than seven (7) years. However, a referendum tax levy may be reimposed or extended under this subsection.

(3) In addition to the question prescribed in subdivision (2), the school corporation may, if approved by the school board, add the following language to the question:

"If the referendum tax levy is approved, the school corporation shall reduce the property tax rate of the ___ (insert fund name) fund by _____ (insert amount) cents ($0.____) on each one hundred dollars ($100) of assessed valuation.".

~~(3)~~ **(4)** The tax control board shall act under IC 3-10-9-3 to certify the question to be voted on at the referendum to the county election board of each county in which any part of the appellant school corporation lies. Each county clerk shall, upon receiving the question certified by the tax control board, call a meeting of the county election board to make arrangements for the referendum. The referendum shall be held in the next primary or general election in which the residents of the appellant school corporation are entitled to vote after certification of the question under IC 3-10-9-3. However, if the referendum would be held at a primary or general election more than six (6) months after certification by the tax control board, the referendum shall be held at a special election to be conducted not less than ninety (90) days after the question is certified to the circuit court clerk or clerks by the tax control board. The appellant school corporation shall advise each affected county election board of the date on which the appellant school corporation desires that the referendum be held, and, if practicable, the referendum shall be held on the day specified by the appellant school corporation. The referendum shall be held under the direction of the county election board, which shall take all steps necessary to carry out the referendum. Not less than ten (10) days before the date on which the referendum is to be held, the county election board shall cause notice of the question that is to be voted upon at the referendum to be published in accordance with IC 5-3-1. If the referendum is not conducted at a primary or general election, the appellant school corporation in which the referendum is to be held shall pay all of the costs of holding the referendum.

~~(4)~~ **(5)** Each county election board shall cause the question certified to the circuit court clerk by the tax control board to be placed on the ballot in the form prescribed by IC 3-10-9-4. The county election board shall also cause an adequate supply of ballots and voting equipment to be delivered to the precinct election board of each precinct in which the referendum is to be held.

~~(5)~~ **(6)** The individuals entitled to vote in the referendum are all of the registered voters resident in the appellant school corporation.

~~(6)~~ **(7)** Each precinct election board shall count the affirmative votes and the negative votes cast in the referendum and shall certify those two (2) totals to the county election board of each county in which the referendum is held. The circuit court clerk of each county shall, immediately after the votes cast in the referendum have been counted, certify the results of the referendum to the tax control board. Upon receiving the certification of all of the votes cast in the referendum, the tax control board shall promptly certify the result of the referendum to the department of local government finance. If a majority of the individuals who voted in the referendum voted "yes" on the referendum question, the department of local government finance, upon being notified in the manner described in this subsection of the result of the referendum, shall take prompt and appropriate steps to notify the appellant school corporation that the appellant school corporation is authorized to collect, for the calendar year that next follows the calendar year in which the referendum is held, a referendum tax levy not greater than the amount approved in the referendum. The referendum tax levy may be imposed for the number of calendar years approved by the voters following the referendum for the school corporation in which the referendum is held. If a majority of the individuals who voted in the referendum voted "yes" on the referendum question, the school corporation shall establish a referendum tax levy fund under IC 21-2-11.6. A school corporation's referendum tax levy may not be considered in the determination of the school corporation's state tuition support under IC 21-3-1.7 or the determination of the school corporation's maximum general fund tax levy under this chapter and IC 21-3-1.7. If a majority of the persons who voted in the referendum did not vote "yes" on the referendum question, the appellant school corporation may not make any tax levy for its general fund other than a normal tax levy, and another referendum under this subsection may not be held for a period of one (1) year after the date of the referendum.

(d) With respect to any school corporation to which a loan or advance of state funds is made under this section, or for which such a loan or an advance is recommended, for purposes other than the purpose specified in section 4.7 of this chapter, the tax control board may recommend to the department of local government finance that the school corporation be authorized, for a specified calendar year, and solely for the purpose of enabling the school corporation to repay the loan or advance, to collect an excessive tax levy. A recommendation under this subsection must specify the amount of the recommended excessive tax levy. Upon receiving the recommendation from the tax control board, and without any other proceeding, the department of local government finance may authorize the school corporation, for a specified calendar year, to make an excessive tax levy in accordance with the recommendation

of the tax control board or in accordance with a modification of the recommendation that the department of local government finance determines is proper. Whenever the department of local government finance exercises the power given to the department of local government finance under this subsection, the department of local government finance shall, in the department's order to the affected school corporation, specify the amount of the authorized excessive tax levy and take appropriate steps to ensure that so much of the proceeds of the excessive tax levy as should be used for loan repayment purposes is not used for any other purpose. The department of local government finance may not exercise the power described in this subsection to authorize any school corporation to collect an excessive tax levy for more than one (1) calendar year in any period of four (4) consecutive calendar years.

(Reference is to EHB 1430 as reprinted April 10, 2003.)

MAHERN	C. LAWSON
RICHARDSON	SIPES
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
ESB 454–1; filed April 25, 2003, at 6:16 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 454 respectfully reports that said two committee have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 8-10-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. In order to promote the agricultural, industrial and commercial development of the state, and to provide for the general welfare by the construction and operation, in cooperation with the federal government, or otherwise, of a modern port ~~on Lake Michigan and/or the Ohio River, and/or the Wabash River,~~ **system** with terminal facilities to accommodate water, rail, truck, ~~and~~ air-borne, **and other forms of** transportation, the Indiana Port Commission is hereby authorized and empowered to construct, maintain and operate, in cooperation with the federal government, or otherwise, at such ~~location on Lake Michigan and/or the Ohio River, and/or the Wabash River,~~ **locations** as shall be approved by the governor, **projects, including without limitation** public ports with terminal facilities and traffic exchange points **throughout Indiana** for all forms of transportation, giving particular attention to the benefits which may accrue to the state and its citizens from ~~the St. Lawrence Seaway,~~ **all forms of transportation,** and to issue ~~port~~ revenue bonds of the state payable solely from revenues, to pay the cost of such projects. **The commission's powers are not limited to ports and may be exercised throughout Indiana for projects that enhance, foster, aid, provide, or promote economic development, public-private partnerships, and other industrial, commercial, business, and transportation purposes.**

SECTION 2. IC 8-10-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "commission" shall mean the Indiana Port Commission created by section 3 of this chapter, or, if said commission shall be abolished, the board, body or commission succeeding to the principal functions thereof, or to whom the powers given by this chapter to the commission shall be given by law.

(b) The word "port" shall include **any combination of:**

(1) any place or places on Lake Michigan, the Ohio River, ~~and~~ the Wabash River, **or other water bodies,** natural or artificial, in which water-borne vessels capable of carrying articles of commerce over navigable bodies of water may be loaded, unloaded or accommodated; **and**

(2) nonmaritime port and traffic exchange points throughout Indiana for the transfer of goods and passengers between all modes of transportation.

(c) The ~~words "port~~ **word** "project" shall include:

(1) any facilities, adjuncts and appurtenances necessary **or useful** to operate a modern port, **whether or not permanently situated at the port,** including:

(A) the dredging of approaches ~~thereto, and including, among other things, but not limited to~~ **to a port; and**

(B) breakwaters, inner harbors, outer harbors, channels, canals, turning basins, docks, wharves, piers, quays, slips, loading, unloading, handling and storage equipment, warehouses, refrigerating plants and equipment, elevators for the handling and storage of grain, coal and other bulk commodities, terminal buildings or facilities, railroad equipment and trackage, roadways, airplane landing fields, parking lots, garages, automotive equipment, tugs, ferries, maintenance and construction vessels, communication systems, sewers, drains, works for the treatment of sewage, garbage and wastes, and the furnishing of utility service necessary to serve the property under the jurisdiction or control of the commission, and other buildings and facilities which the commission may deem necessary for the operation of the port; **and**

(2) any other project located in Indiana, other than at a port, that the commission finds will enhance, foster, aid, provide, or promote economic development, public-private partnerships, and other industrial, commercial, business, and transportation purposes.

(d) The word "cost" as applied to a port or ~~port~~ project ~~shall embrace~~ **means:**

(1) the cost of construction;

(2) the cost of acquisition of all land, rights-of-way, property, rights, easements and interests, including lands under water and riparian rights acquired by the commission for ~~such~~ construction;

(3) the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which ~~such~~ buildings or structures may be moved;

(4) the cost of relocating public roads;

(5) the cost of land or easements ~~therefor,~~ **for roads;**

(6) the cost of all machinery and equipment;

(7) financing charges;

(8) interest prior to and during construction and for not exceeding two (2) years after the estimated date of completion of construction;

(9) the cost of engineering and legal expenses, plans, specifications, surveys, **and** estimates of cost, traffic and revenues;

(10) other expenses necessary or incident to determining the feasibility or practicability of constructing any such project;

(11) administrative expense; ~~and such~~

(12) other expenses as may be necessary or incident to the **acquisition or** construction of the project, the financing of ~~such~~ **the acquisition or** construction, and the placing of the project in operation, **including the amount authorized in the resolution of the port commission providing for the issuance of port commission revenue bonds to be paid into any special funds from the proceeds of the bonds; and**

(13) any obligation, cost, or expense incurred by any governmental agency or person for surveys, borings, the preparation of plans and specifications, and other engineering services, or any other cost described in this section that is incurred in connection with the acquisition or construction of a project may be regarded as part of the cost of the project and may be reimbursed out of the proceeds of port commission revenue bonds as authorized by this chapter.

(e) The word "owner" shall include all individuals, copartnerships, associations or corporations having any title or interest in any property, rights, easements and other interests authorized to be acquired by this chapter.

(f) The word "revenues" shall mean all fees, tolls, rentals, gifts, grants, moneys and all other funds coming into the possession or under the control of the commission by virtue of the terms and provisions of this ~~chapter,~~ **article,** but shall not include real property or personal property other than money, nor the proceeds from the sale of bonds issued under provisions of this chapter.

(g) The word "public roads" shall include all public highways, roads, and streets in the state, whether maintained by the state, county, city, township or other political subdivision.

SECTION 3. IC 8-10-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a)** There is hereby created a commission to be known as the "Indiana port commission" and by that name the commission may sue and be sued, and plead and be impleaded. The commission hereby created is a body both corporate and politic in the state of Indiana, and the exercise by the commission of the powers conferred by this ~~chapter~~ **article** in the construction, operation and maintenance of a port **or** project shall be deemed and held to be essential governmental functions of the state, but the commission shall not however be immune from liability by reason thereof.

(b) The commission shall consist of seven (7) members, appointed by the governor, no more than four (4) of whom shall be members of the same political party. The members shall be residents of the state, and shall have been qualified electors therein for a period of at least five (5) years next preceding their appointment. The members of the commission first appointed shall continue in office for terms expiring, in the case of two (2) members, on July 1, 1962, and in the case of three (3) members, on July 1, 1963, July 1, 1964, and July 1, 1965 and the first two (2) members appointed after January 1, 1975, shall continue in office for terms expiring July 1, 1977 for one (1) member and July 1, 1979 for the other member, respectively, and until their respective successors shall be duly appointed and qualified. The term of any member of the commission first appointed shall be designated by the governor. The successor of each such member shall be appointed for a term of four (4) years, except that any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term, and a member of the commission shall be eligible for reappointment. The governor may at any time remove any member of the commission for misfeasance, nonfeasance, or malfeasance in office. The members of the commission shall, within ten (10) days after their appointment, meet and qualify by subscribing an oath to discharge honestly and faithfully the duties of their office as members of such commission. The commission shall thereafter elect one (1) of the members as chairman and another as vice-chairman, and shall appoint a secretary-treasurer who need not be a member of the commission. Four (4) members of the commission shall constitute a quorum and the affirmative vote of four (4) members shall be necessary for any official action taken by the commission. No vacancy in the membership of the commission shall impair the rights of a quorum to exercise all the rights and perform all the duties of the commission.

(c) Before the issuance of any ~~port~~ revenue bonds under the provisions of this ~~chapter,~~ **article,** each appointed member of the commission shall give a surety bond to the state in the penal sum of twenty-five thousand dollars ($25,000) and the secretary-treasurer shall give a surety bond to the state in the penal sum of fifty thousand dollars ($50,000). Each such surety bond ~~to~~ **must** be conditioned upon the faithful performance of the duties of the office, to be executed by a surety company authorized to transact business in the state as surety and to be approved by the governor and filed in the office of the secretary of state.

(d) Each appointed member of the commission shall receive an annual salary of seven thousand, five hundred dollars ($7,500), payable in monthly instalments. However, no members of such commission as appointed hereunder shall receive any salary except a per diem as fixed and approved by the budget director until said commission is able to carry on the full operations as intended by this chapter, and the budget director, subject to the approval of the governor of the state of Indiana, shall determine when said salaries for said commission members shall commence. ~~The governor shall, however, appoint said members as herein provided within a period of sixty (60) days following the effective date of this chapter.~~

(e) Each member shall be reimbursed for his actual expenses necessarily incurred in the performance of his duties.

(f) All expenses incurred in carrying out the provisions of this ~~chapter~~ **article** shall be payable solely from funds provided under the authority of this ~~chapter~~ **article** and no liability or obligation shall be incurred by the commission hereunder beyond the extent to which moneys shall have been provided under the authority of this ~~chapter.~~ **article.**

SECTION 4. IC 8-10-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. ~~Port~~ Revenue bonds issued under the provisions of this ~~chapter~~ **article** shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, but such bonds shall be payable solely from the funds pledged for their payment as authorized in this ~~chapter,~~ **article,** unless such bonds are refunded by refunding bonds, issued under the provisions of this chapter, which refunding bonds shall be payable solely from funds pledged for their payment as authorized herein. All such revenue bonds shall contain on the face thereof a statement to the effect that the bonds, as to both principal and interest, are not an obligation of the state of Indiana, or of any political subdivision thereof, but are payable solely from revenues pledged for their payment. All expenses incurred in carrying out the provisions of this ~~chapter~~ **article** shall be payable solely from funds provided under the authority of this ~~chapter~~ **article** and nothing in this ~~chapter~~ **article** contained shall be construed to authorize the commission to incur indebtedness or liability on behalf of or payable by the state or any political subdivision thereof.

SECTION 5. IC 8-10-1-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.5. Except as specifically authorized by the general assembly, the commission may not pledge, in any form, to:**

(1) seek funding from the state in the event of any default in the payment of revenue bonds; or

(2) specify, in any form, in an agreement related to revenue bonds that money appropriated by the general assembly may or shall be deposited in a debt service fund or reserve fund for the revenue bonds.

SECTION 6. IC 8-10-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The Indiana port commission may:

(1) prepare sketches, plans, and descriptive material relating to ~~such~~ ports or ~~port~~ projects, as in its discretion may seem feasible, to compile data and prepare literature as to the necessity or advisability thereof, and to do other acts and things it considers necessary to promote ~~such public port or port~~ **the ports or** projects and deems to be in the public interest;

(2) carry on, in its discretion, negotiations and enter into agreements and contracts with the federal government or agencies of the federal government or an authority established under IC 36-7-23 for the building and construction of public ports including terminal facilities, to be located within Indiana, on Lake Michigan, the Ohio River, the Wabash River, or in waters adjacent to Indiana;

(3) locate and acquire ~~a~~ suitable ~~site~~ **sites** for ~~such public port or port~~ **ports or** projects;

(4) construct, develop, maintain, and operate the same in cooperation with the federal government, any agency of the federal government, a corporation established under IC 36-7-23, or otherwise, in such a manner and on such terms as will, in the discretion of the commission, best serve the commercial, industrial, and agricultural interests of the state;

(5) provide adequate port and terminal facilities to accommodate water, rail, truck, and airborne transportation; and

(6) provide a traffic exchange point for all forms of transportation, giving particular attention to the benefits which may accrue to the state and its citizens by the opening of the St. Lawrence Seaway and river transportation.

(b) The title to all property included in any port **or** project shall be taken in the name of, and shall be in, the state of Indiana.

SECTION 7. IC 8-10-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The commission is authorized and empowered **to do the following:**

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business.

(2) To adopt an official seal which shall not be the seal of the state of Indiana.

(3) To maintain a principal office and sub-offices at such place or places within the state as it may designate.

(4) To sue and be sued, and to plead and be impleaded in its own name. However, actions at law against the commission shall be brought in the circuit court of the county in which the principal office of the commission is located or in the circuit court of the county in which the cause of action arose, if the county is located within the state. All summonses and legal notices of every kind shall be served on the commission by leaving a copy thereof at the principal office of the commission with the person in charge thereof or with the secretary of the commission. However, no such action shall be deemed commenced until a copy of the summons and complaint, cross complaint, petition, bill, or pleading is served upon the attorney general of Indiana.

(5) To acquire, lease, construct, maintain, repair, police, and operate a port or ~~port~~ project as provided in this chapter, and to establish rules and regulations for the use of ~~such~~ **the** port or ~~port~~ project, and other property subject to the jurisdiction and control of the commission.

(6) To issue ~~port~~ **both taxable and tax exempt** revenue bonds of the state, payable solely from revenues, as herein provided, for the purpose of paying all or any part of the cost of a port or ~~port~~ project.

(7) To acquire, lease, and operate tug boats, locomotives, and any and every kind of motive power and conveyances or appliances necessary or proper to carry passengers, goods, wares, merchandise, or articles of commerce in, on, or around the port or ~~port~~ project.

(8) To fix and revise from time to time and to collect fees, rentals, tolls, and other charges for the use of any port or ~~port~~ project.

(9) To acquire, obtain option on, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter.

(10) To designate the location and establish, limit, and control points of ingress to and egress from ~~the~~ **a** port ~~property.~~ **or project.**

(11) To lease to others for development or operation such portions of any port or ~~port~~ project, on such terms and conditions as the commission shall deem advisable.

(12) To make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter. When the cost of any such contract for construction, or for the purchase of equipment, materials, or supplies, involves an expenditure of more than twenty-five thousand dollars ($25,000), the commission shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in ~~Marion County, Indiana,~~ **the county where the construction will occur** and in such other publications as the commission shall determine. The notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids. Each bid shall contain the full name of every person or company interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of its proposal secured. The commission may reject any and all bids. A bond with good and sufficient surety as shall be approved by the commission, shall be required of all contractors in an amount equal to at least fifty percent (50%) of the contract price conditioned upon the faithful performance of the contract.

(13) To construct, assemble, or otherwise build, own, lease, operate, manage, or otherwise control any project throughout Indiana for the purpose of promoting economic growth and development throughout Indiana, retaining existing employment within Indiana, and attracting new employment opportunities within Indiana.

~~(13)~~ **(14)** To employ an executive director or manager, consulting engineers, superintendents, and such other engineers, construction and accounting experts, attorneys, and other employees and agents as may be necessary in its judgment, and to fix their compensation, but no compensation of any employee of the commission shall exceed the compensation of the highest paid officer or employee of the state. ~~However, the employment of an attorney shall be subject to such approval of the attorney general as may be required by law.~~

~~(14)~~ **(15)** To receive and accept from any federal agency grants for or in aid of the construction of any port or ~~port~~ project, and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made.

~~(15)~~ **(16)** To provide coverage for its employees under the provisions of IC 22-3-2 through IC 22-3-6, and IC 22-4.

~~(16)~~ **(17)** To do all acts and things necessary or proper to carry out the powers expressly granted in this ~~chapter. and~~ **article.**

~~(17)~~ **(18)** To hold, use, administer, and expend such sum or sums as may herein or hereafter be appropriated or transferred to the commission.

SECTION 8. IC 8-10-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. If the commission shall find it necessary to change the location of any portion of any public road, **highway,** railroad, or public utility facility, it shall cause the same to be reconstructed at such location as the division of government having jurisdiction over such road, highway, railroad or public utility facility shall deem most favorable and of substantially the same type and in as good condition as the original road, highway, or railroad or public utility facility. The cost of such reconstruction, relocation, or removal and any damage incurred in changing the location of any such road, highway, railroad, or public utility facility, shall be ascertained and paid by the commission as a part of the cost of ~~such~~ **the** port or ~~port~~ project. The commission shall have authority to petition the circuit court of the county wherein is situated any public road or part thereof, affected by the location therein of any port or ~~port~~ project, for the vacation or relocation of such road or any part thereof with the same force and effect as statutes in effect on March 2, 1961, to the inhabitants of any municipality or governmental subdivision of the state. The proceedings upon such petition, whether it be for the appointment of appraisers or otherwise, shall be the same as provided by statutes in effect on March 2, 1961, for similar proceedings upon such petitions. In addition to the foregoing powers, the commission and its authorized agents and employees, after proper notice, may enter upon any lands, waters, and premises in the state for the purpose of making surveys, soundings, drillings, and examinations as are necessary or proper for the purposes of this ~~chapter,~~ **article,** and such entry shall not be deemed a trespass, nor shall an entry for such purpose be deemed an entry under any condemnation proceedings which may be then pending; provided, that before entering upon the premises of any railroad, notice shall be given to the superintendent of such railroad involved at least five (5) days in advance of such entry, and provided, that no survey, sounding, drilling, and examination shall be made between the rails, or so close to a railroad track, as would render said track unusable. The commission shall make reimbursement for any actual damage resulting to such lands, waters, and premises and to private property located in, on, along, over, or under such lands, waters and premises, as a result of such activities. The state of Indiana, subject to the approval of the governor, hereby consents to the use of lands owned by it, including lands lying under water and riparian rights, which are necessary or proper for the construction or operation of any port or ~~port~~ project, provided adequate compensation is made for

such use. The commission shall also have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation, and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances (referred to in this section as "public utility facilities") of any public utility in, on, along, over, or under any port or ~~port~~ project. Whenever the commission shall determine that it is necessary that any such public utility facilities which are, on or after March 2, 1961, located in, on, along, over, or under any ~~such~~ port or ~~port~~ project should be relocated or should be removed from ~~such~~ **the** port or ~~port~~ project, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the commission. ~~provided,~~ However, ~~that~~ the cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, shall be ascertained and paid by the commission as a part of the cost of ~~such~~ **the** port or ~~port~~ project, excepting, however, cases in which such equipment or facilities are located within the limits of highways or public thoroughfares being constructed, reconstructed, or improved under the provisions of this chapter. In case of any such relocation or removal of facilities, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such facilities in their former location or locations subject, however, to the state's right of regulation under its police powers.

SECTION 9. IC 8-10-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The commission shall have power to adopt such by-laws, rules and regulations as it may deem advisable for the control and regulation of any port or ~~port~~ project or traffic on any port or ~~port~~ project, for the protection of and preservation of property under its jurisdiction and control, and for the maintenance and preservation of good order within the property under its control, and such by-laws, rules and regulations shall be published in a newspaper of general circulation in Marion County, Indiana, and in such other manner as the commission shall prescribe; however, such rules and regulations shall provide that public officers shall be afforded ready access, while in performance of their official duty, to all property under the jurisdiction or control of the commission without the payment of tolls.

(b) Such rules and regulations adopted under this section shall be adopted under IC 4-22-2.

(c) A person who violates a rule or regulation of the commission commits a Class C infraction.

SECTION 10. IC 8-10-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. **(a)** The commission is hereby authorized and empowered to acquire by purchase whenever it shall deem such purchase expedient, any land, property, rights, right-of-ways, franchises, easements and other interests in lands, including lands under water and riparian rights, as it may deem necessary or convenient for the construction and operation of any port or ~~port~~ project, upon such terms and at such price as may be considered by it to be reasonable and can be agreed upon between the commission and the owner thereof, and to take title thereto in the name of the state.

(b) The commission is hereby further authorized and empowered to sell, transfer and convey any such land or any interest therein so acquired, or any portion thereof, when the same shall no longer be needed for such purposes. ~~and it~~ **The commission** is further authorized and empowered to transfer and convey any such lands or interest therein as may be necessary or convenient for the construction and operation of any port or ~~port~~ project, or as otherwise required under the provisions of this ~~chapter. Provided, That~~ **article. However,** no such sale shall be made without **first obtaining** the approval of the governor, ~~first obtained~~ and **a sale may not be made** at ~~not~~ less than the appraised value established by three **(3)** independent appraisers appointed by the governor. The commission shall be authorized to restrict the use of any land so sold by it and provide for a reversion to the commission in the event the land shall not be used for the purpose represented by the purchaser, and such restrictions and reversions shall be set out in appropriate covenants in the deeds of conveyance, which deeds shall be subject to the approval of the governor.

(c) The commission shall also be authorized to lease, or grant options to lease, to others for development any portion of the land owned by the commission, on such terms as the commission shall determine to be advantageous. All such leases or options to lease which leases cover a period of more than four (4) years shall be subject to the approval of the governor. Leases of lands under the jurisdiction or control of the commission shall be made only for such uses and purposes as are calculated to contribute to the growth and development of ~~the port and~~ **ports,** terminal facilities, **and projects** under the jurisdiction or control of the commission. In the event the commission shall lease to others a building or structure financed by the issuance of revenue bonds **under IC 8-10-4,** the rental shall be in an amount at least sufficient to pay the interest on and principal of the amount of such bonds representing the cost of such building or structure to the extent such interest and principal is payable during the term of the lease, as well as to pay the cost of maintenance, repair and insurance for such building and a reasonable portion of the commission's administrative expense incurred during the term of the lease which is allocable to such building or structure.

(d) No tenant, lessee, licensee, owner of real estate located within a port or project, or other person or entity has any right, claim, title, or interest in any real estate, personal property, or common property owned by the commission, a port, a project, or the state, unless a written agreement entered into by the commission expressly provides:

(1) the exact nature and extent of the right, claim, title, or interest;

(2) all the conditions under which the right, claim, title, or interest is granted; and

(3) a legal or complete description of the specific property.

SECTION 11. IC 8-10-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. The commission is hereby authorized and empowered to acquire by appropriation, under the provisions of the eminent domain law of the state, any land, including lands under water and riparian rights, property, rights, rights-of-way, franchises, easements or other property necessary or proper for the construction or the efficient operation of any port or ~~port~~ project. The commission shall also be empowered to exercise such powers of eminent domain as may be conferred upon the commission by an act of Congress of the United States now in force, or which may hereafter be enacted. Title to the property condemned shall be taken in the name of the state of Indiana. Nothing herein shall authorize the commission to take or disturb property or facilities constituting all or part of any presently existing or operating public port and nothing herein shall authorize the commission to take or disturb property or facilities belonging to any public utility or to a common carrier engaged in interstate commerce, which property or facilities are required for the proper and convenient operation of such public utility or common carrier, unless provision is made for the restoration, relocation or duplication of such property or facilities elsewhere at the sole cost of the commission excepting however, cases in which such equipment or facilities are located within the limits of existing highways or public thoroughfares.

SECTION 12. IC 8-10-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A special and distinct revolving fund is hereby created, to be known as the Indiana port fund. Expenditures from said fund shall be made only for the **following:**

(1) Acquisition of land including lands under water and riparian rights, or options for the purchase of such land for a port **or project** site, and incidental expenses incurred in connection with such acquisition. ~~and for~~

(2) Studies in connection with the port **or** project. ~~and including~~

(3) Studies in connection with transportation by water, intermodal transportation, and other modes of transportation.

(4)Transfers to the fund established by IC 14-13-2-19 to

carry out the purposes of IC 14-13-2.

(5) Administrative expenses of the commission. ~~Said~~ **The** fund shall be held in the name of the Indiana port commission, shall be administered by the commission, and all expenditures therefrom shall be made by the commission, subject, however, to the approval by governor and the state budget committee of all expenditures of moneys advanced to said fund by the state of Indiana. Requests for such approval shall be made in such form as shall be prescribed by the budget committee, but expenditures for acquisition of land including lands under water and riparian rights, or options for the purchase of such land, shall be specifically requested and approved as to the land to be acquired and the amount to be expended. No transfers from said fund to any other fund of the state shall be made except pursuant to legislative action. All unexpended funds appropriated to the Indiana board of public harbors and terminals by Acts 1957, c.286, s.6, are hereby transferred to and made a part of the Indiana port fund created by this section, and shall be expended for the purpose and in the manner provided by this chapter, subject only to the restrictions contained in this chapter and no others; provided, however, that not to exceed one hundred thousand dollars ($100,000) shall be expended for any purpose other than the acquisition of land, including lands under water and riparian rights, or options for the purchase of such land for a port **or project** site, and incidental expenses incurred in connection with such acquisition.

(b) Upon the sale of ~~port~~ revenue bonds for any port **or** project, the funds expended from the Indiana port fund in connection with the development of such **port or** project and any obligation or expense incurred by the commission for surveys, preparation of plans and specifications, and other engineering or other services in connection with development of such **port or** project shall be reimbursed to the state general fund from the proceeds of such bonds.

SECTION 13. IC 8-10-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) The commission is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of ~~port~~ revenue bonds of the state for the purpose of paying all or any part of the cost of a port **or** project **under this chapter or IC 8-10-4.** The principal of and the interest on such bonds shall be payable solely from the revenues specifically pledged to the payment thereof. The bonds of each issue shall be dated, shall bear interest at any rate, shall mature at such time or times not exceeding fifty (50) years from the date thereof, as may be determined by the commission, and may be made redeemable before maturity, at the option of the commission, at such price or prices and under such terms and conditions as may be fixed by the commission in the authorizing resolution.

(b) The commission shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state.

(c) The bonds shall be signed in the name of the commission, by its chairman or vice chairman or by the facsimile signature of such chairman or vice chairman, and the official seal of the commission, or facsimile thereof, shall be affixed thereto and attested by the secretary-treasurer of the commission, and any coupons attached thereto shall bear the facsimile signature of the chairman of the commission. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery.

(d) All bonds issued under this ~~chapter~~ **article** shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state of Indiana.

(e) The bonds may be issued in coupon or in registered form, or both, as the commission may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(f) The bonds shall be sold at public sale in accordance with IC 4-1-5, **except as provided in IC 8-10-4.**

(g) No action to contest the validity of any bonds issued by the commission under this article shall be commenced more than thirty (30) days following the adoption of the resolution approving the bonds as provided in this article.

SECTION 14. IC 8-10-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the port **or** project for which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the commission may provide in the resolution authorizing the issuance of such bonds or in the trust agreement mentioned in this chapter securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from that same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed the cost of the port **or** project for which the same shall have been issued, the surplus shall be deposited to the credit of the sinking fund for such bonds. Prior to the preparation of definitive bonds, the commission may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The commission may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds **and any other instruments or the security for the bonds and other instruments that are authorized by this article** may be issued under the provisions of this ~~chapter~~ **article** without obtaining the consent of any officer, department, division, commission, board, bureau, or agency of the state, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this chapter.

SECTION 15. IC 8-10-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. The commission is hereby authorized to provide by resolution for the issuance of ~~port revenue~~ refunding bonds of the state payable solely from revenues for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of **section 13 of** this chapter **or IC 8-10-4-2,** including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the commission, for the additional purpose of constructing improvements, extensions, or enlargements of the port **or** project in connection with which the bonds to be refunded shall have been issued. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof and the rights, duties and obligations of the commission in respect of the same, shall be governed by the provisions of this ~~chapter~~ **article** insofar as the same may be applicable.

SECTION 16. IC 8-10-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. In the discretion of the commission any bonds issued under the provisions of this act may be secured by a trust agreement by and between the commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the state, **except as provided in IC 8-10-4.** Any resolution adopted by the commission providing for the issuance of **revenue** bonds and any trust agreement pursuant to which such bonds are issued may pledge or assign all or any portion of the revenues received or to be received by the commission except such part as may be necessary to pay the cost of the commission's administrative expenses, operation, maintenance and repair and to provide reserves therefor and depreciation reserves required by any bond resolution adopted or trust agreement executed by the commission, but the commission shall not convey or mortgage any port ~~port~~ **or** project or any part thereof, **except for self liquidating projects under IC 8-10-4.** In authorizing the issuance

of bonds for any particular port **or** project, ~~undertaken in connection with the development of the port,~~ the commission may limit the amount of such bonds that may be issued as a first lien and charge against the revenues pledged to the payment of such bonds or the commission may authorize the issuance from time to time thereafter of additional bonds secured by the same lien to provide funds for the completion of the port **or** project on account of which the original bonds were issued, or to provide funds to pay the cost of additional ~~port~~ projects undertaken in connection with the development of the port **or project,** or for both such purposes. Such additional bonds shall be issued on such terms and conditions as may be provided in the bond resolution or resolutions adopted by the commission and in the trust agreement or any agreement supplemental thereto and may be secured equally and ratably without preference, priority or distinction with the original issue of bonds or may be made junior thereto. Any pledge or assignment made by the commission pursuant hereto shall be valid and binding from the time that the pledge or assignment is made and the revenues so pledged and thereafter received by the commission shall immediately be subject to the lien of such pledge or assignment without physical delivery thereof or further act. The lien of such pledge or assignment shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the commission irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created or assignment made need be filed or recorded except in the records of the commission. Any such trust agreement or any resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, but not limited to, covenants setting forth the duties of the commission in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the port **or** project in connection with which such bonds shall have been authorized, the rates of fees, tolls, rentals or other charges, to be collected for the use of the project, and the custody, safeguarding and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of such project. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds or other funds of the commission, to furnish such indemnifying bonds or to pledge such securities as may be required by the commission. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of private corporations. In addition to the foregoing, any such trust agreement may contain such other provisions as the commission may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as a part of the cost of the operation of the port **or** project.

SECTION 17. IC 8-10-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. The commission shall be authorized to fix, review, charge and collect fees, tolls, rentals, and other charges for the use of the ~~port, port project,~~ **ports, projects,** terminal facilities, and lands under the jurisdiction or control of the commission or services rendered by the commission, and the aggregate thereof shall provide revenues at least sufficient to pay the cost of operation, maintenance, and repair of the port **or project** and terminal facilities, including the administration expenses of the commission, and in case revenue bonds are issued, sufficient to pay the interest on and principal of the bonds in accordance with their terms, and also sufficient to establish and maintain reserves created for all such purposes and for depreciation purposes. The fixing and collection of such fees, tolls, rentals and other charges and the expenditure of the revenues derived therefrom shall not be subject to the supervision or regulation by any other officer, commission, board, bureau or agency of the state. After such bonds have been fully paid and discharged and all obligations under any trust agreement securing the same have been performed or satisfied, any remaining surplus net revenues and all surplus net revenues thereafter derived from the operation of ~~such~~ **the** port **or project** shall be paid into the state general fund.

SECTION 18. IC 8-10-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. Any holder of bonds issued under the provisions of this chapter or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights given in this chapter may be restricted by the authorizing resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the statutes of the state or granted under this chapter or under such trust agreement, or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this chapter or by such trust agreement or resolution to be performed by the commission or by any officer thereof, including the fixing, charging, and collecting of fees, tolls, rentals, or other charges for the use of the port or ~~port~~ project.

SECTION 19. IC 8-10-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. Each port or ~~port~~ project, as defined in section 2 of this chapter, when constructed and ~~opened to traffic~~ **placed in operation** shall be maintained and kept in good condition and repair by the commission. Each such project shall also be policed and operated by such force of police, tolltakers, and other operating employees as the commission may in its discretion employ. All public or private property damaged or destroyed in carrying out the powers granted by this chapter shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of this chapter.

SECTION 20. IC 8-10-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. All counties, cities, towns, townships and other political subdivisions and all public agencies and commissions of the state, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the commission at its request upon such terms and conditions as the proper authorities of such counties, cities, towns, townships, other political subdivisions or public agencies and commissions of the state may deem reasonable and fair and without the necessity for an advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real **or personal** property owned by any such municipality or governmental subdivision which may be necessary or convenient to the effectuation of the authorized purposes of the commission.

SECTION 21. IC 8-10-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. **(a)** The commission shall cause an audit of its books and accounts to be made at least once each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operations of the ~~project.~~ **commission's ports and projects.** The accounts, books and records of the Indiana port commission shall be audited annually by the state board of accounts, and the cost of such audit may be treated as a part of the cost of construction or of operations of the ~~port project.~~ **commission's ports and projects.**

(b) The commission shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor. Each member of the general assembly shall receive a copy of the report by making a request for it to the chairman of the commission. Each report shall set forth a complete operating and financial statement for the commission during the fiscal year it covers.

SECTION 22. IC 8-10-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. Revenue bonds issued by the commission under the provisions of this ~~chapter~~ **article** shall constitute legal investments for any private trust funds, and the funds of any banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, and industrial loan and investment companies, and any other financial institutions organized under Indiana statutes. **The bonds are also made**

securities that may be deposited with and received by all public officers and bodies of Indiana or any agency or political subdivision of Indiana and all municipalities and public commissions for any purpose for which the deposit of bonds or other obligations of Indiana is now or may be later authorized by law.

SECTION 23. IC 8-10-1-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) The exercise of the powers granted by this ~~chapter~~ **article** will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions.

(b) As the operation and maintenance of a port **or** project by the commission will constitute the performance of essential governmental functions, the commission shall not be required to pay any taxes or assessments upon any port **or** project or any property acquired or used by the commission under the provisions of this ~~chapter~~ **article** or upon the income therefrom. The bonds issued by the commission, the interest thereon, the proceeds received by a holder from the sale of such bonds to the extent of the holder's cost of acquisition, or proceeds received upon redemption prior to maturity or proceeds received at maturity, and the receipt of such interest and proceeds shall be exempt from taxation in the state of Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(c) Notwithstanding any other statute, a lessee's leasehold estate in land that is part of a port and that is owned by the state or the commission is exempt from property taxation. **However, an exemption under this subsection is not available for land not located at a port.**

SECTION 24. IC 8-10-1-30 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 30. The state pledges and agrees with the holders of any bonds issued under this article that the state will not limit or alter the rights vested in the commission to fulfill the terms of any agreements made with the holders or in any way impair the rights or remedies of the holders until the bonds, together with the interest, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged. The commission is authorized to include this pledge and agreement of the state in any agreement with the holders of the bonds.**

SECTION 25. IC 8-10-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. **(a)** In addition to the powers conferred upon the Indiana port commission by other provisions of this article, the commission, whenever it finds that the economic welfare of the state would thereby be benefited, by additional employment opportunities, or by additional diversification of industry within the state, or by increased income or prosperity to the state and its residents, or for any other reason, shall have the power to acquire, construct, maintain, repair, police, and lease to others such facilities for manufacturing, storage, or processing of goods, or for the carrying on of commercial, business, or recreational activities as the commission further finds will increase the ~~water-borne~~ traffic into or out of the ~~port~~ **project.** Any such facilities and the site thereof shall not be exempt from property taxation, and the lessee in any lease thereof shall agree to pay all property taxes levied on such facilities and the site thereof.

(b) In exercising the powers granted in this section, the commission shall have all the powers granted to it by this article, in connection with a ~~port~~ project, and the term ~~"port"~~ "project", as used in IC 8-10-1, shall be deemed to include facilities, adjuncts, and appurtenances of the character referred to in this section.

(c) It is further declared that the acquisition, construction, maintenance, repair, policing of, and leasing to others of such facilities under the conditions set forth in this section is a public purpose.

(d) Nothing in this section shall authorize the Indiana port commission to take, condemn, or disturb any property right or interest in property, existing on March 10, 1967, including permits and authorities to fill and reclaim submerged lands, or any facilities constituting all or part of any operating property or any private or public port. The Indiana port commission shall make reimbursement for any actual damage to any public or private facilities, including but not limited to breakwaters, water intakes, wharves, piers, boat docks, warehouses, and pipeline equipment resulting from the exercise by it of any powers granted to it by this section.

SECTION 26. IC 8-10-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) As used in this chapter, "self-liquidating ~~port~~ project" shall mean a ~~port~~ project for which a lease or leases have been executed providing for payment of rental in an amount at least sufficient to pay the interest and principal of such bonds to be issued to finance the cost of such ~~port~~ project and further providing for the payment by the lessee or lessees of all costs of maintenance, repair, and insurance of such ~~port~~ project.

(b) Other words and terms used in this chapter shall have the same meaning as in other provisions of this article, unless otherwise specifically provided.

SECTION 27. IC 8-10-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. In addition to the powers conferred upon the Indiana port commission by other provisions of this article, the commission, in connection with any self-liquidating ~~port~~ project, shall have the following powers notwithstanding any other provision of this article to the contrary:

(a) The revenue bonds issued by the commission to finance the cost of such self-liquidating ~~port~~ project may be issued without regard to any maximum interest rate limitation in this article or any other law.

(b) The revenue bonds issued by the commission to finance the cost of such self-liquidating ~~port~~ project may be sold in such manner, either at public or private sale, as the commission may determine, and the provisions of IC 4-1-5 shall not be applicable to such sale.

(c) IC 4-13.6, IC 5-16-1, IC 5-16-2, IC 5-16-3, IC 5-16-5, IC 5-16-5.5, IC 5-16-6, IC 5-16-6.5, IC 5-16-8, IC 5-16-9, IC 5-16-10, IC 5-16-11, IC 5-16-11.1, IC 8-10-1-7(12), IC 8-10-1-29, and IC 36-1-12 do not apply to a project to be leased to a private party whose payments are expected to be sufficient to pay all debt service on bonds issued by the commission to finance the project.

SECTION 28. IC 8-10-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. Any lease of a ~~port~~ project may provide that the lessee, as its reasonable portion of the commission's administrative expense incurred during the term of the lease which the lessee is required to pay by IC 8-10-1-10, shall pay to the commission for the use of the harbor, the public docking facilities and public wharves and piers, all harbor, dockage, and wharfage charges established by the commission.

SECTION 29. IC 8-10-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The cost of any ~~port~~ project may include, instead of the cost of the acquisition of the land constituting the site of such ~~port~~ project, the value of such land as determined by the commission. The proceeds of any revenue bonds representing the value of such land shall be deposited in the Indiana port fund.

SECTION 30. IC 8-10-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The commission may contract for the use of any license, process or device, whether patented or not, which the commission finds is necessary for the operation of any ~~port~~ project, and may permit the use thereof by any lessee on such terms and conditions as the commission may determine. The cost of such license, process or device may be included as part of the cost of the ~~port~~ project.

SECTION 31. IC 8-10-4-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. The following provisions apply to this chapter:**

(1) IC 8-10-1-4.
(2) IC 8-10-1-10.
(3) IC 8-10-1-13.
(4) IC 8-10-1-14.
(5) IC 8-10-1-15.
(6) IC 8-10-1-16.

(7) IC 8-10-1-19.
(8) IC 8-10-1-25.
(9) IC 8-10-1-27.
(10) IC 8-10-1-30.

(Reference is to ESB 454 as reprinted April 9, 2003.)

KENLEY	WEINZAPFEL
ROGERS	MURPHY
Senate Conferees	House Conferees

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

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed House Bill 1161 because it conflicts with P.L.1-2003 without properly recognizing the existence of P.L.1-2003, has had Engrossed House Bill 1161 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1161 be corrected as follows:

Page 14, line 32, delete "IC 6-1.1-25-4.6(a);" and insert "**section 4.6(a) of this chapter;**".

Page 15, line 15, before "objection" reset in roman "petition".

Page 15, line 15, delete "objection".

Page 15, line 15, after "written" strike "petition" and insert "**objection**".

Page 17, line 29, delete "P.L.1-2002," and insert "P.L.1-2003,"

Page 17, line 30, delete "SECTION 28," and insert "SECTION 30,".

Page 17, line 35, delete "IC IC" and insert "IC".

(Reference is to EHB 1161 as printed March 21, 2003.)

PELATH, Chair
WHETSTONE, R.M.M.
DOBIS, Author

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed House Bill 1378 because it conflicts with HEA 1473-2003 without properly recognizing the existence of HEA 1473-2003, has had Engrossed House Bill 1378 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1378 be corrected as follows:

In the conference committee report to EHB 1378, page 1, delete lines 13 through 20.

In the conference committee report to EHB 1378, page 2, delete lines 1 through 4, begin a new paragraph and insert:

"SECTION 2. IC 36-1-6-2, AS AMENDED BY HEA1473-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) If a condition violating an ordinance of a municipal corporation exists on real property, officers of the municipal corporation may enter onto that property and take appropriate action to bring the property into compliance with the ordinance. However, before action to bring compliance may be taken, all persons holding a substantial interest in the property must be given a reasonable opportunity **of at least ten (10) days but not more than sixty (60) days** to bring the property into compliance. If the municipal corporation takes action to bring compliance, the expenses incurred by the municipal corporation to bring compliance constitute a lien against the property. The lien is superior to all other liens except liens for taxes, in an amount that does not exceed:

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

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

(B) is unimproved; or

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

(Reference is to the EHB 1378 as printed April 4, 2003, and to the Conference Committee Report to EHB 1378.)

PELATH, Chair
WHETSTONE, R.M.M.
DAY, Author

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed House Bill 1552 because it conflicts with HEA 1336-2003 without properly recognizing the existence of HEA 1336-2003, has had Engrossed House Bill 1552 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1552 be corrected as follows:

In the conference committee report for EHB 1552, page 7, delete lines 31 through 51, begin a new paragraph and insert:

"SECTION 30. IC 14-8-2-107, AS AMENDED BY HEA1336-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 107. "Fund" has the following meaning:

(1) For purposes of IC 14-9-5, the meaning set forth in IC 14-9-5-1.

(2) For purposes of IC 14-9-8-21, the meaning set forth in IC 14-9-8-21.

(3) For purposes of IC 14-9-8-21.5, the meaning set forth in IC 14-9-8-21.5.

(4) For purposes of IC 14-9-9, the meaning set forth in IC 14-9-9-3.

(5) For purposes of IC 14-12-1, the meaning set forth in IC 14-12-1-1.

(6) For purposes of IC 14-12-2, the meaning set forth in IC 14-12-2-2.

(7) For purposes of IC 14-12-3, the meaning set forth in IC 14-12-3-2.

(8) For purposes of IC 14-13-1, the meaning set forth in IC 14-13-1-2.

(9) For purposes of IC 14-13-2, the meaning set forth in IC 14-13-2-3.

(10) For purposes of ~~IC 14-19-4,~~ **IC 14-16-1,** the meaning set forth in ~~IC 14-19-4-1.~~ **IC 14-16-1-30.**

(11) For purposes of ~~IC 14-19-5,~~ **IC 14-19-8,** the meaning set forth in ~~IC 14-19-5-1.~~ **IC 14-19-8-1.**

(12) For purposes of IC 14-20-1, the meaning set forth in IC 14-20-1-3.

(13) For purposes of IC 14-20-11, the meaning set forth in IC 14-20-11-2.

(14) For purposes of IC 14-22-3, the meaning set forth in IC 14-22-3-1.

(15) For purposes of IC 14-22-4, the meaning set forth in IC 14-22-4-1.

(16) For purposes of IC 14-22-5, the meaning set forth in IC 14-22-5-1.

(17) For purposes of IC 14-22-8, the meaning set forth in IC 14-22-8-1.

(18) For purposes of IC 14-22-34, the meaning set forth in IC 14-22-34-2.

(19) For purposes of IC 14-23-3, the meaning set forth in IC 14-23-3-1.

(20) For purposes of IC 14-23-8, the meaning set forth in IC 14-23-8-1.

(21) For purposes of IC 14-25-2-4, the meaning set forth in IC 14-25-2-4.

(22) For purposes of IC 14-25-10, the meaning set forth in IC 14-25-10-1.

(23) For purposes of IC 14-25-11-19, the meaning set forth in IC 14-25-11-19.

(24) For purposes of IC 14-25.5, the meaning set forth in IC 14-25.5-1-3.

(25) For purposes of IC 14-28-5, the meaning set forth in IC 14-28-5-2.

(26) For purposes of IC 14-31-2, the meaning set forth in IC 14-31-2-5.
(27) For purposes of IC 14-25-12, the meaning set forth in IC 14-25-12-1.
(28) For purposes of IC 14-33-14, the meaning set forth in IC 14-33-14-3.
(29) For purposes of IC 14-33-21, the meaning set forth in IC 14-33-21-1.
(30) For purposes of IC 14-34-6-15, the meaning set forth in IC 14-34-6-15.
(31) For purposes of IC 14-34-14, the meaning set forth in IC 14-34-14-1.
(32) For purposes of IC 14-37-10, the meaning set forth in IC 14-37-10-1.".

Page 8, delete lines 1 through 42.

(Reference is to EHB 1552 as reprinted April 9, 2003, and to the conference committee report for EHB 1552.)

PELATH, Chair
WHETSTONE, R.M.M.
BISCHOFF, Author

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 160 because it conflicts with SEA 257-2003 without properly recognizing the existence of SEA 257-2003, has had Engrossed Senate Bill 160 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 160 be corrected as follows:

Page 1, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 2. IC 10-14-8-3, AS ADDED BY SEA 257-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Before a person may transport high level radioactive waste in Indiana, the person who is responsible for the shipment must submit the following to the director:

(1) A notice that includes:
(A) the highway or railway route, date, and time of the shipment of high level radioactive waste; and
(B) other information required under 10 CFR 71.5(a) and 10 CFR 73.37(f).
(2) A transportation fee of one thousand dollars ($1,000) for each ~~total shipment~~ **cask** of nuclear waste **in the shipment.**

(b) The director shall deposit fees collected under this section in the nuclear response fund established by section 6 of this chapter.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 160 as reprinted April 11, 2003.)

PELATH, Chair
WHETSTONE, R.M.M.
WOLKINS, Sponsor

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 202 because it conflicts with HEA 1365-2003 without properly recognizing the existence of HEA 1365-2003, has had Engrossed Senate Bill 202 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 202 be corrected as follows:

Page 4, line 42, delete "P.L.2-2002," and insert "HEA 1365-2003,"

Page 5, line 1, delete "14," and insert "1,".

Page 5, between line 25, reset in roman "a mortgagee seeking equitable subrogation with".

Page 5, reset in roman lines 26 through 35

Page 5, line 36, reset in roman "IC 36-9-23.".

Page 5, line 36, after "36-9-23." insert "~~or a mechanic's lien under IC 32-28-3-1.~~".

(Reference is to ESB 202 as reprinted April 9, 2003.)

PELATH, Chair
WHETSTONE, R.M.M.
KUZMAN, Sponsor

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 242 because it conflicts with HEA 1935-2003 without properly recognizing the existence of HEA 1935-2003, has had Engrossed Senate Bill 242 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 242 be corrected as follows:

In the conference committee report to ESB 242, page 1, line 2, delete "P.L.1-2002," and insert "HEA 1935-2003, SECTION 7,".

In the conference committee report to ESB 242, page 1, line 3, delete "SECTION 17,".

In the conference committee report to ESB 242, page 2, delete lines 11 through 15.

In the conference committee report to ESB 242, page 2, line 16, delete "(12)" and insert "(11)".

In the conference committee report to ESB 242, page 2, line 34, delete "his" and insert "the person's".

In the conference committee report to ESB 242, page 3, line 24, delete "his" and insert "the employee's".

In the conference committee report to ESB 242, page 3, line 45, delete "his" and insert "the donor's".

In the conference committee report to ESB 242, page 4, delete lines 20 through 44, begin a new line block indented and insert:

"(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:
(A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;
(B) vulnerability assessments;
(C) risk planning documents;
(D) needs assessments;
(E) threat assessments;
(F) domestic preparedness strategies;
(G) the location of community drinking water wells and surface water intakes;
(H) the emergency contact information of emergency responders and volunteers;
(I) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and
(J) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection without the prior approval of the public agency. The submitting public agency:
(i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and
(ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(19)(I) 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.".

In the conference committee report to ESB 242, page 4, line 45, delete "(d)" and insert "(c)".

In the conference committee report to ESB 242, page 4, line 48, delete "(e)" and insert "(d)".

In the conference committee report to ESB 242, page 5, line 1, delete "(f)" and insert "(e)".

In the conference committee report to ESB 242, page 5, line 1, delete "(e)" and insert "(d)".

(Reference is to ESB 242 as printed April 4, 2003, and to the Conference Committee Report to ESB 242.)

PELATH, Chair
WHETSTONE, R.M.M.
CHENEY, Sponsor

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 479 because it conflicts with 1044-2003 without properly recognizing the existence of 1044-2003, has had Engrossed Senate Bill 479 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 479 be corrected as follows:

Page 6, line 22, delete "ADDED BY P.L.133-2002," and insert "HEA 1044-2003,".

Page 6, line 23, delete "56," and insert "1,".

Page 8, line 9, after "assistance." insert "A person, other than a person or other entity with whom the clerk has entered into a contract to provide assistance, who in good faith performs the duties the person is required to perform under this subsection is not liable for civil damages that might otherwise be imposed on the person as a result of the performance of those duties unless the person commits an act or omission that amounts to gross negligence or willful and wanton misconduct.".

(Reference is to ESB 479 as reprinted April 9, 2003.)

PELATH, Chair
WHETSTONE, R.M.M.
L. LAWSON, Sponsor

Report adopted.

RESOLUTIONS ON FIRST READING

House Resolution 102

Representative Crooks introduced House Resolution 102:

A HOUSE RESOLUTION recognizing Joe and Gladys Traylor for their contribution to the Montgomery Volunteer Fire Department to be used toward the purchase of a new fire truck.

Whereas, After having endured two fires in their residence, the Traylors are acutely aware of the devastation fire brings;

Whereas, The Traylor home first caught fire in 1963;

Whereas, Fourteen years later, fire struck their residence again;

Whereas, On both these occasions, the Montgomery Volunteer Fire Department reacted quickly and fought bravely against the inferno that engulfed the Traylor home;

Whereas, Until recently, the Montgomery Volunteer Fire Department was operating with a truck that was more than 30 years old;

Whereas, The Montgomery Volunteer Fire Department had received a grant from the Build Indiana Fund to purchase a new fire truck, but town officials were informed that there was no longer any money in the grant fund;

Whereas, The Traylors stepped in to help the fire department that had helped them in their time of need;

Whereas, The Traylors, who operate Traylor Fertilizer, Inc. customarily make a yearly donation to a cause; this time they chose the community of Montgomery as their recipient; and

Whereas, It is people like Joe and Gladys Traylor who have helped make Indiana communities havens of happiness and comfort that continue to beckon people to our fine state: Therefore,

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

SECTION 1. That the Indiana House of Representatives wishes to thank Joe and Gladys Traylor for their unselfish contribution of $10,000 toward the purchase of a new fire truck for the Montgomery Volunteer Fire Department and the pledge to contribute $10,000 annually for two more years.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Joe and Gladys Traylor.

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

Senate Concurrent Resolution 31

The Speaker handed down Senate Concurrent Resolution 31, sponsored by Representative Klinker:

A CONCURRENT RESOLUTION recognizing the important role that volunteerism and volunteers afford to civil society and American democracy.

Whereas, American citizens provide more public good through voluntary action than any other society in the world. Volunteerism is a form of citizen participation that brings together individuals in a community to offer their time, talents, and treasures for the common good;

Whereas, The international events of the past fifteen months have resulted in Americans experiencing a renewed sense of patriotism and a nationalistic spirit marked by a newfound sense of altruism;

Whereas, The value of caring for our communities and our neighbors remains as important to the residents of Indiana as it did when the state was first founded. Volunteerism is crucial to the sustainability and effectiveness of Indiana's communities in the 21st century;

Whereas, Volunteerism challenges the people of Indiana to improve the quality of life within their own communities by delivering vital services in the areas of education, the environment, human needs, and public safety;

Whereas, Hoosiers take their civic responsibility seriously by volunteering in local community and faith-based institutions and for purposeful causes designed to strengthen and to meet the needs of their local communities; and

Whereas, The tireless efforts of Hoosier volunteers is marked "by the better angels of our nature," as Abraham Lincoln referred to it on his first inaugural address: Therefore,

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

SECTION 1. That the Indiana General Assembly encourages the citizens of Indiana to reflect on the importance of volunteerism to our communities and to engage themselves in making their communities even better places to live and work.

SECTION 2. The Principal Secretary of the Senate is hereby directed to transmit a copy of this resolution to the Indiana Association of Volunteer Centers, the Indiana Association of United Ways, and the Indiana Commission on Community Service and Volunteerism.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

Senate Concurrent Resolution 38

The Speaker handed down Senate Concurrent Resolution 38, sponsored by Representatives Torr and Noe:

A CONCURRENT RESOLUTION honoring Mr. Daniel Kent on receiving the Prudential Spirit of Community Award for his tireless work and dedication in volunteer service, peer leadership and community spirit.

Whereas, Daniel Kent, a resident of Carmel and a student at Carmel Junior High School, has achieved national recognition for exemplary volunteer service by receiving a 2003 Prudential Spirit of Community Award;

Whereas, This prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities;

Whereas, In 2003, 104 state honorees were chosen from over 24,000 applicants. Each award recipient will travel to Washington, D.C. in May for several national recognition events, culminating with the recognition of 10 National Honorees chosen by a national selection committee;

Whereas, Mr. Kent earned this award by giving generously of his time and energy to Y-Press, a children's news service sponsored by the Indianapolis Star, and as a member of the Indianapolis Children's Museum's Youth Advisory Council; and

Whereas, the success of the State of Indiana, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Mr. Kent who use their considerable talents and resources to serve others: Therefore,

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

SECTION 1. That the State of Indiana congratulates Mr. Kent as a recipient of a Prudential Spirit of Community Award, recognizes his outstanding record of volunteer service, peer leadership and community spirit, and extends best wishes for his continued success and happiness.

SECTION 2. The Principal Secretary of the Senate is hereby directed to transmit a copy of this resolution to Mr. Daniel Kent and Ms. Denise Jacobs, Principal of Carmel Junior High School.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

RULES SUSPENSION

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 160.1 and 162.1 and recommends that Rule 160.1 be suspended so that the following conference committee reports are eligible for consideration after April 14, 2003, and that House Rule 162.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 2 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed House Bills 1010–1, 1082–1, 1470–2, 1515–1, 1525–2, 1659–1, 1689–1, 1749–1, and 1798–1 and Engrossed Senate Bills 62–1, 166–1, 343–1, and 533–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 160.1 be suspended so that the following conference committee reports are eligible for consideration after April 14, 2003, and that House Rule 162.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 2 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed House Bills 1010–1, 1082–1, 1470–2, 1515–1, 1525–2, 1659–1, 1689–1, 1749–1, and 1798–1 and Engrossed Senate Bills 62–1, 166–1, 343–1, and 533–1.

PELATH

Motion prevailed.

CONFERENCE COMMITTEE REPORTS

Engrossed House Bill 1082–1

The conference committee report was reread. Roll Call 686: yeas 85, nays 0. Report adopted.

Representative Murphy, who had been excused, was present.

Engrossed House Bill 1515–1

The conference committee report was reread. Roll Call 687: yeas 83, nays 4. Report adopted.

Engrossed House Bill 1525–2

The conference committee report was reread. Roll Call 688: yeas 84, nays 3. Report adopted.

Representatives Day and Murphy were excused.

Engrossed House Bill 1749–1

The conference committee report was reread. Roll Call 689: yeas 89, nays 1. Report adopted.

Representative Murphy, who had been excused, was present.

Engrossed House Bill 1470–2

The conference committee report was reread. Roll Call 690: yeas 89, nays 0. Report adopted.

Representative Day, who had been excused, was present.

Engrossed House Bill 1798–1

The conference committee report was reread. Roll Call 691: yeas 67, nays 27. Report adopted.

OTHER BUSINESS ON THE SPEAKER'S TABLE

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Saturday, April 26, 2003 at 9:30 a.m.

PELATH

Motion prevailed.

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on conference committee report 1 on Engrossed House Bill 1082, Roll Call 686, on April 25, 2003. In support of this petition, I submit the following reason:

"I was present and near my seat, but when I attempted to vote, the voting machine did not register my vote. I intended to vote yea."

CHOWNING

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: the final vote tally for conference committee report 1 on Engrossed House Bill 1082 is 85 yeas, 0 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on conference committee report 1 on Engrossed House Bill 1243, Roll Call 673, on April 25, 2003. In

support of this petition, I submit the following reason:

"I was present and near my seat, but when I attempted to vote, I was inadvertently registered as excused from voting. I intended to vote yea."

NEESE

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: the final vote tally for conference committee report 1 on Engrossed House Bill 1243 is 88 yeas, 0 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on conference committee report 2 on Engrossed House Bill 1470, Roll Call 690, on April 25, 2003. In support of this petition, I submit the following reason:

"I was present and in my seat, but when I attempted to vote, I inadvertently pushed the nay button when I intended to vote yea."

NEESE

There being a constitutional majority voting in favor of the petition, the petition was adopted.

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on conference committee report 2 on Engrossed House Bill 1470, Roll Call 690, on April 25, 2003. In support of this petition, I submit the following reason:

"I was present and in my seat, but when I attempted to vote, I inadvertently pushed the nay button when I intended to vote yea."

STUTZMAN

There being a constitutional majority voting in favor of the petition, the petition was adopted.

[*Journal Clerk's note: adoption of the petitions of Representatives Neese and Stutzman changes the final vote tally for conference committee report 2 on Engrossed House Bill 1470 to 89 yeas, 0 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on conference committee report 1 on Engrossed House Bill 1515, Roll Call 687, on April 25, 2003. In support of this petition, I submit the following reason:

"I was present and near my seat, but when I attempted to vote, the voting machine did not register my vote. I intended to vote yea."

CHOWNING

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: the final vote tally for conference committee report 1 on Engrossed House Bill 1515 is 83 yeas, 4 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on conference committee report 2 on Engrossed House Bill 1525, Roll Call 688, on April 25, 2003. In support of this petition, I submit the following reason:

"I was present and near my seat, but when I attempted to vote, the voting machine did not register my vote. I intended to vote yea."

CHOWNING

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: the final vote tally for conference committee report 2 on Engrossed House Bill 1525 is 84 yeas, 3 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on conference committee report 1 on Engrossed Senate Bill 479, Roll Call 677, on April 25, 2003. In support of this petition, I submit the following reason:

"I was present and near my seat, but when I attempted to vote, the voting machine did not register my vote. I intended to vote yea."

FOLEY

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: the final vote tally for conference committee report 1 on Engrossed Senate Bill 479 is 91 yeas, 0 nays.*]

HOUSE MOTION

Mr. Speaker: I move that Representatives T. Adams, Aguilera, Alderman, Austin, Avery, Ayres, Bardon, Becker, Behning, Bischoff, Borror, Bottorff, C. Brown, T. Brown, Buck, Budak, Buell, Burton, Cheney, Cherry, Chowning, Cochran, Crawford, Crooks, Day, Dickinson, Dobis, Duncan, Dvorak, Espich, Foley, Frenz, Friend, Frizzell, Fry, GiaQuinta, Goodin, Grubb, Gutwein, Harris, Hasler, Heim, Herrell, Hinkle, Hoffman, Kersey, Klinker, Koch, Kromkowski, Kruse, Kuzman, LaPlante, L. Lawson, Lehe, Leonard, Liggett, J. Lutz, Lytle, Mahern, Mangus, Mays, McClain, Moses, Murphy, Neese, Noe, Orentlicher, Oxley, Pelath, Pflum, Pierce, Pond, Porter, Reske, Richardson, Ripley, Robertson, Ruppel, Saunders, Scholer, V. Smith, Stevenson, Stilwell, Stutzman, Summers, Thompson, Torr, Turner, Ulmer, Weinzapfel, Welch, Whetstone, Wolkins, D. Young, and Yount be added as coauthors of House Concurrent Resolution 75.

DENBO

Motion prevailed.

On the motion of Representative Whetstone, the House adjourned at 8:15 p.m., this twenty-fifth day of April, 2003, until Saturday, April 26, 2003, at 9:30 a.m.

B. PATRICK BAUER
Speaker of the House of Representatives

DIANE MASARIU CARTER
Principal Clerk of the House of Representatives